



SPONSOR: Rep. Smyk & Rep. Bennett & Rep. Carson &  
Rep. Wilson & Sen. Hocker & Sen. Lawson  
Reps. Brady, Briggs King, Collins, Hensley, J. Johnson,  
Kenton, Miro, Mitchell, Outten, M. Smith, Spiegelman;  
Sens. Pettyjohn, Simpson

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 122

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ASSAULTS IN A DETENTION FACILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 1254, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 1254. Assault in a detention facility; penalty; class B and class D felony.

4           (a) Any person who, being confined in a detention facility, intentionally or recklessly causes physical injury to a  
5     correctional officer, other state employee of a detention facility acting in the lawful performance of duties, any other person  
6     confined in a detention facility or any other person at a detention facility or other place having custody of such person shall  
7     be guilty of a class D felony.

8           Notwithstanding Chapter 45 of this title, any person convicted for a violation of this subsection shall be  
9     imprisoned for a mandatory minimum period of 2 years which shall commence upon final judgment of conviction. Such  
10    sentence shall not be suspended nor shall the defendant be eligible for parole or probation.

11          (b) Any person who, being confined in a detention facility, intentionally or recklessly causes serious physical  
12    injury to a correctional officer, other state employee of a detention facility acting in the lawful performance of duties, any  
13    other person confined in a detention facility or any other person at a detention facility or other place having custody of such  
14    person shall be guilty of a class B felony.

15          Notwithstanding Chapter 45 of this title, any person convicted for a violation of this subsection shall be  
16    imprisoned for a mandatory minimum period of 3 years which shall commence upon final judgment of conviction. Such  
17    sentence shall not be suspended nor shall the defendant be eligible for parole or probation.

18          (c) Any person who, being confined in a detention facility, intentionally or recklessly strikes with urine, feces or  
19    other bodily fluid a correctional officer or other State employee of a detention facility acting in the lawful performance of  
20    duties or any other person at a detention facility or other place having custody of such person, other than another person  
21    confined at a detention facility shall be guilty of a class D felony.

22 Notwithstanding Chapter 45 of this title, any person convicted for a violation of this subsection shall be  
23 imprisoned for a mandatory minimum period of 1 year, which shall commence upon final conviction. Such sentence shall  
24 not be suspended nor shall the defendant be eligible for parole or probation.

25 When charged with a violation of this subsection, the defendant shall be tested for diseases transmittable through  
26 bodily fluids, the cost of such tests to be assessed as costs upon conviction. The results of such tests shall be provided only  
27 to the Attorney General, the victim of the assault, the defendant and the Department's medical care provider.

28 (d) The execution and operation of the sentence for any other crime causing such original confinement shall, upon  
29 the commencement of the sentence for a violation of this section, be placed in suspension, to be continued only after  
30 completion of the sentence for the violation of this section.

#### SYNOPSIS

This bill provides greater protection to correctional officers and other state employees who are assaulted in detention facilities by prohibiting assaults committed with a reckless state of mind.