



SPONSOR: Rep. Bennett & Rep. Miro & Rep. K. Williams &  
Rep. Hudson & Sen. Lavelle  
Reps. Briggs King, Keeley, Lynn, Mitchell, Mulrooney,  
M. Smith, Smyk, Viola, Wilson; Sens. Bonini, Cloutier,  
Ennis, Pettyjohn

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 259

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SENTENCES FOR SEXUAL  
OFFENSES.

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

1           Section 1. Amend § 4205A, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 4205A. Additional penalty for serious sex offenders or pedophile offenders.

4           (a) Notwithstanding any provision of this chapter or any other laws to the contrary, the Superior Court, upon the  
5     State's application, shall sentence a defendant convicted of any crime set forth in § 771(a)(2), § 772, § 773, § 776, § 777, §  
6     777A, § 778(1) or (2) of this title ~~shall be sentenced~~ to not less than 25 years up to life imprisonment to be served at Level  
7     V if one of the following apply:

8                     (1) The defendant has previously been convicted or adjudicated delinquent of any sex offense set forth in this  
9     title and classified as a class A or B felony, or any similar offense under the laws of another state, the United States or  
10    any territory ~~thereof; or of the United States.~~

11                    (2) The victim of the instant offense is a child less than 14 years of age.

12           (b) ~~A fiscal report on the financial impact of this legislation shall be submitted by the Criminal Justice Coordinator~~  
13     ~~or designee to the Controller General and Chairpersons of the Joint Finance Committee no later than March 15, 2008, after~~  
14     ~~consultation with the Chief Judge of Superior Court, the Commissioner of Corrections, the Attorney General and Chief~~  
15     ~~Defender or their designee. [Repealed.]~~

16           (c) Notwithstanding any provision of this chapter or any other laws to the contrary, the Superior Court, upon the  
17     State's application, shall sentence a defendant convicted of any crime set forth in subsection (a) of this section to an  
18     additional 5 years to be served at Level V for any sentence imposed under subsection (a) of this section if the victim of the  
19     crime set forth in subsection (a) of this section is a child less than 7 years of age.

20 (d)(1) Notwithstanding any provision of this chapter or any other laws to the contrary, the Superior Court, upon  
21 the State's application, shall sentence a defendant convicted of any crime set forth in § 769 or § 783(4) of this title to not  
22 less than 5 years to be served at Level V if the victim of the crime is a child less than 7 years of age.

23 (2) Notwithstanding any provision of this chapter or any other laws to the contrary, the Superior Court, upon  
24 the State's application, shall sentence a defendant convicted of a crime set forth in § 783A(4) of this title to not less  
25 than 10 years to be served at Level V if the victim of the crime is a child less than 7 years of age.

#### SYNOPSIS

In 2006, Delaware enacted "Jessica's Law," which requires first time offenders convicted of a specified sexual offense against a child under 14 years of age and individuals previously convicted of a Class A or B sexual offense in Title 11 and subsequently convicted of a specified sexual offense sentences be sentenced to at least 25 years in prison, up to life.

The specified sexual offenses in "Jessica's Law" are Rape in the Third Degree (where the defendant engages in sexual penetration with the victim without the victim's consent or with a victim who is under 16 years of age and causes physical injury or serious mental or emotional injury); Rape in the Second Degree; Rape in the First Degree; Dangerous Crime Against a Child; Sexual Offender Unlawful Sexual Conduct Against a Child; and Sexual Abuse of a Child by a Person in a Position of Trust, Authority, or Supervision in the First Degree (where the defendant engages in sexual penetration or sexual intercourse with a child under 16 years of age).

Data from the Federal Bureau of Investigation's Nation Incident-Based Reporting System indicates that 1 of every 7 victims of sexual assaults is under the age of 6. This Act updates "Jessica's Law," enhancing penalties for especially vulnerable victims, as follows:

(1) Requiring that an individual convicted of one of the specified offenses in "Jessica's Law" be sentenced to an additional 5 years in prison if the victim is a child under the age of 7.

(2) Requiring that an individual convicted of Unlawful Sexual Contact in the First Degree (involving a child under the age of 13) or Kidnapping in the Second Degree (for the purpose of violating or abusing the victim sexually) be sentenced to at least 5 years in jail if the victim is a child under the age of 7.

(3) Requiring that an individual convicted of Kidnapping in the First Degree (for the purpose of violating or abusing the victim sexually) be sentenced to at least 10 years in jail if the victim is a child under the age of 7.

Additionally, this Act requires the Superior Court to impose these sentences upon the application of the State.