

The following amendments to the Delaware Constitution were passed for the first time by the 152nd General Assembly. To become part of the Delaware Constitution, such amendments must be passed a second time by the next General Assembly. On Tuesday, November 5, 2024, the members of the 153rd General Assembly will be elected. These amendments are being published not more than 120 days and not less than 90 days prior to the election in accordance with Article XVI, Section 1 of the Delaware Constitution.

AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE DELAWARE CONSTITUTION RELATING TO CRIMINAL PROCEDURES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 12, Article I of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 12. Right to bail; access to accused.

Section 12. (a) All ~~prisoners shall~~ persons, before conviction, shall be bailable by sufficient sureties, ~~unless for~~ except as follows:

(1) For capital offenses when the proof is positive or the presumption ~~great;~~ great.

(2) For other felony offenses that the General Assembly expressly prescribes by law when all of the following apply:

a. The proof is positive or the presumption great.

b. The proof is clear and convincing that no condition or combination of conditions of release will do all of the following:

1. Reasonably assure the person's appearance at court proceedings.

2. Reasonably assure the protection of the community, victims, witnesses, or any other person.

3. Reasonably maintain the integrity of the judicial process, such that the person will not obstruct or attempt to obstruct justice.

c. The law designating a felony offense for which a person is potentially not bailable under this paragraph (a)(2) is enacted by an act of the General Assembly that receives the concurrence of two-thirds of all the members elected to each House of the General Assembly.

(b) If a law designates a felony offense as potentially not bailable under paragraph (a)(2) of this Section, a law removing that designation must be enacted by an act of the General Assembly that receives the concurrence of two-thirds of all the members elected to each House of the General Assembly.

~~(c) and when~~ When persons are confined before conviction on accusation for ~~such~~ offenses any offense, their friends and counsel ~~may at proper seasons~~ may, on reasonable conditions, have access to them.

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III OF THE DELAWARE CONSTITUTION RELATING TO MEMBERS OF THE GOVERNOR'S CABINET.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 10, Article III of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10. ~~Secretary of State;~~ Members of the Governor's cabinet; confirmation of appointment or reappointment, term, and vacancy; ~~Secretary of State's~~ duties and compensation.

Section 10.

(a) For purposes of this Section:

(1) "Governor's term of office" means the entire term of a Governor under Section 5 of this Article, whether or not a Governor serves the entire term.

(2) "Member of the Governor's cabinet" means the principal officer of an executive department or the principal officer of an executive department made subject to this Section by an act of the General Assembly.

(b) The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, members of the Governor's cabinet who shall serve at the pleasure of the Governor during the Governor's term of office in which the members of the Governor's cabinet were appointed.

(c) When a vacancy occurs by expiration of the Governor's term of office, a member of the Governor's cabinet may hold over in office until the member of the Governor's cabinet, or a new appointee, is confirmed and takes the oath of office, but in no event shall a member of the Governor's cabinet hold over in office for more than 90 days after the expiration of the Governor's term of office.

~~(d)(1) The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, a Secretary of State, who shall hold office during the pleasure of the Governor. He or she~~ The Secretary of State shall keep a fair register of all the official acts

and proceedings of the Governor, and shall, when required by either House of the General Assembly ~~Assembly~~, lay the same, and all papers, ~~minutes~~ minutes, and vouchers, relative thereto, before such House, and shall perform such other duties as shall be enjoined upon ~~him or her~~ the Secretary of State by law.

(2) ~~He or she~~ The Secretary of State shall have a compensation for ~~his or her~~ service to be fixed by law.

(e) ~~The Secretary of State~~ Except as provided by paragraph (e)(1) of this Section, a member of the Governor's cabinet shall become a bona fide resident of ~~the~~ this State within ~~six~~ 6 months after ~~his or her appointment; provided, however, that upon~~ appointment.

(1) On good cause shown, the Governor may grant ~~an additional extension of six months.~~ an additional 6 months to become a bona fide resident of this State.

(2) After becoming a resident of ~~the~~ this State, ~~the Secretary~~ a member of the Governor's cabinet shall continuously be a resident of ~~the State as long as he or she retains office.~~ this State during the member's term of office.

(3) ~~Failure to obtain or retain such residency shall be an automatic resignation from office.~~ Failure to obtain or retain residency in this State operates as an automatic resignation of office and results in a vacancy in the office.

HOUSE BILL NO. 430

AN ACT PROPOSING AMENDMENTS TO THE DELAWARE CONSTITUTION RELATING TO TECHNICAL CORRECTIONS.

SYNOPSIS: This Act is the first leg of an amendment to the Delaware Constitution to make technical corrections to the Delaware Constitution. First, this Act makes the language of the Delaware Constitution gender silent. Senate Bill No. 97 (152nd General Assembly), enacted as Chapter 42 of Volume 84 of the Laws of Delaware, directed the Code Revisors to use gender silent techniques to ensure masculine or feminine pronouns are not used in Delaware Code unless the usage requires otherwise. Thus, instead of drafting a law to say, "The Governor may appoint an individual if he or she deems him or her qualified", following gender silent techniques the law would say, "The Governor may appoint an individual if the Governor deems the individual qualified." This technique has the added benefit of providing clarity as many times use of multiple masculine or feminine pronouns can result in confusion as to which noun the pronouns refer. This Act would apply this same drafting technique to the Delaware Constitution. This action is consistent with the General Assembly's amendment of the Constitution in 1999 following the adoption of a law directing the Code Revisors to gender neutralize or otherwise ensure that a solely masculine or feminine designation never occurs unless it could only apply to

one gender. Second, this Act makes additional technical corrections identified by the General Assembly's Division of Research. Specifically, these technical corrections include the following:

- (1) Officially authorizing the headings for each Section of the Delaware Constitution as the headings are contained in the “Constitution of the State of Delaware, Adopted 1897, As Amended”, as published by the Delaware Code Revisors in the Delaware Code. The headings for each Section of the Delaware Constitution are not original to the Constitution adopted in 1897. These headings were added during the 1953 revision to the Delaware Code. Since the 1953 revision to the Delaware Code, publication of the Constitution has included headings for each Section of the Delaware Constitution in the version of the Delaware Constitution published in the Delaware Code. Almost immediately after the 1953 revision to the Delaware Code, the General Assembly began enacting new constitutional amendments with headings and amending existing Sections of the Delaware Constitution using the headings provided or making amendments to the headings provided. However, these headings were not officially authorized by the General Assembly. Consistent with § 306 of Title 1 of the Delaware Code, the intent of authorizing all headings in the Delaware Constitution is for the purpose of convenient reference, not as an interpretive tool for the courts.
- (2) Based on the adoption of headings for each Section of the Delaware Constitution, removing existing Section numbers and relying instead on the adopted headings.
- (3) Consistently using the series (Oxford) comma.
- (4) Implementing a consistent hierarchy scheme and naming, consistent with the Delaware Code.
- (5) Implementing a consistent scheme for naming, capitalization, and citing of references to provisions of the Delaware Constitution.
- (6) Implementing a consistent scheme for numbers used for time, dates, and money by using the numerical form of the number only.
- (7) Capitalizing consistent with standard capitalization rules.
- (8) Replacing references to “this amended Article IV of this Constitution” with “this Article”.
- (9) Replacing references to “this amended Article IV of this Constitution becomes effective” with “May 14, 1951”, which is the date the referenced amendments took effect.
- (10) Removing usages of “but not limited to”.
- (11) Removing from § 8 of Article IV a definition providing that “Supreme Court”, as used in § 4 of Article V, means the Superior Court and replacing “Supreme Court” in § 4 of Article V with “Superior Court” for clarity.
- (12) Removing § 11(c) of Article VIII from the Constitution. This provision was not intended to be included in the Constitution as it was drafted as a separate bill section of the bill that proposed and concurred in the constitutional amendment creating § 11(a) and (b). It was intended to apply only to taxes or licenses fees authorized by the General Assembly but not yet effective and so not intended to be included in the Constitution.
- (13) Inserting the effective date of the constitutional amendment that enacted § 12 of Article VIII for clarity.
- (14) Correcting misspellings and misused words.
- (15) Making corrections to Section headings.
- (16) Making technical changes to § 4A of Article V, including to remove an “either” that is inappropriately used in a list of more than 2 items.
- (17) Removing the hyphen in “Lieutenant Governor” and “Attorney General”.
- (18) Changing references to “the State” to “this State”.
- (19) Removing usages of “said”.

Amending the Delaware Constitution requires not only the passing of the changes in this Act, but also passage of the same changes after the next general election by the next General Assembly. This Act requires a greater than majority vote for passage because § 1 of Article XVI of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend the Delaware Constitution.

Text of this Constitutional Amendment is available at <https://legis.delaware.gov/DEConstAmend>

To receive a physical copy by mail, please call (302) 744-4114 or email
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