

CHAPTER 150  
FORMERLY  
HOUSE BILL NO. 246

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

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignate accordingly:

§761. Definitions generally applicable to sexual offenses.

(e) "Position of trust, authority or supervision over a child" includes, but is not limited to:

- (1) Familial, guardianship or custodial authority or supervision; or
- (2) A teacher, coach, counselor, advisor, mentor or any other person providing instruction or educational services to a child or children, whether such person is compensated or acting as a volunteer; or
- (3) A babysitter, child care provider, or child care aide, whether such person is compensated or acting as a volunteer; or
- (4) A health professional, meaning any person who is licensed or who holds himself or herself out to be licensed or who otherwise provides professional physical or mental health services, diagnosis, treatment or counseling which shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists, whether such person is compensated or acting as a volunteer; or
- (5) Clergy, including but not limited to any minister, pastor, rabbi, lay religious leader, pastoral counselor or any other person having regular direct contact with children through affiliation with a church or religious institution, whether such person is compensated or acting as a volunteer; or
- (6) Any law-enforcement officer, as that term is defined in § 222 of this title, and including any person acting as an officer or counselor at a correctional or counseling institution, facility or organization, whether such person is compensated or acting as a volunteer; or
- (7) Any other person who because of that person's familial relationship, profession, employment, vocation, avocation or volunteer service has regular direct contact with a child or children and in the course thereof assumes responsibility, whether temporarily or permanently, for the care or supervision of a child or children.

( ) "Semen" means fluid produced in the male reproductive organs, which may include spermatozoa.

(f) "Sexual contact" means:

- (1) Any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person;  
or
- (2) Any intentional touching of another person with the defendant's anus, breast, buttocks, semen, or genitalia; or

(3) Intentionally causing or allowing another person to touch the defendant's anus, breast, buttocks or genitalia which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. "Sexual contact" shall also include touching when covered by clothing.

Approved July 23, 2019