

CHAPTER 167  
FORMERLY  
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:

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

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

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

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

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

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

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

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

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

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

Approved September 8, 2017