

CHAPTER 389
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 169

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SEXUAL OFFENSES AND SEXUAL RELATIONS IN A DETENTION FACILITY.

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

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

§ 780A. Sexual intercourse or penetration with a person in custody; class F felony.

(a) It is unlawful for a law-enforcement officer, an employee working at a detention facility, a contractor or employee of a contractor working at a detention facility, or a volunteer working at a detention facility to engage in sexual intercourse or sexual penetration with a person who is in custody, as defined in § 1258 of this title.

(b) Subsection (a) of this section does not apply to a licensed medical doctor or nurse when the penetration occurs for the purpose of diagnosis or treatment or to a law enforcement officer who is lawfully performing job duties.

(c) Consent of the person in custody is not a defense to an act in violation of subsection (a) of this section.

(d) A violation of subsection (a) of this section is a class F felony.

§ 780B. Unlawful sexual contact with a person in custody; class G felony.

(a) It is unlawful for a law-enforcement officer, an employee working at a detention facility, a contractor or employee of a contractor working at a detention facility, or a volunteer working at a detention facility to intentionally have sexual contact with a person in custody, as defined in § 1258 of this title.

(b) Subsection (a) of this section does not apply to a licensed medical doctor or nurse when the contact occurs for the purpose of diagnosis or treatment or to a law enforcement officer who is lawfully performing job duties.

(c) Consent of the person in custody is not a defense to an act in violation of subsection (a) of this section.

(d) A violation of subsection (a) of this section is a class G felony.

Section 2. Amend § 1259, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1259. Sexual relations in detention facility; class G felony. [Reserved.]

A person is guilty of sexual relations in a detention facility when, being an employee working at a detention facility, a contractor or employee of a contractor at a detention facility, or a volunteer at a detention facility, the person engages in consensual sexual intercourse or sexual penetration with a person in custody on the premises of a detention facility.

Approved August 29, 2018