

CHAPTER 7
FORMERLY
HOUSE BILL NO. 9

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MENTAL HEALTH AND LIABILITY.

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

Section 1. Amend § 5122(j), Title 16 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

(j) (1) No peace officer, medical doctor, ~~or~~ credentialed mental health screener, or facility in which a medical doctor or credentialed mental health screener practices shall be subject to civil damages or criminal penalties for any harm resulting from the performance of their functions under this section unless such harm was intentional or the result of willful or wanton misconduct on their part. This immunity is limited to the mental health assessment, resulting clinical decision, and involuntary hold necessary until the person is presented to a designated psychiatric treatment facility that is able to provide such psychiatric healthcare services for the 24-hour detention described in paragraph (a)(7).

(2) After the person presents to the designated psychiatric treatment facility and during the 24-hour involuntary detention period described in paragraph (a)(12), no medical doctor or designated psychiatric treatment facility shall be subject to civil damages or criminal penalties for any harm to the person with a mental condition resulting from the performance of functions under §5122(f) unless such harm was the result of negligent, reckless, willful, wanton and/or intentional misconduct.

(3) Nothing in this Section is intended to waive the State of Delaware's sovereign immunity or the privileges and immunities set forth at Chapter 40, Title 10 of the Delaware Code.

Approved March 28, 2013