

CHAPTER 160  
FORMERLY  
HOUSE SUBSTITUTE NO. 1 FOR  
HOUSE BILL NO. 143  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE FUND TO COMBAT VIOLENT CRIME, FUNDED BY AN ADDITIONAL PENALTY IMPOSED BY COURTS FOR VARIOUS OFFENSES.

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

Section 1. Amend §4101, Title 11 of the Delaware Code by adding thereto a new paragraph (h) as follows:

“(h) In addition to, and at the same time as, any fine or other penalty is assessed to any criminal or traffic defendant or any child adjudicated delinquent, there shall be levied an additional penalty of fifteen dollars (\$15.00) imposed and collected by the courts for each crime and offense as defined in §233 of this title. When a fine or other penalty is suspended in whole or in part, the penalty assessment may not be suspended.

(1) Upon collection of the penalty assessment, the assessment must be paid over to the prothonotary or Clerk of Courts, as the case may be, who shall collect the same and transmit it to the State Treasury to be deposited in a separate account for the administration of this subsection, which account shall be designated ‘The Fund to Combat Violent Crimes’, which is hereby created.

(2) One-half of the Fund, but no more than \$2,125,000 per year, shall be distributed to the Department of Safety and Homeland Security for use in connection with initiatives to combat violent crime. Funds distributed to the Department of Safety and Homeland Security hereunder may be used to cover salaries, overtime and other salary costs, expenses, equipment, and supplies for State Troopers and other personnel.

(3) One-half of the Fund, but no more than \$2,125,000 per year, shall be distributed to local law enforcement agencies for use in connection with initiatives to combat violent crime. Funds may be used to cover overtime, expenses, equipment and supplies, and as otherwise set forth in subparagraph (h)(6).

(4) The Fund to Combat Violent Crimes Committee shall administer the monies distributable to local law enforcement agencies hereunder. The Committee shall be comprised of five (5) members, namely the Secretary of the Department of Safety and Homeland Security, the Superintendent of the Delaware State Police, the Attorney General, the President of the Delaware Police Chiefs Council and the President of the Delaware State Lodge of the Fraternal Order of Police, or the respective designees of such members. The Secretary of the Department of Safety and Homeland Security shall be the chairperson of the Committee.

a. All local law enforcement agencies seeking funds hereunder shall submit a yearly request for funding to the Committee. Such request shall include, without limitation, (i) a detailed description of how the requested funds will be used by the local law enforcement agency to combat violent crime; (ii) the amount of any and all funds received by said local law enforcement agency from the Fund during the previous five fiscal years; and (iii) the name of the local law enforcement agency requesting said funds and the name of the individual in such agency who shall be responsible for keeping accurate records as to the use of said funds.

b. In addition, prior to receiving any funds hereunder in any fiscal year, all local law enforcement agencies shall certify in writing to the Committee that (i) funds received from The Fund to Combat Violent Crimes will supplement, not supplant, any non-state funding to local law enforcement agencies that would otherwise be available for activities funded under this paragraph; (ii) the award of any funds hereunder shall not guarantee that funding shall be available to the

same extent in future fiscal years; (iii) the responsibility for any future decrease in funding shall be borne by the local law enforcement agency, not the state.

- c. The Committee may require such additional information from local law enforcement agencies, and may otherwise adopt such procedures and forms, as shall be necessary for the effective administration of this paragraph.

(5) If a majority of the Committee determines that all of the funds requested by a local law enforcement agency will be used for purposes permitted hereunder, the Committee shall authorize payment to each local law enforcement agency as follows:

- a. Each full-time local law enforcement agency shall receive \$15,000 per year and each part-time local law enforcement agency shall receive \$7,500 per year.
- b. All funds in excess of the amounts set forth above shall be distributed to local law enforcement agencies on a pro rata basis, based upon the local law enforcement agency's actual strength of full-time sworn officers.

(6) Local law enforcement agencies shall not be permitted to use monies hereunder to cover salaries or other salary costs, except overtime, unless the Committee:

- a. determines that sufficient funding is available from The Fund to Combat Violent Crimes to support such expenditures on a long-term basis; and
- b. issues a written opinion to that effect, signed by all of the members of the Committee and provided to the Governor and the chair and co-chair of the Joint Finance Committee, no earlier than June 30, 2012.

(7) Any funds granted to a local law enforcement agency pursuant to subsections (5) and (6) hereunder that are not fully expended within twelve (12) months of receipt thereof must be returned by the agency to The Fund to Combat Violent Crimes within 60 days, unless the agency has requested and has received an authorization in writing for an extension of up to 120 days by the Committee.

(8) Notwithstanding anything to the contrary herein, no more than \$4.25 million of the funds collected under this paragraph in each fiscal year shall be deposited into The Fund to Combat Violent Crimes. Any amount in excess of \$4.25 million in each fiscal year shall be deposited into the General Fund.

(9) For purposes of this section:

- a. 'Full-time local law enforcement agency' shall mean any local law enforcement agency providing continuous, 24-hour coverage to a county or municipality.
- b. 'Fund' shall mean The Fund to Combat Violent Crimes.
- c. 'Initiative to combat violent crime' means any initiative, plan, proposal, operation or strategy designed to reduce the prevalence of one more offenses classified as a 'violent felonies' pursuant to Section 4201(c) of Title 11.
- d. 'Local law enforcement agency' means any county or municipal police department within this state, but does not include any county sheriff's office.
- e. 'Part-time local law enforcement agency' shall mean any local law enforcement agency providing less than continuous, 24-hour coverage to a county or municipality."

Approved August 02, 2011