

CHAPTER 257
FORMERLY
SENATE BILL NO. 217
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE TIMING OF AN INITIAL HEARING BEFORE A JUDGE OF A PERSON WHO IS TEMPORARILY INCAPACITATED.

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

Section 1. Amend Section 1909 of Title 11 of the Delaware Code by deleting that section in its entirety and inserting in lieu thereof the following:

“Section 1909. Hearing without delay; permissible delay.

(a) If not otherwise released, every person arrested shall be brought before a magistrate without unreasonable delay, and in any event the person shall, subject to the limitations contained in subsections (b) and (c) below, be so brought within 24 hours of arrest, unless the court, for good cause shown, orders that person be held for a further period not to exceed 48 hours.

(b) Persons unable to knowingly and intelligently participate in the presentment proceedings because of incapacitation as a result of the consumption of alcohol or the use of drugs may, until such time as they are able to meaningfully participate in those proceedings, be held in police custody or be temporarily committed with bail and conditions of release to the custody of the Department of Correction on order of and following a determination of incapacitation by a magistrate. This temporary holding or commitment should not exceed 12 hours from the time of commitment until presentment, unless the court, for good cause shown, orders that person be held for a further period not to exceed 24 additional hours.”

Approved May 14, 2010