

LAWS OF DELAWARE
VOLUME 83
CHAPTER 31
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 72

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF A DEPUTY COMMISSIONER OF THE DEPARTMENT OF CORRECTION.

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

Section 1. Amend Chapter 89, Title 29 of the Delaware code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8902 Appointment, qualifications, etc., of Commissioner; Deputy Commissioner; bureau chiefs; Acting Commissioner.

(a) The administrator and head of the Department shall be the Commissioner of the Department of Correction, who shall be a person qualified by training and experience to perform the duties of the office. The Commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Commissioner shall be paid an annual salary as approved by the General Assembly. The Commissioner of the Department of Correction shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Commissioner of the Department of Correction shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office.

(b) In the event the position of Commissioner is vacant, the Governor, by appointment, shall have the power to fill the position or positions of Deputy Commissioner and bureau chief as are vacant. Deputy Commissioner and Chiefs so appointed shall serve at the pleasure of the Governor, and, upon the position of Commissioner being filled, such Deputy Commissioner and chiefs may be removed from office by the Commissioner with the written approval of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the Commissioner and prior to the appointment of a successor, the Governor may appoint the Deputy Commissioner or chief of any bureau of the Department to serve as Acting Commissioner. The Governor may during the Commissioner's absence from the State appoint the Deputy Commissioner or chief of any bureau of the Department to serve as Acting Commissioner during such absence. In either case, the Acting Commissioner shall have all the powers and perform all the duties and functions of the Commissioner during such absence or incapacity or until the successor is duly qualified and appointed.

§ 8903 Powers, duties and functions — Commissioner.

The Commissioner shall:

(1) Supervise, direct and account for the administration and operation of the Department, its bureaus, subbureaus, offices, functions and employees;

(2) Appoint and fix the salary, with the written approval of the Governor, of the Deputy Commissioner and chiefs of the Department's Bureaus and other office heads, who may be removed from office by the Commissioner with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department as may be assigned by the Commissioner.

(3) Appoint such additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law;

(4) Establish, consolidate, abolish, transfer or combine the powers, duties and functions of the bureaus, subbureaus and offices within the Department as the Commissioner, with the written approval of the Governor, may deem necessary, providing that all powers, duties and functions required by law shall be provided for and maintained;

(5) Make and enter into any and all contracts, agreements or stipulations, and retain, employ and contract for the services of private and public consultants, research and technical personnel and to procure by contract, consulting, research, technical and other services and facilities, whenever the same shall be deemed by the Commission necessary or desirable, in the performance of the functions of the Department, and whenever funds shall be available for such purpose. All necessary legal services shall be provided pursuant to Chapter 25 of this title;

(6) Delegate any of the Commissioner's powers, duties or functions to the Deputy Commissioner or a chief of a bureau, except the power to remove employees of the Department or to fix their compensation;

§ 8906 Exemptions from merit system.

All of the ~~The~~ following positions set forth in this section shall specifically be exempt from Chapter 59 of this title, as well as any others allowed by Chapter 59 of this title:

(1) Commissioner of ~~Correction;~~ and Correction.

(2) Deputy Commissioner of Correction.

~~(2)~~-(3) Chiefs as established by this chapter, as well as any hereafter established, by the Commissioner, with the approval of the Governor.

Approved June 3, 2021