

LAWS OF DELAWARE
VOLUME 83
CHAPTER 112
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 190
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE.

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

Section 1. Amend Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1024. First offenders domestic violence diversion program.

(a) For the purposes of this section, “domestic violence” ~~shall be considered as~~ means any act or acts committed by an adult against another person who falls into the protected class defined in § 1041(2)b. of this title, ~~member of a family against 1 or more members of the person’s family, as that term is defined in § 901(12) of this title,~~ which constitute any of the following criminal offenses under Title 11:

(1) ~~offensive~~ Offensive touching (~~§ 601~~) (§ 601).

(2) ~~menacing~~ (~~§ 602~~); Menacing (§ 602).

(3) ~~reckless~~ Reckless endangering in the second degree (~~§ 603~~); (§ 603).

(4) ~~assault~~ Assault in the third degree (~~§ 611~~); (§ 611).

(5) ~~terroristic~~ Terroristic threatening (~~§ 621~~); (§ 621).

(6) ~~vehicular~~ Vehicular assault in the second degree (~~[former] § 628~~); (~~[former] § 628~~).

(7) ~~sexual harassment~~ (~~§ 763~~); Sexual harassment (§ 763).

(8) ~~unlawful~~ Unlawful sexual contact in the third degree (~~§ 767~~); (§ 767).

(9) ~~unlawful~~ Unlawful imprisonment in the second degree (~~§ 781~~); (§ 781).

(10) ~~coercion~~ (~~§ 791~~); Coercion (§ 791).

(11) ~~reckless~~ Reckless burning or exploding (~~§ 804~~); (§ 804).

(12) ~~eriminal~~ Criminal mischief classified as a misdemeanor (~~§ 811~~); (§ 811).

(13) ~~eriminal~~ Criminal trespass in the first, ~~second~~ second, or third degree (~~§§ 821, 822, 823~~); (§§ 821,

822, 823).

~~(14) harassment (§ 1311); or Harassment (§ 1311).~~

~~(15) aggravated Aggravated harassment (former § 1312).~~

(b) Those acts of domestic violence for which an offender may elect to apply for first offender status under this rule shall be limited to the following criminal offenses under Title 11:

~~(1) offensive Offensive touching (§ 601); (§ 601).~~

~~(2) menacing (§ 602); Menacing (§ 602).~~

~~(3) Assault in the third degree (§ 611).~~

~~(4) Terroristic threatening (§ 621).~~

~~(5) sexual harassment (§ 763); Sexual harassment (§ 763).~~

~~(6) eriminal Criminal mischief classified as a misdemeanor (§ 811); (§ 811).~~

~~(7) eriminal Criminal trespass in the first, second, or third degree (§§ 821, 822, 823); (§§ 821, 822, 823).~~

~~(8) Criminal contempt of a domestic violence protective order or lethal violence protective order (§ 1271A).~~

~~(9) harassment (§ 1311); or Harassment (§ 1311).~~

~~(10) aggravated Aggravated harassment (former §1312).~~

(c) Any adult ~~who~~: who meets all of the following may qualify for first offense election:

(1) Has not been convicted of a violent felony or any domestic violence offense under Title 11 listed in subsection (a) of this section, or under any statute of the United States or of any state thereof including the District of Columbia relating to a violent felony or acts of domestic violence substantially similar to those criminal offenses listed in subsection (a) of this ~~section~~; section.

(2) Has not previously been afforded first offender treatment or other diversion programs for domestic ~~violence~~; violence.

(3) Has been charged with a domestic violence offense listed in subsection (b) of this ~~section~~; and section.

(4) ~~Has appeared at Family Court for a bail review/domestic violence interview, may qualify for the first offense election at the time of arraignment.~~

(d) ~~At the time of arraignment any~~ Any person qualifying under subsection (c) of this section as a first offender and who elects to apply under this section shall admit to the offense by entering a plea of guilty, as a first offender. The court, without entering a judgment of guilt and with the consent of the ~~accused,~~ accused and the State, may defer further proceedings and shall place the offender on probation for a period of 1 year upon terms and conditions of which shall include: ~~include but not be limited to:~~

(1) Enrollment with a Delaware Domestic Violence Coordinating Council certified domestic violence treatment provider for the purposes of evaluation and such treatment as the evaluation counselor deems ~~necessary;~~ necessary.

(2) Satisfactory completion of the Delaware Domestic Violence Coordinating Council certified treatment ~~program;~~ program.

(3) Evaluation for alcohol and other drug abuse, and successful completion of a course of treatment as may be indicated by the ~~evaluation;~~ evaluation.

(4) Restitution, where appropriate, to the ~~victim;~~ victim.

(5) No unlawful contact with the victim during the period of ~~probation;~~ and probation.

(6) Other such terms and conditions as the Court may impose.

Section 2. Amend Chapter 42, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4218. Probation before judgement.

(b) This section ~~may not be substituted for:~~ shall not apply to any of the following:

(1) Any Title 11 “domestic violence” offense as defined in Section 1024(a) Section 1024 of Title 10.
First offenders domestic violence diversion ~~program;~~ program.

(2) Section 900A of this title. Conditional discharge for issuing a bad check as first ~~offense;~~ or offense.

(3) Section 4177B of Title 21. First offenders; election in lieu of trial.

Approved August 4, 2021