

LAWS OF DELAWARE
VOLUME 85
CHAPTER 137
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 1
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE DELAWARE CODE RELATING TO CREATION OF A DELAWARE DEPARTMENT OF VETERANS AFFAIRS.

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

Section 1. Amend Title 29 of the Delaware Code by inserting a new Chapter 88 as shown by underline as follows:

CHAPTER 88. DEPARTMENT OF VETERANS AFFAIRS

§ 8801. Establishment of Department of Veterans Affairs; definitions; operations and transition report.

(a) A Department of Veterans Affairs is established. The Department of Veterans Affairs has the powers, duties, and functions set forth in this chapter.

(b) As used in this chapter:

(1) "Commission" means the Delaware Commission of Veterans Affairs.

(2) "Department" means the Department of Veterans Affairs.

(3) "Secretary" means the Secretary of the Department of Veterans Affairs.

(c) For administrative, budgetary, and operational purposes, the Department of Veterans Affairs is a division of the Department of State until such time as the General Assembly approves the Transition Report authorized by subsection (d) of this section.

(d) (1) The Secretary shall develop a transition plan to separate the Department of Veterans Affairs from the Department of State for administrative, budgetary, and operational purposes by July 1, 2030, or such time as there will be no negative impacts to the funding for veterans-related programs in Delaware. The Secretary shall prepare a Transition Report outlining the transition plan, including projections of the fiscal costs of the transition. The Secretary shall consult all of the following individuals or their designees when developing the plan and Transition Report:

a. The Governor.

b. The Lieutenant Governor.

c. The Secretary of State.

d. The Director of the Office of Management and Budget.

e. The Chief Information Officer of the Department of Technology and Information.

f. The Secretary of the Department of Human Resources.

g. The Controller General.

(2) The Secretary shall present the Transition Report to the General Assembly no later than 6 months in advance of the proposed transition to a separate Department.

(3) The General Assembly may approve the Transition Report through passage of a concurrent resolution that sets forth and approves the proposed date on which the transition will occur.

§ 8802. Secretary; appointment.

(a) The Secretary of the Department of Veterans Affairs is the administrator and head of the Department. The Secretary must be a veteran, qualified by training and experience to perform the duties of the office, and preference shall be given to a

resident of this State provided that such person is acceptable and equally qualified. The Secretary is appointed by the Governor, with the advice and consent of the Senate, and serves at the pleasure of the Governor. The Secretary shall be paid an annual salary as set forth in the annual Budget Appropriation Bill.

(b) In the event of death, resignation, temporary incapacity, or removal of the Secretary and prior to the appointment of a successor, the Governor may appoint a member of the Department to serve as Acting Secretary. The Secretary may, during an absence from the State, appoint a member of the Department to serve as Acting Secretary during such absence. In either case the Acting Secretary has all the powers and shall perform all the duties and functions of the Secretary during such absence or incapacity or until a successor is duly qualified and appointed.

§ 8803. Powers, duties, and functions of the Secretary.

(a) The Secretary has the following powers, duties, and functions:

(1) To supervise, direct, and account for the administration and operation of the Department, its offices, functions, and employees.

(2) To hire such additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law. The Secretary shall hire veterans to fill positions within the Department where possible. For purposes of this paragraph, “veteran” means a person who has served on active duty in the U.S. Armed Forces, including the National Guard or the reserves, and who was discharged under other than dishonorable conditions.

(3) To establish, consolidate, or abolish such divisions and offices within the Department or transfer or combine the powers, duties, and functions of the divisions and offices within the Department as the Secretary, with the advice and consent of the Commission and the written approval of the Governor, may deem necessary, provided that all powers, duties, and functions required by law shall be provided for and maintained.

(4) To make and enter into any and all contracts, agreements, or stipulations, and to retain, employ, and contract for the services of private and public consultants, research, and technical and other services and facilities, whenever the same is deemed by the Secretary necessary or desirable in the performance of the functions of the Department and whenever funds are available for such purpose. All necessary legal services must be provided pursuant to Chapter 25 of this title.

(5) To delegate any of the Secretary’s powers, duties, or functions to a director of a division, except the power to remove employees of the Department or to fix their compensation.

(6) To establish and to promulgate such rules and regulations governing the administration and operation of the Department as are deemed necessary by the Secretary and which are consistent with the laws of this State.

(7) To maintain such facilities throughout this State as may be required for the effective and efficient operation of the Department.

(8) To promulgate rules and regulations as necessary to carry out the Department’s functions and duties.

(9) To adopt an official seal or seals for the Department.

§ 8804. Duties of the Secretary with the advice of the Commission.

(a) The Secretary shall, with the advice of the Commission, do all of the following:

(1) Develop and propose strategies for providing alternative forms of elder care or to create one or more additional veterans homes to ensure that as many veterans as possible can be served and housed as they grow older.

(2) Operate and administer one or more Delaware veterans memorial cemeteries in the State and promulgate such rules and regulations governing the operation of the cemeteries as necessary.

(3) Maintain a repository for all veterans’ “Statement of Service” or similar documentary verification of active armed service.

(4) Administer the Delaware Veterans Trust Fund, which will provide financial assistance or grants to veterans with a minimum discharge status of general discharge under honorable conditions to cover costs associated with medical and dental needs; medical transportation; homelessness support; home repairs and safety modifications; household utilities; and educational or retraining programs.

(5) Represent the State in concert with other states’ veterans’ agencies and the U.S. Department of Veterans Affairs on matters of mutual interest and concern.

(6) Coordinate with and advise all departments and agencies of the State on all matters pertaining to education, training, employment, medical, and financial benefit programs for veterans, their dependents, and their survivors.

(b) The Commission shall provide advice to the Secretary in the financial oversight and operation of the Delaware State Veterans Home.

(c) The Department and the Secretary shall augment, not replace nor infringe upon, the functions of the service officers of veterans’ organizations. The Department may accredit claims representatives in each county. Department-accredited claims representatives are accountable to the Department.

Section 2. Amend Chapters 87 and 88, Title 29 of the Delaware Code by transferring §§ 8720 through 8725 of Chapter 87 of Title 29, to Chapter 88 of Title 29, and then by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 8720.~~ 8811. Delaware Commission of ~~Veterans’~~ Veterans Affairs — Established; composition; powers.

(a) There is ~~hereby~~ established the Delaware Commission of ~~Veterans’ Affairs, hereafter referred to as the~~ “Commission.” Veterans Affairs.

(b) The Commission ~~shall be~~ is composed of 15 Commissioners all of whom ~~shall be~~ are appointed by the Governor for terms of 4 ~~years, and shall be veterans~~ years. Commissioners must be veterans, who are residents of the State of ~~Delaware~~ Delaware, and citizens of the United States.

(1) Ten Commissioners shall be representatives of statewide ~~veteran~~ veterans organizations that are chartered by Congress or authorized under federal law. Where a Commissioner represents a ~~veteran~~ veterans organization, that organization must, within 60 days prior to the expiration of a Commissioner’s term or within 30 days following a vacancy, submit to the Office of the Governor a letter of recommendation which shall include at least 3 nominees and their application packet. Commissioners who are appointed to represent a statewide veterans organization ~~shall,~~ must, during the course of their ~~term—term,~~ remain members in good standing of the nominating organization. The following ~~veteran—veterans~~ organizations shall be represented on the Commission:

- a. American Legion.
- b. American Veterans.
- c. Air Force Sergeants Associations.
- d. Disabled American Veterans.
- e. Korean War Veterans or National Association of Black Veterans. Until such time as any current Korean War Veterans representative serving as Commissioner as of August 9, 2023, has completed a current full term or otherwise resigned the commission, that Commissioner shall retain the appointment and seat on the Commission. At the

completion of that term or upon resignation of the ~~Commission~~, Commissioner, the Korean War ~~Veteran~~ Veterans Commissioner seat shall be filled by a representative of the National Association of Black Veterans.

- f. Marine Corps League.
- g. Military Officers Association of America.
- h. Military Order of the Purple Heart.
- i. Veterans of Foreign Wars.
- j. Vietnam Veterans of America.

(2) Five Commissioners shall be at-large Commissioners, who ~~may~~ shall also be a member of any ~~veteran~~-veterans organization or may be a veteran who has applied directly to the Office of the Governor.

(c) For purposes of this section, a “veteran” is any person who has served on active duty in the U.S. Armed Forces, including the National Guard or the reserves, and who was discharged under other than dishonorable conditions.

§ 8721. ~~8812.~~ Delaware Commission of ~~Veterans’~~ Veterans Affairs — Duties and responsibilities.

(a) ~~[Repealed.]~~

~~(b)~~ (a) (1) The Commission shall recommend candidates to the Secretary, who shall hire and employ an Executive Director, administrative support staff, and other personnel necessary to perform the duties prescribed by the Commission. The Executive Director shall be is exempt from Chapter 59 of this title and must be a veteran as defined in § 8720(c) 8811 of this title. All employees of the Commission in supervisory positions must be veterans as defined in § 8720(c) of this title.

(2) ~~The Executive Director is authorized to use the designation “Delaware Office of Veterans’ Services” when promoting, performing, or furthering the work of the Commission. The Executive Director is an employee of the Department of Veteran Affairs.~~

(3) ~~The Executive Director and staff shall report reports to the Secretary of State on all administrative matters and shall report to and consults with the Commission on all substantive matters.~~

(4) ~~The Commission hiring policy shall prioritize qualified veterans to career ladder and casual/seasonal positions when possible.~~

(e) (b) ~~The Commission shall have~~ has the power of general oversight in the administration of the Delaware State Veterans’ Home and ~~shall have the authority to promulgate~~ may recommend such rules, ~~regulations~~ regulations, and policy as is necessary to the operation of a veterans’ home provided, however, such rules, ~~regulations~~ regulations, and policy are not inconsistent with the other provisions of this chapter.

(d) ~~The Commission shall have the power to operate and administer Delaware veterans' memorial cemeteries in the State and shall have the authority to promulgate such rules and regulations governing the operation of cemeteries as it deems necessary; provided, however, such rules and regulations are not inconsistent with the provisions of this chapter.~~

(e) ~~The Commission shall establish a repository for veterans’ “Statement of Service” or similar documentary verification of active armed service.~~

(f) (c) ~~The Commission shall establish and administer the “Delaware Veterans Trust Fund” which will provide financial assistance or grants to veterans with a minimum discharge of general discharge under honorable conditions to cover costs associated with medical and dental needs; medical transportation; homelessness support; home repairs and safety modifications; household utilities; and educational or retraining programs.~~

~~(g) The Commission shall represent the State in concert with other states' veterans' agencies and the U.S. Department of Veterans Affairs on matters of mutual interest and concern.~~

~~(h) The Commission shall coordinate with and advise all departments and agencies of the State on all matters pertaining to education, training, employment, medical and financial benefit programs for veterans, their dependents, and survivors.~~

(d) The Commission shall serve in an advisory capacity to the Secretary on all matters relevant to veterans in this State and specifically with respect to those duties set forth under § 8804 of this title.

~~(i) (c) The Commission shall~~ may initiate, review, and sponsor state legislation pertaining to veterans.

~~(j) The Commission and its Executive Director shall augment, not replace nor infringe upon, the functions of the service officers of veterans' organizations. The Commission may accredit claims representatives in each county. Commission-accredited claims representatives are accountable to the Commission.~~

~~(k) (f) The Commission shall submit to the Governor~~ Governor, Secretary, Secretary of State, and to the General Assembly an annual report of the Commission's activities and recommendations. Submission to the General Assembly shall be made by delivering a copy of the annual report to the Secretary of the Senate, the Chief Clerk of the House, the Chairs of the House and Senate Veterans Affairs Committees, and the Director and Librarian of the Division of Legislative Services.

~~§ 8722. 8813.~~ Delaware Commission of ~~Veterans'~~ Veterans Affairs — Authority.

The Commission is ~~hereby~~ authorized to develop and promulgate ~~bylaws, rules and regulations not inconsistent with the law, which are necessary for the enforcement and implementation of §§ 8720, 8721, 8722, 8723, 8724 and 8725 of this title and all applicable federal rules and regulations.~~ bylaws and rules necessary to its functions.

~~§ 8723. 8814.~~ Delaware Commission of ~~Veterans'~~ Veterans Affairs — Organization and operation.

~~(a) Any veterans' organization as defined in § 8720(b)~~ A veterans organization listed in § 8811(b) of this title may petition the Governor to remove from the Commission a member which said organization recommended, provided the reasons for said removal are clearly stated in said petition.

~~(b) In the event any Commissioner fails to attend 3 successive scheduled meetings without just cause such failure shall be sufficient grounds for the representative of the particular veterans' veterans organization to be removed by the Governor.~~

~~(c) Prospective members of the Commission shall be recommended by the respective veterans' veterans organizations and appointed by the Governor as vacancies occur. As vacancies occur, they shall be filled in accordance with § 8811(b) of this title.~~

~~(d) The names of prospective members of the Commission shall be submitted to the Governor by letter from the senior official of each respective statewide veterans' veterans organization.~~

~~(e) The members of the Commission shall elect 1 of their members to serve as Chairperson~~ Chair and 1 as ~~Vice-Chairperson~~ Vice-Chair who shall not serve more than 2 consecutive terms. Such elections shall be held annually in September.

~~(f) The Chairperson and Vice-Chairperson~~ Chair and Vice-Chair shall serve as voting members of the Commission.

~~(g) The Executive Director shall attend all meetings of the Commission, keep a full and true record of its proceedings, preserve at its general office all its books, documents and papers, and perform such other duties as the Commission may prescribe. The Department shall provide clerical and staff support to the Commission.~~

~~(h) The Commission shall hold monthly meetings at such time and location as prescribed by the Chairperson.~~ Chair. Special meetings may be called by the Chair or a majority of the Commission membership.

~~(i) A quorum shall consist of a simple majority of the Commission members.~~

(j) Members of the Commission shall serve without compensation except that they may be reimbursed for reasonable and necessary travel expenses incident to their duties as members of the Commission to the extent that funds are available and in accordance with state law.

(k) ~~The Commission's executive offices shall be located in Dover, Delaware. [Repealed.]~~

§ ~~8724.~~ 8815. Delaware Commission of ~~Veterans'~~ Veterans Affairs — Funding.

Annually, the Commission shall submit a proposed budget to the Department of State Veterans Affairs for review and approval by that Department. The Department of State Veterans Affairs shall then recommend to the General Assembly that the Commission's budget be included as a line item within said Department's funding.

§ ~~8725.~~ 8816. Delaware Commission of ~~Veterans'~~ Veterans Affairs — Relationship to other state agencies.

(a) ~~Unless otherwise indicated, the duties, responsibilities and authority set forth in §§ 8721 and 8723 of this title are reserved specifically to the Commission. [Repealed.]~~

(b) The Commission may request the advice, ~~opinion~~ opinion, or assistance of other appropriate state agencies as necessary to properly discharge its duties and responsibilities.

(c) The Department of State Veterans Affairs shall provide reasonable office and meeting facilities and other logistic support as requested by the Commission.

(d) The Department of State Veterans Affairs shall maintain an overview of the Commission's operation in order to insure proper use of, and accountability for, state funds appropriated for that purpose.

(e) ~~The General Assembly hereby directs the Delaware Commission on Veterans Affairs to return/replace all memorials and plaques purchased/donated by veteran's family members to their original location within the cemetery or to a site agreeable to the veteran's family members. The General Assembly further directs that, after July 1, 2003, no plaque or memorial will be removed or relocated for any purpose without the approval of the Co-chairs of the Joint Legislative Committee on the Capital Improvement Program. Existing memorial works are historical, cultural and aesthetic resources. [Repealed.]~~

Section 3. Amend § 1202, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1202. Supervision by ~~Delaware Commission~~ Department of Veterans Affairs; powers and duties.

(a) The establishment, operation and maintenance of the Delaware Veterans Memorial Cemetery shall be under the supervision of the ~~Delaware Commission~~ Department of Veterans Affairs which shall have the following powers and duties:

(7) Prepare an annual report on the operation of the Cemetery which shall be presented to the ~~Governor~~ Governor, the Secretary of the Department of Veterans Affairs, and to the General Assembly; and

(b) A plaque or memorial in the Delaware Veterans Memorial Cemetery may not be removed or relocated for any purpose without the approval of the Co-chairs of the Joint Legislative Committee on Capital Improvement.

Section 4. Amend § 2139R, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2139R. Special license plates honoring Delaware veterans.

(d) The funds derived by the State from that portion of the 1-time fee of \$20 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside and deposited with the ~~Delaware Commission~~ Department of Veterans Affairs for its deposit in the Veterans Trust Fund.

Section 5. Amend § 9605, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9605. Recordation of instruments.

(j) The county recorders of deeds shall not record military service discharge documents. The county recorders of deeds shall transfer all recorded military service discharge documents to the ~~Delaware Commission~~ Department of Veterans Affairs, the State's Repository pursuant to ~~§ 8721~~ § 8804 of Title 29. The ~~Delaware Commission~~ Department of Veterans Affairs shall maintain all certificates of release or discharge from active military service or similar discharge documents as defined.

Section 6. Amend Chapter 39, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3981. Office established; appointment.

(a) There is established an Office of the Public Guardian, with a Public Guardian who shall serve as follows:

(3) The VA fiduciary of last resort for U.S. Department of Veterans Affairs benefits.

§ 3982. Definitions.

For the purposes of this chapter:

(7) "VA fiduciary" means a person appointed by the U.S. Department of Veterans Affairs (VA) to receive VA benefits for an individual who is unable to manage the individual's VA benefits.

Section 7. Amend § 2140L, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2140L. Special license plates for Combat Infantry Badge holders.

(g) All registration plates issued pursuant to this section shall be the colors and design as determined by the Department in conjunction with representatives from the Commission of Veterans Affairs ~~Office of Veterans Services~~, and the Department of Veterans Affairs. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

Section 8. Amend § 2140C, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2140C. Special license plates honoring women's military service.

(d) The Division of Motor Vehicles shall deposit with the State Treasurer the funds derived by the State from that portion of the 1-time fee of \$20 that is not defined as an administrative fee under subsection (c) of this section. The deposited funds must be specifically set aside and deposited with the ~~Delaware Commission~~ Department of Veterans Affairs for its deposit in the Veterans Trust Fund.

Section 9. Amend § 1197, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows.

§ 1197. Delaware Veterans Trust Fund.

(a) The Division of Revenue shall provide a space on the Delaware income tax return form or schedule whereby an individual may voluntarily designate a contribution of any amount to the Delaware Veterans Trust Fund established pursuant to ~~§ 8721~~ § 8804 of Title 29.

Section 10. As of the effective date of this Act, all current employees of the Commission of Veterans Affairs and the Office of Veterans Services shall become employees of the Department of Veterans Affairs, and shall maintain their then-current salary, seniority, and benefits.

Section 11. As of the date set forth in the Transition Report and the Concurrent Resolution of the General Assembly approving the Transition Report, the Department of Veterans Affairs shall assume all contracts, deeds, debts, and other assets and liabilities of the Commission of Veterans Affairs.

Section 12. This Act takes effect upon its enactment into law and is to be implemented within 180 days of its enactment.

Approved August 13, 2025