

LAWS OF DELAWARE
VOLUME 85
CHAPTER 258
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 151

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DETENTION FACILITIES.

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

Section 1. Amend § 6503, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 6503. Definitions.

As used in this chapter:

(3) “Detention facility” means any facility in which persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court or detention pending a trial, hearing, or other judicial or administrative proceeding.

(5) “Nonsecure residential detention setting” means a facility that does not have locked doors, locked perimeter fencing, bars, razor wire, or other physical barriers intended to prevent exit from the premises and that limits the use of physical restraints to emergency situations.

(7) “Private detention facility” means a detention facility that is operated by a private, nongovernmental, for-profit entity and operating pursuant to a contract or agreement with a governmental entity. A private detention facility does not include:

a. Any facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to a juvenile that is under the jurisdiction of the Family Court pursuant to Chapter 9 of Title 10.

b. Any facility providing evaluation or treatment services to a person who is detained or subject to an order of commitment by a court, pursuant to Chapter 50 of Title 16.

c. Any facility providing educational, vocational, medical, or other ancillary services to an inmate in the custody of, and under the direct supervision of, the Department of Correction or other law enforcement agency.

d. A residential care facility licensed pursuant to Chapter 22 of Title 16.

e. Any school facility used for the disciplinary detention of a pupil.

f. Any facility used for the quarantine or isolation of persons for public health reasons pursuant to § 3136 of Title 20.

g. A facility contracted by the Department of Services for Children, Youth and Their Families to provide services in a nonsecure residential detention setting for a juvenile who is under the jurisdiction of the Family Court pursuant to Chapter 9 of Title 10.

Section 2. Amend Subchapter XI, Chapter 65, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6593. Private detention facilities; conduct prohibited.

(a) The State, a unit of local government, or any agency, officer, employee, or agent thereof, may not do any of the following:

(1) Enter into an agreement for the detention of an individual in a detention facility owned, managed, or operated, in whole or part, by a private entity.

(2) Pay, reimburse, subsidize, or defray any cost related to the sale, purchase, construction, development, ownership, management, or operation of a detention facility that is or will be owned, managed, or operated, in whole or part, by a private entity.

(3) Receive per diem, per detainee, or any other payment related to the detention of an individual in a detention facility owned, managed, or operated, in whole or part, by a private entity.

(4) Give any financial incentive or benefit to any private entity or person in connection with the sale, purchase, construction, development, ownership, management, or operation of a detention facility that is or will be owned, managed, or operated, in whole or part, by a private entity.

(b) Nothing in this section prohibits the State or a unit of local government that owns, manages, or operates a detention facility from contracting with a private entity or person to provide ancillary services in that facility, such as, medical services, food service, educational services, or facility repair and maintenance.

Section 3. Amend § 6503, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 6503. Definitions.

As used in this chapter:

~~(5) “Nonsecure residential detention setting” means a facility that does not have locked doors, locked perimeter fencing, bars, razor wire, or other physical barriers intended to prevent exit and that limits the use of physical restraints to emergency situations.~~

~~(7)~~ (6) “Private detention facility” means a detention facility that is operated by a private, nongovernmental, for-profit entity and operating pursuant to a contract or agreement with a governmental entity. A private detention facility does not include:

~~g. A facility housing a program contracted by the Department of Services for Children, Youth and Their Families solely to provide services in a nonsecure residential detention setting for a juvenile who is under the jurisdiction of the Family Court pursuant to Chapter 9 of Title 10. [Repealed.]~~

Section 4. Sections 1 and 2 of this Act are effective upon enactment. Section 3 of this Act is effective on February 1, 2028.

Approved May 21, 2026