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Sokola, Walsh; Reps. Baumbach, Bolden, Brady,  
Heffernan, Q. Johnson, Kowalko, Lynn, Matthews

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 209

AN ACT TO AMEND TITLE 11, PART 1, OF THE DELAWARE CODE RELATING TO THE DELAWARE  
CRIMINAL CODE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members  
elected to each house thereof concurring therein):

1 Section 1. Amend Title 11 of the Delaware Code by deleting Part I, Title 11 of the Delaware Code in its entirety.

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

4 Part I: Delaware Criminal Code.

5 Subpart A. General provisions.

6 Chapter 1. Preliminary provisions.

7 § 101. Short Title.

8 This part is known and may be cited as the “Delaware Criminal Code of 2018”.

9 § 102. Applicability to offense committed before [effective date of this Act].

10 (a) This part establishes the criminal law of Delaware and governs the construction of and punishment for an  
11 offense committed after [the effective date of this Act], and the construction and application of any defense to prosecution  
12 for an offense.

13 (b) Prosecution for an offense committed before [the effective date of this Act] is governed by the prior law. In a  
14 case pending on or commenced after [the effective date of this Act] involving an offense committed before that date, a  
15 provision of this part that provides a defense or mitigation applies, if the person consents to the provision’s application.

16 § 103. Definitions.

17 As used in this part:

18 (1) “Abortion” means terminating the pregnancy of a woman known to be pregnant, intending that the fetus  
19 not live afterwards.

20 (2) “Abuse of a child” means as “abuse” or “abused child” is defined in § 901(1) of Title 10.

21           (3) “Acquittal” means a prosecution that resulted in a finding of not guilty by the trier of fact or in a  
22 determination that insufficient evidence existed to warrant a conviction. Acquittal of inclusive offense. A finding  
23 of guilt of an included offense is an acquittal of the inclusive offense, even if the conviction is later set aside.

24           (4) “Adulterated” means varying from the standard of composition or quality prescribed by or under any  
25 statute providing criminal penalties for such variance, or set by established commercial usage.

26           (5) “Agent of the organization” means a director, officer, or employee of an organization, or any other person  
27 who is authorized to act on behalf of an organization.

28           (6) “Anabolic steroid” means as defined in § 4718 of Title 16.

29           (7) “Attempt” or “attempting” means an act that satisfies the definition of an attempt in § 501 of this title.

30           (8) “Authorized abortion” means an abortion authorized under Subchapter IX of Chapter 17 of Title 24.

31           (9) “Authorized prescription” means a prescription issued by a licensed practitioner who has a patient-  
32 practitioner relationship with the intended recipient of the prescription drug.

33           (10) “Catastrophe” means any of the following:

34               a. Serious physical injury to 5 or more persons.

35               b. Substantial damage to 5 or more buildings or habitable structures.

36               c. Substantial damage to a vital public facility that seriously impairs its usefulness or operation.

37           (11) “Catastrophic agent” means an explosive, incendiary device, timing or detonating mechanism for an  
38 incendiary device, poison or poisonous gas, deadly biological or chemical contaminant or agent, or radioactive  
39 substance.

40           (12) “Chemically impaired” means, except as authorized by law, an individual is or has any of the following:

41               a. Less able than an individual would ordinarily have been, either mentally or physically, to exercise clear  
42 judgment, sufficient physical control, or due care due to consumption of alcohol, a controlled substance, another  
43 intoxicating substance, or a combination of alcohol, a controlled substance, or another intoxicating substance.

44               b. An alcohol concentration of .08 or more, meaning any of the following:

45                     1. An amount of alcohol in a sample of an individual’s blood equivalent to .08 or more grams of  
46 alcohol per 100 milliliters of blood.

47                     2. An amount of alcohol in a sample of an individual’s breath equivalent to .08 grams per 210 liters  
48 of breath.

49               c. Blood containing any amount of the following substances, or a preparation or mixture containing 1 of  
50 them:

- 51 1. A Schedule I controlled substance under § 4714 of Title 16.
- 52 2. Cocaine, as described in § 4716 of Title 16.
- 53 3. Amphetamine, including its salts, optical isomers, and salt of its optical isomers, as described in §  
54 4716 of Title 16.
- 55 4. Methamphetamine, including its salt, isomer or salt of an isomer thereof, as described in § 4716 of  
56 Title 16.
- 57 5. Phencyclidine, as described in § 4716 of Title 16.
- 58 6. A designer drug, as defined in § 4701 of Title 16.
- 59 (13) “Child pornography” means a visual depiction of a person less than 16 years old engaged in sexual  
60 conduct regardless of any of the following:
- 61 a. Whether the conduct is actual or simulated.
- 62 b. Whether the depiction has been created, adapted, modified, or edited to merely appear as though the  
63 person is engaged in sexual conduct.
- 64 (14) “Circumstance element” means any objective element that is not a conduct or result element.
- 65 (15) “Combat event” means any match, contest, or event that features boxing, mixed martial arts, or any other  
66 combative sport.
- 67 (16) “Commercial animal” means an animal that is all of the following:
- 68 a. Grown, raised, or produced in the State for sale or resale of a product of the animal.
- 69 b. Sold or resold by a person that has all necessary licenses for the sale or resale of a product of the  
70 animal.
- 71 c. Sold or resold by a person that receives at least 25% of the person’s annual gross income from that sale  
72 or resale of a product of the animal.
- 73 (17) “Commercial electronic mail” means any electronic mail message that is sent to a receiving address or  
74 account for the purposes of advertising, promoting, marketing, or otherwise attempting to solicit interest in any good,  
75 service, or enterprise.
- 76 (18) “Computer services” includes computer access to computer networks, data processing, and data storage.
- 77 (19) “Computer system” means a computer, its software, related equipment, or communications facilities.
- 78 (20) “Conduct element” means a part of an offense that requires a person’s act or failure to perform a legal  
79 duty.

80           (21) “Consequence” means a result element of an offense and the attendant circumstance elements that  
81 characterize the result.

82           (22) “Contents of a communication” includes any information concerning the identity of a party to the  
83 communication or the existence, substance, or meaning of that communication.

84           (23) “Controlled substance” means a drug, substance, or immediate precursor in Schedules I through V of  
85 Subchapter II of Chapter 47 of Title 16, and includes designer drugs.

86           (24) “Conviction” means a prosecution that resulted in 1 of the following:

87                 a. A judgment of conviction that has not been reversed or vacated.

88                 b. A verdict of guilty that has not been set aside and is capable of supporting a judgment.

89                 c. A plea of guilty or nolo contendere accepted by the court.

90           (25) “Correctional officer” means an individual employed to supervise and control individuals incarcerated in  
91 or in the custody of a correctional institution or the Division of Youth Rehabilitative Services.

92           (26) “Counterfeit mark” means any unauthorized reproduction or copy of intellectual property or intellectual  
93 property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services  
94 offered or rendered without the authority of the owner of the intellectual property.

95           (27) “Criminal negligence” means as defined in § 205(b)(4) of this title.

96           (28) “Criminal street gang” means any ongoing organization, association, or group of 3 or more persons,  
97 whether formal or informal, that has all of the following:

98                 a. A common name or common identifying sign or symbol.

99                 b. Members who individually or collectively engage in or have engaged in a pattern of criminal gang  
100 activity.

101                 c. As one of its primary activities, the commission of criminal offenses.

102           (29) “Criminally negligent mistake” means an erroneous belief that a person is criminally negligent in  
103 forming or holding.

104           (30) “Cruelty” means any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or  
105 death is caused or permitted.

106           (31) “Damage”, when referring to property, means impairing a property’s usefulness or value by any means,  
107 and includes deleting or altering computer programs or other electronically recorded data, or impairing access to  
108 computer services.

109           (32) “Dangerous instrument” means any instrument, article, or substance that, under the circumstances in  
110 which it is used or threatened to be used, is readily capable of causing death or serious physical injury. “Dangerous  
111 instrument” includes disabling sprays, such as pepper spray, and electronic devices designed to incapacitate an  
112 individual, such as tasers.

113           (33) “Data” means information of any kind in any form.

114           (34) “Deadly force” means force that a person intends to cause, or knows creates a substantial risk of causing,  
115 death or serious physical injury. “Deadly force” includes intentionally firing a firearm under either of the following  
116 circumstances:

117           a. In the direction of another person.

118           b. At a vehicle in which the person believes another person to be riding.

119           (35) “Deadly weapon” includes any of the following:

120           a. A firearm, whether operable or inoperable.

121           b. A bomb; switchblade knife; knife, other than a folding knife, 3 inches or less in length in its closed  
122 position; billy; blackjack; bludgeon; metal knuckles; slingshot; or razor.

123           c. A dangerous instrument, when it is used with intent to cause death or serious physical injury.

124           (36) “Deadly weapon designed for the defense of one’s person” includes a pistol, revolver, stiletto, or steel or  
125 brass knuckles. “Deadly weapon designed for the defense of one’s person” does not include a toy pistol, pocketknife,  
126 knife used for sporting purposes or in domestic households, or surgical instrument.

127           (37) “Dealer” means a person in the business of buying, selling, or lending on the security of goods, including  
128 a pawnbroker.

129           (38) “Deceiving”, “deceive”, or “deception” means any of the following:

130           a. Creating or reinforcing a false impression as to any fact.

131           b. Preventing another person from acquiring information that would adversely affect the other person’s  
132 judgment of a transaction.

133           (39) “Defendant” means a person accused or convicted of committing a criminal offense.

134           (40) “Defense” means a provision in this part that explicitly uses the word “defense,” other than a general  
135 defense provision. A defense negates potential liability for an offense.

136           (41) “Defraud” means to obtain anything of value through deception.

137           (42) “Deliver” or “delivery” means the actual or constructive transfer from one person to another, regardless  
138 of whether there is an agency relationship.

139           (43) “Dependent child” means either of the following:  
140           a. An individual less than 18 years old.  
141           b. An individual more than 18 years old but less than 19 years old who is enrolled in high school.  
142           (44) “Deprive” means to do any of the following:  
143           a. Withhold property of another person permanently or for so extended a period as to appropriate a major  
144 portion of its economic value, or with the intent to restore it only upon payment of a reward or other  
145 compensation.  
146           b. Dispose of property of another person so as to make it unlikely that the owner will recover it.  
147           (45) “Destructive weapon” means any of the following:  
148           a. A bomb or bomb shell.  
149           b. A firearm silencer.  
150           c. A shotgun that meets any of the following conditions:  
151                 1. Has 1 or more barrels less than 18 inches in length.  
152                 2. Is modified to have an overall length of less than 26 inches.  
153           d. A machine gun or weapon that is adaptable for use as a machine gun.  
154           (46) “Drug paraphernalia” means as defined in § 4701 of Title 16, but does not include items that are  
155 traditionally intended for use with tobacco products, such as pipes, paper, or accessories.  
156           (47) “Dwelling” means a structure or vehicle in which a person usually lodges.  
157           (48) “Ecological catastrophe” means substantial damage to a marine environment within the State or any other  
158 ecological environment designated by law to be so protected.  
159           (49) “Electronic communication” means any communication made in whole or in part through the use of  
160 facilities for the transmission of communications by the aid of electronic, microwave, radio, cable, satellite, or other  
161 connection between the point of origin and the point of reception furnished or operated by a common carrier.  
162           (50) “Electronic mail” means any message that is automatically passed from an originating address or account  
163 to a receiving address or account.  
164           (51) “Enterprise” means any of the following:  
165           a. Sole proprietorship, partnership, corporation, trust, or governmental or other legal entity.  
166           b. Union, association, or group of persons associated in fact, even if not a legal entity.  
167           (52) “Entry” means a person introduces a body part or a part of an instrument, by whatever means, into or  
168 upon premises.

169           (53) “Exception to liability” means a provision in this part stipulating a modification or refinement of a single  
170 offense or a related group of offenses, other than a defense or a general defense provision. An exception to liability  
171 negates potential liability for an offense.

172           (54) “Excuse defense” means a defense described in Subchapter II of Chapter 3 of this part.

173           (55) “Firearm” means any weapon from which a bullet, projectile, or other object may be discharged by force  
174 of combustion, explosive, gas, or mechanical means, regardless of whether the weapon is loaded or stored in multiple  
175 pieces. “Firearm” does not include a B.B. gun.

176           (56) “Force”, in addition to its ordinary meaning, includes confinement or restraint.

177           (57) “Funerary object associated with interment” means any of the following:

178                 a. An item of human manufacture or use that has been intentionally placed with human remains at the  
179 time of interment in a burial site, or later as a part of a death rite or ceremony of a culture, religion, or other group.

180                 b. A gravestone, monument, tomb, or other structure in or directly associated with an existing burial site.

181           (58) “Gambling device” means a device, machine, table, paraphernalia, or equipment designed for use in the  
182 playing phases of any gambling activity. “Gambling device” does not include a lottery ticket.

183           (59) “Gender identity” means a gender-related identity, appearance, expression, or behavior of an individual,  
184 regardless of the individual’s assigned sex at birth.

185           (60) “General defense” means the provisions of Chapter 3 of this part.

186           (61) “Genitalia” means any of the following:

187                 a. A vagina, labia minora, labia majora, or clitoris.

188                 b. A penis or scrotum.

189           (62) “Handgun” means a pistol, revolver, or other firearm designed to be fired when held in 1 hand.

190           (63) “Harm to another person” means loss, disadvantage, injury, or anything so regarded by the person  
191 affected, including acts done to a third person in whose welfare the person is interested.

192           (64) “High managerial agent” means an officer of an organization, or any other organizational agent in a  
193 position of comparable authority as to the formulation of organizational policy or the managerial supervision of  
194 subordinate employees.

195           (65) “Human remains” means any part of the body of a deceased individual in any stage of decomposition.

196           (66) “Improperly terminated” means a prosecution that is terminated for reasons that do not include an  
197 acquittal and takes place after the first witness is sworn but before the verdict. “Improperly terminated” does not  
198 include either of the following circumstances:

199                   a. The person consents to the termination or waives, by motion to dismiss or otherwise, the right to object  
200 to the termination.

201                   b. The trial court declares a mistrial in accordance with law.

202                   (67) “Incendiary device” means an item designed to ignite by hand, chemical reaction, or spontaneous  
203 combustion, and includes bombs and other explosives.

204                   (68) “Inchoate offense” means any offense defined in Chapter 5 of this title.

205                   (69) “Intentionally” means as defined in § 205(b)(1) of this title.

206                   (70) “Intercept” or “interception”, when referring to a communication, means visual acquisition, aural  
207 acquisition, or the recording by any means of all or part of the contents of the communication.

208                   (71) “Internet pharmacy” does not include a pharmacy for which the Delaware State Board of Pharmacy has  
209 issued a valid permit or license. “Internet pharmacy” means a person who meets all of the following conditions:

210                   a. Maintains a website that solicits, receives, or offers to solicit or receive prescription drug orders.

211                   b. Dispenses or delivers, or intends to dispense or deliver, prescription drug orders to patients in this State  
212 through the mail or other delivery service.

213                   (72) “Intoxication” means a disturbance of mental or physical capacities resulting from the introduction of a  
214 substance into the body.

215                   (73) “Involuntary intoxication” means intoxication that does not meet the definition of “voluntary  
216 intoxication”.

217                   (74) “Issue a check” means a person meets all of the following conditions:

218                   a. Is the drawer of the check or signs in a capacity as representative or agent of the principal drawer or  
219 obligor.

220                   b. Delivers or causes the check to be delivered to a person who acquires a right against the drawer as to  
221 the check by reason of delivery.

222                   (75) “Juror” means a person who has received notice of summons to appear for jury service.

223                   (76) “Justification defense” means a defense described in Subchapter I of Chapter 3 of this part.

224                   (77) “Knowingly” means as defined in § 205(b)(2) of this title.

225                   (78) “Law enforcement officer” means a public servant that a law or government agency authorizes to engage  
226 in or supervise the prevention, detection, investigation, or prosecution of offenses.

227                   (79) “Leaf marijuana” means the dried leaves and flowering tops of the plant cannabis sativa L.

228                   (80) “Loiters” means to stand or sit idly without a legitimate reason for doing so.



229           (81) “Lottery ticket” means a policy, number, certificate, or device that entitles the holder to receive property  
230 upon a contingency based in chance, including number series.

231           (82) “Misabeled” means varying from the standard of truth or disclosure in labeling prescribed by or under  
232 any statute providing criminal penalties for such variance, or set by established commercial usage.

233           (83) “Mental illness or serious mental disorder” means any condition of the brain or nervous system  
234 recognized as a mental disease by a substantial part of the medical profession. “Mental illness” does not mean  
235 intoxication or an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

236           (84) “Mitigation” means a provision in this part stipulating the conditions for decreasing the punishment for  
237 an offense. A mitigation establishes a partial reduction of potential liability for an offense.

238           (85) “Motor vehicle” means an automobile, motorcycle, van, truck, trailer, semitrailer, truck tractor and  
239 semitrailer combination, or any other vehicle which is self-propelled, designed to be operated primarily on a roadway  
240 as defined in § 101 of Title 21, and in, upon, or by which a person or property is or may be transported. “Motor  
241 vehicle” does not include a device that is included in the definitions of “moped”, “off-highway (OHV)”, “triped”,  
242 “motorized scooter or skateboard”, “motorized wheelchair” or “electric personal assistive mobility device”, as those  
243 terms are defined in § 101 of Title 21.

244           (86) “Neglect of a child” means as “neglect” or “neglected child” are defined in § 901 of Title 10.

245           (87) “Night” means a period between 30 minutes after sunset and 30 minutes before sunrise.

246           (88) “Nonexculpatory defense” means a defense, bar to prosecution, or bar to pleading, trial, or sentencing  
247 described in Subchapter III of Chapter 3 of this part.

248           (89) “Oath” includes an affirmation and every other mode authorized by law of attesting to the truth of a  
249 statement.

250           (90) “Obscene” means an actual or simulated material or performance that meets all of the following  
251 conditions:

252           a. The average person, applying contemporary adult community standards, would find that, taken as a  
253 whole, appeals to the prurient interest.

254           b. Depicts or describes, in a patently offensive way, any of the following:

255                   1. An ultimate sexual act.

256                   2. A sadomasochistic sexual act.

257                   3. Masturbation.

258                   4. Excretory functions.

259                   5. Lewd exhibition of the genitals.

260                   c. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

261                   (91) “Obtain” means either of the following:

262                   a. In relation to property, to bring about or receive a transfer or purported transfer of any interest in

263                   property.

264                   b. In relation to labor or services, to secure performance of the labor or services.

265                   (92) “Oral or object penetration” means any of the following:

266                   a. Placing any object, substance, or body part inside the anus or vagina of another individual.

267                   b. An individual’s placing of an object inside another individual’s mouth, intending the act to be sexual in

268                   nature.

269                   (93) “Organization” means any person, but does not include individuals.

270                   (94) “Originating address” or “originating account” means the sequence of characters used to specify the

271                   source of any electronic mail message.

272                   (95) “Overdose” means an acute condition including physical illness, coma, mania, hysteria, or death resulting

273                   from the consumption or use of an ethyl alcohol, a controlled substance, another substance with which a controlled

274                   substance was combined, a noncontrolled prescription drug, or any combination of these, including any licit or illicit

275                   substance.

276                   (96) “Owner” means a person, other than the defendant, who has possession of or any other interest in the

277                   property involved, even if such interest or possession is unlawful, and without whose consent the defendant has no

278                   authority to exert control over the property.

279                   (97) “Party officer” means a person who holds any position or office in a political party, whether by election,

280                   appointment, or otherwise.

281                   (98) “Pass a check” means a person meets all of the following conditions:

282                   a. Is a payee, holder, or bearer of a check that purports to have been drawn and issued by another.

283                   b. Delivers the check for a purpose other than collection to a third person who acquires a right as to the

284                   check by reason of delivery.

285                   (99) “Patient-practitioner relationship” means as defined in § 4701 of Title 16.

286                   (100) “Pattern of criminal gang activity” means the commission of 2 or more incidents of conduct, the last of

287                   which occurred within 3 years of a prior offense, that constitute felony violations of offenses involving violence.

288 coercion, sexual activity, controlled substances, property damage, or deadly weapons, and were committed under any  
289 of the following circumstances:

290 a. On separate occasions.

291 b. By 2 or more persons.

292 (101) “Pattern of racketeering activity” means the commission of 2 or more incidents of conduct that meet all  
293 of the following conditions:

294 a. The last incident of conduct occurred within 10 years of a prior incident of conduct.

295 b. Are related to the affairs of the enterprise.

296 c. Are not so closely related to each other and connected in time and place that they constitute a single  
297 event.

298 d. Constitute at least 1 of the following:

299 1. An activity defined as “racketeering activity” under 18 U.S.C.A. § 1961(1)(A), (1)(B), (1)(C), or  
300 (1)(D).

301 2. A felony under this part.

302 (102) “Payment card” means any instrument or device issued by an issuer for use of the cardholder in  
303 obtaining anything of value on credit, by withdrawing funds from a deposit account, or through use of value stored on  
304 the card. “Payment card” includes the number assigned to the card, even if the physical instrument or device is not used  
305 or presented.

306 (103) “Peace officer” means a person who, by virtue of the person’s office or public employment, is vested by  
307 law with a duty to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses,  
308 and regardless of the person’s jurisdiction.

309 (104) “Penal custody” means custody in a detention facility or a facility of the Department of Corrections.

310 (105) “Person” means any of the following:

311 a. A human being who has been born and is alive.

312 b. Where appropriate, a public or private corporation, trust, firm, joint stock company, union,  
313 unincorporated association, partnership, government, or governmental instrumentality.

314 (106) “Personal benefit” means any of the following:

315 a. A personal gain or advantage to the recipient.

316 b. A gain or advantage conferred on the behalf of another person in whose welfare the person is  
317 interested.

318           (107) “Personal identifying information” includes name, address, birth date, Social Security number, driver's  
319 license number, telephone number, financial services account number, savings account number, checking account  
320 number, payment card number, identification document or false identification document, electronic identification  
321 number, educational record, health care record, financial record, credit record, employment record, e-mail address,  
322 computer system password, mother's maiden name, or similar personal number, record or information.

323           (108) “Physical evidence” means any object, document, record, or other physical item that is or will be used  
324 as evidence in an official proceeding.

325           (109) “Physical injury” means impairment of physical condition or substantial pain, including physical harm  
326 that would normally cause substantial pain.

327           (110) “Place open to public view” means any place where it is not reasonable to expect to see the conduct  
328 without prior knowledge or consent.

329           (111) “Position of trust, authority, or supervision” means both of the following apply to a person:

330           a. Has regular direct contact with 1 or more children because of the person’s familial relationship,  
331 profession, employment, vocation, avocation, or volunteer service.

332           b. In the course of contact defined in section (111)a. of this definition, the person assumes responsibility,  
333 whether temporary or permanent, for the care or supervision of 1 or more children.

334           (112) “Practitioner” means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or  
335 other person licensed, registered, or otherwise permitted to distribute, dispense, administer, or conduct research on a  
336 controlled or noncontrolled substance in the course of professional practice or research in this State.

337           (113) “Prescription drug” means as defined in § 4701 of Title 16.

338           (114) “Preponderance of the evidence” means that evidence of an element of an offense or defense makes it  
339 more likely than not that the element existed at the required time.

340           (115) “Private communication,” whether electronic, written, or oral, means communication made with all of  
341 the following conditions:

342           a. An expectation that the communication is not subject to interception.

343           b. Under circumstances justifying an expectation that the communication is not subject to interception.

344           (116) “Private personal data” means data concerning an individual that a reasonable person would want to  
345 keep private and is protectable under law.

346           (117) “Private place” means a place where a person would reasonably expect to be safe from unauthorized  
347 intrusion or surveillance.

348           (118) “Private wire” means any equipment that transmits or receives electronic or telephone communications  
349 through a wired connection, but is not accessible from a public network or utility.

350           (119) “Proceeds” means funds acquired or derived directly or indirectly from, produced through, or realized  
351 through an act.

352           (120) “Property” means anything of value, including: real estate; tangible and intangible personal property;  
353 contract rights; choses-in-action and other interests in or claims to wealth; admission or transportation tickets; pet,  
354 captured, or domestic animals, including livestock; food and drink; electric or other power; personal services;  
355 telephone service; access to electronic services, programs, or data; recorded sounds or images; private personal data or  
356 information; and lottery tickets.

357           (121) “Property of another” means property to which a person other than a defendant holds a greater claim of  
358 right, whether such a claim is temporary, permanent, or illegal. The owner of flowers, burial mounds, mementos, or  
359 any other property left in a cemetery for the purpose of honoring the dead retains a claim of right to that property.

360           (122) “Protected work” means all or substantially all of a copyrighted writing, visual representation, audio  
361 recording, motion picture, video game, or other creative work that can be embodied in tangible or electronic form.

362           (123) “Public passage” includes ingress to or egress from public buildings, pedestrian traffic, and vehicular  
363 traffic.

364           (124) “Public place” means a place to which the public or a substantial group of persons has access. “Public  
365 place” includes highways; transportation facilities; schools; places of amusement; parks; playgrounds; prisons; or  
366 hallways, lobbies or other portions of apartment houses and hotels not constituting apartments or rooms designed for  
367 actual residence.

368           (125) “Public servant” means any of the following:

369           a. An officer or employee of the State or any of its political subdivisions.

370           b. A person or persons who are candidates for office or who have been elected to office but have not yet  
371 assumed office.

372           c. A juror, advisor, or consultant performing a governmental function, but not a witness.

373           (126) “Public service” includes a public water, gas, or power supply; telecommunications service;  
374 transportation service, facility, or road; service furnished by an electric company; or other public utility.

375           (127) “Put forward”, as to a written instrument, record, device, or object, means to issue, authenticate,  
376 transfer, publish, circulate, present, display, or otherwise give legitimacy to that item.

377           (128) “Real property” means land or any permanent structures attached to land, including buildings.

378           (129) “Reasonable mistake” means an erroneous belief that a person is less than criminally negligent in  
379 forming or holding.

380           (130) “Receive” means to acquire possession, control, or title, or lending on the security of the property.

381           (131) “Receiving address” or “receiving account” means the sequence of characters used to specify the  
382 destination of any electronic mail message.

383           (132) “Reckless mistake” means an erroneous belief that a person is reckless in forming or holding.

384           (133) “Recklessly” means as defined in § 205(b)(3) of this title.

385           (134) “Reencoder” means an electronic device that places encoded information from the computer chip or  
386 magnetic strip or stripe of a payment card onto the computer chip or magnetic strip or stripe of a different payment  
387 card or any electronic medium that allows an authorized transaction to occur.

388           (135) “Registrant” means a person who has obtained registration to engage in activities related to prescription  
389 drugs under § 4732, et seq, of Title 16.

390           (136) “Relative” means a parent, grandparent, brother, sister, uncle, or aunt.

391           (137) “Reside” means to occupy a dwelling as a person’s place of permanent or temporary abode.

392           (138) “Result element” means any change in the state of the world required to have been caused by the  
393 defendant’s conduct.

394           (139) “Scanning device” means a scanner, reader, or any other electronic device that is used to temporarily or  
395 permanently access, read, scan, obtain, memorize, or store information encoded on the computer chip, magnetic strip,  
396 or stripe of a payment card.

397           (140) “Schedule I” means as defined in § 4714 of Title 16.

398           (141) “Schedule II” means as defined in § 4716 of Title 16.

399           (142) “Schedule III” means as defined in § 4718 of Title 16.

400           (143) “Schedule IV” means as defined in § 4720 of Title 16.

401           (144) “Schedule V” means as defined in § 4722 of Title 16.

402           (145) “Security” means as defined in § 73-103 of Title 6.

403           (146) “Serious physical injury” means physical injury that meets any of the following conditions:

404           a. Creates a substantial risk of death.

405           b. Causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or  
406 impairment of the function of any bodily organ.

407           c. Causes the unlawful termination of a pregnancy without the consent of the pregnant female.

408           (147) “Services” includes labor; professional service; transportation; public service or utility; accommodation  
409 in hotels, restaurants, or elsewhere; admission to exhibitions; use of vehicles or other moveable property; use of  
410 intellectual property; and computer services, including computer access, data processing, and data storage.

411           (148) “Sexual conduct” means any act designed to produce sexual gratification to any person. “Sexual  
412 conduct” is not limited to sexual intercourse.

413           (149) “Sexual contact” means any of the following:

414           a. Sexual intercourse or oral or object penetration.

415           b. Touching or undressing that is intended to be sexual in nature and meets any of the following  
416 conditions:

417           1. Touching of a body part of another individual, whether clothed or unclothed, by a body part, body  
418 fluid, or object.

419           2. Undressing that reveals the breast, genitalia, or buttocks of another individual.

420           (150) “Sexual intercourse” means any of the following:

421           a. An act of penetration, however slight, of the genitalia or anus of one individual with the genitalia of  
422 another individual.

423           b. Any oral contact with genitalia between an individual and another individual.

424           Evidence of emission of semen is not required to prove sexual intercourse occurred.

425           (151) “Sexual orientation” means heterosexuality, bisexuality, or homosexuality.

426           (152) “Statement is material” means a statement that, regardless of its admissibility under the Delaware  
427 Uniform Rules of Evidence, could have affected the course or outcome of a proceeding or investigation.

428           (153) “Stolen” means property over which control has been obtained by theft.

429           (154) “Substantive offense” means any offense other than an inchoate offense.

430           (155) “Suicide” means an individual intentionally causing the individual’s own death.

431           (156) “Table game” means a game that is played with cards, dice, a device, or a machine, and for money,  
432 credit, or other value. “Table game” does not include video lottery machines.

433           (157) “Tier 1 quantity” means any of the following:

434           a. 5 grams or more of cocaine or of any mixture containing cocaine, as described in § 4716 of Title 16.

435           b. 1 gram or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including  
436 heroin, as described in § 4714 of Title 16, or of any mixture containing any such substance.

437           c. 175 grams or more of marijuana, as described in § 4701 of Title 16.

438 d. 5 grams or more of methamphetamine, including its salt, isomer, or salt of an isomer thereof, or of any  
439 mixture containing any such substance, as described in § 4716 of Title 16.

440 e. 5 grams or more of amphetamine, including its salt, optical isomers or salt of its optical isomers, or of  
441 any mixture containing any such substance, as described in § 4716 of Title 16.

442 f. 5 grams or more of phencyclidine, or of any mixture containing any such substance, as described in §  
443 4716 of Title 16.

444 g. 25 or more doses or, in a liquid form, 2.5 milligrams or more of lysergic acid diethylamide (LSD), or  
445 any mixture containing such substance, as described in § 4714 of Title 16.

446 h. 12.5 or more doses, 2.5 or more grams, or 2.5 milliliters or more of any substance as described in §  
447 4714 of Title 16 that is not otherwise set forth in this definition, a designer drug as described in § 4701 of Title 16,  
448 or of any mixture containing any such substance.

449 i. 12.5 or more doses, 2.5 or more grams, or 2.5 milliliters or more of 3,4-  
450 methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of  
451 isomers, or any mixture containing such substance, as described in § 4714 of Title 16.

452 j. 30 or more substantially identical doses of a narcotic Schedule II or III controlled substance that is a  
453 prescription drug, or 3 grams or more of any mixture that contains a narcotic Schedule II or III controlled  
454 substance that is a prescription drug.

455 (158) “Tier 2 quantity” means any of the following:

456 a. 10 grams or more of cocaine or of any mixture containing cocaine, as described in § 4716 of Title 16.

457 b. 2 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including  
458 heroin, as described in § 4714 of Title 16, or of any mixture containing any such substance.

459 c. 1500 grams or more of marijuana, as described in § 4701 of Title 16.

460 d. 10 grams or more of methamphetamine, including its salt, isomer, or salt of an isomer thereof, or of  
461 any mixture containing any such substance, as described in § 4716 of Title 16.

462 e. 10 grams or more of amphetamine, including its salt, optical isomers, or salt of its optical isomers, or of  
463 any mixture containing any such substance, as described in § 4716 of Title 16.

464 f. 10 grams or more of phencyclidine, or of any mixture containing any such substance, as described in §  
465 4716 of Title 16.

466 g. 50 or more doses or, in a liquid form, 5 milligrams or more of lysergic acid diethylamide (LSD), or any  
467 mixture containing such substance, as described in § 4714 of Title 16.



468 h. 25 or more doses, 5 or more grams, or 5 milliliters or more of any substance as described in § 4714 of  
469 Title 16 that is not otherwise set forth in this definition, a designer drug as described in § 4701 of Title 16, or of  
470 any mixture containing any such substance.

471 i. 25 or more doses, 5 or more grams, or 5 milliliters or more of 3,4-methylenedioxyamphetamine  
472 (MDMA), its optical, positional and geometric isomers, salts and salts of isomers, or any mixture containing such  
473 substance, as described in § 4714 of Title 16.

474 j. 60 or more substantially identical doses of a narcotic Schedule II or III controlled substance that is a  
475 prescription drug, or 6 grams or more of any mixture that contains a narcotic Schedule II or III controlled  
476 substance that is a prescription drug.

477 (159) “Tier 3 quantity” means any of the following:

478 a. 25 grams or more of cocaine or of any mixture containing cocaine, as described in § 4716 of Title 16.

479 b. 5 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including  
480 heroin, as described in § 4714 of Title 16, or of any mixture containing any such substance.

481 c. 5000 grams or more of marijuana, as described in § 4701 of Title 16.

482 d. 25 grams or more of methamphetamine, including its salt, isomer, or salt of an isomer thereof, or of  
483 any mixture containing any such substance, as described in § 4716 of Title 16.

484 e. 25 grams or more of amphetamine, including its salt, optical isomers, or salt of its optical isomers, or of  
485 any mixture containing any such substance, as described in § 4716 of Title 16.

486 f. 25 grams or more of phencyclidine, or of any mixture containing any such substance, as described in §  
487 4716 of Title 16.

488 g. 500 or more doses or, in a liquid form, 50 milligrams or more of lysergic acid diethylamide (LSD), or  
489 any mixture containing such substance, as described in § 4714 of Title 16.

490 h. 62.5 or more doses or 12.5 or more grams or 12.5 milliliters or more of any substance as described in §  
491 4714 of Title 16 that is not otherwise set forth in this definition, a designer drug as described in § 4701 of Title 16,  
492 or of any mixture containing any such substance.

493 i. 62.5 or more doses, or 12.5 or more grams, or 12.5 milliliters or more of 3,4-  
494 methylenedioxyamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of  
495 isomers, or any mixture containing such substance, as described in § 4714 of Title 16.

496 (160) “Trespass on real property” means any act that satisfies the definition of a trespass in § 1162(a) of this  
497 title.

498           (161) “Trial or contest” means any trial or contest of skill, speed, power, or endurance, whether of humans or  
499 animals, and includes combat events and sports.

500           (162) “Unjustified” means conduct that satisfies the objective elements of an offense and is not justified under  
501 Subchapter I of Chapter 3 of this title.

502           (163) “Unlawful debt” means a debt incurred or contracted in an illegal gambling activity or business, or a  
503 debt that is unenforceable under state law, in whole or in part, as to either principal or interest.

504           (164) “Unmarked burial” means any interment of human remains for which there exists no grave marker or  
505 any other historical documentation providing information as to the identity of the deceased.

506           (165) “Value” means the valuation of property as calculated under § 605 of this title.

507           (166) “Vessel” means any device in, upon, or by which a person may be transported upon water, except a  
508 device moved solely by human power.

509           (167) “Video lottery machine” means a machine in which bills, coins, tokens, or electronic credits are  
510 deposited to play a game of chance in which the machine randomly and immediately determines the results, including  
511 options to the player. A video lottery machine may use spinning reels or video displays, or both.

512           (168) “Voluntary act” means a bodily movement performed consciously or habitually as a result of effort or  
513 determination.

514           (169) “Voluntary intoxication” means intoxication that is caused by a substance that the person knowingly  
515 introduces into the person’s own body, which the person knows or ought to know tends to cause intoxication, unless  
516 the person introduces the substance under medical advice or circumstances that would afford a defense to prosecution  
517 for an offense.

518           (170) “Vulnerable person” means any of the following:

519           a. An individual who, by reason of isolation, sickness, debilitation, mental illness, or physical, mental, or  
520 cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion, or  
521 exploitation.

522           b. An adult for whom a guardian of the individual or property has been appointed by a court of competent  
523 jurisdiction.

524           c. An adult who is impaired, as defined in § 3902 of Title 31.

525           d. A person with a disability, as defined in § 3901(a)(2) of Title 12.

526           (171) “Witness” means a person who meets any of the following qualifications:

527           a. Has knowledge of the existence or nonexistence of facts relating to any offense.

528                    b. Has testified or been served with a subpoena to testify under oath at an official proceeding.

529                    c. Has reported an offense.

530                    (172) "Written instrument" means an instrument or article containing written matter, printed matter, or the  
531 equivalent, used for the purpose of reciting, embodying, conveying, or recording information or constituting a symbol  
532 or evidence of value, right, privilege, or identification.

533                    § 104. Principle of construction; general purposes.

534                    (a) Principle of construction. The provisions of this part must be interpreted according to the fair import of their  
535 terms. If the language of this part is susceptible to differing interpretations and remains ambiguous after applying general  
536 principles of statutory interpretation and available signs of legislative intent, it must be construed to further these general  
537 purposes:

538                    (1) Prohibit conduct that unjustifiably and inexcusably causes or threatens harm to individual or public  
539 interests.

540                    (2) Give fair warning of the nature of the conduct prohibited and sentences authorized upon conviction.

541                    (3) Define the act or omission and accompanying culpability that constitute each offense.

542                    (4) Prescribe penalties that are proportionate to the seriousness of the offense and the blameworthiness of the  
543 defendant.

544                    (b) Effect of Commentary. The Commentary accompanying this Code should be used as an aid in interpreting the  
545 provisions of this Code.

546                    (c) Effect of heading. A heading contained in this part does not exclusively govern, limit, modify, or affect the  
547 scope, meaning, or intent of a provision but headings may be used as an aid in interpreting the provisions of this part.

548                    (d) Partial invalidation. Unless a repealing act expressly provides otherwise, the invalidation, for any reason, of a  
549 criminal offense in this part, or the invalidation of the application of any provision of this part to a person or circumstance  
550 does not affect any of the following:

551                    (1) The validity of the remainder of this part.

552                    (2) A penalty, forfeiture, or liability incurred under the invalidated provision.

553                    (3) A prosecution or other legal proceeding in progress under the invalidated provision.

554                    (4) The validity of the remainder of this part to other persons or circumstances.

555                    § 105. All offenses defined by statute; applicability.

556                    (a) Conduct does not constitute an offense unless this part or another statute of this State makes it an offense.

557           (b) The provisions of Subpart A of this part are applicable to all offenses defined in this part or another statute of  
558 this State, unless this part provides otherwise.

559           (c) This section does not affect a court's authority to punish for civil contempt or employ a sanction authorized by  
560 law for the enforcement of an order, civil judgment, or decree.

561           (d) A court may inflict a punishment prescribed by this part or by another statute of this State only after a  
562 judgment of conviction by a court having jurisdiction over the defendant and subject matter.

563           § 106. Civil remedies preserved; no merger with civil injury.

564           (a) This part does not bar, suspend, or negatively affect any right or liability to damages, penalty, forfeiture, or  
565 other right to recovery in a non-criminal proceeding, and the civil injury is not merged in the offense.

566           (b) Unless this part or another statute provides otherwise, a civil proceeding in a court or administrative agency  
567 does not affect criminal liability under this part for the same conduct.

568           § 107. State criminal jurisdiction.

569           (a) A person is subject to prosecution in this State for an offense that the person commits, while either within or  
570 outside this State, by the person's own conduct or that of another for which the person is legally accountable, if any of the  
571 following apply:

572                   (1) Conduct or a result that is an element of the offense occurs within this State.

573                   (2) The conduct occurs outside this State and constitutes an attempt to commit an offense within this State.

574                   (3) The conduct occurs outside this State and constitutes a conspiracy to commit an offense within this State,  
575 and an overt act in furtherance of the conspiracy occurs in this State.

576                   (4) The conduct violates a law of this State that expressly prohibits conduct outside this State and all of the  
577 following apply:

578                           a. The conduct bears a reasonable relation to a legitimate interest of this State.

579                           b. The person knows or should know that the person's conduct is likely to affect that interest.

580                   (5) The conduct occurs within this State and constitutes aid or an attempt, solicitation, or conspiracy to  
581 commit in another jurisdiction an offense under the laws of both this State and the other jurisdiction.

582                   (6) The conduct is an omission to perform a legal duty under a law of this State.

583                   (7) The offense is defined as including telephone or electronic communication, digital information or  
584 recordings, and a computer or facility located within this State stored or received the communication, information, or  
585 recording.

586           (b) Exception to jurisdiction, result of lawful conduct outside state. Paragraph (a)(1) of this section does not apply  
587 if all of the following apply:

588           (1) Causing a particular result is an element of the offense.

589           (2) Conduct that occurred outside this State caused the result.

590           (3) The jurisdiction in which the conduct occurred does not prohibit the result.

591           (4) The person was less than reckless as to both causing the prohibited result and that result occurring within  
592 this State.

593           (c) Permissive inference. If the body of a homicide victim is found within this State, there is a rebuttable  
594 presumption that the death occurred within this State.

595           § 108. Burdens of proof; permissive inferences.

596           (a) Presumption of innocence. A defendant is presumed innocent until proven guilty.

597           (b) Burden of production.

598           (1) State's burden of production, generally. The State may present an offense to the trier of fact only if the  
599 State has presented sufficient evidence to allow a rational trier of fact to find that all required elements of the offense  
600 can be proved beyond a reasonable doubt. To determine whether the State has met this burden, the court must consider  
601 the evidence in the light most favorable to the State, and considering all reasonable inferences that may be drawn from  
602 that evidence.

603           (2) The State's burden of production, felony murder. In a prosecution for murder under § 1002(a)(3), the State  
604 can meet its burden of production even if the only evidence of the underlying felony is the defendant's extrajudicial  
605 statement.

606           (3) Defendant's burden of production. Unless this part expressly provides otherwise, the defendant may  
607 present a defense, exception to liability, or mitigation to the trier of fact, only if the defendant has presented sufficient  
608 evidence to allow a rational trier of fact to find that all requirements of an exception to liability, defense, or mitigation  
609 can be proved by a preponderance of the evidence. To determine whether the defendant has met this burden, the trier of  
610 fact must consider the evidence in the light most favorable to the defendant, and considering all reasonable inferences  
611 that may be drawn from that evidence.

612           (c) Burden of persuasion.

613           (1) State's burden of persuasion.

614           a. The State must prove all elements of an offense, grade provision, and the absence of an exception to  
615 liability, as applicable, beyond a reasonable doubt.

616                    b. The State must disprove all justification defenses beyond a reasonable doubt, as provided in § 301(f),  
617                    unless this part expressly provides otherwise.

618                    c. The State must prove by a preponderance of the evidence all other facts required for liability, unless  
619                    this part expressly provides otherwise.

620                    (2) Defendant's burden of persuasion. Unless this part expressly provides otherwise, the defendant has the  
621                    burden to prove all elements of a defense or mitigation by a preponderance of the evidence, including excuse defenses  
622                    as provided in § 321(d) of this title, and nonexculpatory defenses as provided in § 331(c) of this title.

623                    (d) Effects of permissive inferences. When a provision in this part establishes a permissive inference as to any fact,  
624                    the permissive inference has both of the following consequences:

625                    (1) When there is evidence of the facts that give rise to the inference, the issue of the existence of the inferred  
626                    fact must be submitted to the trier of fact, unless the court is satisfied that the evidence as a whole clearly negates the  
627                    inferred fact.

628                    (2) When the issue of the existence of the inferred fact is submitted to the trier of fact, the court shall charge  
629                    that while the inferred fact must, on all the evidence, be proved beyond a reasonable doubt, the law declares that the  
630                    trier of fact may regard the facts giving rise to the inference as sufficient evidence of the inferred fact, if the facts  
631                    giving rise to the inference have been duly proven.

632                    § 109. Words of gender or number.

633                    Unless the context requires otherwise:

634                    (a) singular and plural words may, and where necessary shall, be treated as interchangeable.

635                    (b) Words indicating gender may, and where necessary shall, be treated as interchangeable.

636                    Section 3. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
637 shown by underline as follows:

638                    Chapter 2. Basic requirements of offense liability.

639                    § 201. Basis of liability.

640                    Subject to the provisions of this chapter, a person is liable for an offense if all of the following apply:

641                    (1) The person's conduct satisfies all the objective and culpability elements of an offense, and does not satisfy  
642                    the requirements of any exception to liability or defense, or, if an element of the offense is missing, it is imputed to the  
643                    defendant under a provision of § 210, § 211, or § 212 of this part.

644                    (2) The person's conduct does not satisfy the requirements of any general defense provided in Chapter 3 of  
645                    this title.

646 § 202. Offense elements defined.

647 (a) “Elements” of an offense means:

648 (1) both:

649 a. objective elements, meaning conduct, attendant circumstances, or the result of conduct; and

650 b. the culpability requirements defined in § 205 of this title.

651 (2) that are contained in an offense’s definition or in a provision establishing an offense’s grade or the severity  
652 of the punishment.

653 (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
654 Circumstance element; Conduct element; Result element.

655 § 203. Causal relationship between conduct and result.

656 (a) Generally. Conduct is the cause of a result if all of the following apply:

657 (1) The conduct is an antecedent but for which the result in question would not have occurred.

658 (2) The result is not too remote or accidental in its occurrence to have a just bearing on the actor’s liability or  
659 the gravity of his or her offense.

660 (3) The relationship between the conduct and result satisfies any additional causal requirements imposed  
661 under this part or by the law defining the offense.

662 (b) Concurrent sufficient causes. Where the conduct of 2 or more persons each causally contributes to a result, and  
663 each alone would have been sufficient to cause the result, the requirement under subsection (a) of this section is satisfied as  
664 to each person.

665 § 204. Requirement of a voluntary act; omission liability; possession liability.

666 (a) Voluntary act or omission required. A person is not guilty of an offense unless liability is based upon the  
667 person’s voluntary act or voluntary failure to perform an act that the person is physically capable of performing.

668 (b) Omission to perform legal duty as an act. Liability for the commission of an offense may be based on an  
669 omission unaccompanied by action if a legal duty to perform the omitted act is otherwise imposed by law.

670 (c) Possession as a voluntary act. Possession is a voluntary act, as required by subsection (a) of this section, if  
671 either of the following apply:

672 (1) The person knowingly procured or received the thing possessed.

673 (2) The person was aware of his or her control over the thing possessed for a sufficient time to have been able  
674 to terminate possession.

675 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

676 Voluntary act.

677 § 205. Culpability requirements.

678 (a) To be guilty of an offense, a person must have some level of culpability, as intentionally, knowingly,  
679 recklessly, and criminal negligence are defined in subsection (b) of this section, as to every objective element of the  
680 offense, except as provided in subsection (e) of this section.

681 (b) Culpability requirements defined.

682 (1) Intentionally. A person acts intentionally or with intent:

683 a. As to conduct, if it is the person's conscious object to engage in the conduct or have another engage in  
684 the conduct.

685 b. As to circumstance, if the person hopes or believes that there is a high probably the circumstances  
686 exists.

687 c. As to result, if it is the person's conscious object to cause such results.

688 d. Requirement of intention satisfied if intention is conditional. When a particular intention is required by  
689 an offense, the requirement is satisfied even if the intention is conditional, unless the condition negates the harm or  
690 evil sought to be prevented by the law defining the offense.

691 (2) Knowingly. A person acts knowingly or with knowledge:

692 a. As to conduct, if the person is aware that the conduct is being or will be engaged in by the person or  
693 another person.

694 b. As to a circumstance, if the person believes there is a high probability that the circumstance exists.

695 c. As to a result, if the person is practically certain that the conduct will cause the result.

696 (3) Recklessly. A person acts recklessly or with recklessness:

697 a. As to conduct, if the person consciously disregards a substantial and unjustifiable risk that the person or  
698 another person is engaging in or will engage in the conduct.

699 b. As to a circumstance, if the person consciously disregards a substantial and unjustifiable risk that the  
700 circumstance exists.

701 c. As to a result, if the person consciously disregards a substantial and unjustifiable risk that the conduct  
702 will cause the result.

703 d. Disregard must be a gross deviation. The person's disregard of the risk must constitute a gross  
704 deviation from the standard of care that a reasonable person would exercise in the person's situation.



705 (4) Criminal negligence. A person acts with criminal negligence or is criminally negligent:

706 a. As to conduct, if the person is unaware of a substantial and unjustifiable risk that the person or another

707 person is engaging in or will engage in the conduct.

708 b. As to a circumstance, if the person is unaware of a substantial and unjustifiable risk that the

709 circumstance exists.

710 c. As to a result, if the person is unaware of a substantial and unjustifiable risk that the conduct will cause

711 the result.

712 d. Failure to be aware must be a gross deviation. A person's failure to be aware of the risk must constitute

713 a gross deviation from the standard of care that a reasonable person would exercise in the person's situation.

714 (c) Application to stated culpability requirement. When an offense contains a stated culpability requirement, the

715 requirement applies to all later objective elements within the grammatical clause in which it appears and any later objective

716 elements to which common usage would suggest the General Assembly intended it to apply.

717 (d) Absence of a stated culpability requirement. When no culpability requirement is specified as to an objective

718 element, including an objective element contained within a grade provision or grade adjustment, a requirement of

719 recklessness applies, except as provided in subsection (g) of this section.

720 (e) Strict liability. When a culpability requirement is not specified with regard to an objective element, no

721 culpability is required as to that element if any of the following apply:

722 (1) The offense is a violation, unless the offense states a particular culpability requirement.

723 (2) The offense is in a statute outside of this Code and clearly indicates a legislative purpose to impose strict

724 liability as to that objective element.

725 (f) Culpability as to criminality not required. Unless the law defining an offense expressly provides that a level of

726 culpability is required, no level of culpability is required as to any of the following:

727 (1) Whether conduct constitutes an offense.

728 (2) The existence, meaning, or application of the law defining an offense.

729 (g) Proof of greater culpability satisfies stated requirement for lower culpability. When, as to an objective element,

730 the law requires:

731 (1) Criminal negligence, the requirement is also satisfied by proof of intent, knowledge, or recklessness.

732 (2) Recklessness, the requirement is also satisfied by proof of intent or knowledge.

733 (3) Knowledge, the requirement is also satisfied by proof of intent.

734 (h) Culpability, permissive inference. The finder of fact may infer from the facts of the case that a defendant had  
735 the culpability required for commission of an offense.

736 § 206. Ignorance or mistake negating required culpability.

737 (a) A required culpability is not satisfied if it is negated by ignorance or mistake as to a matter of fact or law.  
738 Ignorance or mistake also provide a defense if the statute defining the offense or a related statute expressly so provides.

739 (b) Mistake defense negating required culpability.

740 (1) Any mistake as to an element of an offense, including a reckless mistake, negates the existence of  
741 intention or knowledge as to that element.

742 (2) A criminally negligent mistake as to an element of an offense negates the existence of intention,  
743 knowledge, or recklessness as to that element.

744 (3) A reasonable mistake as to an element of an offense negates intention, knowledge, recklessness, or  
745 criminal negligence as to that element.

746 (c) Mistaken belief consistent with a different offense. Although ignorance or mistake would otherwise provide a  
747 defense under this section, the defense is not available if the defendant would be guilty of another offense had the situation  
748 been as the defendant supposed. However, if the offense that the defendant thought he was committing is of a lower grade  
749 or degree than the offense charged, the defendant's ignorance or mistake reduces the grade and degree of the offense of  
750 which the defendant may be convicted to those of the offense of which the defendant would be guilty had the situation been  
751 as the defendant supposed.

752 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
753 Criminally negligent mistake; Reasonable mistake; Reckless mistake.

754 § 207. Mental illness or serious mental disorder negating required culpability.

755 Evidence that the defendant suffered from a mental illness or serious mental disorder is admissible whenever it is  
756 relevant to prove that the defendant did or did not have a required culpability.

757 § 208. Consent.

758 (a) In general. In any prosecution, it is a defense that the victim consented to the conduct constituting the offense if  
759 the consent negates an element of the offense.

760 (b) Consent to physical injury. In any prosecution for an offense causing or threatening physical injury, it is a  
761 defense that the victim consented to infliction of physical injury of the kind caused or threatened, provided that the physical  
762 injury caused or threatened by the conduct consented to is any of the following:

763 (1) Not serious physical injury.

764           (2) A reasonably foreseeable hazard of joint participation in any concerted activity, athletic contest, or sport  
765           not prohibited by law.

766           (c) Ineffective consent. Unless otherwise provided in this part or the law defining the offense, the victim's consent  
767           is not a defense if the consent is given under any of the following circumstances:

768           (1) By a person who is legally incompetent to authorize the conduct charged to constitute the offense.

769           (2) By a person who, because of youth, mental illness or serious mental disorder, or intoxication, is manifestly  
770           unable, or known by the defendant to be unable, to make a reasonable judgment as to the nature or harmfulness of the  
771           conduct charged to constitute the offense.

772           (3) By a person whose improvident consent the law defining the offense seeks to prevent.

773           (4) Induced by force, coercion, threats, or deception.

774           (5) For a surgical procedure that is performed by a person who is not licensed to perform it.

775           § 209. Conviction when the defendant satisfies the requirements of more than 1 offense or grade.

776           (a) Limitations on conviction for multiple related offenses. The trier of fact may find a defendant guilty of any  
777           offense, or grade of an offense, for which he or she satisfies the requirements for liability, but the court may not enter a  
778           judgment of conviction for more than 1 of any 2 offenses or grades of offenses if any of the following apply:

779           (1) The offenses or grades of offenses are based on the same conduct and at least 1 of the following applies:

780           a. The harm or evil of 1 offense or grade of offense meets at least 1 of the following conditions:

781                   1. Is entirely accounted for by the other.

782                   2. Is of the same kind, but lesser degree, than that of the other.

783           b. The offenses or grades of offenses differ in only 1 of the following ways:

784                   1. One is defined to prohibit a designated kind of conduct generally, and the other is defined to  
785           prohibit a specific instance of such conduct.

786                   2. One requires a lesser kind of culpability than the other.

787           c. The offenses or grades of offenses are defined as a continuing course of conduct and the defendant's  
788           course of conduct was uninterrupted, unless the law provides that specific periods of such conduct constitute  
789           separate offenses.

790           (2) One of the offenses consists only of an attempt or solicitation toward commission of at least one of the  
791           following:

792                   a. The other offense.

793                    b. A substantive offense that is related to the other offense in the manner described in paragraph (a)(1) of  
794                    this section.

795                    (3) Each offense is an inchoate offense toward commission of a single substantive offense.

796                    (4) The 2 offenses or grades of offenses differ only in that 1 is based upon the defendant's own conduct, and  
797                    another is based upon the defendant's accountability, under § 210 of this title, for another person's conduct.

798                    (5) Inconsistent findings of fact are required to establish the commission of the offenses or grades.

799                    (b) Conspiracy. A judgment of conviction may be entered for both conspiracy and the offense that is the target of  
800                    the conspiracy, but the 2 offenses merge for sentencing purposes.

801                    (c) Effect of multiple offenses contained within the same section. If a person is convicted of any 2 offenses based  
802                    upon the same conduct, and those offenses are contained within the same section of this part, the court shall consider that  
803                    fact as a factor weighing against entry of conviction for both offenses under paragraph (a)(1) of this section.

804                    (d) Entry of judgment. Where subsection (a) of this section prohibits multiple judgments of conviction, the court  
805                    shall enter a judgment of conviction for the most serious offense among the offenses in question, including different grades  
806                    of an offense, of which the defendant has been found guilty.

807                    (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Inchoate  
808                    offense; Substantive offense.

809                    § 210. Accountability for the conduct of another.

810                    (a) Accountability. A person is legally accountable for conduct of another person if either of the following occur:

811                    (1) The person has the culpability required by the offense and either of the following applies:

812                    a. The person causes the other person to perform the conduct constituting the offense.

813                    b. The person intentionally does either of the following:

814                    1. Aids, solicits, or conspires with the other person in the planning or commission of the offense.

815                    2. Fails to make a proper effort to prevent the commission of the offense, having a legal duty to do

816                    so.

817                    (2) The statute defining the offense makes the defendant accountable.

818                    (b) Exception to accountability. Unless the statute defining the offense provides otherwise, a person is not  
819                    accountable for the conduct of another, notwithstanding subsection (a) of this section, if any of the following apply:

820                    (1) The person is a victim of the offense committed.

821                    (2) The person's conduct is inevitably incident to commission of the offense.

822 (3) Before commission of the offense, the person terminates his or her efforts to promote or facilitate its  
823 commission and does 1 or more of the following:

824 a. Wholly deprives the person's prior efforts of their effectiveness.

825 b. Gives timely warning to the proper law enforcement authorities.

826 c. Otherwise makes proper efforts to prevent the commission of the offense.

827 (4) The person's conduct independently constitutes a separate offense.

828 (c) Exception from offense lost through complicity. A person who is legally incapable of personally committing a  
829 particular offense may be convicted of the offense based on the person's accountability for the conduct of another person  
830 who commits the offense, unless that liability would be inconsistent with the purpose of the provision establishing the  
831 person's incapacity.

832 (d) Unconvicted principal or confederate no defense. A person who is legally accountable for the conduct of  
833 another person may be convicted upon proof that the objective elements of the offense are satisfied, even if any of the  
834 following apply:

835 (1) The other person has not been prosecuted or convicted.

836 (2) The other person has been convicted of a different offense or degree of offense.

837 (3) The other person has been acquitted.

838 (e) Convictions for different grades of an offense. A person who is legally accountable for the conduct of another  
839 person may be convicted of the grade of an offense only if the grade is consistent with all of the following:

840 (1) The person's own culpability.

841 (2) The person's personal accountability for bringing about an aggravating fact or circumstance.

842 (f) Indictment as principal or accomplice irrelevant. A person indicted for committing an offense may be convicted  
843 as an accomplice to another person, and a person indicted as an accomplice to an offense committed by another person may  
844 be convicted as a principal.

845 (g) Complicity in uncommitted offense. A person who would have been accountable for the offense conduct of  
846 another person under subsection (a) of this section if the other person had committed the offense is guilty of an attempt to  
847 commit the offense.

848 (h) Attempted complicity. A person who attempts to aid, solicit, or conspire with another person in the planning or  
849 commission of an offense under subsection (a) of this section is guilty of an attempt to commit the offense, whether or not  
850 the offense is attempted or committed by the other person.

851 § 211. Voluntary intoxication.

852           (a) Voluntary intoxication not a defense. It is not a defense that the person committed an offense while in a state of  
853 voluntary intoxication or because the person was voluntarily intoxicated.

854           (b) No application to involuntary intoxication. Subsection (a) of this section does not affect the availability of a  
855 defense under § 324 of this title.

856           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
857 Intoxication; Voluntary intoxication.

858           § 212. Divergence between consequences intended or risked and actual consequences.

859           (a) Notwithstanding § 206(a) of this title, when:

860                   (1) Culpability as to a particular consequence of a person's conduct is required by an offense, and

861                   (2) A consequence that actually occurs is not one intended, contemplated, or within the scope of unlawful risk  
862 the person was or should have been aware of.

863           (b) Then the required culpability nonetheless is established if the actual consequence differs from the consequence  
864 intended, contemplated, or risked, only in that any of the following apply:

865                   (1) A different person or different property is injured or affected.

866                   (2) The consequence intended, contemplated, or risked would have had an injury or harm that is as serious or  
867 more serious than the actual consequence.

868           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
869 Consequence.

870           Section 4. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
871 shown by underline as follows:

872           Chapter 3. General defenses.

873           Subchapter I. Justification defenses.

874           § 301. General provisions governing justification defenses.

875           (a) The defenses provided in Subchapters I, II, and III of this chapter bar conviction even if all elements of the  
876 offense charged have been satisfied.

877           (b) Superiority of more specific justifications. The justifications provided in § 302 or § 303 of this title are not  
878 available if the factual circumstances of a claimed justification are described in 1 of the other provisions of this Subchapter.

879           (c) Multiple justifications. Except as provided in subsection (a) of this section, if a person's conduct satisfies the  
880 requirements of more than 1 justification defense, all of those justification defenses are available.

881 (d) Assistance to, resistance to, and interference with justified conduct. Except as otherwise provided by law,  
882 conduct that is justified may not lawfully be resisted or interfered with, and lawfully may be assisted.

883 (e) Causing justifying circumstances.

884 (1) Not automatic bar to a justification defense. When a person causes the justifying circumstances, the  
885 person's offense conduct may be justified if it satisfies the requirements of a justification defense.

886 (2) Liability for culpably causing justifying circumstances. A person's conduct in causing the justifying  
887 circumstances may be an offense if the person causes the justifying circumstances with the culpability required by the  
888 offense.

889 (3) Defense. A person may have a general defense to liability under paragraph (e)(2) of this section if the  
890 person satisfies the requirements of a defense for his or her conduct in causing the justifying circumstances.

891 (f) Risk of injury to innocent people not justified. Except as expressly provided in this Subchapter, justification  
892 under this Subchapter to use force upon another person does not extend to injury or risk of injury to innocent people created  
893 by that use of force.

894 (g) Burden of persuasion. Unless expressly provided otherwise by this chapter, the State carries the burden of  
895 persuasion to disprove all justification defenses beyond a reasonable doubt.

896 (h) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Force.

897 § 302. Choice of evils.

898 (a) Defense defined. Conduct is justified if both of the following conditions are met:

899 (1) The conduct is immediately necessary to avoid a harm or evil.

900 (2) The harm or evil to be avoided by the person's conduct is greater than that sought to be prevented by the  
901 law defining the offense charged.

902 (b) The choice of evils justification is unavailable if, under the circumstances presented, it is plain that there is a  
903 legislative purpose to exclude the justification.

904 § 303. Execution of public duty.

905 (a) Defense defined. Conduct is justified if it is required or authorized by any of the following:

906 (1) The law defining the duties or functions of a public servant or the assistance to be rendered to a public  
907 servant in the performance of the public servant's duties.

908 (2) The law governing the execution of legal process.

909 (3) The judgment or order of a competent court or tribunal.

910 (4) A law, other than that described in paragraph (a)(1) of this section, imposing a public duty.

911 (b) Defective jurisdiction or process no exception. The justification under paragraph (a)(2) or (a)(3) of this section  
912 is available even if, unknown to the defendant, either of the following exist:

913 (1) A defect in legal process.

914 (2) The court lacks jurisdiction.

915 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Public  
916 servant.

917 § 304. Law enforcement authority.

918 (a) Peace officer's use of force in making an arrest or detention.

919 (1) Defense defined. The conduct of a peace officer, or of a person whom the officer has summoned or  
920 directed to assist the officer, is justified if the conduct is necessary to effect a lawful arrest or detention.

921 (2) Limitation, use of force. Use of force is not justified under subsection (a)(1) of this section if the arrestee  
922 or detainee has not been made aware of the purpose of the arrest or detention, unless making the arrestee or detainee  
923 aware is unreasonable.

924 (3) Limitation, use of deadly force. In addition to the limitation in paragraph (a)(2) of this section, use of  
925 deadly force is justified under paragraph (a)(1) of this section only if all of the following conditions are met:

926 a. The force is necessary to prevent the arrest from being defeated by resistance or escape.

927 b. The force employed does not create a substantial risk of injury to innocent persons.

928 c. The person against whom deadly force is being used and is to be arrested has committed or attempted a  
929 felony involving actual or threatened physical injury.

930 d. If the person against whom deadly force is being used is not arrested without delay, any of the  
931 following apply:

932 1. The person will create a substantial risk of serious physical injury or death.

933 2. The person is not likely to ever be captured.

934 (4) Invalid warrant. A peace officer's conduct in making an arrest under an invalid warrant is justified if the  
935 conduct would have been justified had the warrant been valid, unless the officer knows the warrant is invalid.

936 (b) Use of force to prevent an escape.

937 (1) Escape from custody. The use of force by a peace officer or other person who has an arrested or lawfully  
938 detained person in the peace officer's or other person's custody or presence is justified if both of the following apply:

939 a. It is necessary to prevent the arrested or detained person's escape from custody.

940 b. It would be justified if performed to arrest the person.



941           (2) Escape from a correctional institution. The conduct of a correctional officer or peace officer, including the  
942 use of deadly force, is justified if the conduct is immediately necessary to prevent a person lawfully detained in a  
943 correctional institution from escaping the institution.

944           (c) Risk of injury to innocent persons. A justification under this section to use force upon another person does not  
945 extend to injury or risk of injury to innocent persons created by that use of force unless, in causing the injury or risk of  
946 injury, the defendant acts with culpability less than criminal negligence.

947           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
948 Correctional officer; Deadly force; Force; Peace officer; Physical injury; Serious physical injury; Vessel.

949           § 305. Conduct of persons with special responsibility for care, discipline, or safety of others.

950           (a) The use of force upon or toward another person is justified if the defendant is any of the following:

951           (1) A parent, guardian, or person similarly responsible for the general care and supervision of an individual  
952 who is less than 18 years old, or the defendant is acting at the request of a person so responsible, and the force is  
953 necessary for at least 1 of the following reasons:

954           a. To safeguard or promote the welfare of the supervised person.

955           b. To further any of the purposes for which force may be used by any other actor specified in this  
956 subsection.

957           (2) A guardian or other person similarly responsible for the general care and supervision of another person  
958 entrusted by authority of law to the custody of another person or to an institution, and the force used is necessary for at  
959 least 1 of the following reasons:

960           a. To safeguard or promote the welfare of the person.

961           b. If the person against whom the force is used is in a hospital or other institution for care and custody, to  
962 maintain reasonable discipline in the institution. But, use of force under subsection (a)(2)b of this section is not  
963 justified if the force used does either of the following:

964           1. Causes physical injury, mental distress, or unnecessary degradation.

965           2. Creates a substantial risk of serious physical injury or death.

966           (3) A teacher or person otherwise entrusted with the care or supervision of a person less than 18 years old for  
967 a special purpose, and the force used meets all of the following criteria:

968           a. It is necessary to further that special purpose, including the maintenance of reasonable discipline in a  
969 school, class, or other group.

970           b. It is consistent with the individual's welfare.

971 c. It does not cause physical injury, mental distress, or unnecessary degradation, or create a substantial  
972 risk of serious physical injury or death.

973 (4) A doctor or therapist, or an individual assisting at the doctor or therapist's direction, and both of the  
974 following conditions are met:

975 a. The force is necessary to administer a recognized form of treatment that is adapted to promoting the  
976 physical or mental health of the individual.

977 b. The treatment is administered under either of the following circumstances:

978 1. With the individual's consent or, if the individual is less than 18 years old or entrusted by authority  
979 of law to the custody of another person or to an institution, with the consent of a parent, guardian, or other  
980 person legally competent to consent on the individual's behalf.

981 2. In an emergency, when no one competent to consent for the individual can be consulted and a  
982 reasonable person wishing to safeguard the welfare of the individual would consent.

983 (5) A correctional officer, and the force used is necessary to enforce the lawful rules or procedures of the  
984 institution.

985 (6) A person responsible for the safety of an aircraft, train, vehicle, vessel, or other carrier, or a person acting  
986 at the responsible person's direction, and the force used is necessary to prevent either of the following:

987 a. Interference with the operation of the carrier.

988 b. Obstruction of the execution of a lawful order.

989 (7) A person who is authorized or required by law to maintain order or decorum in an aircraft, train, vehicle,  
990 vessel, or other carrier, or in any place where persons are assembled, and the force used meets all of the following  
991 criteria:

992 a. Is necessary for that purpose.

993 b. Does not create a substantial risk of death, physical injury, or extreme mental distress.

994 (b) When use of deadly force not justified. The use of deadly force is not justified under this section, but it may be  
995 justified under § 306 of this title.

996 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
997 Correctional officer; Deadly Force; Force; Physical injury; Serious physical injury; Vessel.

998 § 306. Defense of person.

999 (a) Use of force. The use of force against an aggressor is justified when and to the extent the force is immediately  
1000 necessary to defend oneself or another person against the aggressor's use of unjustified force.

1001           (b) Limitations.

1002                   (1) Defense of another. A person is justified in using force in defense of another individual under subsection  
1003 (a) of this section only if both of the following apply:

1004                           a. The person would have been justified in using the force if he or she had been the object of aggression.  
1005                           b. The person would have been justified in using the force on the person's own behalf.

1006                   (2) Resisting arrest. The use of force is not justified under subsection (a) of this section to resist or assist  
1007 another in resisting an arrest that is made by a peace officer, regardless of whether the arrest is lawful.

1008           (c) Use of deadly force.

1009                   (1) Justified in limited circumstances. The use of deadly force is justified under this section only if it is  
1010 necessary to protect the person or another individual against death, serious physical injury, kidnapping, or sexual  
1011 intercourse compelled by force or threat of force.

1012                   (2) Retreat, surrendering possession, or complying with aggressor's demands.

1013                           a. Generally. The use of deadly force is not justified if the necessity of using deadly force can be avoided,  
1014 thereby securing the complete safety of any individual in danger, by doing any of the following:

1015                                   1. Retreating.  
1016                                   2. Surrendering possession of a thing to a person asserting a claim of right to the thing.  
1017                                   3. Complying with a demand that the person abstain from performing an act that the person is not  
1018 legally obligated to perform.

1019                           b. Exceptions.

1020                                   1. An individual is not obligated to retreat in or from the individual's dwelling or, if the individual  
1021 acts to protect another individual, the other individual's dwelling.

1022                                   2. An individual is not obligated to retreat in or from the individual's place of work or, if the  
1023 individual acts to protect another individual, the other individual's place of work, unless the defendant was the  
1024 initial aggressor.

1025                                   3. The limitation in this subsection does not apply to a peace officer who is justified in using deadly  
1026 force under § 304 of this title.

1027           (d) Use of force to prevent suicide. An individual may use force upon or toward another individual when and to  
1028 the extent the force is immediately necessary to prevent the other individual from committing suicide or inflicting serious  
1029 physical injury upon the other individual.

1030 (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Dwelling;  
1031 Peace officer; Serious physical injury; Sexual intercourse; Unjustified; Vessel.

1032 § 307. Defense of property.

1033 (a) The use of force against an aggressor is justified under this subsection if all of the following apply:

1034 (1) The force is immediately necessary to prevent the aggressor's unjustified trespass upon, or other  
1035 unjustified interference with, real or personal property.

1036 (2) The individual or another individual on whose behalf the individual acts lawfully possesses the property.

1037 (3) Before employing force, the individual first requests that the aggressor cease trespassing upon or  
1038 interfering with the property, unless any of the following apply:

1039 a. The request would be useless.

1040 b. The request would endanger the individual or another individual.

1041 c. Before a request can be effectively made, material harm will be done to the physical condition of the  
1042 property to be protected.

1043 (b) Justified detention by special parties. The conduct of a merchant or an operator of a lawful gambling facility, or  
1044 an agent or employee of the merchant or operator, is justified if it is necessary to detain an individual who has intentionally  
1045 concealed unpurchased merchandise, committed theft, or cheated in a manner described in § 1382 of this title, if all of the  
1046 following conditions are met:

1047 (1) The detainer is 18 or more years old.

1048 (2) The detention lasts long enough only for the person to promptly summon a law enforcement officer.

1049 (c) When use of deadly force not justified. Use of deadly force is not justified under this section, but it may  
1050 nevertheless be justified under § 306 of this title.

1051 (d) No civil liability for justified conduct. A person whose conduct is justified under this section is not, due to that  
1052 conduct, civilly liable to the person against whom the force is used.

1053 (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
1054 force; Force; Law enforcement officer; Property; Real property; Unjustified.

1055 Subchapter II. Excuse defenses.

1056 § 321. General provisions governing excuse defenses.

1057 (a) Conduct for which a defendant is excused is not necessarily justified.

1058 (1) Except as otherwise provided by law, conduct for which a person is excused is not justified, and may be  
1059 resisted and interfered with as justified by law.

1060           (2) A person who assists conduct for which another person is excused, is not excused for the person's  
1061 assistance solely because the other person is excused.

1062           (b) Causing the excusing conditions not automatic bar to excuse defense.

1063           (1) The fact that a person caused the condition giving rise to an excuse defense under this subchapter does not  
1064 prevent the person from being excused for the offense.

1065           (2) Liability for culpably causing excusing conditions. Nevertheless, a person commits an offense if, acting  
1066 with the culpability required by the offense, the person causes the condition that excuses the person or another person  
1067 for engaging in the offense.

1068           (3) Defense to causing conditions. A person may have a general defense to the person's conduct that gives rise  
1069 to liability under paragraph (b)(2) of this section.

1070           (c) Mistake as to an excuse is no defense. Except as otherwise provided by law, it is not a defense that a defendant  
1071 mistakenly believes that the defendant satisfies the requirements of an excuse defense.

1072           (d) Burden of persuasion. Unless this subchapter expressly provides otherwise, the defendant carries the burden of  
1073 persuasion on all excuse defenses by a preponderance of the evidence.

1074           § 322. Involuntary act; involuntary omission.

1075           (a) Involuntary act. A person is excused for the person's offense if liability is based upon an act, and the act is not  
1076 a product of the person's effort or determination.

1077           (b) Involuntary omission. A person is excused for the person's offense if liability is based upon an omission, and  
1078 the person is physically incapable of performing, or otherwise cannot reasonably be expected under the circumstances to  
1079 perform, the omitted act.

1080           § 323. Mental illness or serious mental disorder.

1081           (a) Excuse defined. A person is excused for her or his offense if, at the time of the offense, both of the following  
1082 apply:

1083           (1) The person suffers from a mental illness or serious mental disorder.

1084           (2) As a result of the mental illness or serious mental disorder, either of the following applies:

1085           a. The person does not perceive the physical nature or foresee the physical consequences of the his or her  
1086 conduct.

1087           b. The person lacks substantial capacity to appreciate the wrongfulness of the his or her conduct.

1088 (b) Modified verdict and additional procedures. If a defendant is excused under subsection (a) of this section, the  
1089 trier of fact shall return a verdict of “not guilty by reason of insanity,” and the defendant is subject to the procedures under  
1090 § 3701 of Title 11.

1091 (c) Guilty, but mentally ill.

1092 (1) No excuse. A person is not excused for his or her offense and the trier of fact may return a verdict of  
1093 “guilty, but mentally ill,” if, at the time of the offense, both of the following apply:

1094 a. The defendant suffers from a mental illness or serious mental disorder.

1095 b. As a result of the mental illness or serious mental disorder, any of the following apply:

1096 1. The defendant’s thinking, feeling, or behavior is substantially disturbed.

1097 2. The defendant lacks sufficient willpower to choose whether to engage in or refrain from the  
1098 criminal conduct.

1099 (2) Verdict option at the request of the defendant. The jury may be given the verdict option described in this  
1100 subsection only upon the request of the defendant.

1101 (3) Additional procedures. A person who is found “guilty, but mentally ill” is subject to the procedures under  
1102 §§ 3705–06 of Title 11.

1103 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Mental  
1104 illness or serious mental disorder.

1105 § 324. Involuntary intoxication.

1106 (a) Excuse defined. A person is excused for his or her offense if, at the time of the offense, both of the following  
1107 apply:

1108 (1) The person is involuntarily intoxicated.

1109 (2) As a result of involuntarily intoxication, at least 1 of the following apply:

1110 a. The person does not perceive the physical nature or foresee the physical consequences of the  
1111 defendant’s conduct.

1112 b. The person lacks substantial capacity to appreciate the wrongfulness of the defendant’s conduct.

1113 c. The person lacks substantial capacity to choose whether to engage in or refrain from the conduct  
1114 constituting the offense.

1115 (b) Causing excusing conditions. This section may not be deemed to preclude liability under § 321(b)(2) of this  
1116 title.

1117 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
1118 Involuntary intoxication.  
1119 § 325. Duress.  
1120 (a) Excuse defined. A person is excused for the person's offense if, at the time of the offense, all of the following  
1121 apply:  
1122 (1) The person is coerced to perform the offense conduct by means of force or threat, which a person of  
1123 reasonable firmness in the person's situation would have been unable to resist.  
1124 (2) As a result, the person is not sufficiently able to resist committing the offense conduct so as to be justly  
1125 held accountable for it.  
1126 (b) Defined terms. "Coerce" means any act that satisfies the definition of coercion in § 1063 of this title.  
1127 § 326. Ignorance due to unavailable law.  
1128 A person is excused for the person's offense if all of the following apply:  
1129 (1) Before the conduct constituting the offense was committed, the law relating to the offense was not made  
1130 available in a way that would give notice to a reasonable person.  
1131 (2) As a result, at the time of the offense, the person does not know that the person's conduct is criminal.  
1132 § 327. Reliance upon official misstatement of law.  
1133 A person is excused for the person's offense if both of the following apply:  
1134 (1) The person reasonably relies upon an official misstatement of law contained in any of the following:  
1135 a. A statute or other enactment.  
1136 b. A judicial decision, opinion, or judgment.  
1137 c. An administrative order.  
1138 d. An official interpretation of the public officer or body charged by law with responsibility for the  
1139 interpretation, administration, or enforcement of the law defining the offense.  
1140 (2) As a result of the official misstatement of law, at the time of the offense, the person does not know the  
1141 person's conduct is criminal.  
1142 § 328. Reasonable mistake of law unavoidable by due diligence.  
1143 A person is excused for the person's offense if all of the following apply:  
1144 (1) The person pursues with due diligence all reasonably viable means available to ascertain the meaning and  
1145 application of the offense to the person's conduct.

1146           (2) The person honestly and in good faith concludes that the person's conduct is lawful in circumstances  
1147 where a law-abiding and prudent person would also so conclude.

1148           (3) Notwithstanding the conditions in paragraphs (1) and (2) of this section being met, at the time of the  
1149 offense, the person does not know the person's conduct is criminal.

1150           § 329. Mistake as to a justification.

1151           (a) A person is excused for the person's offense if both of the following apply:

1152                   (1) Under the circumstances as the person believes them to be, the person's conduct satisfies the requirements  
1153 of a justification defense defined in Subchapter I of Chapter 3 of this part.

1154                   (2) The person's mistake is any of the following:

1155                           a. Reasonable.

1156                           b. Less culpable than the culpability required by any of the following:

1157                                   1. The result element of the offense charged.

1158                                   2. If no result element exists, the circumstance element most central to the offense charged.

1159           (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
1160 Circumstance element; Reasonable mistake; Result element.

1161           Subchapter III. Nonexculpatory defenses.

1162           § 341. General provisions governing nonexculpatory defenses.

1163           (a) Assistance of, resistance to, and interference with conduct subject to a nonexculpatory defense. Except as  
1164 otherwise provided by law, conduct for which a person has a nonexculpatory defense is not justified, and may be resisted  
1165 and interfered with as authorized by law. A person who assists conduct for which another has a nonexculpatory defense,  
1166 does not have a defense based solely upon the nonexculpatory defense of the other person.

1167           (b) Mistake as to a nonexculpatory defense is no defense. Except as otherwise provided by this part, it is not a  
1168 defense that a person mistakenly believes the person has a nonexculpatory defense.

1169           (c) Burden of persuasion on defendant. Unless expressly provided otherwise, the defendant has the burden of  
1170 persuasion for a nonexculpatory defense and must prove the defense by a preponderance of the evidence.

1171           (d) Determination by court. Unless expressly provided otherwise, the court shall determine the defenses in this  
1172 subchapter.

1173           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
1174 Nonexculpatory defense.

1175           § 342. Prosecution barred if not commenced within time limitation period.



1176 (a) Time limitations. A prosecution is barred unless commenced within the following applicable time period,  
1177 which starts as provided in subsection (e) of this section:

1178 (1) A prosecution for a Class 1 or Class 2 felony, or a sexual offense constituting a felony, may be  
1179 commenced at any time.

1180 (2) A prosecution for any other felony must be commenced within 5 years.

1181 (3) A prosecution for a sexual offense constituting a misdemeanor must be commenced within 5 years.

1182 (4) A prosecution for a Class A misdemeanor must be commenced within 3 years.

1183 (5) A prosecution for any other offense must be commenced within 2 years.

1184 (b) Extended periods. If the period prescribed in subsection (a) of this section has expired, a prosecution  
1185 nevertheless may be commenced if any of the following apply:

1186 (1) No more than 2 years have elapsed since the offense has been discovered or should reasonably have been  
1187 discovered. This paragraph (b)(1) of this section does not extend the period of limitation otherwise applicable by more  
1188 than 3 years.

1189 (2) For any offense based upon misconduct of a public servant in office, no more than 2 years have elapsed  
1190 since the end of the time the defendant holds office.

1191 (3) For any offense for which the victim is less than 18 years old, no more than 2 years have elapsed since the  
1192 victim turned 18 years old.

1193 (4) For a prosecution based upon forensic DNA testing, no more than 10 years have elapsed from the time the  
1194 offense is committed.

1195 (c) Period of limitation tolled. The period of limitation does not run during any of the following periods of time:

1196 (1) During which the defendant is fleeing or hiding from justice, so that the defendant's identity or  
1197 whereabouts cannot be ascertained despite a diligent search.

1198 (2) After the defendant has failed to appear for any scheduled court proceeding related to the prosecution, for  
1199 which lawful notice was provided or properly attempted.

1200 (3) During which a prosecution against the defendant for the same conduct is pending in this State, even if the  
1201 information or indictment was defective.

1202 (d) State's burden to prove extension or tolling. In any prosecution in which subsection (b) or (c) of this section is  
1203 sought to be invoked to avoid or extend the limitation period of subsection (a) of this section, the State must prove the  
1204 subsection's applicability by a preponderance of the evidence.

1205 (e) Start of the limitation period. The period of limitation starts to run on the day after the offense is committed.  
1206 An offense is committed when either of the follow apply:  
1207 (1) Every element of the offense occurs.  
1208 (2) A legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the  
1209 course of conduct or the defendant's complicity in it is terminated.  
1210 (f) Commencement of prosecution. A prosecution is commenced when either an indictment is returned or an  
1211 information is filed.  
1212 (g) Period during which prosecution is pending. A prosecution is pending from the time it is commenced through  
1213 the final disposition of the case, including the final disposition of the case upon appeal.  
1214 (h) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Public  
1215 servant.  
1216 § 343. Entrapment.  
1217 (a) Defense defined. A person has a defense if all of the following apply:  
1218 (1) The person engages in an offense because the person is induced to do so by a law enforcement officer or  
1219 an agent acting in knowing cooperation with a law enforcement officer.  
1220 (2) The law enforcement officer's or agent's conduct creates a substantial risk that a reasonable, law-abiding  
1221 citizen would have been induced to commit the offense.  
1222 (3) The person is not predisposed to commit the offense.  
1223 (b) Defense unavailable for causing or threatening physical injury. A defense under subsection (a) of this section is  
1224 unavailable when causing or threatening physical injury is an element of the offense charged.  
1225 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Law  
1226 enforcement officer; Physical injury.  
1227 § 344. Prior prosecution for same offense as a bar to present prosecution.  
1228 (a) Bar to prosecution defined. When a prosecution is for a violation of the same statutory provision and is based  
1229 upon the same facts as a prior prosecution, it is barred by the prior prosecution if any of the following apply:  
1230 (1) The prior prosecution resulted in an acquittal that was not later set aside.  
1231 (2) The prior prosecution was terminated, after the information was filed or the indictment was returned, by a  
1232 final order or judgment in favor of the defendant, and the final order or judgment has not been set aside, reversed, or  
1233 vacated, and the final order or judgement necessarily required a determination inconsistent with a fact or a legal  
1234 proposition that must be established for conviction of the present offense.

1235                   (3) The prior prosecution resulted in a conviction.

1236                   (4) The prior prosecution was improperly terminated.

1237                   (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Acquittal;  
1238 Conviction; Improperly terminated.

1239                   § 345. Prior prosecution for different offense as a bar to present prosecution.

1240                   (a) Bar to prosecution defined. Although a prosecution is for a violation of a different statutory provision or is  
1241 based on different facts, it is barred by a prior prosecution in a court having jurisdiction over the subject matter of the  
1242 present prosecution if any of the following apply:

1243                   (1) The prior prosecution resulted in either an acquittal that was not later set aside or a conviction, and the  
1244 present prosecution is for either of the following:

1245                   a. An offense of which the defendant could have been convicted in the prior prosecution.

1246                   b. The same conduct, unless either of the following apply:

1247                   1. The offense for which the defendant is presently being prosecuted requires proof of a fact not  
1248 required by the prior offense, and the law defining each of the offenses is intended to prevent a substantially  
1249 different harm or evil.

1250                   2. The presently prosecuted offense was not consummated when the prior trial began.

1251                   (2) The prior prosecution was terminated by an acquittal or by a final order or judgment for the defendant that  
1252 has not been set aside, reversed, or vacated, and the acquittal, final order, or judgment necessarily required a  
1253 determination inconsistent with a fact that must be established for conviction of the present offense.

1254                   (3) The prior prosecution was improperly terminated and the present prosecution is for an offense of which  
1255 the defendant could have been convicted had the prior prosecution not been improperly terminated.

1256                   (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Acquittal;  
1257 Conviction; Improperly terminated.

1258                   § 346. Prior prosecution by another jurisdiction as a bar to present prosecution.

1259                   (a) Bar to prosecution defined. When conduct constitutes an offense within the concurrent jurisdiction of this State  
1260 and of the United States or another state, a prosecution in 1 of those jurisdictions is a bar to the present prosecution in this  
1261 State if any of the following apply:

1262                   (1) The prior prosecution resulted in either an acquittal that was not later set aside or conviction, and the  
1263 present prosecution is based on the same conduct, unless any of the following apply:

1264 a. The offense for which the defendant is presently being prosecuted requires proof of a fact not required  
1265 by the offense in the prior prosecution, and the law defining each of the offenses is intended to prevent a  
1266 substantially different harm or evil.

1267 b. The presently prosecuted offense was not consummated when the prior trial began.

1268 (2) The prior prosecution was terminated, after the information was filed or the indictment returned, by an  
1269 acquittal or by a final order or judgment for the defendant that has not been set aside, reversed, or vacated, and the  
1270 acquittal, final order, or judgment necessarily required a determination inconsistent with a fact that must be established  
1271 for conviction of the offense for which the defendant is presently being prosecuted.

1272 (3) The prior prosecution was improperly terminated and the present prosecution is for an offense of which  
1273 the defendant could have been convicted had the prior prosecution not been improperly terminated.

1274 (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Acquittal;  
1275 Conviction; Improperly terminated.

1276 § 347. Prosecution not barred where prior prosecution was before a court lacking jurisdiction, or was fraudulently  
1277 procured by defendant, or resulted in conviction held invalid.

1278 (a) A prosecution is not a bar within the meaning of § 344, § 345, or § 346 of this title if any of the following  
1279 apply:

1280 (1) The prior prosecution was before a court that lacked jurisdiction over the defendant or the offense.

1281 (2) The defendant procured the prior prosecution without the knowledge of the appropriate prosecuting officer  
1282 and with intent to avoid the sentence that might otherwise be imposed.

1283 (3) The prior prosecution resulted in a judgment of conviction that was held invalid on appeal or in a later  
1284 proceeding.

1285 (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
1286 Conviction.

1287 § 348. Prosecutorial grant of immunity.

1288 (a) Defense defined. A person has a defense if the Attorney General or the Attorney General's designee granted  
1289 the person immunity from prosecution, or otherwise by operation of law, for any of the following:

1290 (1) The offense being prosecuted.

1291 (2) A different offense, if § 345 of this section would have barred the offense presently charged by  
1292 prosecution for the offense for which immunity was granted.

1293 (b) Exception: Attorney General's stipulation. At the time immunity is granted, the Attorney General or the  
1294 Attorney General's designee may stipulate that immunity applies only to a specific offense, in which case paragraph (a)(2)  
1295 of this section does not apply.

1296 § 349. Acquittal of inclusive offense. A finding of guilt of an included offense is an acquittal of the inclusive  
1297 offense, even if the conviction is later set aside.

1298 Section 5. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
1299 shown by underline as follows:

1300 Chapter 4. Liability of organizations.

1301 § 401. Criminal liability of organizations.

1302 (a) An organization may be prosecuted for the commission of an offense if the conduct constituting the offense  
1303 meets any of the following conditions:

1304 (1) Consists of an omission to discharge a specific duty of affirmative performance imposed upon the  
1305 organization by law.

1306 (2) Is engaged in, authorized, solicited, requested, commanded, or recklessly tolerated by either of the  
1307 following:

1308 a. The board of directors.

1309 b. A high managerial agent acting within the scope of employment and on behalf of the organization.

1310 (3) Is engaged in by an agent of the organization while acting within the scope of employment and on behalf  
1311 of the organization, and any of the following apply:

1312 a. The offense is a misdemeanor or a violation.

1313 b. The offense is defined by a statute that clearly indicates a legislative intent to impose criminal liability  
1314 on an organization.

1315 (b) Impermissible organizational activity no defense. In a prosecution of an organization for an offense, it is not a  
1316 defense that the conduct charged to constitute the offense was an activity prohibited by the organization's bylaws, policies,  
1317 procedures, rules, or other standards of conduct.

1318 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Agent of  
1319 the organization; High managerial agent; Organization.

1320 § 402. Criminal liability of an individual for organizational conduct.

1321 (a) Membership in organization no shield from liability.

1322           (1) An individual is legally accountable for conduct constituting an offense that the person performs or causes  
1323           to be performed in the name of or on behalf of an organization to the same extent as if the conduct were performed in  
1324           the person’s own name or behalf.

1325           (2) Whenever a duty to act is imposed by law upon an organization, any high managerial agent of the  
1326           organization having primary responsibility for the discharge of that duty is legally accountable for an omission to  
1327           perform the required act to the same extent as if the duty were imposed by law directly upon the agent, if the agent is  
1328           aware of a substantial risk that the agent has primary responsibility for the discharge of that duty.

1329           (b) Punishment for individuals applies. An individual who has been convicted of an offense by reason of the his or  
1330           her legal accountability for the conduct of an organization is subject to the punishment authorized by law for an individual  
1331           upon conviction of the offense, even if a lesser or different punishment is authorized for the organization.

1332           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: High  
1333           managerial agent; Organization.

1334           Section 6. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
1335 shown by underline as follows:

1336           Chapter 5. Inchoate offenses.

1337           § 501. Criminal Attempt.

1338           (a) Offense defined. A person is guilty of attempt to commit an offense if the person does all of the following:

1339                   (1) Acts with the culpability required for commission of the offense.

1340                   (2) Intends to engage in the conduct that would constitute the offense under the circumstances as the person  
1341           believes them to be.

1342                   (3) Takes a substantial step toward commission of the offense. “Substantial step” means the person has  
1343           completed or believes the person has completed any of the following:

1344                           a. The conduct constituting the offense.

1345                           b. The last act needed to cause the result element of the offense.

1346           (b) Conduct constituting a substantial step. Conduct does not constitute a substantial step toward commission of an  
1347           offense under subsection (a) of this section unless the conduct is strongly corroborative of the defendant’s intention to  
1348           engage in the offense conduct.

1349           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Result  
1350           element.

1351           § 502. Criminal solicitation.

1352 (a) Offense defined. A person is guilty of solicitation to commit an offense if the person does all of the following:  
1353 (1) Acts with the culpability required for commission of the offense.  
1354 (2) Intends to bring about the conduct that would constitute the offense under the circumstances as the person  
1355 believes them to be.  
1356 (3) Intentionally commands, encourages, or requests another person to engage in either of the following:  
1357 a. The conduct.  
1358 b. An attempt to commit the conduct.  
1359 (b) Uncommunicated solicitation. The defendant's failure to communicate with the other person the defendant  
1360 solicits to commit an offense is immaterial under paragraph (a)(3) of this section if the defendant's conduct is designed to  
1361 effect the communication.  
1362 § 503. Criminal conspiracy.  
1363 (a) Offense defined. A person is guilty of conspiracy to commit an offense if all of the following apply:  
1364 (1) The person acts with the culpability required for commission of the offense.  
1365 (2) The person intends to bring about the conduct that would constitute the offense under the circumstances as  
1366 the person believes them to.  
1367 (3) The person agrees with another person that 1 or more of them will engage in any of the following:  
1368 a. The conduct.  
1369 b. An attempt or solicitation to commit the conduct.  
1370 (4) Either of the following performs an overt act in support of the conspiracy:  
1371 a. The defendant.  
1372 b. A person with whom the defendant agrees to engage in the conduct.  
1373 (b) Knowledge of co-conspirator's identity not required. A person may be found to have conspired with another  
1374 person even if he or she is unaware of the third person's identity if all of the following apply:  
1375 (1) The person has conspired with an other person to commit an offense.  
1376 (2) The person knows that the other person with whom he or she has conspired with under paragraph (b)(1) of  
1377 this section has conspired with another person to commit the same offense.  
1378 (c) Joinder and venue in conspiracy prosecutions.  
1379 (1) Joinder. Subject to the provisions in paragraph (c)(2) of this section, 2 or more defendants charged with  
1380 conspiracy to commit an offense may be prosecuted jointly if any of the following apply:  
1381 a. The defendants are charged with conspiring with one another.

1382                    b. The conspiracies alleged, whether they involve the same or different defendants, are so related that  
1383                    they constitute different aspects of a scheme of organized criminal conduct.

1384                    (2) Venue, severance, and fairness. In a joint prosecution under paragraph (c)(1) of this section, all of the  
1385                    following apply:

1386                    a. A defendant may be charged with conspiracy only in either of the following counties:

1387                                1. The county in which the defendant entered into the conspiracy.

1388                                2. The county in which an overt act under paragraph (a)(4) of this section was performed.

1389                    b. The joinder does not enlarge the criminal liability of a defendant or the admissibility against a  
1390                    defendant of evidence of acts or declarations of another.

1391                    c. If the court deems it necessary or appropriate to promote the fair determination of guilt or innocence,  
1392                    the court may do any of the following:

1393                                1. Order a severance or take a special verdict as to any defendant who requests it.

1394                                2. Take any other proper measures to protect the fairness of the trial.

1395                    § 504. Unconvictable confederate no defense.

1396                    It is not a defense for a defendant who solicits or conspires with another person to commit an offense if any of the  
1397                    following apply to the other person:

1398                                (1) Has not been prosecuted or convicted.

1399                                (2) Has been convicted of a different offense or grade of offense.

1400                                (3) Lacked the capacity to commit an offense.

1401                                (4) Has been acquitted.

1402                    § 505. Defense for victims and conduct inevitably incident.

1403                    Unless otherwise provided by this part or the law defining the offense, it is a defense to soliciting or conspiring to  
1404                    commit an offense that any of the following apply:

1405                                (1) The defendant is the victim of the offense.

1406                                (2) The offense is defined in such a way that the defendant's conduct is inevitably incident to its commission.

1407                    § 506. Defense for renunciation preventing commission of the offense.

1408                    In a prosecution for attempt, solicitation, or conspiracy in which the offense contemplated was not in fact  
1409                    committed, it is a defense that the defendant prevented the commission of the offense under circumstances manifesting  
1410                    a voluntary and complete renunciation of the defendant's criminal purpose.

1411                    § 507. Grading of criminal attempt, solicitation, and conspiracy.



1412 Attempt, solicitation, and conspiracy are offenses of 1 grade lower than the most serious offense that is attempted  
1413 or solicited, or is an object of the conspiracy.

1414 § 508. Possessing instruments of crime.

1415 (a) Offense defined. A person commits an offense if all of the following conditions are met:

1416 (1) The person possesses anything that is any of the following:

1417 a. Specially made or specially adapted for criminal use.

1418 b. Commonly used for criminal purposes and possessed by the person under circumstances consistent  
1419 with unlawful intent.

1420 (2) The person intends to employ the object criminally.

1421 (b) Grading. Possessing instruments of crime is a Class A misdemeanor.

1422 Section 7. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
1423 shown by underline as follows:

1424 Chapter 6. Offense grades and their implications.

1425 § 601. Offense grades.

1426 (a) Classified Offenses. Each offense in this part is classified as 1 of the following:

1427 (1) A Class 1 felony.

1428 (2) A Class 2 felony.

1429 (3) A Class 3 felony.

1430 (4) A Class 4 felony.

1431 (5) A Class 5 felony.

1432 (6) A Class 6 felony.

1433 (7) A Class 7 felony.

1434 (8) A Class 8 felony.

1435 (9) A Class 9 felony.

1436 (10) A Class A misdemeanor.

1437 (11) A Class B misdemeanor.

1438 (12) A Class C misdemeanor.

1439 (13) A Class D misdemeanor.

1440 (14) A violation.

1441 (b) Unclassified offenses. An offense provided under the law of this State other than this part is classified as  
1442 follows:

1443 (1) If the offense provides a term of imprisonment, the following apply:

1444 a. An offense providing imprisonment of more than 6 months is a Class A misdemeanor.

1445 b. An offense providing imprisonment of 6 months or less but more than 3 months is a Class B  
1446 misdemeanor.

1447 c. An offense providing imprisonment of 3 months or less but more than 30 days is a Class C  
1448 misdemeanor.

1449 d. An offense providing imprisonment of 30 days or less is a Class D misdemeanor.

1450 (2) If the offense does not provide a term of imprisonment but declares itself to be a felony or misdemeanor,  
1451 the following apply:

1452 a. A felony must be treated as a Class A misdemeanor.

1453 b. A misdemeanor is a Class D misdemeanor.

1454 (3) An offense that does not declare itself to be a felony or misdemeanor, and does not provide a sentence of  
1455 imprisonment, is a Class D misdemeanor.

1456 § 602. Authorized terms of imprisonment.

1457 (a) Except as otherwise provided, authorized terms of imprisonment are as follows:

1458 (1) For a Class 1 felony:

1459 a. for a person who is 18 years or older, life.

1460 b. for a person who is less than 18 years old, a maximum of life but not less than 25 years.

1461 (2) For a Class 2 felony, a maximum of life, but no less than 15 years.

1462 (3) For a Class 3 felony, no more than 35 years, and no less than 5 years if all of the following apply:

1463 a. An element of the offense or grade provision includes causing physical injury, engaging in sexual  
1464 conduct, use of a deadly weapon, or a drug and the drug is a Schedule I or Schedule II drug.

1465 b. The defendant knowingly commits the elements of the offense.

1466 (4) For a Class 4 felony, no more than 30 years, and no less than 3 years if all of the following apply:

1467 a. An element of the offense or grade provision includes causing physical injury, engaging in sexual  
1468 conduct, use of a deadly weapon, or a drug and the drug is a Schedule I or Schedule II drug.

1469 b. The defendant knowingly commits the elements of the offense.

1470 (5) For a Class 5 felony, no more than 25 years, and no less than 2 years if any of the following apply:

1471 a. Both of the following:

1472 1. An element of the offense or grade provision includes causing physical injury, engaging in sexual

1473 conduct, use of deadly weapon, or a drug and the drug is a Schedule I or Schedule II drug.

1474 2. The defendant knowingly commits the elements of the offense.

1475 b. Elements of the offense or grade provision include recklessly causing the death of another person.

1476 (6) For a Class 6 felony, no more than 15 years.

1477 (7) For a Class 7 felony, no more than 8 years.

1478 (8) For a Class 8 felony, no more than 4 years.

1479 (9) For a Class 9 felony, nor more than 2 years.

1480 (10) For a Class A misdemeanor, no more than 1 year.

1481 (11) For a Class B misdemeanor, no more than 6 months.

1482 (12) For a Class C misdemeanor, no more than 3 months.

1483 (13) For a Class D misdemeanor, no more than 30 days.

1484 (14) For a violation, no term of imprisonment is authorized.

1485 (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly

1486 weapon; Physical injury; Sexual conduct.

1487 § 603. Authorized fines; restitution.

1488 (a) Authorized fines. Except as otherwise provided, the authorized maximum fine is as follows:

1489 (1) For a Class 1 felony, \$1,000,000.

1490 (2) For a Class 2 felony, \$600,000.

1491 (3) For a Class 3 felony, \$300,000.

1492 (4) For a Class 4 felony, \$150,000.

1493 (5) For a Class 5 felony, \$115,000.

1494 (6) For a Class 6 felony, \$80,000.

1495 (7) For a Class 7 felony, \$40,000.

1496 (8) For a Class 8 felony, \$20,000.

1497 (9) For a Class 9 felony, \$10,000.

1498 (10) For a Class A misdemeanor, \$4,000.

1499 (11) For a Class B misdemeanor, \$2,000.

1500 (12) For a Class C or D misdemeanor, \$1,000.

1501                   (13) For a violation, \$500.

1502                   (b) Fines for organizations. When imposed upon an organization, except as otherwise provided, the authorized  
1503 maximum fine is the greatest of the following amounts:

1504                   (1) For an offense resulting in death or serious physical injury, any amount the court deems reasonable and  
1505 appropriate.

1506                   (2) Three times the pecuniary loss or damage caused or gain derived.

1507                   (3) For a felony, \$1,000,000.

1508                   (4) For a Class A misdemeanor that results in physical injury, \$250,000.

1509                   (5) For a Class A misdemeanor that does not result in physical injury, \$100,000.

1510                   (6) For a Class B, C, or D misdemeanor that results in physical injury, \$75,000.

1511                   (7) For a Class B, C, or D misdemeanor that does not result in physical injury, \$50,000.

1512                   (8) For a violation, \$10,000.

1513                   (c) Restitution. If the criminal conduct constituting an offense results in monetary loss to a victim of the offense,  
1514 the defendant must make payment of restitution to the victim equal to the value of the loss sustained.

1515                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Physical  
1516 injury; Serious physical injury.

1517                   § 604. General adjustments to offense grade.

1518                   (a) Repeat felon. The grade of a felony must be increased by 1 grade if both of the following apply:

1519                   (1) the defendant has previously been convicted of 2 felonies,

1520                   (2) the defendant has served time in prison for at least 1 of the prior felonies during the past 10 years, and

1521                   (3) the grade of each of the prior felonies was equal to or greater than the grade of the present felony.

1522                   (b) Vulnerable or elderly victim. The grade of an offense must be increased by 1 grade if the victim is any of the  
1523 following:

1524                   (1) A vulnerable person.

1525                   (2) Sixty-five or more years old.

1526                   (c) Hate crime. The grade of an offense must be increased by 1 grade if the defendant did any of the following:

1527                   (1) Committed the offense with intent to interfere with the victim's free exercise or enjoyment of any right,  
1528 privilege, or immunity protected by the First Amendment to the United States Constitution.

1529                   (2) Selected the victim because of the victim's race, religion, color, disability, sexual orientation, gender  
1530 identity, national origin, or ancestry.

1531 (d) Criminal street gangs. The grade of an offense must be increased by 1 grade if the defendant committed the  
1532 offense under all of the following circumstances:

1533 (1) With intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.

1534 (2) For the benefit of, at the direction of, or in association with a criminal street gang.

1535 (e) Wearing a disguise or body armor during commission of a felony. The grade of a felony must be increased by 1  
1536 grade if, during its commission, the defendant wears any of the following:

1537 (1) A hood, mask, or other article with intent to obscure the defendant's identifying features.

1538 (2) Any material designed to provide bullet penetration resistance.

1539 (f) Limitations on grade adjustments.

1540 (1) Specific provision controls. A grade adjustment in this section does not apply if a specific provision of this  
1541 part has already taken into account the facts that must be proven to establish the grade adjustment.

1542 (2) Ceiling on grade adjustments.

1543 a. General grade adjustments. Subsections (b) through (e) of this section do not apply if the unadjusted  
1544 offense grade is a Class 1, 2, 3, 4, or 5 felony.

1545 b. No adjustments to certain felonies. An upward grade adjustment, whether contained in this section or a  
1546 specific offense provision, may not be made to a Class 1 or 2 felony.

1547 (3) Cumulative grade adjustments. Unless a specific offense provision states otherwise, only 1 upward  
1548 adjustment may be applied to the grade of an offense.

1549 (g) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Criminal  
1550 street gang; Gender identity; Sexual orientation; Vulnerable person.

1551 § 605. Valuation of property for the purposes of grading.

1552 (a) Generally. Except as provided under subsection (b) of this section, if the value of property determines the grade  
1553 of an offense, the value is whichever of the following applies:

1554 (1) The market value of the property at the time and place of the offense.

1555 (2) If the value described in paragraph (a)(1) of this section cannot be ascertained with reasonable certainty,  
1556 the cost of replacing, reproducing, or recovering the property within a reasonable time after the offense.

1557 (b) Written instruments. If the value of a written instrument determines the grade of an offense the value of the  
1558 written instrument is determined as follows:

1559 (1) If the written instrument is evidence of a debt, such as a check, draft, or promissory note, value of the  
1560 instrument is the amount due or collectible on the debt, taking into account any amount already satisfied.

1561           (2) If the written instrument creates, releases, discharges, or otherwise affects any valuable legal right,  
1562 privilege or obligation, the value of the instrument is the greatest amount of economic loss that the owner of the  
1563 instrument might reasonably suffer by virtue of the loss of the instrument.

1564           (c) Default. If the value of property cannot be satisfactorily ascertained under subsection (a) or (b) of this section,  
1565 the value of the property is determined as follows:

1566                   (1) If the property is private personal data, its value is \$500.

1567                   (2) If the property is electronic or computer equipment, or computer services, its value is \$250.

1568                   (3) For any property other than under paragraphs (c)(1) and (2) of this section, its value is less than \$100.

1569           (d) Aggregation for theft and related offenses. If theft, as defined in § 1101 of this title, or any offense contained in  
1570 Subchapter II of Chapter 11 of this part is committed in a single scheme or continuous course of conduct, whether from the  
1571 same or several sources, the conduct may be considered a single offense, and the value of the property or services may be  
1572 aggregated for grading purposes.

1573           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Computer  
1574 services; Owner; Private personal data; Written instrument.

1575           Section 8. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
1576 shown by underline as follows:

1577           Subpart II. Specific Offenses.

1578           Chapter 10. Offenses against the person.

1579           Subchapter I. Homicide offenses.

1580           § 1001. Aggravated murder.

1581           (a) Offense defined. A person commits an offense if he or she does either of the following:

1582                   (1) Intentionally causes the death of another person.

1583                   (2) Knowingly causes the death of a law enforcement officer, corrections employee, fire fighter, paramedic,  
1584 emergency medical technician, fire marshal, or fire police officer, and the offense is committed while the victim is  
1585 engaged in the lawful performance of the victim's duties.

1586           (b) Grading. Aggravated murder is a Class 1 felony. The death penalty may be imposed, subject to the procedures  
1587 and standards of § 4209 of this title, but only if the offense was committed after the person reached 18 years of age.

1588           § 1002. Murder.

1589           (a) Offense defined. A person commits an offense if he or she causes the death of another person:

1590                   (1) Knowingly.

1591                   (2) Recklessly, and any of the following apply:

1592                    a. The person acts under circumstances manifesting an extreme indifference to the value of human life.

1593                    b. The victim is a law enforcement officer, corrections employee, fire fighter, paramedic, emergency

1594 medical technician, fire marshal, or fire police officer, and the offense is committed while the victim is engaged in

1595 the lawful performance of the victim's duties.

1596                    c. Death is caused by the use or detonation of a bomb or similar destructive device.

1597                    d. The offense is committed with intent to avoid or prevent the lawful arrest of any person.

1598                   (3) With criminal negligence, while committing, fleeing from, or attempting any felony, apart from the

1599 conduct causing death.

1600                   (b) Grading. Murder is a Class 2 felony.

1601                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Attempt

1602 or attempting; Law enforcement officer.

1603                    § 1003. Manslaughter.

1604                    (a) Offense defined. A person commits an offense if he or she does any of the following:

1605                      (1) Recklessly causes the death of another person.

1606                      (2) Causes the death of another person under circumstances that would be an offense under § 1001 or § 1002

1607 of this title, but both of the following mitigating circumstances exist:

1608                      a. The person is under the influence of extreme mental or emotional disturbance.

1609                      b. There is a reasonable explanation for the extreme mental or emotional disturbance, the reasonableness

1610 of which is to be determined based on the following criteria:

1611                          1. From the viewpoint of a reasonable person in the defendant's situation.

1612                          2. Under the circumstances as the defendant believed them to be.

1613                    (b) Application of mitigation under paragraph (a)(2) of this section.

1614                      (1) Burden of persuasion. The defendant carries the burden of persuasion on the mitigation provided in

1615 paragraphs (a)(2)a. and (a)(2)b. of this section, and must prove those elements by a preponderance of the evidence.

1616                      (2) Knowingly causing mitigating conditions. The mitigation under paragraph (a)(2) of this section are not

1617 available to a defendant who knowingly causes the conditions constituting the mitigation.

1618                    (c) Grading. Manslaughter is a Class 5 felony.

1619                    § 1004. Criminally negligent homicide.

1620 (a) Offense defined. A person commits an offense if he or she causes with criminal negligence the death of another  
1621 person.

1622 (b) Grading. Criminally negligent homicide is graded as follows:

1623 (1) A Class 4 felony if the defendant causes the death by use of a firearm that the defendant possesses in  
1624 violation of § 1404 of this title (Possessing a firearm by a prohibited person).

1625 (2) A Class 6 felony if the defendant causes the death by abuse or neglect of a child who is less than 14 years  
1626 old.

1627 (3) A Class 7 felony in all other cases.

1628 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Abuse of  
1629 a child; Firearm; Neglect of a child.

1630 § 1005. Aiding suicide; committing homicide by causing suicide.

1631 (a) Offense defined. A person commits an offense if the person knowingly aids another in committing suicide.

1632 (b) Grading. Aiding suicide is graded as follows:

1633 (1) A Class 7 felony, if the suicide is committed.

1634 (2) A Class 8 felony, if the suicide is attempted.

1635 (3) A Class 9 felony, if the person attempts to aid another person in committing suicide, but the other person  
1636 does not attempt suicide.

1637 (c) Committing homicide by causing suicide. A person may be convicted of an offense under § 1001 through §  
1638 1104 of this title for causing another person to commit suicide only if the person causes the suicide by force, threat, or  
1639 coercion.

1640 (d) Defined terms.

1641 (1) The following terms used in this section have the meaning given in § 103 of this title: Attempt; Force;  
1642 Suicide.

1643 (2) “Coercion” means any act that satisfies the definition of coercion in § 1063 of this title.

1644 § 1006. Unlawful abortion; instruments of an unlawful abortion.

1645 (a) Unlawful abortion, defined. A person commits an offense if all of the following apply:

1646 (1) The person performs an abortion upon a woman or has an abortion performed upon herself.

1647 (2) The pregnancy is in fact terminated and does not result in a live birth.

1648 (3) The abortion is not an authorized abortion.



1649           (b) Instruments of unlawful abortion, offense defined. A person commits an offense if the person manufactures,  
1650 sells, or delivers any instrument, article, medicine, drug, or substance with intent that the item be used to perform an  
1651 abortion in violation of subsection (a) of this section.

1652           (c) Grading.

1653                   (1) Unlawful abortion is graded as follows:

1654                           a. A Class A misdemeanor, if the person is a pregnant woman who has an abortion performed upon  
1655 herself.

1656                           b. A Class 9 felony in all other cases.

1657                   (2) Instruments of unlawful abortion is a Class B misdemeanor.

1658           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Abortion;  
1659 Authorized abortion.

1660                   Subchapter II. Robbery; assault; endangerment; threat offenses.

1661                   § 1021. Robbery and carjacking.

1662           (a) Offense defined. A person commits an offense if the person does all of the following:

1663                           (1) Knowingly and unlawfully takes property from another person or in the presence of another person.

1664                           (2) Takes property under paragraph (a)(1) of this section by using force or threat of force during the taking,  
1665 attempted taking, or flight from the taking or attempted taking.

1666           (b) Grading.

1667                   (1) Carjacking. If the person, in the course of committing an offense under subsection (a) of this section, takes  
1668 possession of a motor vehicle, airplane, vessel or other vehicle, the offense is:

1669                           a. A Class 4 felony, if an occupant or passenger of the vehicle is 14 years old or younger.

1670                           b. A Class 6 felony, if, while in possession or control of the vehicle, the person does any of the following:

1671                                   1. Commits or attempts to commit a felony that is Class 7 or greater.

1672                                   2. Commits an offense under § 1025 of this title.

1673                                   3. Commits an offense under Subchapter II of Chapter 14 of this title.

1674                           c. A Class 7 felony, if, while in possession or control of the vehicle, the defendant does either of the  
1675 following:

1676                                   1. Commits an offense under § 1024 of this title.

1677                                   2. Compels a lawful occupant of the vehicle to leave the vehicle.

1678                           d. A Class 8 felony in all other cases.

1679           (2) Aggravated robbery. The offense is a Class 4 felony if, in the course attempting, committing, or in flight  
1680 from attempting or committing the offense under subsection (a), the person does any of the following:  
1681           a. Causes physical injury to any person who is not a participant in the offense.  
1682           b. Displays a deadly weapon or an object intended to appear to be a deadly weapon.  
1683           c. Represents by word or conduct that the he or she is in possession or control of a deadly weapon.  
1684           (3) Robbery. If paragraphs (b)(1) and (b)(2) do not apply, the offense is a Class 8 felony.  
1685           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
1686 weapon; Motor vehicle; Physical injury; Property; Vessel.  
1687           § 1022. Assault; strangulation.  
1688           (a) Assault, offense defined. A person commits an offense if the person knowingly does any of the following:  
1689           (1) Causes physical injury to another person.  
1690           (2) Makes physical contact of an offensive or alarming nature with another person.  
1691           (b) Strangulation, offense defined. A person commits an offense if the person knowingly causes the breathing or  
1692 blood circulation of another person to be impeded by applying pressure on the throat or neck of the other person.  
1693           (c) Grading.  
1694           (1) Enhanced aggravated assault. The offense under paragraph (a)(1) of this section is a Class 5 felony if the  
1695 person knowingly does any of the following:  
1696           a. Amputates or otherwise removes a part of the victim's body.  
1697           b. Causes serious physical injury to another person while engaged in commission of or flight from any  
1698 felony.  
1699           c. Causes serious physical injury by abuse or neglect of a child less than 14 years old.  
1700           d. Causes serious physical injury by means of a firearm or other deadly weapon.  
1701           (2) Aggravated assault. The offense under paragraph (a)(1) of this section is a Class 7 felony if any of the  
1702 following apply:  
1703           a. The person causes serious physical injury.  
1704           b. The person causes physical injury to a pregnant female.  
1705           c. The offense is committed by means of a firearm or other deadly weapon.  
1706           (3) Assault. If paragraphs (c)(1) or (c)(2) do not apply, the offense is graded as follows:  
1707           a. A Class A misdemeanor, if committed under paragraph (a)(1) of this section.  
1708           b. If committed under paragraph (a)(2) of this section, as follows:

1709                   1. A Class B misdemeanor, if the person makes contact with the person using urine, feces, or vomit.

1710                   2. A Class D misdemeanor in all other cases.

1711                   (4) Strangulation is graded as follows:

1712                   a. A Class 7 felony, if the person does any of the following:

1713                   1. Displays or uses a dangerous instrument or a deadly weapon during commission of the offense.

1714                   2. Causes serious physical injury.

1715                   b. A Class 8 felony in all other cases.

1716                   (5) Special victims, grade adjustment. The grade of assault, aggravated assault, or enhanced aggravated

1717 assault is increased by 1 grade if the victim is any of the following:

1718                   a. A law enforcement officer, firefighter, emergency medical technician, paramedic, fire marshal, public

1719 transit operator, or code enforcement officer who is acting in the lawful performance of duty.

1720                   b. Rendering emergency medical care.

1721                   c. A state employee or officer discharging a duty of employment or office.

1722                   d. Under 6 years old, and the person is 18 years or older.

1723                   e. Located in a detention facility, and the person is confined in that detention facility.

1724                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Abuse of

1725 a child; Deadly weapon; Firearm; Law enforcement officer; Neglect of a child; Physical injury; Serious physical injury.

1726                   § 1023. Reckless injuring.

1727                   (a) Offense defined. A person commits an offense if the person recklessly causes physical injury to another person.

1728                   (b) Grading. Reckless injuring is graded as follows:

1729                   (1) If the injury caused is serious physical injury, the offense is graded as follows:

1730                   a. A Class 6 felony, if any of the following apply:

1731                   1. The injury is a result of the person's abuse or neglect of a child less than 14 years old.

1732                   2. The offense results in the unlawful termination of the victim's pregnancy without the victim's

1733 consent.

1734                   b. A Class 8 felony in all other cases.

1735                   (2) If the injury caused is physical injury, the offense is graded as follows:

1736                   a. A Class 9 felony if the victim is a child and any of the following apply:

1737                   1. The child is 4 years old or younger.

1738                    2. The child is 14 years old or younger and the child's intellectual or physical capacity discernibly  
1739 falls outside the normal range of performance and behavior with regard to age, development, and  
1740 environment.

1741                    3. The child is 14 years old or younger, and physical injury is caused by a deadly weapon or  
1742 dangerous instrument.

1743                    b. A Class B misdemeanor in all other cases.

1744                    (3) Special victims, grade adjustment. The grade of reckless injuring must be increased by 1 grade if the  
1745 victim is any of the following:

1746                    a. A law enforcement officer, firefighter, emergency medical technician, paramedic, fire marshal, public  
1747 transit operator, or code enforcement officer who is acting in the lawful performance of duty.

1748                    b. Rendering emergency medical care.

1749                    c. A state employee or officer discharging a duty of employment or office.

1750                    d. Under 6 years old, and the person is 18 years or older.

1751                    e. Located in a detention facility, and the person is confined in that detention facility.

1752                    (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Abuse of  
1753 a child; Dangerous instrument; Deadly weapon; Neglect of a child; Physical injury; Serious physical injury.

1754                    § 1024. Reckless endangerment.

1755                    (a) Offense defined. A person commits an offense if the person engages in conduct by which the person creates a  
1756 substantial risk of physical injury to another person.

1757                    (b) Grading. Reckless endangerment is graded as follows:

1758                    (1) A Class 9 felony, if the person creates a substantial risk of death or serious physical injury.

1759                    (2) A Class B misdemeanor in all other cases.

1760                    (c) Treatment of a child by prayer: defense. In a prosecution under this section that is based upon an alleged failure  
1761 or refusal to provide proper medical care or treatment to an ill child who is less than 18 years old, it is a defense that all of  
1762 the following apply:

1763                    (1) The person is a member or adherent of an organized church or religious group, the tenets of which  
1764 prescribe prayer as the principal treatment for illness.

1765                    (2) The person treated or caused the ill child to be treated in accordance with those tenets.

1766                    (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Physical  
1767 injury; Serious physical injury.

1768           § 1025. Operating a vehicle while under the influence of drugs or alcohol.

1769           (a) Offense defined. A person commits an offense if the person operates a vehicle, airplane, or vessel while  
1770 chemically impaired.

1771           (b) Grading. Operating a vehicle while under the influence of drugs or alcohol is graded as follows:

1772                 (1) A Class A misdemeanor, if paragraphs (b)(2) through (b)(4) of this section do not apply.

1773                 (2) A Class 9 felony, if the person has previously been convicted of 2 offenses under this section within the  
1774 past 10 years.

1775                 (3) A Class 7 felony, if the person has previously been convicted of 3 offenses under this section within the  
1776 past 10 years.

1777                 (4) A Class 6 felony, if the person has previously been convicted of 4 offenses under this section.

1778           (c) Exception.

1779                 (1) General repeat offense grade adjustment. Section 604(a) of this title does not apply to an offense under this  
1780 section.

1781                 (2) Felony murder. An offense under this section may not be an underlying felony in a prosecution under §  
1782 1002(a)(3) of this title.

1783           (d) Additional civil and procedural provisions. A person convicted of this offense is subject to civil consequences  
1784 and procedures set forth in § 4177 of Title 21.

1785           (e) Prescription drug taken as directed: defense. It is a defense to prosecution under this section that the person's  
1786 chemical impairment was due entirely to consumption of a drug, if the person meets both of the following conditions:

1787                 (1) Had an authorized prescription for the consumed drug.

1788                 (2) Consumed the drug according to the directions and terms of the authorized prescription.

1789           (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

1790 Authorized prescription; Chemically impaired; Vessel.

1791           § 1026. Genital mutilation of a female minor.

1792           (a) Offense defined. A defendant commits an offense if the defendant does any of the following:

1793                 (1) Knowingly circumcises, excises, or infibulates the whole or any part of the genitalia of a female who is  
1794 less than 18 years old.

1795                 (2) Being a parent or guardian of a female who is less than 18 years old, allows the act to be performed on the  
1796 female.

1797 (b) Custom or ritual not a defense. It is not a defense to an offense under this section that the act is required or  
1798 permitted as a matter of custom, ritual, or standard practice.

1799 (c) Grading. Genital mutilation of a female minor is a Class 7 felony.

1800 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Genitalia.

1801 § 1027. Terroristic threats; menacing.

1802 (a) Offense defined. A person commits an offense if the person does any of the following:

1803 (1) Recklessly causes another person to experience extreme fear or distress by threatening to commit an  
1804 offense under this part that is likely to result in death or serious injury to person or property.

1805 (2) Intentionally places another person in fear of imminent physical injury.

1806 (b) Grading. Terroristic threats and menacing is graded as follows:

1807 (1) If committed under paragraph (a)(1) of this section, as follows:

1808 a. A Class 9 felony, if the victim is or has ever been a public servant and the threat is made because of the  
1809 victim's status as such.

1810 b. A Class A misdemeanor in all other cases.

1811 (2) If committed under paragraph (a)(2) of this section, as follows:

1812 a. A Class 9 felony, if fear is created by any of the following:

1813 1. Displaying a firearm or deadly weapon.

1814 2. Causing the victim to believe that the victim is or has been exposed to a substance or device that  
1815 could cause physical injury or death.

1816 b. A Class B misdemeanor if fear is created by congregating with other persons in a public place while  
1817 wearing masks, hoods, or other garments rendering their faces unrecognizable.

1818 c. A Class D misdemeanor in all other cases.

1819 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Physical  
1820 injury; Property; Public servant.

1821 § 1028. Unlawfully administering drugs.

1822 (a) Offense defined. A person commits an offense if the person administers a drug to another person without that  
1823 person's consent, thereby intentionally causing stupor, unconsciousness, or any other alteration of the other person's  
1824 physical or mental condition.

1825 (b) Grading. Unlawfully administering drugs is a Class 9 felony.

1826 § 1029. Reckless infliction of severe mental or emotional harm.

1827 (a) Abuse of vulnerable people, offense defined. A person commits an offense if all of the following conditions are  
1828 met:

1829 (1) The person has a duty to provide medical or personal care or maintenance.

1830 (2) The person recklessly does any of the following:

1831 a. Causes severe mental or emotional harm.

1832 b. Fails to provide the care or maintenance necessary for the safety and welfare of the victim.

1833 (3) The victim is any of the following:

1834 a. A vulnerable person.

1835 b. A patient or resident of any facility that provides medical or personal care.

1836 (b) Hazing, offense defined. A person commits an offense if the person's conduct meets all of the following:

1837 (1) Recklessly creates a substantial risk of severe mental or emotional harm to another person.

1838 (2) Is part of a program to initiate, admit, or renew membership of defendant in any organization.

1839 (c) Grading.

1840 (1) Abuse of a vulnerable person is a Class A misdemeanor.

1841 (2) Hazing is a Class B misdemeanor.

1842 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

1843 Vulnerable person.

1844 Subchapter III. Sexual offenses.

1845 § 1041. Rape; sexual assault.

1846 (a) Offense, defined. A person commits an offense if the person causes another person to submit to or engage in  
1847 sexual intercourse, oral or object penetration, or sexual contact with anyone, and any of the following apply:

1848 (1) The person uses force, coercion, deception, or any other compulsion that would cause a reasonable person  
1849 to submit under the circumstances.

1850 (2) The person knows that the victim is any of the following:

1851 a. Unable to understand the nature of the act.

1852 b. Unable to consent to the act.

1853 c. Unconscious, asleep, or otherwise unaware of the act.

1854 (3) The person substantially impaired the victim's power to appraise or control the victim's own conduct by  
1855 administering or employing, without the victim's knowledge or against the victim's will, drugs, intoxicants, or other  
1856 means for the purpose of preventing resistance.

1857           (4) The victim is:

1858                 a. Less than 16 years old, and the person is more than 4 years older than the victim.

1859                 b. Less than 12 years old.

1860           (b) Grading.

1861                 (1) Enhanced aggravated rape. The offense defined in subsection (a) of this section is a Class 3 felony if the

1862 offense conduct is sexual intercourse and:

1863                 a. During the commission or attempted commission of the offense, immediate flight from the offense, or

1864 an attempt to prevent the offense from being reported, the person does any of the following:

1865                         1. Causes serious physical injury to the victim.

1866                         2. Displays a deadly weapon or an object intended to appear to be a deadly weapon.

1867                         3. Represents by word or conduct that the person is in possession or control of a deadly weapon or

1868 dangerous instrument.

1869                 b. The person commits an offense defined in subsection (a)(4)b. of this section and the defendant is 18

1870 years or older.

1871                 c. The person acts with the active participation or assistance of 1 or more other persons who are present at

1872 the time of the act of sexual intercourse or oral or object penetration.

1873                 (2) Aggravated rape. The offense defined in subsection (a) of this section is a Class 4 felony if the offense

1874 conduct is sexual intercourse and:

1875                 a. The person causes physical injury to the victim during any of the following:

1876                         1. Commission or attempted commission of the offense.

1877                         2. Flight from the offense.

1878                         3. Attempt to prevent the offense from being reported.

1879                 b. The person commits an offense defined in subsection (a)(4)a. and the victim is 14 years old or younger.

1880                 c. The person commits another felony in the course of committing or fleeing from the offense defined in

1881 section (a) of this subsection.

1882                 (3) Rape. The offense defined in subsection (a) of this section is a Class 7 felony in all other cases where the

1883 offense conduct is sexual intercourse.

1884                 (c) Oral or object penetration, grading. If oral or object penetration is the offense conduct committed in the offense

1885 defined in subsection (a) of this section, the grade of the offense is 1 grade lower than that provided under subsection (b) of

1886 this section for similar circumstances.



1887 (d) Sexual assault grading. If the offense conduct is sexual contact, rather than sexual intercourse, the grade of the  
1888 offense is 3 grades lower than that provided under subsection (b) of this section for similar circumstances.

1889 (e) Offense committed against a child by a person in a position of trust, grade adjustment. The grade of an offense  
1890 defined in subsection (a) of this section is increased by 1 grade if all of the following apply:

1891 (1) The person occupies a position of trust, authority, or supervision over the victim.

1892 (2) The victim is less than 16 years old.

1893 (f) No defense for mistake as to age under 16. Where an element of the offense or grading provision under this  
1894 section requires that the victim be any age less than 16 years old, it is not a defense that any of the following apply to the  
1895 person:

1896 (1) Did not know the victim's age to be less than 16 years old.

1897 (2) Reasonably believed the victim was 16 years or older.

1898 (g) Child support. In a conviction under this section where the offense resulted in the birth of a child, and the child  
1899 is in the custody and care of the victim or the victim's legal guardian, the court shall make it a condition of any probation  
1900 term imposed on the person that the person timely pay child support as the Family Court orders for that child.

1901 (h) Defined terms.

1902 (1) The following terms used in this section have the meaning given in § 103 of this title: Attempt or  
1903 attempting; Dangerous instrument; Deadly weapon; Deceiving or deception; Oral or object penetration; Position of  
1904 trust, authority, or supervision; Physical injury; Serious physical injury; Sexual contact; Sexual intercourse.

1905 (2) "Coercion" means any act that satisfies the definition of coercion in § 1063 of this title.

1906 § 1042. Prohibited sexual contact by a person in a position of trust.

1907 (a) Offense defined. A person commits an offense if the person engages in sexual contact with another person, and  
1908 any of the following apply:

1909 (1) The victim is in custody at a detention facility, and the person is an employee, volunteer, or other person  
1910 working at the detention facility.

1911 (2) The victim is less than 18 years old, and the person is in a position of trust, authority, or supervision over  
1912 the victim.

1913 (3) The victim is a patient or resident of any facility where medical or personal care is provided, and the  
1914 person is an employee, volunteer, or other person working at the facility.

1915 (b) Grading. Prohibited sexual contact by a person in a position of trust is graded as follows:

1916 (1) A Class 6 felony, if the offense conduct is sexual intercourse.

1917                   (2) A Class 7 felony, if the offense conduct is oral or object penetration.

1918                   (3) A Class 9 felony, if the offense conduct is sexual contact.

1919                   (c) Defined terms.

1920                   (1) The following terms used in this section have the meaning given in § 103 of this title: Oral or object  
1921 penetration; Position of trust, authority, or supervision; Sexual contact.

1922                   (2) “Facility” means as defined in § 1131 of Title 16 but does not include a detention facility.

1923                   § 1043. Bestiality.

1924                   (a) Offense defined. A person commits an offense if the person intentionally does any of the following:

1925                   (1) Engages in sexual contact with the genitalia of an animal.

1926                   (2) Causes another person to engage in sexual contact with the genitalia of an animal with intent to gratify the  
1927 defendant’s own sexual desire.

1928                   (b) Grading. Bestiality is a Class 7 felony.

1929                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Sexual  
1930 contact.

1931                   § 1044. Prohibited conduct by a person convicted of a sexual offense against a child.

1932                   (a) Offense defined. A person commits an offense if all of the following apply:

1933                   (1) The person has been previously convicted of committing any of the following offenses against a person  
1934 less than 16 years old:

1935                   a. An offense contained in this subchapter.

1936                   b. The offense defined in any of the following sections of this title:

1937                   1. Section 1321 of this title.

1938                   2. Section 1322(b)(1) of this title.

1939                   3. Section 1323 of this title.

1940                   4. Paragraphs 1324(a)(1), (a)(2), or (b)(3)a. of this title.

1941                   5. Section 1342 of this title.

1942                   6. Section 1361 of this title.

1943                   c. The equivalent of an offense under paragraphs (a)(1)a. and (a)(1)b. of this section in another  
1944 jurisdiction.

1945                   (2) The person loiters or resides on or within 500 feet of the property of any institution that has as its primary  
1946 purpose the education or instruction of children less than 16 years old.

1947           (b) Grading. Prohibited conduct by a person convicted of a sexual offense against a child is a Class 9 felony.

1948           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Dwelling;

1949 Loiters; Reside.

1950           § 1045. Sexual harassment.

1951           (a) Offense defined. A person commits an offense if the person does any of the following:

1952               (1) Threatens to engage in conduct likely to result in the commission of a sexual offense against another

1953 person.

1954               (2) Knowingly causes annoyance, offense, or alarm to another person by suggesting, soliciting, requesting,

1955 commanding, or otherwise attempting to induce another to engage in sexual contact with the person.

1956           (b) Grading.

1957               (1) Sexual harassment is a Class 9 felony, if both of the following apply:

1958                   a. The victim is a person less than 16 years of age, and over whom the person stands in a position of trust,

1959 authority, or supervision.

1960                   b. The person is at least 4 years older than the victim.

1961               (2) If paragraph (b)(1) of this section does not apply, sexual harassment is graded as follows:

1962                   a. A Class A misdemeanor, if committed under paragraph (a)(1) of this section.

1963                   b. A Class D misdemeanor, if committed under paragraph (a)(2) of this section.

1964           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Position

1965 of trust, authority, or supervision; Sexual contact.

1966           § 1046. Culpability; exception; evidence requirement.

1967           (a) Culpability as to age. Unless expressly provided otherwise, if an offense in this chapter requires that the victim

1968 be under a specific age, it need be proven only that the defendant was criminally negligent as to the victim being under that

1969 age.

1970           (b) Medical treatment exception. A medical examination or procedure is not an offense under this chapter if the

1971 examination or procedure is conducted in a way that meets all of the following conditions:

1972               (1) With intent to provide diagnosis or treatment.

1973               (2) By a licensed medical professional, parent, or guardian.

1974               (3) In a manner consistent with reasonable medical standards.

1975           (c) Sexual intercourse evidence. Evidence of emission of semen is not required to prove sexual intercourse

1976 occurred.

1977 Subchapter IV. Kidnapping; coercion; restraint; related offenses.

1978 § 1061. Kidnapping and unlawful restraint.

1979 (a) Unlawful restraint, offense defined. Except as authorized by law, a person commits an offense if the person

1980 knowingly and materially interferes with another person's liberty, without the other person's consent, by doing any of the

1981 following:

1982 (1) Moving the other person from one place to another.

1983 (2) Confining the other person.

1984 (b) Kidnapping, offense defined. A person commits an offense if the person commits unlawful restraint as defined

1985 in subsection (a) of this section, with the intent to do any of the following:

1986 (1) Hold the other person for ransom or reward.

1987 (2) Use the person as a shield or hostage.

1988 (3) Facilitate the commission of any felony or flight thereafter.

1989 (4) Inflict physical injury upon the other person, or violate or abuse the other person sexually.

1990 (5) Terrorize the other person or a third person.

1991 (6) Take or entice another person who is less than 18 years old from the custody of the person's parent,

1992 guardian, or lawful custodian, if the person is not a relative of the other person.

1993 (c) Grading.

1994 (1) Unlawful restraint is graded as follows:

1995 a. A Class 9 felony, if the defendant's conduct recklessly creates a substantial risk of serious physical

1996 injury to the victim.

1997 b. A Class A misdemeanor in all other cases.

1998 (2) Kidnapping is graded as follows:

1999 a. A Class 4 felony if the defendant does not voluntarily release the victim alive, unharmed, and in a safe

2000 place before trial.

2001 b. A Class 6 felony in all other cases.

2002 (d) Relationship to interference with custody. A defendant who does not satisfy the elements of paragraph (b)(6) of

2003 this section because he or she is a relative of the other person may nevertheless be liable under § 1364 of this title.

2004 (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Relative.

2005 § 1062. Human trafficking.

2006 (a) Offense defined. A person commits an offense if the person does any of the following:

2007                    (1) Knowingly trades, barters, buys, or sells an individual.

2008                    (2) Knowingly uses force, coercion, intimidation, or deception to compel an individual to provide labor or  
2009 services, including prostitution.

2010                    (3) Knowingly obtains, transports, harbors, isolates, or provides an individual, or secures continued  
2011 performance of the labor or services of an individual in any of the following ways:

2012                    a. Knowing that the individual is being compelled to provide labor or services, as provided in paragraph  
2013 (a)(2) of this section.

2014                    b. Knowing that the individual will have body parts removed for sale.

2015                    (4) Benefits financially from participation in a venture that the person knows has engaged in acts constituting  
2016 an offense under paragraph (a)(3)b. of this section.

2017                    (b) Grading. Human trafficking is graded as follows:

2018                    (1) A Class 3 felony, if committed under paragraph (a)(3)b. or (a)(4) of this section.

2019                    (2) A Class 4 felony, if committed under paragraph (a)(2) or (a)(3)a. of this section.

2020                    (3) A Class 7 felony, in all other cases.

2021                    (4) Grade adjustments. The grade of human trafficking is increased by 1 grade if any of the following apply:

2022                    a. The victim is less than 18 years old.

2023                    b. The defendant recruited, enticed, or obtained the victim from a shelter designed to serve any of the  
2024 following:

2025                    1. Victims of human trafficking, domestic violence, or sexual assault.

2026                    2. Runaway youth, foster children, or individuals who are homeless.

2027                    (c) Exception, payments related to adoption. It is not a violation of paragraph (a)(1) of this section to pay, in  
2028 conjunction with placement of a child for adoption under § 904(a)(2) of Title 13, any of the following:

2029                    (1) Reasonable medical expenses related to pregnancy.

2030                    (2) Reasonable room and board to providers of services.

2031                    (d) Additional penalties.

2032                    (1) Forfeiture.

2033                    a. In general. The Court shall order any person convicted of an offense under this section to forfeit any  
2034 interest in property for which any of the following apply:

2035                    1. Was used or intended to be used to facilitate the commission of human trafficking.

2036 2. Constitutes or derives from proceeds that the person obtained, directly or indirectly, as a result of  
2037 human trafficking.

2038 b. Organizational forfeiture. The Court may order an organization convicted under this section to forfeit  
2039 any of the following:

2040 1. Profits from activities in violation of this section.

2041 2. State and local government contracts.

2042 (2) Restitution.

2043 a. Valuation. In ordering restitution under § 603(c) of this title for a violation of this section, the Court  
2044 may order the greatest of any of the following:

2045 1. The gross income or value to the defendant of the victim's labor or services.

2046 2. The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of  
2047 Title 19 of this code or the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

2048 b. Victim availability.

2049 1. The Court must order restitution for violations of this section, even if the victim is unavailable to  
2050 accept payment of restitution.

2051 2. If the victim is unavailable for 5 years from the date of the restitution order, the restitution must be  
2052 paid to the Victim Compensation Fund established under § 9016 of this title.

2053 (e) Motion to vacate sentence; expungement.

2054 (1) Motion to vacate: procedures and presumptions.

2055 a. A defendant convicted of prostitution, loitering, or an obscenity or child pornography offense as a  
2056 direct result of being a victim of human trafficking may file a motion in the court in which the conviction was  
2057 obtained to vacate the judgment of conviction.

2058 b. Contents of motion. A motion filed under this subsection must meet all of the following:

2059 1. Be in writing.

2060 2. Be sent to the Delaware Department of Justice.

2061 3. Be made 2 years after the defendant's last criminal conviction and within a reasonable period of  
2062 time after the victim ceases to be a victim of human trafficking.

2063 4. Describe the evidence and provide copies of any official documents showing that the defendant is  
2064 entitled to relief under this subsection.

2065                   c. The court shall hold a hearing on any motion that satisfies the requirements of paragraph (e)(1)b. of  
2066 this section, unless the motion fails to assert grounds on which relief may be granted, in which case the motion  
2067 may be dismissed.

2068                   d. Presumption of direct result. Official documentation of the victim's status as a victim under this section  
2069 or a similar offense in a different jurisdiction, whether from a federal, state, or local government agency, creates a  
2070 rebuttable presumption that the defendant committed the offense as a direct result of human trafficking.

2071                   e. Burden on defendant. The defendant must prove the defendant is entitled to relief under this subsection  
2072 by a preponderance of the evidence.

2073                   f. Vacated sentence mandatory. If the defendant meets the burden under paragraph (e)(1)e. of this section,  
2074 the court shall grant the motion, and may take any additional action that is appropriate in the circumstances or that  
2075 justice requires.

2076                   (2) Expungement following vacated judgment of conviction. Notwithstanding any provision of law to the  
2077 contrary all of the following apply:

2078                   a. A defendant seeking a vacated judgment of conviction under paragraph (e)(1) of this section may seek  
2079 expungement of the criminal record related to that conviction either in the same motion or after the motion has  
2080 been granted.

2081                   b. If the motion to vacate is granted, the motion to expunge must also be granted, subject to the provisions  
2082 of 11 Del. C. §§ 4374(f), 4376, and 4377.

2083                   (f) Defined terms.

2084                   (1) The following terms used in this section have the meaning given in § 103 of this title: Deception.

2085                   (2) "Coercion" means any act that satisfies the definition of coercion in § 1063 of this title.

2086                   § 1063. Coercion.

2087                   (a) Offense defined. A person commits an offense if, with intent to cause another person to perform or to omit to  
2088 perform any act, the person threatens to do any of the following:

2089                   (1) Cause physical injury to any person.

2090                   (2) Cause damage to property.

2091                   (3) Engage in other conduct constituting a crime.

2092                   (4) Accuse any person of an offense or cause criminal charges to be instituted against a person.

2093                   (5) Expose a secret or publicize an asserted fact, whether true or false, tending to subject a person to hatred,  
2094 contempt, or ridicule.

2095 (6) Testify or provide information or withhold testimony or information with respect to another person's legal  
2096 claim or defense.

2097 (7) Use or abuse the person's position as a public servant by performing an act within or related to the  
2098 person's official duties, or by failing or refusing to perform an official duty so as to affect another person adversely.

2099 (8) Perform any other act that is calculated to cause material harm to another person's health, safety, business,  
2100 calling, career, financial condition, reputation, or personal relationships.

2101 (b) Defense. In a prosecution under paragraph (a)(4) of this section, it is a defense that both of the following apply:

2102 (1) The person believed the threatened criminal charge to be true.

2103 (2) The person's sole purpose was to compel or induce the other person to take reasonable action to make  
2104 good the wrong that was the subject of the threatened charge.

2105 (c) Grading. Coercion is a Class A misdemeanor.

2106 Section 9. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as  
2107 shown by underline as follows:

2108 Chapter 11. Property offenses.

2109 Subchapter I. Theft offenses.

2110 § 1101. Consolidated grading of theft offenses.

2111 (a) Consolidation. Conduct prohibited by § 1102 through § 1107 of this title constitutes a single offense of theft. A  
2112 prosecution for theft may be supported by evidence that it was committed in any manner described in § 1102 through §  
2113 1107 of this title.

2114 (b) Grading. Any offense defined in § 1102 through § 1107 of this title is graded as follows:

2115 (1) A Class 6 felony, if the value of the property is \$1,000,000 or more.

2116 (2) A Class 7 felony, if the value of the property is \$100,000 or more.

2117 (3) A Class 8 felony, if any of the following apply:

2118 a. The value of the property is \$25,000 or more.

2119 b. The property is a firearm.

2120 (4) A Class 9 felony, if any of the following apply:

2121 a. The value of the property is \$1,500 or more.

2122 b. The property is a motor vehicle.

2123 c. The property is a blank prescription pad, and the defendant is not a practitioner.

2124 (5) A Class A misdemeanor, if the value of the property is \$1,000 or more.



2125           (6) A Class B misdemeanor, if the value of the property is \$100 or more.

2126           (7) A Class C misdemeanor, if the value of the property is less than \$100 and the defendant has been  
2127 previously convicted of an offense of a similar nature.

2128           (8) A violation in all other cases.

2129           (c) Extortion. Grade adjustment. The grade of the offense is increased by 1 grade when theft is committed in the  
2130 manner described in § 1104 of this title.

2131           (d) Claim of right. It is a defense to prosecution for theft that the defendant reasonably believed the defendant had  
2132 a right to use or possess the property.

2133           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Firearm;  
2134 Motor vehicle; Practitioner; Property; Value.

2135           § 1102. Theft by taking or disposition.

2136           (a) Offense defined. A person commits theft if the person does all of the following:

2137               (1) Knowingly takes or obtains without consent, or exercises unauthorized control over the property of  
2138 another person;

2139               (2) With the intent to deprive the other person of that property.

2140           (b) Shoplifting: permissive inferences. If the theft is from a retail store, the trier of fact may infer any of the  
2141 following:

2142               (1) A person who intentionally conceals unpurchased merchandise of that store, inside or outside the premises  
2143 of the store, does so with the intent required in paragraph (a) of this section.

2144               (2) A person who intentionally alters, removes, or otherwise disfigures any packaging, label, price tag, or  
2145 marking affixed to unpurchased merchandise of that store, inside the premises of the store, does so with the intent  
2146 required in paragraph (a)(2) of this section.

2147           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deprive;  
2148 Obtain; Owner; Property; Property of another.

2149           § 1103. Theft by deception.

2150           (a) Offense defined. A person commits theft if he or she intentionally obtains the property of another person by  
2151 deceiving the other person or a third person.

2152           (b) Inferences.

2153               (1) Permissive. The trier of fact may infer the deception required in paragraph (a) of this section if the  
2154 defendant leased or rented personal property of another person, and the defendant did any of the following:

2155 a. Failed to return or make arrangements acceptable to the owner to return the property to the owner or  
2156 the owner's agent within 10 days after proper notice, following the expiration of the lease or rental agreement.

2157 b. After returning the lease or rental property, failed to make payment, at the agreed rental rate, for the  
2158 full period which the property was leased or rented, except when the defendant has a good faith dispute with the  
2159 owner of the property as to the amount owed.

2160 c. Presented to the owner materially false or incorrect identification as to name, address, place of  
2161 employment, or other information for the purpose of entering into the lease or rental agreement.

2162 d. Proper notice. To make proper notice under paragraph (b)(1)a. of this section, the owner may mail the  
2163 notice by certified or registered mail to an address supplied by the defendant at the time of the lease or rental  
2164 agreement, or the defendant's last known address if later furnished by the defendant or the defendant's agent.

2165 (2) Failure to perform a promise.

2166 a. Mere failure to perform promise. Deception as to a person's intention to perform a promise may not be  
2167 inferred solely from the fact that the promise was not later performed.

2168 b. Exception. Notwithstanding paragraph (b)(2)a. of this section, deception may be inferred if both of the  
2169 following apply:

2170 1. The promise related to and was made in the course of business.

2171 2. The person was not properly licensed to engage in that business.

2172 (c) Defense. It is a defense in a prosecution for theft by deception in which the defendant leased or rented personal  
2173 property of another, if the defendant does all of the following:

2174 (1) Accurately stated the defendant's name, address, and other material items of identification at the time of  
2175 rental.

2176 (2) Failed to receive the owner's notice due to no material fault of the defendant.

2177 (3) Returned the personal property to the owner or the owner's agent within 48 hours of the commencement of  
2178 the prosecution, together with any charges for the overdue period and the value of damage to the property, if any.

2179 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2180 Deceiving; Property; Property of another.

2181 § 1104. Theft by extortion.

2182 (a) Offense defined. A person commits theft by extortion if the person intentionally deprives another of property  
2183 by means of coercion that would constitute an offense under § 1063 of this title.

2184 (b) Defense. In a prosecution involving coercion under § 1063(a)(4) of this title, it is a defense that all of the  
2185 following occurred:

2186 (1) The defendant believed the threatened criminal charge to be true.

2187 (2) The defendant's sole purpose was to compel or induce the victim to take reasonable action to make good  
2188 the wrong that was the subject of the threatened charge.

2189 (c) Defined terms.

2190 (1) The following terms used in this section have the meaning given in § 103 of this title: Property.

2191 (2) "Coercion" means any act that satisfies the definition of coercion in § 1063 of this title.

2192 § 1105. Theft of property lost, mislaid, or delivered by mistake.

2193 (a) Offense defined. A person commits theft if the person does of all the following:

2194 (1) Comes into possession of property that the person knows has been lost, mislaid, or delivered by mistake as  
2195 to the nature or amount of the property or as to the recipient.

2196 (2) Acts with the intent to deprive another of such property.

2197 (3) Fails to take reasonable measures to return the property to its owner.

2198 (b) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deprive;  
2199 Property.

2200 § 1106. Theft of services.

2201 (a) Offense defined. A person commits theft of services if the person does all of the following:

2202 (1) The person knowingly obtains, without consent, services that the defendant knows are available only for  
2203 compensation.

2204 (2) By any of the following:

2205 a. Deception, threat, or false representation or statement.

2206 b. By installing, rearranging, or tampering with any facility or equipment.

2207 (3) With the intent to avoid payment for the services.

2208 (b) Theft from public utilities: permissive inferences.

2209 (1) The trier of fact may infer that the person to whom the services are being furnished created the condition  
2210 violating paragraph (a)(2)b. of this section with the intent required in paragraph (a)(3) of this section if all of the  
2211 following apply:

2212 a. The services have been obtained from a public utility.

2213 b. The public utility owns the facilities or equipment owned or used to provide its services.

2214                   (2) Exception. Paragraph (b)(1) of this section does not apply to any person to whom the services have been  
2215                   furnished for fewer than 31 days, or until there has been at least 1 meter reading.

2216                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Obtain;  
2217                   Services.

2218                   § 1107. Receiving stolen property.

2219                   (a) Offense defined. A person commits an offense if the person:

2220                   (1) Intentionally receives, retains, or disposes of property of another,

2221                   (2) With intent to deprive the owner of the property,

2222                   (3) Knowing or believing that the property has been stolen.

2223                   (b) Permissive inference. The trier of fact may infer the knowledge or belief required under paragraph (a) of this  
2224                   section that the property has been stolen if any of the following apply:

2225                   (1) The person acquires the property for consideration which the person knows is substantially below its  
2226                   reasonable value.

2227                   (2) The person is found in possession or control of property whose affixed identification or serial number is  
2228                   altered, removed, defaced, or falsified.

2229                   (3) The person is a person or dealer who acquires the property for consideration, when such property consists  
2230                   of traffic signs, other traffic control devices, or historical markers, and the acquisition is not accompanied by a written  
2231                   authorization for the property's disposition from the Department of Transportation, Department of State, or other  
2232                   person which owns the property.

2233                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Dealer;  
2234                   Deprive; Property of another; Receive; Stolen.

2235                   § 1108. Unauthorized distribution of protected works.

2236                   (a) Offense defined. A person commits an offense if:

2237                   (1) The person sells, gives, or otherwise makes available to another whose identity is known to the person,

2238                   (2) A protected work that the person knows is only available for compensation,

2239                   (3) With intent to enable the other person to avoid payment to the owner of the protected work.

2240                   (b) Exception; lawfully obtained originals. Subsection (a) of this section does not apply to original copies of  
2241                   protected works that the defendant obtained lawfully.

2242                   (c) Grading. Unauthorized distribution of protected works is graded as follows:

2243                   (1) A Class A misdemeanor, if distributed to 1,000 or more recipients.

2244                   (2) A Class D misdemeanor, if distributed to 100 or more recipients.

2245                   (3) A violation, if distributed to fewer than 100 recipients.

2246                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Protected

2247 work.

2248                   § 1109. Unauthorized use of a vehicle.

2249                   (a) Offense defined. A person commits an offense if any of the following apply:

2250                   (1) The person knowingly operates another person's motor vehicle, airplane, vessel, or other vehicle, without

2251 the owner's consent to do so.

2252                   (2) The person has custody of another person's vehicle under an agreement that the person will perform for

2253 compensation a specific service for the owner involving the maintenance, repair, or use of the vehicle, and the person

2254 operates the vehicle without consent of the owner in a manner constituting a gross deviation from the agreed purpose

2255 of the person's custody.

2256                   (3) The defendant has custody of another person's vehicle under an agreement that the defendant is to return

2257 the vehicle to the owner at a specified time and the defendant intentionally retains or withholds possession without

2258 consent of the owner for so lengthy a period beyond the specified time as to be a gross deviation from the agreement.

2259                   (b) Grading. Unauthorized use of a vehicle is a Class A misdemeanor.

2260                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Motor

2261 vehicle; Vessel.

2262                   Subchapter II. Forgery and fraudulent practices.

2263                   § 1121. Forgery and counterfeiting.

2264                   (a) Forgery, offense defined. A person commits an offense if, with intent to defraud, deceive, or injure anyone, the

2265 person does any of the following:

2266                   (1) Alters any written instrument of another person without the other person's authority.

2267                   (2) Makes, completes, executes, authenticates, issues, or transfers any written instrument so that it purports to

2268 be any of the following:

2269                   a. To be the act of another person who did not authorize that act.

2270                   b. To have been executed at a time or place, or in a numbered sequence, other than was in fact the case.

2271                   c. To be a copy of an original when no original existed.

2272                   (3) Possesses a written instrument, knowing that it was made, completed, or altered under circumstances

2273 constituting forgery.

2274                   (4) Puts forward any written instrument that the person knows to be forged in a manner specified in paragraph  
2275                   (a)(1) or (a)(2) of this section.

2276                   (b) Counterfeiting, offense defined. A person commits an offense if the person knowingly manufactures, uses,  
2277                   displays, advertises, distributes, sells, or possesses with intent to sell or distribute any item or service bearing or identified  
2278                   by a counterfeit mark.

2279                   (c) Grading.

2280                   (1) Forgery, grading. Forgery is graded as follows:

2281                    a. A Class 8 felony if the written instrument is or purports to be any of the following:

2282                        1. Part of an issue of money, stamps, securities, or other valuable instruments that the government  
2283                        issued.

2284                        2. Part of an issue of stock, bonds, or similar instruments representing interests in or claims against  
2285                        any property or enterprise.

2286                    b. A Class 9 felony, if the written instrument is or purports to be a deed, will, codicil, contract, release,  
2287                    assignment, commercial instrument, check, or similar instrument evidencing, creating, transferring, terminating, or  
2288                    otherwise affecting a legal right, interest, obligation, or status.

2289                    c. A Class A misdemeanor in all other cases.

2290                   (2) Counterfeiting, grading.

2291                    a. The grading for counterfeiting is determined by the value of the item or service bearing or identified by  
2292                    a counterfeit mark and the grade values under § 1101(b) of this title (Consolidation of theft offenses).

2293                    b. Valuation. If an item bearing a counterfeit mark is a component of a finished product, the value of the  
2294                    finished product must be used for grading purposes.

2295                    (d) Permissive inference. The trier of fact may infer intent to sell or distribute items bearing a counterfeit mark, if a  
2296                    defendant possesses or controls more than 25 items bearing a counterfeit mark.

2297                    (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2298                    Counterfeit mark; Defraud; Put forward; Security; Written instrument.

2299                    § 1122. Fraudulent tampering with records.

2300                    (a) Offense defined. A person commits an offense if, with intent to defraud anyone, the person:

2301                        (1) Tamper with or fails to properly maintain public records, as would constitute an offense under § 1223(a)  
2302                        of this title.

2303                        (2) Issues, offers, or presents an instrument that contains false statements or false information.

2304 (b) Grading. Fraudulent tampering with records is a Class 9 felony.

2305 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Defraud.

2306 § 1123. Fraudulent treatment of public records.

2307 (a) Offense defined. A person commits an offense if, with intent to defraud anyone, the person obtains, displays,

2308 possesses, or upon proper demand fails to surrender any document that a governmental entity issued.

2309 (b) Grading. Fraudulent treatment of public records is a Class A misdemeanor.

2310 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Defraud.

2311 § 1124. Issuing a bad check.

2312 (a) Offense defined. A person commits an offense if the person issues or passes a check, knowing it will not be

2313 honored by the drawee.

2314 (b) Grading. Issuing a bad check is graded based on the value of the check and the grade values under § 1101(b) of

2315 this title.

2316 (c) Permissive inference. The trier of fact may infer that the issuer knew the check would not be honored, if any of

2317 the following apply:

2318 (1) The issuer had no account with the drawee at the time the check was issued.

2319 (2) The drawee refused payment upon presentation, on or after the date written on the check, or for lack of

2320 funds, and the issuer failed to make good within 10 days after receiving notice of the refusal.

2321 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Issues;

2322 Passes; Value.

2323 § 1125. Unlawful use of a payment card.

2324 (a) Offense defined. A person commits an offense if the person uses a payment card with the intent to obtain

2325 property or services, knowing any of the following:

2326 (1) The card is stolen, forged, or fictitious.

2327 (2) The card has been revoked or cancelled.

2328 (3) That, for any other reason, the use of the card is not authorized by the issuer or cardholder.

2329 (b) Grading.

2330 (1) Generally. Unlawful use of payment card is graded based on the value of the property or services obtained

2331 by use of the payment card and the grade values under § 1101(b) of this title.

2332           (2) Aggregation of instances of conduct. If the defendant commits the offense in a single scheme or  
2333 continuous course of conduct, whether involving 1 issuer or several issuers, the defendant's conduct may be considered  
2334 a single offense, and the value of the property or services may be aggregated for grading purposes.

2335           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Payment  
2336 card; Services; Stolen; Value.

2337           § 1126. Deceptive business practices.

2338           (a) Offense defined. A person commits an offense if the person does any of the following:

2339               (1) Uses a weight, measure, or any other device for determining or recording the quality or quantity of a  
2340 commodity to be sold and the person knows the weight, measure, or other device is false or misleading.

2341               (2) Sells, offers or exposes for sale, or delivers what the person knows to be less than the represented quantity  
2342 of any commodity or service,

2343               (3) Takes what the person knows to be more than the represented quantity of any commodity or service.

2344               (4) Sells, or offers or exposes for sale, commodities the person knows to be adulterated or mislabeled.

2345               (5) Makes a statement the person knows to be false or misleading in any advertisement addressed to the public  
2346 or a substantial segment of the public, with the intent to promote the sale or increase the consumption of property or  
2347 services.

2348               (6) Makes what the person knows is a false or misleading written statement to promote the sale of securities,  
2349 or omits information required by law to be disclosed in written documents relating to securities.

2350               (7) Notifies another person that the other person has won a prize, received an award or has been selected or is  
2351 eligible to receive anything of value if the other person is required to respond through the use of a 900 service  
2352 telephone number or similar pay-per-call service number.

2353           (b) Exception; republication. This section does not apply to a person in a case involving false or misleading  
2354 information if all of the following apply:

2355               (1) The person publishes information that originates from another source.

2356               (2) The person does not know of the information's deceptive character.

2357           (c) Grading. The offense of engaging in deceptive business practices is graded based on the amount of the victim's  
2358 loss and the grade values under § 1101(b) of this title.

2359           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2360 Adulterated; Mislabeled; Services.

2361           § 1127. Defrauding secured creditors.



2362 (a) Offense defined. A person commits an offense if the person destroys, removes, conceals, encumbers, transfers,  
2363 or otherwise deals with property subject to a security interest, with intent to hinder enforcement of the security interest.

2364 (b) Grading. Defrauding secured creditors is graded based on the amount of the victim's loss and the grade values  
2365 under § 1101(b) of this title.

2366 § 1128. Fraud in insolvency.

2367 (a) Offense defined. A person commits an offense if the person, with intent to defraud any creditor and knowing  
2368 that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to  
2369 administer property for the benefit of creditors has been appointed, or that any other composition or liquidation for the  
2370 benefit of creditors has been or is about to be made, does any of the following:

2371 (1) Conveys, transfers, removes, conceals, destroys, encumbers, or otherwise disposes of any part of or any  
2372 interest in the debtor's estate.

2373 (2) Obtains any substantial part of or interest in the debtor's estate.

2374 (3) Presents to any creditor or to the receiver or administrator any written instrument or record relating to the  
2375 debtor's estate, knowing that it contains a material false statement.

2376 (4) Knowingly misrepresents or fails or refuses to disclose to the receiver or administrator the existence,  
2377 amount, or location of any part of or any interest in the debtor's estate, or any other information that the person is  
2378 legally required to furnish to the administrator.

2379 (b) Grading. Fraud in insolvency is graded based on the amount of the victim's loss and the grade values under §  
2380 1101(b) of this title.

2381 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Defraud;  
2382 Written instrument.

2383 § 1129. Identity theft.

2384 (a) Offense defined. A person commits an offense if, with intent to defraud, the person does any of the following:

2385 (1) Obtains, sells, gives, or transfers personal identifying information belonging or pertaining to another  
2386 person without the consent of the other person.

2387 (2) Possesses or uses a scanning device to obtain information encoded on a payment card.

2388 (3) Possesses or uses a reencoder to place encoded information on a payment card or any electronic medium  
2389 without the permission of the owner of the card.

2390                   (4) Writes down or requests to be written down the address, telephone number, account number, or any other  
2391 personal identification information of the payment card holder, unless the information is necessary for any of the  
2392 following:

2393                   a. The shipping, delivery or installation of consumer goods.  
2394                   b. Special orders of consumer goods or services.

2395                   (b) Grading. Identity theft is graded as follows:

2396                   (1) A Class 8 felony, if paragraphs (a)(1), (a)(2), or (a)(3) of this section apply.  
2397                   (2) A Class D misdemeanor, if paragraph (a)(4) of this section applies.

2398                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Personal  
2399 identifying information; Reencoder; Scanning device; Services.

2400                   § 1130. Commercial bribery.

2401                   (a) Offense defined. A person commits an offense if the person does all of the following:

2402                   (1) Acts with the intent to do any of the following:

2403                   a. Influence another in any respect to that person's acts, decisions, or duties.  
2404                   b. Be influenced by another person in any respect to the person's acts, decisions, or duties.

2405                   (2) Offers, confers, agrees to confer, solicits, accepts, or agrees to accept any benefit as consideration for  
2406 violating or agreeing to violate a duty of fidelity of any of the following individuals who are not authorized by law to  
2407 accept that benefit:

2408                   a. A partner, agent, or employee of another.  
2409                   b. A trustee, guardian, or other fiduciary.  
2410                   c. A lawyer, physician, accountant, appraiser, or other professional adviser.  
2411                   d. An officer, director, manager, or other participant in the direction of the affairs of an incorporated or  
2412 unincorporated association.

2413                   e. An official or participant in a sports contest.

2414                   (b) Grading. Commercial bribery is a Class A misdemeanor.

2415                   § 1131. Fraudulent conveyance or receipt of public lands.

2416                   (a) Offense defined. A person commits an offense if, with intent to defraud, the person executes or receives any  
2417 deed or other written instrument purporting to convey an interest in land, a part of which is public lands of this State if the  
2418 person does not have a legal or equitable interest in the land described in the instrument.

2419                   (b) Grading. Fraudulent conveyance or receipt of public lands is a Class 9 felony.

2420 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Defraud;  
2421 Written instrument.  
2422 § 1132. Unauthorized impersonation.  
2423 (a) Offense defined. A person commits an offense if the person does any of the following:  
2424 (1) With the intent to obtain a benefit or injure or defraud another person, misrepresents that he or she is any  
2425 of the following:  
2426 a. Another person, real or fictitious.  
2427 b. A member or veteran of the United States Armed Forces or holds oneself out to have an unearned  
2428 rank in the United States Armed Forces.  
2429 (2) Falsely represents that the person is a bail bond agent.  
2430 (3) Having been involved in a motor vehicle accident resulting in serious physical injury or death to another  
2431 person, falsely represents whether the person was operating a motor vehicle involved in the accident.  
2432 (b) Grading. Unauthorized impersonation is graded as follows:  
2433 (1) A Class A misdemeanor, if under paragraph (a)(1) or (a)(2) of this section.  
2434 (2) A Class 9 felony, if under paragraph (a)(3) of this section.  
2435 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Motor  
2436 vehicle; Serious physical injury.  
2437 Subchapter III. Arson and other property damage offenses.  
2438 § 1141. Arson.  
2439 (a) Offense defined. A person commits an offense if the person damages a building by intentionally starting a fire  
2440 or causing an explosion.  
2441 (b) Grading.  
2442 (1) Knowingly causing damage. If the person knew the damage would result, arson is graded as follows:  
2443 a. A Class 4 felony, if the person knew another person was within the building at the time of the offense.  
2444 b. A Class 6 felony, if the person was reckless as to the presence of another person within the building at  
2445 the time of the offense.  
2446 c. A Class 7 felony in all other cases.  
2447 (2) Recklessly causing damage. Arson is a Class 9 felony, if the person was reckless as to the resulting  
2448 damage.

2449 (c) Ownership exception. Except under paragraph (b)(1)a. or (b)(1)b. of this section, a person does not commit an  
2450 offense under § 1141 of this section if the building belongs solely to the person.

2451 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Owner.  
2452 § 1142. Endangering by fire or explosion.

2453 (a) Offense defined. A person commits an offense if the person does both of the following:

2454 (1) Intentionally starts a fire or causes an explosion, whether on the person's own property or another person's  
2455 property, and

2456 (2) Thereby recklessly creates a risk of damaging another person's building or other real or personal property.

2457 (b) Grading. The offense of endangering by fire or explosion is a Class A misdemeanor.

2458 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Property.  
2459 § 1143. Unlawful incendiary devices.

2460 (a) Offense defined. A person commits an offense if the person manufactures or possesses any incendiary device  
2461 with intent to cause physical injury or to unlawfully damage any property.

2462 (b) Grading. Unlawful incendiary devices are a Class 7 felony.

2463 § 1144. Criminal damage.

2464 (a) Offense defined. A person commits criminal damage if the person does any of the following:

2465 (1) Damages property of another person.

2466 (2) Tamper with property of another person and thereby creates a risk of damage to property.

2467 (3) Unlawfully tampers with the tangible property of a public service.

2468 (b) Grading.

2469 (1) Recklessly causing damage. Where damage, loss, or risk is recklessly caused, criminal damage is graded  
2470 as follows:

2471 a. A Class 7 felony, if the pecuniary loss is \$1,000,000 or more.

2472 b. A Class 8 felony, if the pecuniary loss is \$100,000 or more.

2473 c. A Class 9 felony, if the pecuniary loss is \$25,000 or more.

2474 d. A Class A misdemeanor, if any of the following apply:

2475 1. The pecuniary loss is \$1,500 or more.

2476 2. The person intentionally causes a substantial interruption or impairment of a public service.

2477 e. A Class B misdemeanor, if the pecuniary loss is \$1,000 or more.

2478 f. A Class C misdemeanor, if the pecuniary loss is \$100 or more.

2479 g. A Class D misdemeanor if the pecuniary loss is less than \$100 and the person has been previously  
2480 convicted of an offense of a similar nature.

2481 h. A violation, in all other cases.

2482 (2) Knowingly causing damage. The grade of criminal damage under paragraphs (b)(1)a. through (b)(1)g. of  
2483 this section are increased by 1 grade if the defendant knowingly causes the damage, loss, or risk.

2484 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Damage;  
2485 Public service; Property of another.

2486 § 1145. Causing or risking catastrophe; ecological catastrophe.

2487 (a) Causing catastrophe.

2488 (1) Offense defined. A person commits an offense if the person causes a catastrophe by fire, flood, avalanche,  
2489 collapse of a building, bridge, or tunnel, use of a catastrophic agent, unauthorized disposal of solid waste, or any other  
2490 means of causing potentially widespread injury or damage. As used in this section, “solid waste” means as defined in §  
2491 6302 of Title 7.

2492 (2) Grading. Causing catastrophe is graded as follows:

2493 a. A Class 2 felony, if the person causes the catastrophe knowingly.

2494 b. A Class 4 felony, if the person causes the catastrophe recklessly.

2495 (b) Risking catastrophe.

2496 (1) Offense defined. A person commits an offense if the person recklessly creates a risk of catastrophe by any  
2497 of the means described in paragraph (a)(1) of this section.

2498 (2) Grading. Risking catastrophe is a Class 8 felony.

2499 (c) Threatening to cause catastrophe.

2500 (1) Offense defined. A person commits an offense if the person threatens to cause a catastrophe using any of  
2501 the means described in paragraph (a)(1) of this section.

2502 (2) Grading. Threatening to cause catastrophe is a Class 9 felony.

2503 (d) Failure to prevent catastrophe.

2504 (1) Offense defined. A person who recklessly fails to take reasonable measures to prevent or mitigate a  
2505 catastrophe commits failure to prevent catastrophe if he or she does either of the following:

2506 a. Knows that he or she is under an official, contractual, or other legal duty to take such measures.

2507 b. Did or assented to the act causing or threatening the catastrophe.

2508 (2) Grading. Failure to prevent catastrophe is a Class A misdemeanor.

2509 (e) Ecological catastrophe. A person commits an offense if the person engages in any of the acts described in  
2510 paragraphs (a)(1), (b)(1), (c)(1), or (d)(1) of this section, but in relation to an ecological catastrophe.

2511 (1) Grading. Ecological catastrophe is graded as follows:

2512 a. Causing an ecological catastrophe is graded as follows:

2513 1. A Class 7 felony, if the ecological catastrophe is knowingly caused.

2514 2. A Class 8 felony, if the ecological catastrophe is recklessly caused.

2515 b. Risking an ecological catastrophe is a Class B misdemeanor.

2516 c. Threatening to cause an ecological catastrophe is a Class C misdemeanor.

2517 d. Failure to prevent an ecological catastrophe is a Class D misdemeanor.

2518 (2) Fines. For each day that the defendant's conduct causing or risking ecological catastrophe continues, the  
2519 defendant is subject to a maximum fine of twice that provided for the grade of the offense under § 603(a) of this title.

2520 (f) Limitation on convictions for multiple related offenses. Section 209 of this title (Conviction when the defendant  
2521 satisfies the requirements of more than one offense or grade) may prohibit convictions under both this section and another  
2522 offense based upon the same conduct.

2523 (g) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2524 Catastrophe; Catastrophic agent; Ecological catastrophe.

2525 Subchapter IV. Burglary and other criminal trespass offenses.

2526 § 1161. Burglary and home invasion.

2527 (a) Burglary, offense defined. A person commits burglary if the person does all of the following:

2528 (1) With intent to commit an offense within.

2529 (2) Enters or remains in a building.

2530 (3) Knowing that the person has no license or privilege to do so.

2531 (b) Exception. It is not an offense under this section to enter or remain upon premises which appears at the time to  
2532 be open to the public, unless the person does any of the following:

2533 (1) Defies a lawful order not to enter or remain upon such premises, and the owner of the premises or another  
2534 authorized person personally communicated to the person that the lawful order exists.

2535 (2) In a building partially open to the public, enters or remains in that part of the building which is not open to  
2536 the public.

2537 (c) Grading.

2538           (1) Home invasion. The offense is a Class 6 felony if, in the course of committing an offense under subsection  
2539 (a) of this section, all of the following apply:  
2540           a. The offense is committed in the dwelling of another.  
2541           b. The dwelling is occupied.  
2542           c. The offense intended under paragraph (a)(1) of this section is robbery, aggravated or enhanced  
2543 aggravated assault, homicide, rape, or kidnapping.  
2544           d. The person attempts to complete the offense intended under paragraph (a)(1) of this section.  
2545           (2) Aggravated burglary. If, in the course of committing an offense under subsection (a) of this section, the  
2546 person commits the offense in the dwelling of another, it is:  
2547           a. A Class 7 felony, if committed at night.  
2548           b. A Class 8 felony in all other cases.  
2549           (3) Burglary. In all other cases, the offense is a Class 9 felony.  
2550           (4) Grade adjustment. The grade of an offense committed under subsection (a), (b), or (c) of this section is  
2551 increased by 1 grade if, during commission of or flight from the offense, any of the following apply:  
2552           a. The defendant is armed with explosives or a deadly weapon.  
2553           b. The defendant causes physical injury to another person who is not a participant in the offense.  
2554           (d) No merger with underlying offense. A defendant may be convicted of both an offense under § 1161 and of  
2555 committing or attempting to commit the offense that was the purpose of the defendant's unlawful entry.  
2556           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Attempt;  
2557 Deadly weapon; Dwelling; Entry; Night; Physical injury.  
2558           § 1162. Criminal trespass.  
2559           (a) Offense defined. A person commits criminal trespass if the person:  
2560           (1) Enters or remains in or upon any real property,  
2561           (2) Knowing that the person has no license or privilege to do so.  
2562           (b) Exception. It is not a criminal trespass to enter or remain upon premises which appear at the time to be open to  
2563 the public, unless the person does any of the following:  
2564           (1) Defies a lawful order not to enter or remain upon such premises, and the owner of the premises or another  
2565 authorized person personally communicated to the person that the lawful order exists.  
2566           (2) In a building partially open to the public, enters or remains in that part of the building which is not open to  
2567 the public.

2568           (c) Grading. Criminal trespass is graded as follows:

2569                 (1) A Class A misdemeanor, if the real property is a dwelling.

2570                 (2) A Class B misdemeanor, if the person intends to peer or peep into the window or door of an occupied

2571 dwelling.

2572                 (3) A Class D misdemeanor, if the real property is fenced or enclosed in a manner manifestly designed to

2573 exclude intruders.

2574                 (4) A violation in all other cases.

2575           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Dwelling;

2576 Real property.

2577           Section 10. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions

2578 as shown by underline as follows:

2579           Chapter 12. Offenses against public administration.

2580           Subchapter I. Bribery, improper influence, and official misconduct.

2581           § 1201. Bribery.

2582           (a) Bribery, offense defined. A person commits an offense if the person:

2583                 (1) Knowingly offers, confers, or agrees to confer a personal benefit,

2584                 (2) That the person believes would influence the performance of an act related to the employment or function

2585 of any of the following:

2586                 a. A public servant.

2587                 b. A party officer.

2588                 c. A witness.

2589                 (3) The other person is not authorized by law to accept that personal benefit.

2590           (b) Accepting a bribe, offense defined. A public servant, party officer, or witness commits an offense if that person

2591 does all of the following:

2592                 (1) Knowingly solicits, accepts, or agrees to accept a personal benefit from another person as consideration for

2593 influencing or agreeing to influence the performance of an act related to his or her employment or function.

2594                 (2) He or she is not authorized by law to accept the personal benefit.

2595           (c) Grading. Bribery is graded as follows:

2596                 (1) A Class A misdemeanor, if, in a prosecution under subsection (a) of this section, the defendant's conduct

2597 was a direct response to wrongdoing by the bribe recipient.



2598           (2) A Class 8 felony in all other cases.

2599           (d) Forfeiture of office. A public servant of this State or any of its political subdivisions who is convicted of  
2600 violating any provision of this section forfeits the public servant's office or employment, regardless of whether the  
2601 conviction is later vacated or reversed on appeal.

2602           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Party  
2603 officer; Personal benefit; Public servant

2604           § 1202. Improper influence.

2605           (a) Offense defined. A person commits an offense if the person uses coercion with intent to influence another  
2606 person's decision, opinion, vote, or other exercise of discretion as a public servant, party officer, or voter.

2607           (b) Defect in office no defense. It is not a defense to a prosecution under this section that the individual whom the  
2608 person sought to influence was not qualified to act in the desired way, whether because the individual had not yet assumed  
2609 office, lacked jurisdiction, or for any other reason.

2610           (c) Grading. Improper influence is a Class 9 felony.

2611           (d) Defined terms.

2612           (1) The following terms used in this section have the meaning given in § 103 of this title: Party officer; Public  
2613 servant.

2614           (2) "Coercion" means any act that satisfies the definition of coercion in § 1063 of this title.

2615           § 1203. Official misconduct.

2616           (a) Official misconduct; offense defined. A person commits an offense if the person is a public servant and,  
2617 intending to obtain a personal benefit or to cause harm to another person, the person does any of the following:

2618           (1) Performs an act the person knows is in excess of the person's authority.

2619           (2) Knowingly refrains from performing a duty that is imposed by law or is clearly inherent in the nature of  
2620 the office, even if the duty is not directly related to the person's official functions as a public servant.

2621           (3) Performs official functions in a way intended to benefit the person's own property or financial interests.

2622           (4) Knowingly performs official functions in a way that is intended to discriminate on the basis of race, creed,  
2623 color, sex, age, disability, or national origin.

2624           (b) Profiteering, offense defined. A person commits an offense if the person is a public servant and, in  
2625 contemplation of official action taken by the person or a governmental entity with which the person is associated in the  
2626 person's capacity as a public servant or in reliance on information to which the person has access in the person's official  
2627 capacity as a public servant and that has not been made public, the person knowingly does any of the following:

2628           (1) Acquires a pecuniary interest in any property, transaction, or enterprise that may be affected by the official  
2629 action or information.

2630           (2) Speculates or wagers on the basis of the official action or information.

2631           (3) Aids another person to engage in an act prohibited by paragraph (b)(1) or (b)(2) of this section, intending  
2632 to thereby gain a personal benefit.

2633           (c) Grading.

2634           (1) Official misconduct is a Class 8 felony.

2635           (2) Profiteering is a Class A misdemeanor.

2636           (d) Forfeiture of office. A defendant who is convicted of violating any provision of this section forfeits the  
2637 defendant's office or employment, regardless of whether the conviction is later vacated or reversed on appeal.

2638           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2639 Enterprise; Harm to another person; Personal benefit; Property; Public servant.

2640           Subchapter II. Perjury and other official falsification offenses.

2641           § 1221. Perjury.

2642           (a) Offense defined. A person commits an offense if the person:

2643           (1) Makes a false statement of fact or affirms a false statement of fact previously made.

2644           (2) That the person does not believe to be true.

2645           (3) While under oath.

2646           (b) Grading. Perjury is graded as follows:

2647           (1) A Class 7 felony, if the false statement is an oral, testimonial statement in an official proceeding that is  
2648 material to the proceeding.

2649           (2) A Class 8 felony, if all of the following apply:

2650           a. The false statement is made in a written instrument that would have no legal efficacy in a court of law  
2651 absent the oath.

2652           b. The written instrument described in paragraph (b)(1) of this section is delivered to another person with  
2653 intent to deceive a public servant.

2654           c. The false statement is material to the proceeding or matter.

2655           (3) A Class A misdemeanor in all other cases.

2656           (c) Retracted statement, defense. It is a defense to prosecution under this section that the person retracted the false  
2657 statement in the course of the same proceeding in which it was made, and the retraction was made before all of the  
2658 following:

2659           (1) The false statement materially affected the proceeding or matter.

2660           (2) It became manifest that the statement's falsity has been or would be exposed.

2661           (d) No defense. In a prosecution under this section, it is not a defense that any of the following conditions exist:

2662           (1) The person was not competent under the Rules of Evidence to make the allegedly false statement.

2663           (2) The person mistakenly believed the false statement to be immaterial.

2664           (3) The oath was administered or taken in an irregular manner.

2665           (4) A written statement purporting to be made under oath was not in fact made under oath.

2666           (5) The court in which the acts constituting the offense were committed lacked jurisdiction over the person of  
2667 the defendant or over the subject matter.

2668           (e) Evidentiary rules.

2669           (1) Proof of falsity. If contradictory statements are made under oath in the same or in different proceedings or  
2670 matters all of the following apply:

2671           a. The prosecution need not specify which statement is false.

2672           b. The falsity of either of the statements may be established by proof of the statements' irreconcilable  
2673 inconsistency.

2674           (2) Corroboration required. In any prosecution under this section, falsity of a statement may not be established  
2675 solely by the uncorroborated testimony of only 1 witness.

2676           (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Oath;  
2677 Statement is material.

2678           § 1222. Written falsification under penalty.

2679           (a) Offense defined. A person commits an offense if the person makes a false statement that the person does not  
2680 believe to be true, in a written instrument bearing a notice, authorized by law, that false statements made therein are  
2681 punishable.

2682           (b) Corroboration required. In any prosecution under this section, falsity of a statement may not be established  
2683 solely by the uncorroborated testimony of only 1 witness.

2684           (c) Grading. Written falsification under penalty is a Class A misdemeanor.

2685           § 1223. Tampering with public records.

2686 (a) Offense defined. A person commits an offense if the person does any of the following:  
2687 (1) Knowingly removes, mutilates, destroys, conceals, makes a false entry in, or falsely alters a record or  
2688 written instrument that meets any of the following criteria:  
2689 a. Belongs to or is received or kept by a governmental entity for information or record.  
2690 b. Another person is required by law to keep for government reference.  
2691 (2) Having a legal duty to do so, knowingly fails to make an entry in a record or written instrument described  
2692 in paragraph (a)(1)a. or (a)(1)b. of this section.  
2693 (b) Grading. Tampering with public records is a Class A misdemeanor.  
2694 § 1224. Criminal impersonation.  
2695 (a) Offense defined. A person commits an offense if the person falsely represents that he or she is any of the  
2696 following:  
2697 (1) A public servant.  
2698 (2) A peace officer, firefighter, emergency medical technician, paramedic, or fire police officer, and the  
2699 person makes the representation with intent to facilitate the commission of or flight from an offense.  
2700 (b) Grading. Criminal impersonation is graded as follows:  
2701 (1) A Class A misdemeanor, if under paragraph (a)(1) of this section.  
2702 (2) A Class 6 felony, if under paragraph (a)(2) of this section and the offense described in paragraph (a)(2) of  
2703 this section meets any of the following criteria:  
2704 a. Results in physical injury to an individual.  
2705 b. Is a Class 1, 2, 3, 4, or 5 felony.  
2706 c. Is an offense under Subchapter III of Chapter 10 of this title.  
2707 (3) A Class 8 felony in all other cases.  
2708 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Peace  
2709 officer; Physical injury; Public servant; Sexual intercourse.  
2710 Subchapter III. Offenses involving obstruction of governmental operations; escape.  
2711 § 1241. Obstructing justice.  
2712 (a) Offense defined. A person commits an offense if the person acts with intent to prevent, hinder, or delay the  
2713 investigation, apprehension, prosecution, or defense of any person, and does any of the following:

2714 (1) Provides what the person knows to be a false, misleading, or incomplete oral or written statement to a law  
2715 enforcement officer or agency, and the statement is material to the investigation, apprehension, prosecution, or defense  
2716 of the person.

2717 (2) Harbors or conceals the person.

2718 (3) Warns the person of impending apprehension.

2719 (4) Provides the person with money, transportation, a weapon, a disguise, or other means of avoiding  
2720 apprehension.

2721 (5) Prevents a third person from aiding in the apprehension of the person, or lodging a criminal charge against  
2722 the person.

2723 (6) Not being a public servant, solicits, confers, or accepts a benefit in exchange for dropping, withholding, or  
2724 refraining from initiating a criminal prosecution.

2725 (7) With regard to physical evidence, does any of the following:

2726 a. Destroys, alters, conceals, or falsifies physical evidence.

2727 b. Suppresses use of physical evidence by force, intimidation, or deception.

2728 b. Produces or offers false physical evidence in a proceeding.

2729 (8) Alters, conceals, or falsifies information about an electronic or telephone communication, including its  
2730 existence, place of origin or destination, or originating or receiving telephone number, address, or account.

2731 (9) Fails to stop and await the arrival of law enforcement or emergency personnel following an automobile  
2732 collision in which the person drove an involved vehicle and the collision resulted in the physical injury or death of a  
2733 person.

2734 (b) Grading. Obstructing justice is graded as follows:

2735 (1) A Class 9 felony, if under paragraph (a)(7) of this section.

2736 (2) A Class 8 felony, if under paragraph (a)(9) of this section and the collision causes death.

2737 (3) A Class 9 felony, if under paragraph (a)(9) of this section and the collision causes physical injury.

2738 (4) If paragraphs (b)(1) through (b)(3) do not apply, grading is as follows:

2739 a. A Class 9 felony, if the offense under investigation or prosecution is a felony.

2740 b. A Class A misdemeanor if the offense under investigation or prosecution is a misdemeanor.

2741 (c) Restitution or indemnification, defense. In a prosecution for soliciting, conferring, or accepting a benefit in  
2742 exchange for dropping, withholding, or refraining from initiating a criminal prosecution under paragraph (a)(6) of this

2743 section, it is a defense that the benefit did not exceed the amount that the person believed to be due to the person as  
2744 restitution or indemnification for harm caused by the underlying offense.

2745 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2746 Deception; Electronic communication; Law enforcement officer; Originating address or originating account; Physical  
2747 evidence; Physical injury; Receiving address or receiving account; Statement is material.

2748 § 1242. Resisting or obstructing a law enforcement officer or other specified person.

2749 (a) Offense defined. A person commits an offense if the person knowingly resists, obstructs, or interferes with the  
2750 performance of an act within the course and scope of employment of a person that the person knows to be a law  
2751 enforcement officer, firefighter, correctional officer, or emergency medical personnel.

2752 (b) Grading. Resisting or obstructing a law enforcement officer is graded as follows:

2753 (1) A Class 6 felony, if the offense conduct includes disarming a law enforcement officer of the law  
2754 enforcement officer's weapon.

2755 (2) A Class 9 felony, if the defendant uses force or violence upon, or causes physical injury to, a law  
2756 enforcement officer while committing, attempting to commit, or fleeing from the offense.

2757 (3) A Class A misdemeanor in all other cases.

2758 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2759 Correctional officer; Deadly weapon; Law enforcement officer; Physical injury.

2760 § 1243. Obstructing administration of law or other government function.

2761 (a) Offense defined. A person commits an offense if the person knowingly obstructs, impairs, or perverts the  
2762 administration of law or other governmental function by physical interference or obstacle, breach of official duty, or any  
2763 unlawful act.

2764 (b) Grading. Obstructing administration of law or other government function is graded as follows:

2765 (1) A Class 8 felony, if the offense conduct is obstructing in relation to any of the following:

2766 a. Efforts of a public health official or agency to control a viral outbreak or other public health  
2767 emergency.

2768 b. Compliance with a duly served investigative demand of the Attorney General under section § 4136 of  
2769 this title, in an investigation for violation of § 1441 of this title.

2770 (2) A Class 9 felony, if the offense conduct is related to entry into premises for an inspection authorized under  
2771 Chapter 47 of Title 16.

2772                   (3) A Class A misdemeanor, if the offense conduct is a violation of a juror's official duty of secrecy or  
2773 impartiality.

2774                   (4) A Class B misdemeanor in all other cases.

2775                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Juror.

2776                   § 1244. Refusing to aid a peace officer.

2777                   (a) Offense defined. A person commits an offense if, when commanded to do so, the person knowingly fails to  
2778 provide reasonable aid to a person that the person knows to be a peace officer, while the peace officer is doing any of the  
2779 following:

2780                   (1) Effecting a lawful arrest.

2781                   (2) Preventing the commission of an offense by another person.

2782                   (b) Grading. Refusing aid to a peace officer is a Class B misdemeanor.

2783                   (c) Limitation on civil liability. A person who complies with a peace officer's command to aid under subsection  
2784 (a) of this section is not liable to a person for damages resulting from that aid.

2785                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Peace  
2786 officer.

2787                   § 1245. Escape.

2788                   (a) Offense defined. A person commits an offense if, knowing the person is not permitted to do so, the person  
2789 departs from custody, commitment, restraint, or placement and the person is any of the following:

2790                   (1) Imprisoned in penal custody under a conviction or charge for an offense.

2791                   (2) Otherwise in lawful penal custody, or civilly committed.

2792                   (3) Restrained by a public servant pursuant to an arrest or court order.

2793                   (4) Placed in nonsecure facilities by the Division of Youth Rehabilitative Services.

2794                   (b) Grading. Escape is graded as follows:

2795                   (1) A Class 5 felony, if under paragraph (a)(1) of this section and the defendant causes physical injury to  
2796 another person from the time of escape until the defendant has been returned to penal custody.

2797                   (2) A Class 6 felony, if under paragraph (a)(1) of this section and the defendant uses force or threat of force,  
2798 or possesses a deadly weapon, during commission of the escape.

2799                   (3) A Class 7 felony, if under paragraph (a)(1) of this section but paragraphs (b)(1) and (b)(2) of this section  
2800 do not apply.

2801                   (4) A Class 9 felony, if under paragraph (a)(2) of this section.

2802                   (5) A Class A misdemeanor, if under paragraphs (a)(3) or (a)(4) of this section.

2803                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
2804 weapon; Penal custody; Public servant.

2805                   § 1246. Prohibited conduct related to official custody.

2806                   (a) Promoting prison contraband, offense defined. A person commits an offense if, except as authorized by law,  
2807 the person does any of the following:

2808                   (1) Introduces into a detention facility what the person knows to be contraband.

2809                   (2) Possesses contraband with intent to deliver it a person confined in a detention facility.

2810                   (3) Being confined in a detention facility, the person makes, obtains, or possesses what the person knows to be  
2811 contraband.

2812                   (b) Misuse of prisoner mail, offense defined. A person in penal custody or civil commitment commits an offense if  
2813 the person does any of the following:

2814                   (1) Communicates by mail with a person who is not in penal custody or civil commitment in a manner he or  
2815 she knows is likely to cause inconvenience, annoyance, or alarm.

2816                   (2) Designates a written communication as legal mail, knowing that the communication is wholly unrelated to  
2817 any legal matter.

2818                   (c) Grading.

2819                   (1) Promoting prison contraband is graded as follows:

2820                   a. A Class 8 felony, if the contraband is a deadly weapon.

2821                   b. A Class 9 felony, if the contraband is any of the following:

2822                   1. A cellular telephone or, except as specifically authorized by law, an electronic device.

2823                   2. A drug prohibited under Chapter 47 of Title 16.

2824                   3. Prescription medication.

2825                   c. A Class A misdemeanor, if the contraband is any of the following:

2826                   1. An intoxicating liquor.

2827                   2. A tobacco or nicotine product.

2828                   3. Money, without the knowledge and consent of the Department of Health and Social Services or the  
2829 Department of Correction.

2830                   (2) Misuse of prisoner mail is a Class A misdemeanor.



2831 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
2832 Contraband; Deadly weapon.  
2833 § 1247. Intimidating, improperly influencing, or retaliating against a witness, juror, or victim.  
2834 (a) Offense defined. A person commits an offense if all of the following apply:  
2835 (1) The person has intent to do any of the following:  
2836 a. Influence the performance of a juror's duties.  
2837 b. Deter a party or witness from testifying freely, fully, or truthfully in an official proceeding.  
2838 c. Annoy, harass, intimidate, or victimize a current or former juror or witness because of the person's  
2839 service as a juror or witness.  
2840 d. Prevent a victim or witness from doing any of the following:  
2841 1. Reporting a crime.  
2842 2. Assisting in the prosecution of a complaint, indictment, information, or probation or parole  
2843 violation.  
2844 3. Arresting or seeking the arrest of a person in connection with a crime.  
2845 (2) The person does any of the following:  
2846 a. Causes or threatens physical injury to anyone.  
2847 b. Deceives, persuades, or commits an offense against the person or a third person.  
2848 c. Communicates, directly or indirectly, with a juror or witness, other than as authorized by law.  
2849 (b) Exception, juror deliberations. It is not an offense under this section for jurors in the same proceeding to  
2850 communicate with each other with regard to matters admitted as evidence in the proceeding.  
2851 (c) Grading. Intimidating, improperly influencing, or retaliating against a witness, juror, or victim is graded as  
2852 follows:  
2853 (1) A Class 6 felony, if under paragraph (a)(2)a. of this section.  
2854 (2) If under paragraph (a)(2)b. of this section, graded as follows:  
2855 a. A Class 6 felony if committed in furtherance of a conspiracy or for financial gain.  
2856 b. A Class 7 felony in all other cases.  
2857 (3) A Class A misdemeanor in all other cases.  
2858 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deceives;  
2859 Juror; Physical injury; Witness.  
2860 § 1248. Criminal contempt.

2861 (a) Criminal contempt, offense defined. A person commits an offense if the person engages in any of the following  
2862 conduct:

2863 (1) Disorderly, contemptuous, or insolent behavior that is committed during the sitting of a court, in the  
2864 court's immediate view and presence, and directly tending to interrupt the court's proceedings or impair the respect due  
2865 to the court's authority.

2866 (2) Breach of the peace, noise, or other disturbance directly tending to interrupt a court's proceedings.

2867 (3) Persistent refusal to do any of the following:

2868 a. Be sworn as a witness in any court proceeding.

2869 b. Having been sworn in, answer a proper question.

2870 (4) Publishing what the person knows to be a false or grossly inaccurate report of a court's proceedings.

2871 (5) Persistent refusal to serve as a juror.

2872 (6) Intentional, unexcused failure by a juror to attend a trial for which the person has been chosen to serve as a  
2873 juror.

2874 (7) Intentional failure to appear on the required date, after having been released from custody upon condition  
2875 that the person will later appear personally in connection with a criminal proceeding.

2876 (8) Knowing disobedience or resistance to the process, injunction, order, or other mandate of a court.

2877 (b) Grading. Criminal contempt is graded as follows:

2878 (1) A Class B misdemeanor, if under paragraph (a)(1) of this section.

2879 (2) A Class A misdemeanor, if under paragraph (a)(2) through (a)(7) of this section.

2880 (3) If under paragraph (a)(8) of this section, graded as follows:

2881 a. A Class 9 felony, if the offense conduct is a violation of or failure to obey a protective order issued by  
2882 a court of any jurisdiction in the United States or Canada, and the violation or failure meets all of the following:

2883 1. Results in physical injury to any person.

2884 2. Involves the use or threatened use of a deadly weapon.

2885 b. A Class A misdemeanor in all other cases.

2886 (c) Summary punishment for simple contempt. A person who commits the offense under paragraph (a)(1) of this  
2887 section may be convicted and sentenced, without further criminal proceedings, during or immediately after termination of  
2888 the proceeding in which the conduct constituting the offense occurs.

2889 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
2890 weapon; Juror; Physical injury.

2891 Section 11. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions  
2892 as shown by underline as follows:

2893 Chapter 13. Offenses against public health, order, and decency.

2894 Subchapter I. Offenses against public order and safety.

2895 § 1301. Riot; disorderly conduct; failure to disperse.

2896 (a) Disorderly conduct, offense defined. A person commits an offense if, with intent to cause or create a risk of  
2897 public inconvenience, annoyance, or alarm, the person does any of the following:

2898 (1) Engages in fighting, or in violent, tumultuous, or threatening behavior.

2899 (2) Makes unreasonable noise or offensively coarse utterance, gesture, or display, or addresses abusive  
2900 language to any person present.

2901 (3) Disturbs any lawful assembly or meeting of persons without lawful authority.

2902 (4) Creates a hazardous or physically offensive condition that serves no legitimate purpose.

2903 (b) Failure to disperse, offense defined. A person commits an offense if all of the following apply:

2904 (1) The person and at least 1 other person are participating in an offense under subsection (a) of this section.

2905 (2) A peace officer or other public servant engaged in executing or enforcing the law orders the participants  
2906 and others in the immediate vicinity.

2907 (3) The defendant refuses or knowingly fails to obey the order.

2908 (c) Grading.

2909 (1) Riot. The offense under subsection (a) of this section is a Class 9 felony if the person participates in the  
2910 offense with 2 or more other persons and any of the following apply:

2911 a. The person acts with intent to commit or facilitate the commission of an offense.

2912 b. The person acts with intent to prevent or coerce official action.

2913 c. The person knows a firearm or other deadly weapon will be used.

2914 (2) Disrupting a funeral. The offense under subsection (a) of this section is Class A misdemeanor if, within  
2915 300 feet of a building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of  
2916 a funeral procession or burial, the person does any of the following:

2917 a. Intentionally disturbs or disrupts a funeral, memorial service, or funeral procession.

2918 b. Directs abusive epithets or makes threatening gestures, knowing that the speech or conduct is likely to  
2919 provoke a violent reaction.

2920 (3) Failure to disperse. The offense under subsection (b) of this section is a Class C misdemeanor.

2921 (4) Disorderly conduct. In all other cases, the offense under subsection (a) of this section is a Class D  
2922 misdemeanor.

2923 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
2924 weapon; Firearm.

2925 § 1302. False public alarm.

2926 (a) Offense defined. A person commits an offense if, knowing that a report, warning, or call is false or baseless,  
2927 the person does any of the following:

2928 (1) Initiates or circulates a report or warning of an impending occurrence of a fire, explosion, crime,  
2929 catastrophe or other emergency, in any of the following ways:

2930 a. Under circumstances where it is likely to cause evacuation of a building, place of assembly, or facility  
2931 of public transport, or cause public inconvenience or alarm.

2932 b. To any law enforcement officer, agency, or other public safety official.

2933 (2) Calls or summons any fire-fighting apparatus, ambulance, or rescue truck.

2934 (b) Grading. False public alarm is a Class A misdemeanor.

2935 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Law  
2936 enforcement officer.

2937 § 1303. Harassment; stalking.

2938 (a) Harassment, offense defined. A person commits an offense if the person, with intent to harass, annoy, or alarm  
2939 another, does any of the following:

2940 (1) Makes communications repeatedly, anonymously, or with offensively coarse language.

2941 (2) Engages in alarming or distressing conduct that meets all of the following:

2942 a. Serves no legitimate purpose.

2943 b. Is in a manner likely to provoke a violent or disorderly response, or to cause a reasonable person to  
2944 suffer fear, alarm, or distress.

2945 (b)(1) Stalking, offense defined. A person commits an offense if the person knowingly follows, monitors, or  
2946 interferes with the activities or the property of another person, and all of the following apply to the person's conduct:

2947 a. Spans 3 or more separate incidents.

2948 b. Is directed at a specific person.

2949 c. Would cause a reasonable person in the victim's circumstances to fear physical injury to any person or  
2950 suffer substantial mental anguish or distress, regardless of whether that suffering requires medical or other  
2951 professional treatment or counseling.

2952 (2) Picketing, defense. It is a defense to stalking that the person was engaged in lawful picketing.

2953 (c) Grading.

2954 (1) Harassment is a Class A misdemeanor.

2955 (2) Stalking is graded as follows:

2956 a. A Class 8 felony if any of the following apply:

2957 1. The defendant is 21 years or older and the victim is less than 14 years old.

2958 2. The defendant's conduct violates a court order prohibiting contact with the victim.

2959 b. A Class 9 felony in all other cases.

2960 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Physical  
2961 injury.

2962 § 1304. Public intoxication.

2963 (a) Offense defined. A person commits an offense if all of the following are met:

2964 (1) The person appears in a public place manifestly under the influence of alcohol, narcotics, or any other drug  
2965 not administered or prescribed by a physician.

2966 (2) The influence is of a degree that the person may be in danger or endanger other persons or property, or  
2967 annoy persons in the vicinity.

2968 (b) Grading. Public intoxication is a violation.

2969 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Public  
2970 place.

2971 § 1305. Loitering.

2972 (a) Offense defined. A person commits an offense if a person loiters, congregates with others, or prowls, under all  
2973 of the following circumstances:

2974 (1) In a place, at a time, or in a manner not usual for law-abiding individuals.

2975 (2) Under circumstances that warrant alarm for the safety of persons or property in the vicinity.

2976 (b) Requirement of request to identify and explain. Unless the person's flight or other circumstances make it  
2977 impracticable, a peace officer shall, before any arrest for an offense under this section, afford the person an opportunity to

2978 dispel any alarm that would otherwise be warranted, by requesting identification and an explanation of the defendant's  
2979 presence and conduct.

2980 (c) Bar to conviction. A person may not be convicted of an offense under this section if the peace officer did not  
2981 comply with subsection (b) of this section, or if it appears at trial that the person's explanation was true and, if the peace  
2982 officer had believed the explanation at the time, would have dispelled the alarm.

2983 (d) Victim of human trafficking, defense. It is a defense to prosecution under this section that the person  
2984 committed the offense as a direct result of being a victim of human trafficking under § 1062 of this title.

2985 (e) Grading. Loitering is a violation.

2986 (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Loiters;  
2987 Peace officer.

2988 § 1306. Obstructing public ways.

2989 (a) Offense defined. A person commits an offense if, except as authorized by law, the person does any of the  
2990 following:

2991 (1) Recklessly renders any public passage unreasonably inconvenient or hazardous to use.

2992 (2) Intentionally enters upon, tampers with, or obstructs a public utility right-of-way.

2993 (b) Picketing, defense. It is a defense to the offense under paragraph (a)(1) of this section that the person was  
2994 engaged in lawful picketing.

2995 (c) Grading. Obstructing public ways is a Class D misdemeanor.

2996 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Public  
2997 passage.

2998 § 1307. Desecration.

2999 (a) Desecration, offense defined. A person commits an offense if, knowing it will outrage the sensibilities of  
3000 persons likely to observe or discover the actions, the person intentionally defaces, damages, pollutes, or otherwise  
3001 physically mistreats any of the following:

3002 (1) A public monument or structure.

3003 (2) A place of worship.

3004 (3) An object of veneration by the public or a substantial segment thereof in a public place.

3005 (4) A burial place.

3006 (b) Grading. Desecration is a Class A misdemeanor.

3007 Subchapter II. Public indecency, obscenity, and cruelty to animals; offenses.

3008           § 1321. Public indecency.

3009           (a) Public sexual act, offense defined. A person commits an offense if all of the following are met:

3010                 (1) The person either:

3011                     a. Is in a place that is open to public view.

3012                     b. Knows that the person is being viewed by a child less than 16 years old.

3013                 (2) The person does either of the following:

3014                     a. Performs an act of sexual intercourse or sexual conduct.

3015                     b. Exposes the person's sex organs, anus, or breast with the intent to arouse or satisfy the sexual desire of

3016           the person or another person.

3017           (b) Non-sexual indecency, offense defined. A person commits an offense if the person does all of the following:

3018                 (1) Is in a place open to public view.

3019                 (2) Exposes the person's sex organs, anus, or breast.

3020                 (3) Urinates or defecates.

3021           (c) Exception. It is not an offense under this section if the person is breast-feeding a child.

3022           (d) Grading. Public indecency is graded as follows:

3023                 (1) A Class 9 felony, if under paragraph (a)(1)b. of this section, and the defendant stands in a position of trust,

3024           authority, or supervision over the child.

3025                 (2) A Class A misdemeanor in all other cases under paragraph (a)(1)b. of this section.

3026                 (3) A Class B misdemeanor in all other cases under subsection (a) of this section.

3027                 (4) A Class D misdemeanor, if under subsection (b) of this section.

3028           (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Place

3029           open to public view; Sexual conduct; Sexual intercourse; Position of trust, authority, or supervision.

3030           § 1322. Prostitution; patronizing a prostitute.

3031           (a) Offense defined. A person commits an offense if the person offers or accepts a fee for performing any act of

3032           sexual contact.

3033           (b) Grading.

3034                 (1) Patronizing a victim of human trafficking. If the person patronizes a prostitute that the person knows is a

3035           victim of the offense under § 1062, the offense is graded as follows:

3036                     a. A Class 6 felony, if the human trafficking victim of the offense under § 1062 of this part is less than 18

3037           years old.

3038                    b. A Class 7 felony in all other cases.

3039                    (2) The offense is a Class B misdemeanor in all other cases.

3040                    (c) Victims of human trafficking, defense. It is a defense to prosecution under this section that the person  
3041 committed the offense as a direct result of being a victim of human trafficking under § 1062 of this title.

3042                    (d) Screening for sexually transmitted diseases. A person convicted under this section must undergo testing for  
3043 sexually transmitted diseases, as designated by the Department of Health and Social Services in its rules and regulations.  
3044 The results of the testing may be released only to the person, the person's spouse, and the court issuing the order for testing.

3045                    (e) Definition and defined terms.

3046                    (1) The following terms used in this section have the meaning given in § 103 of this title: Sexual contact.

3047                    (2) For purposes of this section, an "offer" or "acceptance" may be made to or through a third person not  
3048 participating in the sexual contact.

3049                    § 1323. Promoting or permitting prostitution.

3050                    (a) Offense defined. A person commits an offense if the person does any of the following:

3051                    (1) Knowingly arranges a situation in which another person may engage in prostitution.

3052                    (2) Provides premises that the person knows will be used for prostitution.

3053                    (3) Accepts or receives anything of value from another person for acquiescing in or supporting prostitution  
3054 activity.

3055                    (b) Exception for prostitutes and patrons. Subsection (a) of this section does not apply to patrons and prostitutes  
3056 who commit an offense under § 1322 of this title.

3057                    (c) Grading. Promoting or permitting prostitution is graded as follows:

3058                    (1) A Class 4 felony, if the prostitution involved in the offense includes prostitution of a person less than 16  
3059 years old.

3060                    (2) A Class 6 felony, if the prostitution involved in the offense includes prostitution of a person less than 18  
3061 years old.

3062                    (3) A Class 8 felony if the person manages, controls, supervises, or owns a prostitution enterprise involving 2  
3063 or more prostitutes.

3064                    (4) A Class 9 felony in all other cases.

3065                    § 1324. Dissemination and possession of obscene material and child pornography.

3066                    (a) Offenses defined.



3067           (1) Dissemination or creation of child pornography. A person commits an offense if the person knowingly  
3068 does any of the following:

3069           a. Sells, delivers, provides, publishes, exhibits, or otherwise makes child pornography available to another  
3070 person.

3071           b. Creates or participates in the creation of child pornography.

3072           (2) Possession of child pornography. A person commits an offense if the person possesses child pornography.

3073           (3) Dissemination of obscene material. A person commits an offense if the person knowingly does any of the  
3074 following:

3075           a. Sells, delivers, provides, publishes, exhibits, or otherwise makes a representation or embodiment of  
3076 obscene material available to another person.

3077           b. Presents, directs, or produces an obscene play, dance, performance, or film, or participates directly in  
3078 the portion that makes it obscene.

3079           (4) Possession of obscene material for distribution. A person commits an offense if the person possesses any  
3080 obscene material with intent to sell or otherwise commercially disseminate that material.

3081           (5) Sexting among minors.

3082           a. A person commits an offense if all of the following apply:

3083                   1. The person disseminates a visual depiction of child pornography to the person's peers.

3084                   2. The person and the individuals to whom the person disseminated the visual depiction are all 12 to  
3085 18 years old, or 19 years old and enrolled in high school, and are no more than 3 years apart in age.

3086                   3. The person or 1 of the individuals who received the visual depiction are depicted in the visual  
3087 depiction.

3088                   4. The person reasonably believed each recipient would have consented to receiving the visual  
3089 depiction if asked before the dissemination.

3090           b. The dissemination of a visual depiction other than in the circumstances established by paragraph  
3091 (a)(5)a. of this section produces liability only under § 1345 of this title.

3092           (b) Grading. Dissemination and possession of obscene material and child pornography is graded as follows:

3093           (1) If under paragraph (a)(1) of this section, as follows:

3094                   a. A Class 4 felony, if the offense is committed for financial gain.

3095                   b. A Class 6 felony in all other cases.

3096           (2) If under paragraph (a)(2) of this section, as follows:

3097 a. A Class 6 felony if the defendant possesses the child pornography with intent that it be sold or  
3098 otherwise commercially disseminated.

3099 b. a Class 8 felony in all other cases.

3100 (3) If under paragraph (a)(3) of this section, as follows:

3101 a. A Class 8 felony, if the defendant provided obscene material to another person who is less than 18  
3102 years old.

3103 b. A Class 9 felony in all other cases.

3104 (4) If under paragraph (a)(4) of this section, a Class 9 felony.

3105 (5) If under paragraph (a)(5)a. of this section, sexting among minors, a Class C misdemeanor.

3106 (c) Business closure. Upon conviction under this section for obscenity or child pornography involving live  
3107 conduct, the business or establishment that exhibited the conduct shall be closed by an order of the court, for a period of 6  
3108 months.

3109 (d) Dissemination or possession for gain, permissive inference. The trier of fact may infer that a defendant who  
3110 disseminates or possesses obscene material or child pornography for financial gain knowingly disseminates or possesses the  
3111 material or pornography.

3112 (e) Defenses.

3113 (1) Dissemination of obscene materials in special circumstances, defense. It is a defense to prosecution for an  
3114 offense under paragraphs (b)(3)b. or (b)(4) of this section that any of the following apply to the dissemination:

3115 a. It was not for financial gain, and was made to a personal associate who was 18 years older.

3116 b. It was to an institution or individual having scientific or other special justification for possessing the  
3117 material.

3118 (2) Victims of human trafficking, defense. It is a defense to prosecution under this section that the defendant  
3119 committed the offense as a direct result of being a victim of human trafficking under § 1062 of this title.

3120 (3) Victims of child pornography, defense. It is a defense to prosecution under paragraph (a)(1)b. of this  
3121 section for participating in the creation of child pornography that the defendant is a victim of the offense.

3122 (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Obscene;  
3123 Child pornography.

3124 § 1325. Unauthorized combat event.

3125 (a) Offense defined. A person commits an offense if the person promotes, arranges, advertises, conducts, or  
3126 participates as a competitor in a combat event that the person knows is not authorized by law.

3127 (b) Grading. Unauthorized combat event is a Class A misdemeanor.

3128 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Combat

3129 event.

3130 § 1326. Abuse of human remains or associated funerary objects.

3131 (a) Offense defined. A person commits an offense if, except as authorized by law, the person does any of the

3132 following:

3133 (1) Treats human remains in a way that would outrage ordinary family sensibilities, while reckless as to the

3134 outrageousness of the treatment.

3135 (2) Knowingly acquires, sells, or transports for profit any of the following:

3136 a. Funerary objects associated with interment.

3137 b. Human remains removed from marked or unmarked burials.

3138 (b) Grading. Abuse of human remains or associated funerary objects is graded as follows:

3139 (1) A Class A misdemeanor, if under paragraph (a)(1) of this section.

3140 (2) A Class B misdemeanor, if under paragraph (a)(2)a. of this section.

3141 (3) A Class 9 felony, if under paragraph (a)(2)b. of this section.

3142 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Funerary

3143 object associated with interment; Human remains; Unmarked burial.

3144 § 1327. Cruelty to animals.

3145 (a) Offense defined. A person commits an offense if the person does any of the following:

3146 (1) Subjects an animal to cruelty.

3147 (2) Subjects an animal in the person's custody to cruelty by neglect.

3148 (3) Kills or injures an animal belonging to another person without legal privilege, justification, or consent of

3149 the other person.

3150 (4) Knowingly facilitates or promotes animal fighting or baiting.

3151 (b) Exceptions to liability.

3152 (1) Paragraphs (a)(1) and (a)(2) of this section do not apply to accepted veterinary practices and activities

3153 conducted for scientific research.

3154 (2) This section does not apply to lawful hunting or trapping of animals.

3155 (c) Grading. Cruelty to animals is graded as follows:

3156 (1) A Class 8 felony, if under paragraph (a)(4) of this section.

3157           (2) A Class 9 felony, if under paragraph (a)(3) of this section and the defendant intentionally kills or causes  
3158 serious physical injury to the animal.

3159           (3) A Class A misdemeanor in all other cases.

3160           (d) Additional consequences of conviction.

3161           (1) Restricted possession. A person convicted under this section is prohibited from owning or possessing an  
3162 animal after conviction for the following time periods:

3163           a. 15 years, if convicted under paragraph (c)(1) of this section.

3164           b. 15 years, if convicted under paragraph (c)(2) of this section, excluding commercial animals.

3165           c. 5 years, if convicted under paragraph (c)(3) of this section, excluding commercial animals.

3166           (2) Forfeiture. A person convicted under this section forfeits all of the following:

3167           a. Animals in the person's custody that are victims under this section or owned illegally under § 3035F of  
3168 Title 16.

3169           b. Equipment, devices, and proceeds involved in any animal fighting or baiting operation.

3170           (3) Mandatory fines. A person convicted under this section must be fined at least 1 of the following:

3171           a. \$5,000 for offenses committed under paragraphs (c)(1) or (c)(2) of this section.

3172           b. \$1,000 for all other offenses.

3173           (4) Counseling. The court may require a defendant convicted under paragraph (a)(4) of this section to attend  
3174 and participate in an appropriate treatment program, obtain appropriate psychiatric or psychological counseling, or  
3175 both. The person may be required to bear the costs of the treatment.

3176           (e) Rescue from unsafe motor vehicle.

3177           (1) Justification defense. The conduct of a law enforcement officer, animal control officer, animal cruelty  
3178 investigator, or firefighter is justified when and to the extent that the conduct is immediately necessary to remove an  
3179 unattended animal from a standing or parked motor vehicle if all of the following apply:

3180           a. An animal is confined in a vehicle under conditions likely to cause suffering, physical injury, or death.

3181           b. The person uses reasonable means to contact the owner of the animal.

3182           c. The owner cannot be reached, the person leaves written notice on the motor vehicle, containing the  
3183 person's name and office, and the address of the location where the animal can be claimed.

3184           (2) Mistake as to justification. The justification defense under paragraph (e)(1) of this section is subject to the  
3185 excuse defense for a mistake as to a justification in § 329 of this title.

3186           (3) Excluded animals. The justification defense under paragraph (e)(1) of this section does not apply to the  
3187 lawful transportation of horses, cattle, swine, sheep, poultry, or other agricultural animals in motor vehicles designed to  
3188 transport those animals.

3189           (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
3190 Commercial animals; Cruelty; Law enforcement officer; Serious physical injury.

3191           Subchapter III. Invasion of privacy offenses.

3192           § 1341. Unlawful eavesdropping or surveillance.

3193           (a) Offense defined. A person commits an offense if the person, except as authorized by law, knowingly and  
3194 without consent does any of the following:

3195                   (1) Trespasses on real property with intent to subject anyone in a private place to eavesdropping or other  
3196 surveillance.

3197                   (2) Installs in a private place any device for observing, photographing, recording, amplifying, or broadcasting  
3198 sounds, images, or events occurring in that place.

3199                   (3) Installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting  
3200 sounds originating in the private place that would not ordinarily be audible or comprehensible outside that place.

3201                   (4) Installs a location tracking device in or on a motor vehicle without the consent of the registered owner,  
3202 lessor, or lessee of the vehicle.

3203           (b) Grading. Unlawful eavesdropping or surveillance is a Class A misdemeanor.

3204           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Private  
3205 place; Motor vehicle; Trespass on real property.

3206           § 1342. Voyeurism.

3207           (a) Offense defined. A person commits an offense if the person knowingly and without consent photographs,  
3208 videotapes, or otherwise records the image of another person under any of the following circumstances:

3209                   (1) The other person is in the process of getting dressed or undressed.

3210                   (2) Under or through the other person's clothes.

3211                   (3) The other person is nude, partially nude, or engaging in sexual conduct.

3212           (b) When child's consent not required. Subsection (a) of this section does not apply to a recording that a parent  
3213 makes of a child who is less than 18 years old, if the parent does not make the recording with intent to provide sexual  
3214 gratification to any person.

3215           (c) Grading. Voyeurism is a Class 9 felony.

3216 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Sexual  
3217 conduct.

3218 § 1343. Interception of private information.

3219 (a) Offense defined. A person commits an offense if the person, except as authorized by law, does any of the  
3220 following without consent:

3221 (1) Knowingly intercepts any private electronic, written, or oral communication.

3222 (2) Divulges the contents of a communication that meets any of the following:

3223 a. The person knows was unlawfully intercepted under paragraph (a)(1) of this section.

3224 b. The person learned about in the course of employment with an agency or communications common  
3225 carrier engaged in transmitting the communication.

3226 (b) Exception. It is not a violation of this section to overhear messages through a regularly installed instrument on  
3227 a telephone party line, an extension, or any other regularly installed instrument or equipment.

3228 (c) Grading. Interception of private information is a Class A misdemeanor.

3229 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Contents  
3230 of a communication; Electronic communication; Intercepts; Private communication.

3231 § 1344. Unlawful use of information.

3232 (a) Unlawful use or disclosure of information, offense defined. A person commits an offense if the person does  
3233 any of the following:

3234 (1) Discloses or uses information or a recording that the person knows was obtained in a manner prohibited by  
3235 § 1341, § 1342, or § 1343 of this title.

3236 (2) Discloses information that is required by law to be kept confidential.

3237 (b) Misuse of computer system information, offense defined. A person commits an offense if the person does any  
3238 of the following:

3239 (1) Knowingly makes or causes to be made an unauthorized display, use, disclosure, or copy, in any form, of  
3240 data residing in, communicated by, or produced by a computer system.

3241 (2) Knowingly, and without authorization, alters, deletes, tampers with, damages, destroys, takes, or adds to  
3242 data intended for use by a computer system.

3243 (c) Misuse of electronic mail, offense defined. A defendant commits an offense if the defendant does any of the  
3244 following:

3245           (1) Knowingly, and without authorization, distributes or causes to be distributed unsolicited bulk commercial  
3246 electronic mail to a receiving address or account under the control of any authorized user of a computer system.

3247           (2) Knowingly fails to prevent commercial electronic mail from being sent to any receiving address or account  
3248 under the control of any authorized user of a computer system after being properly requested to do so.

3249           (d) Grading. Unlawful use of information is graded as follows:

3250           (1) A Class A misdemeanor, if under subsection (a) of this section.

3251           (2) A Class B misdemeanor, if under subsection (b) of this section.

3252           (3) A Class C misdemeanor, if under subsection (c) of this section.

3253           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
3254 Commercial electronic mail; Computer system; Data; Electronic mail; Originating address or originating account;  
3255 Receiving address or receiving account.

3256           § 1345. Unlawful dissemination of personal pornography.

3257           (a) Offense defined. A person commits an offense if the person disseminates a visual depiction of another person  
3258 under all of the following circumstances:

3259           (1) The visual depiction was not made for commercial purposes.

3260           (2) The visual depiction does any of the following:

3261                 a. Depicts the other person engaged in sexual conduct.

3262                 b. Reveals the other person's sex organs, breast, or anus.

3263           (3) The person disseminates the visual depiction knowing that the person does not have the consent of the  
3264 other person.

3265           (b) Grading. Unlawful dissemination of personal property is a Class A misdemeanor.

3266           (c) Person's participation, consent to possession immaterial. In a prosecution under this section, it is immaterial  
3267 that the person does any of the following:

3268           (1) Appears in the visual depiction with the victim.

3269           (2) Possessed the visual depiction lawfully before its dissemination.

3270           (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Sexual  
3271 conduct.

3272           § 1346. Unlawful access to information.

3273           (a) Offense defined. A person commits an offense if, knowing the person is not authorized to do so, the person  
3274 accesses, or causes to be accessed, information, electronic programs, or data.

3275 (b) Grading. Unlawful access to information is a Class C misdemeanor.

3276 Subchapter IV. Offenses against the family.

3277 § 1361. Incest.

3278 (a) Offense defined. A person commits an offense if the person engages in sexual intercourse or oral or object  
3279 penetration with an individual to whom the person knows he or she is related by blood, marriage, or adoption, and stands in  
3280 at least 1 of the following relationships, regardless of whether the person is the elder or younger party:

3281 (1) Parent and child.

3282 (2) Grandparent and grandchild.

3283 (3) Sibling.

3284 (4) Aunt or uncle and niece or nephew.

3285 (b) Grading. Incest is a Class A misdemeanor.

3286 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Oral or  
3287 object penetration; Sexual intercourse.

3288 § 1362. Bigamy.

3289 (a) Offense defined. A person commits an offense if the person does any of the following:

3290 (1) Already having a spouse, marries another person.

3291 (2) Being previously unmarried marries another person when the person has knowledge of circumstances that  
3292 render the other person guilty of an offense under paragraph (a)(1) of this section.

3293 (b) Absent spouse, defense. It is a defense to prosecution under this section that the prior spouse under paragraph  
3294 (a)(1) of this section had been living apart from the person for a period of at least 7 consecutive years, during which time  
3295 the person did not know the prior spouse to be alive.

3296 (c) Grade. Bigamy is a Class 9 felony.

3297 § 1363. Child abandonment.

3298 (a) Offense defined. A person commits an offense if the person is a parent, guardian, or other person legally  
3299 charged with the care or custody of a child and leaves the child in any place, intending to permanently end the person's care  
3300 or custody of the child.

3301 (b) Abandonment of newborn at hospital, defense. It is a defense to prosecution under this section that the person  
3302 surrendered care or custody of a baby, no more than 14 days old, under all of the following circumstances:

3303 (1) Inside a hospital's emergency department.

3304 (2) Directly to a hospital staff member.



3305                   (3) The baby was alive and unharmed at the time of surrender.

3306                   (c) Grading. Child abandonment is graded as follows:

3307                   (1) A Class 9 felony, if the child abandoned is less than 14 years old.

3308                   (2) A Class A misdemeanor, if the child abandoned is 14 years or older.

3309                   § 1364. Interference with custody.

3310                   (a) Offense defined. A person commits an offense if, knowing that the person has no legal right to do so, the  
3311 person takes or entices from another person's lawful custodian any of the following:

3312                   (1) A child who is less than 16 years old, under all of the following circumstances:

3313                    a. Intending to hold the child permanently or for a prolonged period.

3314                    b. The defendant is a relative of the child.

3315                   (2) A person entrusted by authority of law to the custody of another person or an institution.

3316                   (b) Grading. Interference with custody is graded as follows:

3317                   (1) A Class 9 felony, if under paragraph (a)(1) of this section and the person removes the child from this State.

3318                   (2) A Class A misdemeanor in all other cases.

3319                   § 1365. Harboring or assisting a runaway.

3320                   (a) Offense defined. A person commits an offense if, except as authorized by law, the person does any of the  
3321 following:

3322                   (1) Knowingly encourages or aids a child who is less than 18 years old to run away from the child's parent,  
3323 guardian, or custodian.

3324                   (2) Knowingly shelters a child who is under 18 years old for more than 48 hours, without the consent of the  
3325 child's parent, guardian, or custodian, and without notifying local law enforcement authorities.

3326                   (b) Grading. Harboring or assisting a runaway is a Class A misdemeanor.

3327                   § 1366. Contributing to the delinquency of a minor.

3328                   (a) Offense defined. A person commits an offense if, being at least 4 years older than the child involved, the  
3329 person does any of the following:

3330                   (1) Acts or fails to act in any way that the person knowingly causes a child who is less than 18 years old to  
3331 commit an offense under this part.

3332                   (2) Permits a child who is less than 18 years old to enter or remain in a place where unlawful activity is taking  
3333 place, knowing that doing so creates a risk that the child will commit an offense under this part.

3334                   (b) Grading. Contributing to the delinquency of a minor is graded as follows:

3335 (1) A Class A misdemeanor, if under paragraph (a)(1) of this section.

3336 (2) A Class B misdemeanor, if under paragraph (a)(2) of this section.

3337 § 1367. Persistent non-support.

3338 (a) Offense defined. A person commits an offense if the person does any of the following:

3339 (1) Fails to meet a court or administrative order of support for a period of at least 4 months.

3340 (2) Refuses to provide food, clothing, medical care, or shelter for the person's dependent child, knowing that  
3341 the dependent child is in need of such support, regardless of whether the dependent child is also receiving support from  
3342 other sources.

3343 (b) Grading. Persistent non-support is graded as follows:

3344 (1) A Class 9 felony, if under paragraph (a)(1) of this section and any of the following apply:

3345 a. The person has not made full and timely payment for a period of at least 8 months.

3346 b. The person's support obligation is \$10,000 or more in arrears.

3347 (2) A Class A misdemeanor in all other cases.

3348 (3) A Class B misdemeanor, if under paragraph (a)(2) of this section.

3349 (c) Fines applied to support child. Any money received in payment of a fine upon conviction under paragraph  
3350 (a)(1) of this section must be applied in accordance with the support order. The court, in its discretion, may order that any  
3351 money received in payment of a fine imposed upon conviction under paragraph (a)(2) of this section be paid for the support  
3352 of the child entitled to it. Funds received and distributed under this subsection for either offense do not satisfy the fine owed  
3353 to the court.

3354 (d) Defenses.

3355 (1) Full payment of obligation. In a prosecution under this section, it is a defense that the person has fully  
3356 complied with the support order that formed the basis of the charged offense.

3357 (2) Inability to pay. In a prosecution under this section, it is a defense that the person did not have the  
3358 financial resources to pay or provide necessary support. But, the person's inability to pay must be the result of  
3359 circumstances over which the person had no control, such as unemployment or underemployment that persist despite  
3360 the person's diligent pursuit of reasonable opportunities to earn income.

3361 (e) Evidentiary provisions.

3362 (1) Sufficient evidence. Absent evidence to the contrary, payment records maintained by an administrative  
3363 agency or court through which a support order is payable are sufficient evidence of the support paid or unpaid, and of  
3364 the amount of any remaining support obligation.

3365           (2) No spousal communication privilege. In a prosecution under this section, there is no privilege against  
3366 disclosure of confidential communications between spouses, and either spouse is competent to testify against the other  
3367 as to any relevant matter.

3368           (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

3369 Dependent child.

3370           Subchapter V. Gambling offenses.

3371           § 1381. Unlawful gambling and betting practices.

3372           (a) Unlawful gambling or betting, offense defined. A person commits an offense if, except as authorized by law,  
3373 the person does any of the following:

3374                   (1) Sells a lottery ticket, except to raise funds for a charitable purpose.

3375                   (2) Receives or records a bet upon the result of a trial or contest.

3376                   (3) Bets upon the result of a trial or contest on behalf of another person.

3377                   (4) Uses a private wire to disseminate or receive information in furtherance of gambling.

3378                   (5) Possesses, buys, sells, or manages what the person knows to be a slot machine or other gambling device  
3379 that is less than 25 years old.

3380                   (6) Benefits financially from investment, participation, or acquiescence in conduct, with knowledge of  
3381 circumstances that render the conduct a violation of this subsection.

3382                   (7) Wagers money or property using dice.

3383           (b) Providing premises for gambling, offense defined. A person commits an offense if, except as authorized by  
3384 law, the person provides or maintains premises that the person knows will be used for any of the following purposes:

3385                   (1) Gambling activity.

3386                   (2) To violate any other provision of this section.

3387           (c) Exception, operations controlled by the State. It is not a violation of this section to engage in conduct  
3388 concerning gambling or lottery operations that are under the State's control.

3389           (d) Grading.

3390                   (1) Unlawful gambling or betting is graded as follows:

3391                           a. If under paragraphs (a)(1) through (a)(6) of this section, as follows:

3392                                   1. A Class 9 felony, if the trial or contest involved is animal fighting or baiting.

3393                                   2. A Class A misdemeanor in all other cases.

3394                           b. A violation, if under paragraph (a)(7) of this section.

3395                   (2) Providing premises for gambling is a Class D misdemeanor.

3396                   (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Gambling  
3397 device; Lottery ticket; Private wire; Trial or contest.

3398                   § 1382. Cheating at games and contests.

3399                   (a) Cheating, offense defined. A person commits an offense if, for a game upon which a lawful wager may be  
3400 placed, the person does any of the following:

3401                   (1) Alters the element of chance, method of selection, or criterion that determines any of the following:

3402                   a. The result of a game.

3403                   b. The amount of frequency of payment in a game, including intentionally taking advantage of a  
3404 malfunctioning machine.

3405                   c. The value of a wagering instrument.

3406                   d. The value of a wagering credit.

3407                   (2) Uses a device, without the written consent of the Director of the State Lottery Office, that is intended to  
3408 assist a person in doing any of the following:

3409                   a. Projecting the outcome of a table game or video lottery machine.

3410                   b. Keeping track of the cards played.

3411                   c. Analyzing the probability of the occurrence of an event relating to the game.

3412                   d. Analyzing the strategy for playing or wagering to be used in the game.

3413                   (b) Contest rigging, offense defined. A person commits an offense if the person does any of the following:

3414                   (1) Offers, confers, solicits, or accepts anything of value, with intent to influence the outcome of a trial or  
3415 contest, or any game or event on which a wager may be placed.

3416                   (2) Places, cancels, or increases or decreases the amount of a wager on the basis of non-public information  
3417 that a contest has been rigged, as provided in paragraph (b)(1) of this section.

3418                   (c) Unfair wagering, offense defined. A person commits an offense if the person places, cancels, or increases or  
3419 decreases the amount of a wager on the basis of information regarding the outcome of a table game and that information is  
3420 not available to other players.

3421                   (d) Grading.

3422                   (1) Cheating is a Class A misdemeanor.

3423                   (2) Contest rigging is a Class 9 felony.

3424                   (3) Unfair wagering is graded as follows:

- 3425                   a. A Class 6 felony, if the amount gained or loss avoided is \$1,000,000 or more.
- 3426                   b. A Class 7 felony, if the amount gained or loss avoided is \$100,000 or more.
- 3427                   c. A Class 8 felony, if the amount gained or loss avoided is \$25,000 or more.
- 3428                   d. A Class 9 felony, if the amount gained or loss avoided is \$1,500 or more.
- 3429                   e. A Class A misdemeanor, if the amount gained or loss avoided is \$1,000 or more.
- 3430                   f. A Class B misdemeanor, if the amount gained or loss avoided is \$100 or more.
- 3431                   g. A Class C misdemeanor, if the amount gained or loss avoided is less than \$100 and the person has been
- 3432 convicted of a prior offense of a similar nature.
- 3433                   h. A violation in all other cases.
- 3434                   i. Aggregation. When an offense under subsection (c) of this section is committed in a single scheme or
- 3435 continuous course of conduct, whether by 1 or several persons, the conduct may be considered a single offense and
- 3436 the amounts involved may be aggregated for grading purposes.
- 3437                   (e) Forfeiture. A person convicted under this section forfeits to the State any of the following that apply:
- 3438                         (1) A device, slug, or other material used in the commission of the offense.
- 3439                         (2) A material intended to be used to manufacture devices for cheating.
- 3440                         (3) A vehicle used to store the items described in paragraphs (e)(1) and (e)(2) of this section.
- 3441                   (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Table
- 3442 game; Video lottery machine.
- 3443                   Section 12. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions
- 3444 as shown by underline as follows:
- 3445                   Chapter 14. Crime control offenses.
- 3446                   Subchapter I. Offenses involving firearms and other deadly weapons.
- 3447                   § 1401. Possessing a firearm or deadly weapon during commission of an offense; supplying a firearm for felonious
- 3448 possession.
- 3449                   (a) Possession during a felony, offense defined. A person commits an offense if, during the commission of a
- 3450 felony, the person possesses any of the following:
- 3451                         (1) A firearm.
- 3452                         (2) A deadly weapon.

3453 (b) Supplying a firearm for use during certain offenses, offense defined. A person commits an offense if the person  
3454 sells, gives, or otherwise supplies a firearm to another person knowing that the other person intends, while in possession of  
3455 the firearm, to commit any of the following:

3456 (1) A felony.

3457 (2) A Class A misdemeanor.

3458 (3) An offense under Chapter 14, Subchapter II of Chapter 14 of this title.

3459 (c) Grading.

3460 (1) Possession during a felony is graded as follows:

3461 a. A Class 4 felony, if under paragraph (a)(1) of this section.

3462 b. A Class 5 felony, if under paragraph (a)(2) of this section.

3463 (2) Supplying a firearm for use during certain offenses is a Class 8 felony.

3464 (d) Conviction for underlying felony, limitation. A defendant may not be convicted of an offense under subsection  
3465 (a) of this section unless the defendant is convicted of the felony during which the defendant was alleged to have possessed  
3466 the firearm or deadly weapon.

3467 (e) Use or intent not required. A defendant may be convicted of an offense under subsection (a) of this section  
3468 regardless of whether the firearm or deadly weapon is used or intended to be used to further the commission of the felony.

3469 (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly  
3470 weapon; Firearm.

3471 § 1402. Dealing in unlawful weapons.

3472 (a) Trafficking a firearm with an altered serial number, offense defined. A person commits an offense if the person  
3473 transports, ships, or possesses a firearm manufactured after 1972, knowing that the importer's or manufacturer's serial  
3474 number has been removed or altered in a manner that disguises or conceals the identity or origin of the firearm.

3475 (b) Dealing in unlawful weapons, offense defined. A person commits an offense if, except as authorized by law,  
3476 the person sells, buys, or possesses any of the following:

3477 (1) A destructive weapon.

3478 (2) A knife that meets any of the following:

3479 a. Is not detectable by a metal detector or magnetometer set at standard calibration.

3480 b. Has a blade that is any of the following:

3481 1. Released by a spring mechanism or gravity.

3482 2. Supported by a knuckle ring grip handle.

3483                   (3) A sharp, metal throwing star.

3484                   (4) A weapon that, by compressed air or spring, projects a pellet, slug, or bullet larger than a B.B. shot, or  
3485 their pellets, slugs, or bullets.

3486                   (5) A pellet, slug, or bullet intended to be used by a weapon described in paragraph (b)(4) of this section.

3487                   (c) Exception, supplying weapons to special parties. This section does not apply to weapons provided to any of the  
3488 following:

3489                   (1) Law enforcement or military entities.

3490                   (2) Historical societies, museums, and institutional collections that are open to the public, if the weapons are  
3491 stored safely and secured from unauthorized handling.

3492                   (d) Grading.

3493                   (1) Trafficking in a firearm with an altered serial number is a Class 7 felony.

3494                   (2) Dealing in unlawful weapons is graded as follows:

3495                   a. A Class 8 felony, if under paragraph (b)(1) of this section.

3496                   b. A Class 9 felony, if under paragraph (b)(2)a. of this section.

3497                   c. A Class B misdemeanor in all other cases.

3498                   (3) Adjustment for commission in a safe school and recreation zone. The grade of an offense under this  
3499 section may be adjusted upward as provided in § 1408 of this title.

3500                   (e) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

3501 Destructive weapon; Firearm.

3502                   § 1403. Carrying a concealed deadly weapon or dangerous instrument.

3503                   (a) Offense defined. A person commits an offense if, except as authorized by law, the person possesses a weapon  
3504 or instrument that meets all of the following:

3505                   (1) Is any of the following:

3506                   a. A deadly weapon.

3507                   b. A dangerous instrument, other than a disabling chemical spray.

3508                   (2) Is concealed.

3509                   (3) Is available and accessible for the person's immediate use.

3510                   (b) Grading. Carrying a concealed deadly weapon or dangerous instrument is graded as follows:

3511                   (1) If under paragraph (a)(1)a., as follows:

3512                   a. A Class 7 felony, if the deadly weapon is a firearm.

3513                    b. A Class 9 felony in all other cases.

3514                    (2) A Class A misdemeanor, if under paragraph (a)(1)b. of this section.

3515                    (3) Adjustment for commission in a safe school and recreation zone. The grade of an offense under this

3516 section may be adjusted upward as provided in § 1408 of this title.

3517                    (c) Defense. It is a defense to prosecution under paragraph (a)(1)b. of this section that the person did all of the

3518 following:

3519                    (1) Not intend to cause or threaten physical injury to another person.

3520                    (2) Carried the concealed dangerous instrument for a specific lawful purpose.

3521                    (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

3522 Dangerous instrument; Deadly weapon; Physical injury.

3523                    § 1404. Possessing or purchasing deadly weapons by persons prohibited.

3524                    (a) Offense defined. A person commits an offense if the person possesses, purchases, owns, or controls what the

3525 person knows to be a deadly weapon or ammunition for a firearm and any of the following apply to the person:

3526                    (1) Was previously convicted of any of the following:

3527                    a. A felony.

3528                    b. A crime involving violence that resulted in physical injury.

3529                    c. A misdemeanor offense under subsections 1422(a) or (b) of this title.

3530                    d. A misdemeanor domestic violence offense, meaning an offense that meets all of the following:

3531                    1. Involves threats, endangerment, physical injury, sexual contact, or interference with custody.

3532                    2. The person was any of the following: a member of the victim's family; the victim's former spouse;

3533 a person with whom the victim cohabitated at the time of the offense; or a person with whom the victim has a

3534 child in common.

3535                    (2) Has ever been committed to a hospital, mental institution, or sanitarium due to a mental disorder, unless

3536 the defendant can demonstrate that the defendant is no longer prohibited under this paragraph from possessing,

3537 purchasing, owning, or controlling a deadly weapon or ammunition for a firearm.

3538                    (3) Was adjudicated delinquent as a juvenile for conduct that would constitute a felony if committed by an

3539 adult. This prohibition applies only until the defendant is 25 years old.

3540                    (4) Is less than 18 years old, and all of the following apply:

3541                    a. The deadly weapon is a handgun.



3542                    b. The person intends to use the handgun for an activity other than lawful hunting, instruction, sporting,  
3543 or recreational activity while under the supervision of an adult.

3544                    (5) Is subject to a protection from abuse order, if the order is not any of the following:

3545                    a. An ex parte order.

3546                    b. A contested order issued solely upon § 1041(1)d., § 1041(1)e., or § 1041(1)h. of Title 10.

3547                    (6) Is a fugitive from justice and knows the person is alleged to have committed a felony.

3548                    (b) Limitation on length of prohibition. Any person prohibited under subsection (a) of this section solely as the  
3549 result of a prior misdemeanor conviction shall only be prohibited for 5 years following the date of conviction.

3550                    (c) Grading. Possessing or purchasing deadly weapons by persons prohibited is graded as follows:

3551                    (1) A Class 5 felony, if all of the following apply:

3552                    a. The offense conduct is under paragraph (a)(1)a. of this section.

3553                    b. The defendant was previously convicted of a felony for which an element of the offense or grade  
3554 provision is defined to include causing physical injury, engaging in sexual conduct, or use of a deadly weapon.

3555                    c. The unlawfully possessed item is a destructive weapon or firearm.

3556                    (2) A Class 7 felony, if under paragraphs (a)(1) through (a)(6) of this section and the unlawfully possessed  
3557 item is a destructive weapon, firearm, or ammunition for a firearm.

3558                    (3) A Class 9 felony, if paragraphs (c)(1) and (c)(2) of this section do not apply.

3559                    (4) Adjustment for commission in a safe school and recreation zone. The grade of an offense under this  
3560 section may be adjusted upward as provided in § 1408 of this title.

3561                    (d) Seizure and disposal.

3562                    (1) Law enforcement may seize and dispose of deadly weapons or ammunition possessed in violation of  
3563 subsection (a) of this section, as provided in § 2311 of this title.

3564                    (2) Exception. Paragraph (d)(1) does not apply to an antique firearm that has not been restored to a firing  
3565 condition and for which ammunition is no longer manufactured in the United States. As used in this section, “antique  
3566 firearm” means a firearm manufactured before 1898.

3567                    (3) Burden of proving exception. The defendant who is a prohibited person has the burden of proving a  
3568 firearm is an antique firearm subject to the exception under paragraph (d)(2) of this section.

3569                    (e) Defined terms.

3570                    (1) The following terms used in this section have the meaning given in § 103 of this title: Deadly weapon;  
3571 Firearm; Handgun; Physical injury; Sexual contact.

3572                   (2) “Family” has the meaning given in § 901(12) of Title 10.

3573                   § 1405. Providing weapons to disqualified persons.

3574                   (a) Providing deadly weapons to disqualified persons, offense defined. A person commits an offense if the person

3575 sells, gives, or transfers a deadly weapon or ammunition, or buys or obtains a deadly weapon or ammunition on behalf of a

3576 person the person knows to be any of the following:

3577                   (1) A person prohibited from ownership or possession under § 1404(a) of this title.

3578                   (2) Under the lawful age to purchase, own, or possess a deadly weapon.

3579                   (3) Intoxicated.

3580                   (4) Otherwise legally disqualified from purchasing, owning, or possessing the deadly weapon in this State.

3581                   (b) Providing weapons to children without consent, offense defined. A person commits an offense if the person

3582 transfers to or obtains on behalf of a child who is less than 16 years old a B.B., air, or spear gun, or ammunition for those

3583 weapons, without the consent of the child’s parent or guardian.

3584                   (c) Grading.

3585                   (1) Providing weapons to disqualified persons is graded as follows:

3586                   a. A Class 9 felony, if under paragraph (a)(1) of this section.

3587                   b. If under paragraph (a)(2) of this section, as follows:

3588                   1. A Class 9 felony, if the recipient is a child less than 18 years old, the weapon is a firearm, and the

3589 firearm is transferred without the consent of the child’s parent or guardian.

3590                   2. A Class B misdemeanor, if the recipient is a person less than 21 years old and the weapon is a

3591 deadly weapon designed for the defense of one’s person.

3592                   c. A Class B misdemeanor, if under paragraph (a)(3) of this section.

3593                   d. If under paragraph (a)(4) of this section, as follows:

3594                   1. A Class 9 felony, if the weapon is a firearm.

3595                   2. A Class B misdemeanor in all other cases.

3596                   (2) Providing weapons to children without consent is a Class C misdemeanor.

3597                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Deadly

3598 weapon; Deadly weapon designed for the defense of one’s person; Firearm.

3599                   § 1406. Possessing a firearm while under the influence of drugs or alcohol.

3600                   (a) Offense defined. A person commits an offense if the person possesses a firearm in a public place while the

3601 person is chemically impaired.

3602 (b) Inoperable firearm, defense. It is a defense to prosecution under this section that any of the following apply:  
3603 (1) The firearm was disassembled or stored in a manner to prevent its immediate use.  
3604 (2) The person did not possess ammunition for the firearm.  
3605 (c) Grading. Possessing a firearm while under the influence of drugs or alcohol is a Class A misdemeanor.  
3606 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
3607 Chemically impaired; Firearm; Public place.  
3608 § 1407. Offenses related to background checks for firearm sales.  
3609 (a) Sale without conducting required check, offense defined. A person commits an offense if the person sells or  
3610 transfers a firearm to another person without first performing a criminal history background check, as required by §§ 9904  
3611 and 9905 of this title, to determine whether the sale or transfer would violate state or federal law.  
3612 (b) Misuse of criminal records, offense defined. A person commits an offense if all of the following apply:  
3613 (1) The person is a licensed dealer, importer, or manufacturer of firearms.  
3614 (2) The person requests a criminal history record check from the Federal Bureau of Investigation, National  
3615 Instant Criminal Background Check System with intent to use the information for a purpose other than compliance  
3616 with subsection (a) of this section and §§ 9904 and 9905 of this title.  
3617 (c) Grading. Sale without conducting required check and misuse of criminal records are each a Class A  
3618 misdemeanor.  
3619 (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Firearm.  
3620 § 1408. Grade adjustment for offenses committed in a safe school and recreation zone.  
3621 (a) Adjustment defined. The grade of an offense under § 1402, § 1403, or § 1404 of this section is increased by 1  
3622 grade, unless the weapon was possessed for the purpose of engaging in any school-authorized activity, if both of the  
3623 following are met:  
3624 (1) The weapon was possessed in one of the following circumstances:  
3625 a. In a motor vehicle, or in, on, or within 1,000 feet of a structure or real property, that is owned,  
3626 operated, leased, or rented by a public or private school, including a vocational-technical school or a college or  
3627 university.  
3628 b. In or on any structure that is utilized as a recreation center, athletic field, or sports stadium.  
3629 (2) The unadjusted grade of the offense is a Class 8 felony or lower.  
3630 (b) Private residence, defense. It is a defense to application of the grade adjustment in subsection (a) of this section  
3631 that all of the following apply:

3632           (1) The prohibited conduct took place entirely within a private residence.

3633           (2) No person who is less than 18 years old was present in the residence at any time during the commission of  
3634 the offense.

3635           (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Motor  
3636 vehicle.

3637           Subchapter II. Drug and related offenses.

3638           § 1421. Definitions. Additional definitions relevant to this chapter are in § 4701 of Title 16.

3639           § 1422. Possession of controlled and noncontrolled substances.

3640           (a) Possession of a controlled substance, offense defined. A person commits an offense if, except as authorized by  
3641 law or as provided in subsection (b) of this section, the person knowingly possesses, uses, or consumes any of the  
3642 following:

3643           (1) A controlled substance.

3644           (2) A counterfeit controlled substance.

3645           (b) Possession of marijuana, offense defined. A person commits an offense if, except as authorized by law, the  
3646 person knowingly possesses, uses, or consumes any of the following:

3647           (1) If the person is 18 years or older, either more than 1 ounce of leaf marijuana or any quantity of marijuana  
3648 other than leaf marijuana.

3649           (2) If the person is less than 18 years old, any quantity of marijuana.

3650           (c) Unlawful possession of noncontrolled prescription drugs, offense defined. A person commits an offense if the  
3651 person knowingly possesses for personal use, uses, or consumes a drug that is not a controlled substance, but for which a  
3652 prescription is required by law, without an authorized prescription.

3653           (d) Grading.

3654           (1) Possession of a controlled substance is graded as follows:

3655                   a. A Class 6 felony, if the offense involves a controlled substance in a Tier 3 quantity.

3656                   b. A Class 8 felony, if the offense involves a controlled substance in a Tier 2 quantity.

3657                   c. A Class 9 felony, if the offense involves a controlled substance in a Tier 1 quantity.

3658                   d. A Class B misdemeanor in all other cases.

3659           (2) Possession of marijuana is graded as follows:

3660                   a. A Class C misdemeanor, if under paragraph (b)(1) of this section.

3661                   b. A Class D misdemeanor, if under paragraph (b)(2) of this section.

3662                   (3) Unlawful possession of a noncontrolled prescription drug is a Class D misdemeanor.

3663                   (4) Grade adjustment, protected school zone. The grade of the offense under paragraphs (d)(1)a. through  
3664 (d)(1)c. is adjusted upward 1 grade if the offense was committed on, in, or within 300 feet of a structure or real  
3665 property that is owned, operated, leased, or rented by a public or private kindergarten, elementary, secondary, or  
3666 vocational-technical school. This grade adjustment does not apply to offenses committed in private places, as the term  
3667 is defined in § 103 of this title.

3668                   (5) Knowledge of weight or quantity not an element. The defendant's culpability as to the precise weight or  
3669 quantity of a substance is not a required element that the State must prove to determine the grade of an offense under  
3670 subsection (d) of this section.

3671                   (e) Defined terms.

3672                   (1) The following terms used in this section have the meaning given in § 103 of this title: Authorized  
3673 prescription; Controlled substance; Leaf marijuana; Private place; Tier 1; Tier 2; Tier 3.

3674                   (2) The following terms used in this section have the meaning given in § 4701 of Title 16: Counterfeit  
3675 controlled substance; Prescription drug.

3676                   (3) "Marijuana" has the meaning given in § 4714 of Title 16.

3677                   § 1423. Manufacture or delivery of controlled or noncontrolled substances.

3678                   (a) Manufacture or delivery of a controlled substance, offense defined. A person commits an offense if, except as  
3679 authorized by law, the person manufactures, delivers, or possesses with intent to deliver to another person any of the  
3680 following:

3681                   (1) A controlled substance.

3682                   (2) A counterfeit or purported controlled substance.

3683                   (b) Unlawful delivery of noncontrolled prescription drugs, offense defined. A person commits an offense if, except  
3684 as authorized by law, the person knowingly delivers or possesses with intent to deliver to another person a drug that is not a  
3685 controlled substance but for which a prescription is required by law.

3686                   (c) Grading.

3687                   (1) Manufacture or delivery of a controlled substance is graded as follows:

3688                   a. The manufacture or delivery of a controlled substance is 1 grade higher if the offense conduct is  
3689 manufacturing or delivery than it would be for the same amount of the same substance if the offense conduct was  
3690 possession with intent to deliver under paragraph (c)(1)b. of this section.

3691                   b. If the offense conduct is possession with intent to deliver, the following grading applies:

3692                   1. A Class 6 felony, if the offense involves a controlled substance in a Tier 3 quantity.

3693                   2. A Class 7 felony, if the offense involves a controlled substance in a Tier 2 quantity.

3694                   3. A Class 8 felony, if the offense involves a controlled substance in a Tier 1 quantity or less.

3695                   4. A Class 9 felony in all other cases.

3696                   (2) Unlawful delivery of a noncontrolled prescription drug is graded as follows:

3697                   a. A Class A misdemeanor, if the offense conduct was delivery.

3698                   b. A Class B misdemeanor, if the offense conduct was possession with intent to deliver to another person.

3699                   (3) Grade adjustment, protected school zone. The grade of an offense under this section is adjusted upward 1

3700 grade if the offense was committed on, in, or within 300 feet of a structure or real property that is owned, operated,

3701 leased, or rented by a public or private kindergarten, elementary, secondary, or vocational-technical school. This grade

3702 adjustment does not apply to offenses committed in private places, as the term is defined in § 103 of this title.

3703                   (4) Knowledge of weight or quantity not an element. The person's culpability as to the precise weight or

3704 quantity of a substance is not a required element that the State must prove to determine the grade of an offense under

3705 subsection (c) of this section.

3706                   (d) Valid prescription within household, defense. It is a defense to prosecution under subsection (b) of this section

3707 that all of the following apply:

3708                   (1) The prescription drug was possessed by the person while transporting the drug to a member of the person's

3709 household who had a valid prescription for the drug.

3710                   (2) The prescription drug was in any of the following:

3711                   a. The original container in which it was dispensed or packaged.

3712                   b. A pillbox or other daily pill container.

3713                   (e) Remediation and cleanup costs. Any sentence for an offense under subsection (a) of this section for offense

3714 conduct involving manufacturing must include restitution for all reasonable costs, if any, associated with any of the

3715 following:

3716                   (1) Remediation of the site of manufacture.

3717                   (2) Cleanup of any substances, materials, or hazardous waste.

3718                   (3) Cleanup of any other site resulting from the manufacturing operation, including disposal of substances or

3719 materials.

3720                   (f) Defined terms.

3721           (1) The following terms used in this section have the meaning given in § 103 of this title: Controlled  
3722 substance; Deliver or delivery; Tier 1; Tier 2; Tier 3.

3723           (2) The following terms used in this section have the meaning given in § 4701 of Title 16: Counterfeit  
3724 controlled substance; Prescription drug; Purported controlled substance.

3725           § 1424. Drug paraphernalia offenses.

3726           (a) Use of drug paraphernalia, offense defined. A person commits an offense if, except as authorized by law or  
3727 provided in § 4774(b) of Title 16, the person uses or possesses with intent to use drug paraphernalia.

3728           (b) Manufacture and sale of drug paraphernalia, offense defined. A person commits an offense if, except as  
3729 authorized by law, the person does all of the following:

3730           (1) Delivers, conveys, sells, or converts drug paraphernalia or possesses or manufactures drug paraphernalia  
3731 with intent to deliver it.

3732           (2) Is reckless as to whether it will be used as drug paraphernalia in violation of subsection (a) of this section.

3733           (c) Advertising drug paraphernalia, offense defined. A person commits an offense if he or she places an  
3734 advertisement in a publication, being reckless as to whether the advertisement will promote the sale of drug paraphernalia.

3735           (d) Paraphernalia for use of marijuana, limit on multiple charges. A person charged under § 1422(b) of this title  
3736 may not also be charged under subsection (a) of this section for possession of drug paraphernalia pertaining to the use of  
3737 marijuana.

3738           (e) Grading. Offenses under this section are graded as follows:

3739           (1) A Class B misdemeanor, if under subsection (a) of this section.

3740           (2) A Class B misdemeanor, if under paragraph (b)(1) of this section and the offense conduct is possession or  
3741 manufacturing with intent to deliver.

3742           (3) A Class A misdemeanor, if under paragraph (b)(1) of this section and the offense conduct is delivery,  
3743 conveyance, sale, or conversion.

3744           (4) A Class D misdemeanor, if under subsection (c) of this section.

3745           (5) Grade adjustment. The grade of an offense under subsection (b) of this section is increased by 1 grade if  
3746 all of the following apply:

3747           a. The defendant is 18 years or older.

3748           b. The defendant sells or delivers drug paraphernalia to another person who is less than 18 years old.

3749           (f) Defined terms.

3750 (1) The following terms used in this section have the meaning given in § 103 of this title: Deliver or  
3751 delivers; Drug paraphernalia;

3752 (2) “Marijuana” has the meaning given in § 4714 of Title 16.

3753 § 1425. Prescription drug registrant offenses.

3754 (a) Unlawfully distributing prescription drugs, offense defined. A person subject to Subchapter III of Chapter 47 of  
3755 Title 16 commits an offense if, except as authorized by law, the person knowingly distributes or dispenses a controlled  
3756 substance and any of the following apply:

3757 (1) The drug is on Schedule II, III, or IV, and is distributed or dispensed without a practitioner’s written  
3758 prescription.

3759 (2) The person is refilling a prescription for a Schedule II substance.

3760 (3) Unless renewed by the practitioner who prescribed it, the person is refilling a prescription for a Schedule  
3761 III or IV substance that meets any of the following:

3762 a. More than 6 months after the date of the prescription.

3763 b. More than 5 times.

3764 (4) The drug is on Schedule V, and the drug is distributed or dispensed without a legitimate medical purpose.

3765 (5) The distribution or dispensation is not authorized by the person’s registration under § 4732, et seq., of  
3766 Title 16.

3767 (b) Administering performance enhancing steroids, offense defined. A person commits an offense if he or she  
3768 prescribes or administers to another person an anabolic steroid, with intent to increase human muscle weight or improve  
3769 human performance in any form of exercise, sport, or game.

3770 (c) Grading. Unlawfully distributing prescription drugs and administering performance enhancing steroid are each  
3771 a Class 9 felony.

3772 (d) Defined terms.

3773 (1) The following terms used in this section have the meaning given in § 103 of this title: Controlled  
3774 substance; Practitioner; Registrant; Schedule I; Schedule II; Schedule III; Schedule IV; Schedule V.

3775 (2) “Anabolic steroid” has the meaning given in § 4718 of Title 16.

3776 (3) “Prescription drug” has the meaning given in § 4701 of Title 16.

3777 § 1426. Unlawful possession of a prescription form.

3778 (a) Offense defined. A person commits an offense if the person is not a practitioner but possesses a blank  
3779 prescription form or pad.



3780 (b) Grading. Unlawful possession of a prescription form is a Class 9 felony.

3781 (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:

3782 Practitioner.

3783 § 1427. Internet pharmacy offenses

3784 (a) Distributing or prescribing drugs through an internet pharmacy, offense defined. A person commits an offense

3785 if the person is either of the following:

3786 (1) An internet pharmacy, or its owner or operator, and without an authorized prescription:

3787 a. Knowingly participates in the sale, distribution, dispensing, or delivery of a prescription drug.

3788 b. The drug was requested by a prescription drug order.

3789 c. The drug is to be delivered within the State.

3790 (2) A practitioner who:

3791 a. Issues a prescription drug order without an authorized prescription.

3792 b. Through what the practitioner knows to be an internet pharmacy.

3793 c. The drug is to be delivered within the State.

3794 (b) Patronizing an internet pharmacy, offense defined. A person commits an offense if, without an authorized

3795 prescription, the person purchases a prescription drug to be delivered within this State from what the person knows to be an

3796 internet pharmacy.

3797 (c) Advertising an internet pharmacy, offense defined. An internet pharmacy, or its owner or operator, commits an

3798 offense if it does all of the following:

3799 (1) Advertises, makes a sales presentation, or directly communicates to anyone within the State.

3800 (2) Communicates that a prescription drug may be obtained through a web-based consultation, questionnaire,

3801 or medical history form that is submitted to the internet pharmacy through a website.

3802 (d) Exception, Delaware delivery clearly excluded. Subsection (c) of this section does not apply to an internet

3803 pharmacy if the internet pharmacy's advertisement or website clearly and conspicuously asserts that it will not deliver or

3804 ship prescription drugs to any location within this State.

3805 (e) Grading. Internet pharmacy offenses are graded as follows:

3806 (1) If under subsection (a) of this section, as follows:

3807 a. A Class 4 felony, if the prescription drug causes the death of its intended user.

3808 b. A Class 6 felony, if the prescription drug causes serious physical injury to its intended user.

3809 c. A Class 7 felony in all other cases.

3810                   (2) A Class A misdemeanor, if under subsection (b) of this section.

3811                   (3) A Class 7 felony, if under subsection (c) of this section.

3812                   (f) Defined terms.

3813                   (1) The following terms used in this section have the meaning given in § 103 of this title: Authorized  
3814 prescription; Internet pharmacy; Practitioner; Serious physical injury.

3815                   (2) The following terms used in this section have the meaning given in § 4701 of Title 16: Patient-practitioner  
3816 relationship; Prescription drug.

3817                   § 1428. Immunity for use of inculpatory evidence obtained in life-threatening emergency.

3818                   (a) Immunity defined. If law enforcement authorities discover inculpatory evidence only because an offender calls  
3819 the authorities or official medical personnel to report what the offender reasonably believes to be an overdose or other life-  
3820 threatening medical emergency, that evidence may not be used against the offender in a criminal prosecution.

3821                   (b) Applicable offenses, limitation. The immunity in subsection (a) of this section applies only to evidence of  
3822 offenses defined in this subchapter.

3823                   (c) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
3824 Overdose.

3825                   § 1429. Court having jurisdiction.

3826                   (a) Generally. Except as provided in subsection (b) of this section, all of the following apply:

3827                   (1) The Superior Court has original and exclusive jurisdiction over violations of this chapter by a person who  
3828 is 18 years or older.

3829                   (2) The Family Court has original and exclusive jurisdiction over violations of this chapter by a person who is  
3830 less than 18 years old.

3831                   (b) Exception. The Court of Common Pleas has original jurisdiction, concurrent with the Superior Court, over  
3832 violations of the following sections if the person is 18 years or older:

3833                   (1) Section 1422(b) of this title.

3834                   (2) Section 1422(c) of this title.

3835                   (3) Section 1422(d)(1)d. of this title.

3836                   (4) Section 1422(d)(3) of this title.

3837                   (5) Section 1424 of this title.

3838                   Subchapter III. Offenses involving organized crime and racketeering.

3839                   § 1441. Organized crime and racketeering.

3840           (a) Offense defined. A person commits an offense if the person knowingly does any of the following:

3841                   (1) Conducts or participates in the affairs of an enterprise through a pattern of racketeering activity or  
3842 collection of unlawful debt.

3843                   (2) Acquires or maintains, directly or indirectly, any interest in or control of any enterprise or property  
3844 through a pattern of racketeering activity or proceeds derived therefrom.

3845                   (3) Uses or invests, directly or indirectly, proceeds derived from a pattern of racketeering activity in the  
3846 acquisition of any interest in, establishment of, or operation of any enterprise or real property.

3847           (b) Grading. Organized crime and racketeering is a Class 4 felony.

3848           (c) Forfeiture. A person who commits an offense under subsection (a) of this section forfeits to the State any  
3849 property or other benefit used in the course of, intended for use in the course of, or derived from conduct in violation of  
3850 subsection (a) of this section, including any of the following that apply:

3851                   (1) Property constituting an interest in or means of control or influence over the enterprise involved in the  
3852 violation of subsection (a) of this section.

3853                   (2) Property constituting proceeds derived from conduct in violation of subsection (a) of this section.

3854                   (3) Position, office, appointment, tenure, commission, or employment contract that the person acquired or  
3855 maintained through the person's violation of subsection (a) of this section.

3856                   (4) Compensation, right, or benefit derived from an item obtained by violating paragraph (c)(3) of this section.

3857           (d) Discretionary treble fines. Any defendant convicted of an offense in violation of subsection (a) of this section  
3858 may be sentenced to pay a fine equal to the sum of all of the following:

3859                   (1) Up to 3 times the value gained or loss caused by the offense, whichever is greater.

3860                   (2) Court costs and reasonably incurred costs of investigation and prosecution.

3861           (e) Renunciation.

3862                   (1) Defense for preventing commission of the offense. A defense to prosecution under subsection (a) of this  
3863 section is available for a voluntary and complete renunciation preventing commission of the offense, under the same  
3864 terms as the defense in § 506 of this title.

3865                   (2) Sentencing mitigation for unsuccessful attempt to prevent commission of the offense. If the defendant does  
3866 not prevent an offense under paragraph (e)(1) of this section, but the defendant made a substantial effort to prevent  
3867 commission of the offense, that fact must be taken into account as a mitigating factor during sentencing.

3868           (f) Unconvictable confederate, change in identity no defense. In any prosecution under this section where it is  
3869 alleged that the defendant acted as a member of a group or informal organization, all of the following apply:

3870                   (1) Section 504 of this title applies as to the other members.

3871                   (2) It is not a defense that the defendant is not a member due to a change in number or identity of persons in  
3872 the group or organization, as long as two or more of the original members remain in the group.

3873                   (g) Defined terms. The following terms used in this section have the meaning given in § 103 of this title:  
3874 Enterprise; Pattern of racketeering activity; Proceeds; Unlawful debt.

3875                   § 1442. Gang participation.

3876                   (a) Gang participation, offense defined. A person commits an offense if all of the following apply to the person:

3877                   (1) The person engages in any conduct that benefits a criminal street gang.

3878                   (2) The person knows that its members engage in or have engaged in a pattern of criminal gang activity.

3879                   (3) The person knowingly promotes, furthers, or assists in any criminal conduct by members of that gang that  
3880 would constitute a felony.

3881                   (b) Recruitment of juveniles: offense defined. A person commits an offense if the person knowingly solicits,  
3882 invites, recruits, encourages, or otherwise causes another person who is less than 18 years old to participate in or become a  
3883 member of a criminal street gang.

3884                   (c) Grading.

3885                   (1) Gang participation is a Class 8 felony.

3886                   (2) Recruitment of juveniles is a Class 9 felony.

3887                   (d) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Criminal  
3888 street gang; Pattern of criminal gang activity.

3889                   § 1443. Money laundering.

3890                   (a) Money laundering, offense defined. A person commits an offense if the person knowingly does any of the  
3891 following:

3892                   (1) Conceals, possesses, transfers, transports, acquires or maintains an interest in the proceeds of criminal  
3893 activity.

3894                   (2) Conducts, supervises, or facilitates a transaction involving the proceeds of criminal activity.

3895                   (3) Invests, expends, receives, or offers to invest, expend, or receive the proceeds of criminal activity.

3896                   (4) Provides, holds, or invests funds that are intended to further the commission of criminal activity.

3897                   (5) Engages in a transaction involving the proceeds of criminal activity intended, in whole or in part, to avoid  
3898 a currency transaction reporting requirement under the laws of this State, any other state, or the United States.

3899           (b) Structuring, offense defined. A person commits an offense if, with intent to evade a transaction reporting  
3900 requirement of this State or of the United States, the person does any of the following:

3901           (1) Causes a financial institution, money transmitter, check casher, or any other individual or entity that is  
3902 required by law to file a report regarding currency transactions or suspicious transactions to do any of the following:

3903           a. Fail to file a report.

3904           b. File a report that contains a material omission or misstatement.

3905           (2) Conducts or assists in conducting 1 or more transactions in currency, in any amount and in any manner, at  
3906 1 or more financial institutions, money transmitters, check cashers, or other entities that are required by law to file a  
3907 report regarding currency transactions or suspicious transactions.

3908           (c) Grading.

3909           (1) Money laundering is a Class 7 felony.

3910           (2) Structuring is a Class 9 felony.

3911           (d) Knowledge of specific criminal activity not required. Knowledge of the specific nature of the criminal activity  
3912 giving rise to the proceeds is not required to establish culpability under this section.

3913           (e) Defense. It is a defense to prosecution under this section that a licensed attorney received the funds as bona fide  
3914 legal fees and, at the time of their receipt, the attorney did not have actual knowledge that the funds were derived from  
3915 criminal activity.

3916           (f) Defined terms. The following terms used in this section have the meaning given in § 103 of this title: Proceeds.

3917           Section 13. This Act is prospective. This Act takes effect 20 months after the date of its enactment. Prosecution for  
3918 an offense committed before the effective date of this Act in which a conviction has been entered is governed by prior law.  
3919 Enactment of this Act does not give rise to a cause of action or appeal or right of review of a conviction entered prior to the  
3920 Act's effective date.

#### SYNOPSIS

Delaware's existing Criminal Code was adopted in 1973 and was based on the Model Penal Code. Since that time, the Criminal Code has quadrupled in size and expanded to other parts of the Code without consideration to the general effects of the change on the Criminal Code's overall structure, its terminology, or its application, creating numerous inconsistencies, redundancies, ambiguities and contradictions. In 2014, the General Assembly established the Criminal Justice Improvement Committee to review opportunities for efficiencies in the Delaware Criminal Code, including identifying: "disproportionate, redundant, outdated, duplicative, or inefficient statutes" and "crimes that should or should not constitute potential jail time". The Criminal Justice Improvement Committee Working Group was created to accomplish the Criminal Justice Improvement Committee's stated goals and has worked diligently for the last three years, in concert with other criminal justice stakeholders, to restore the criminal code to a clear, readable, and proportional code. The recommendations found in their Final Report are the basis for this Act and its companion bill.

This Act is one of two bills that seek to bring back clarity and consistency to the Criminal Code. This Act repeals and replaces Title 11, Part I, Chapters 1 through 15 of the Delaware Criminal Code and replaces it with an improved code that is easy to understand, consolidates offenses and introduces rational and proportional sentencing structures. This Act, and its companion bill, will take effect 20 months from the date it is signed, to allow for a smooth integration of the

improved code into existing structures, give public and private criminal justice stakeholders an opportunity to familiarize themselves with the improved code, and provide an opportunity to develop for the first time model jury instructions and sentencing guidelines. A Commentary, which explains how the current criminal code relates to the improved code, will be publicly available during this transition period. The 20 months will also give time to introduce technical corrections bills that will make changes to the Code necessitated by the improved code (e.g., update cross references to Title 11, Part I, found in other Titles), as well as incorporate legislative decisions passed by the 148th and 149th General Assembly that were not captured by the improved code.

Author: Senator McDowell