



SPONSOR: Rep. Briggs King & Rep. Osienski & Sen. Cloutier  
Reps. Collins, Dorsey Walker, Kowalko; Sen. Sokola

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 21

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CLASSIFICATION AND EMPLOYMENT.

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

1           Section 1. Amend § 6531, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
2 insertions as shown by underline as follows:

3           § 6531. Treatment and rehabilitation programs.

4           (e) Inmates required to participate in compulsory programs of drug or alcohol counseling or treatment ~~established~~  
5 ~~by the Department~~ pursuant to this section shall not be eligible for parole nor shall the Department apply for modification  
6 of sentence until successfully completing such programs. Inmates refusing to participate in such programs shall further be  
7 subject to such other disciplinary measures as the Commissioner shall establish by regulation.

8           Section 2. Amend § 6531A, Title 11 of the Delaware Code by making deletions as shown by strikethrough and  
9 insertions as shown by underline as follows:

10          § 6531A. Education programs.

11          (a) The Department of Education and the Department of Correction shall be jointly responsible for the  
12 administration of a prison education program. The Department of Correction and the Department of Education shall work  
13 collaboratively ~~through designated agency contracts~~ to accomplish this task.

14          (b) The Department of Education and the Department of Correction shall be responsible for the oversight and  
15 management of the prison education program, including academic courses leading towards a high school diploma, life  
16 skills, special education, ~~media resource services~~ and vocational technical courses. The Department of Education shall be  
17 responsible for the establishment of rules and regulations ~~regarding the administration of academic and vocational programs~~  
18 within the prison education program governing the maintenance of the prison education program to provide educational  
19 services for the Department of Correction. The Department of Education shall be responsible for hiring teachers to provide  
20 instruction in these programs. The Department of Education shall further supervise these employees, who shall be  
21 considered employees of the Department of Education and are subject to all applicable rules and regulations of the  
22 Departments of Education and Correction. Employees who are assigned to the prison education program as teachers that

23 have remained Department of Correction employees shall be supervised by the Department of Education. Teachers who  
24 were employees at the time this legislation is enacted, that work for the Department of Correction, shall have the right to  
25 transfer to the Department of Education each year upon notification to the Department of Education by April 15 and such  
26 transfer shall become effective July 1 of that year. Any position transfer made pursuant to this section shall become  
27 permanent. If a remaining Department of Correction teacher position becomes vacant, the position and the associated  
28 funding shall be transferred to the Department of Education. Any Department of Education employee working in the prison  
29 education program and whose permanent work assignment location resides within or on the campus of a Department of  
30 Correction ~~Level 5 or Level 4~~ facility must submit to the same random drug testing procedure required of Department of  
31 Correction employees.

32 (c) The Department of Correction through the wardens of each facility shall be responsible for classifying  
33 offenders in and out of the prison education program, providing dedicated facilities that accommodate the educational  
34 needs, and disciplining inmates who have displayed inappropriate behavior in the prison education program. The  
35 Department of Correction shall conduct security and background checks on all potential prison education personnel and  
36 notify the Department of Education as to the results of that security check.

37 (d) When the Department of Education shall make prison education programs available to inmates at a correctional  
38 facility, inmates at such facility who are eligible, in accordance with rules and regulations established under subsections (b)  
39 and (c) of this section, shall be required to enroll in and attend such courses.

40 (e) Inmates required to participate in compulsory programs of education as established under this section shall not  
41 be eligible for parole nor shall the Department of Correction apply for a modification of sentence until the inmate has  
42 successfully ~~obtaining~~ obtained a high school diploma or G.E.D., or has been awarded a State of Delaware Diploma of  
43 Alternate Achievement Standards. Inmates refusing to participate in such programs shall be subject to such disciplinary  
44 measures as the Commissioner of Correction shall establish by regulation.

45 (f) As used in this subsection, a State of Delaware Diploma of Alternate Achievement Standards shall be awarded  
46 to an inmate who has met the requirements of the inmate's Individualized Education Program but the inmate will not  
47 complete the high school graduation course credit requirements established by the State, district, or charter school for a  
48 regular State of Delaware High School Diploma.

49 (g) The Department of Education shall continue to provide funding through its discretionary federal special  
50 education funds for a portion of the education costs associated with prison inmates aged 18 to 21 years who qualify for  
51 special education.

### SYNOPSIS

The language set forth in this statute would remove barriers for inmates who are students with disabilities and who have an Individualized Education Program (IEP) under state and federal law, when being considered for parole or a sentence modification. Requiring an inmate with an IEP to complete a GED or State of Delaware High School Diploma is counter-productive to the treatment and programming of this segment of the prison population and prohibits them from seeking the same benefits of parole or sentence modification afforded to those inmates who do not have an IEP. This amendment to the law allows an inmate the opportunity to earn a State of Delaware Diploma of Alternate Achievement Standards upon successful completion of the inmate's IEP.