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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 382

AN ACT TO AMEND TITLE 14, TITLE 29, AND TITLE 31 RELATING TO PEOPLE WHO ARE VISUALLY IMPAIRED.

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

1 Section 1. Amend § 206, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 206. Braille literacy rights and education.

4 (a) In developing the individualized written education program for each student ~~who is blind~~ with blindness or
5 visual impairment, it is the presumption ~~shall be~~ that proficiency in Braille reading and writing is essential for each student
6 to achieve satisfactory educational progress. The assessment required for each student ~~shall include~~ includes a Braille skills
7 inventory, including a statement of strengths and weaknesses.

8 (1) ~~This section does not require~~ Braille instruction and its use ~~are not mandated by this section~~ if, in the
9 course of developing the student's individualized educational program, ~~all members~~ each member of the team ~~concur~~
10 concurs that the student's visual impairment does not affect reading and writing performance commensurate with
11 ability.

12 (2) ~~Nothing in this section requires~~ This section does not require exclusive use of Braille if other special
13 education services are appropriate to the student's needs. The provision of other appropriate services ~~shall~~ does not
14 preclude Braille use or instruction.

15 (b) Instruction in Braille reading and writing ~~shall be~~ are sufficient to enable each student ~~who is blind~~ with
16 blindness or visual impairment to communicate effectively and efficiently with the same proficiency expected of the
17 student's peers of comparable ability and grade level. The student's individualized educational plan ~~shall~~ must specify at
18 least all of the following:

19 (1) The results obtained from the inventory required in subsection (a) of this ~~section;~~ section.

20 (2) How Braille will be implemented as the primary mode for learning through integration with other
21 classroom ~~activities;~~ activities.

22 (3) The date on which Braille instruction will commence; commence.

23 (4) The length of the period of instruction and the frequency and duration of each instructional ~~session;~~
24 session.

25 (5) The level of competency in Braille reading and writing to be achieved by the end of the period, and the
26 objective assessment measures to be ~~used; and~~ used.

27 (6) The evidence used to determine that the student's ability to read and write effectively without special
28 education services will not be impaired if a decision has been made under subsection (a) of this section that Braille
29 instruction or use is not required for the student.

30 (c) Each publisher of ~~textbooks purchased by Delaware School Districts~~ a textbook that a local education agency
31 purchases must, in addition to granting copyright permission for transcription into Braille, large ~~print~~ print, or tape for
32 ~~visually impaired students~~ students with visual impairments as already established by law, ~~must~~ furnish to the Division for
33 the Visually ~~Impaired;~~ Impaired a print ~~copy, and when requested, with computer diskettes or electronic copy~~ in the
34 American Standard Code for Information Interchange (ASCII) from which Braille versions of the texts can be produced.
35 The print copy is also required since the accompanying graphics must be reproduced by ~~hand;~~ hand and some subject
36 matter, such as ~~mathematics~~ mathematics, must still be hand transcribed.

37 (d) ~~As part of the certification process, all newly certified teachers of the visually impaired, after enactment of this~~
38 ~~section shall be required to demonstrate competence in reading and writing Braille. The Department of Education which~~
39 ~~certifies teachers shall require proof of a passing score on the Library of Congress Braille Competency Test (when it is~~
40 ~~completed and validated), or any comparable, nationally recognized validated test. Until that time, the Department of~~
41 ~~Education will continue to certify teachers of the visually impaired through its existing standards. All newly hired teacher~~
42 ~~aides will be required to achieve certification as Braille transcribers through the Library of Congress within 2 years of~~
43 ~~employment. [Repealed.]~~

44 (e) In order to meet the instructional needs of ~~students who are blind~~ each student with blindness or visual
45 impairment, the Division for the Visually Impaired shall hire an itinerant teacher of the visually impaired for every 28
46 ~~students (or students, or a major fraction thereof) thereof,~~ who are registered and receiving instruction from ~~the Agency a~~
47 local education agency. At least 2 of these teacher units ~~shall~~ must be 12-month employees in order to insure competent
48 Braille instruction during the summer months.

49 Section 2. Amend § 7913, Title 29 of the Delaware Code by making deletions as shown by strike through and
50 insertions as shown by underline as follows:

51 § 7913. Council on the Blind.

52 (a) ~~There is established the~~ The Council on the Blind is established.

53 (b) The Council on the Blind ~~shall serve~~ (“Council”) serves in an advisory capacity to the ~~Administrator~~ Director
54 of the Division for the Visually Impaired and ~~shall consider~~ considers matters relating to the ~~general supervision and~~
55 ~~control of the education, training and welfare of persons who are blind residing in the State. The Council shall also consider~~
56 ~~such~~ supervision of the training of a person with blindness or a person with visual impairment, as defined in § 2101 of Title
57 31, and other matters as may be referred to it by ~~that~~ the Governor, the Secretary of the ~~Department~~ Department, or the
58 ~~Administrator of the Division for the Visually Impaired~~ Director may refer to it. The Council may study, research, ~~plan and~~
59 ~~plan, or~~ advise the ~~Administrator~~ Director, ~~Secretary and~~ Secretary, or Governor on matters it deems appropriate to enable
60 the Division to function in the best possible manner.

61 (c) The Council ~~on the Blind shall be composed of 7 members who shall be appointed for 3 year terms by~~ is
62 comprised of 7 members who are appointed by the Governor.

63 (d) ~~At least 3, but no more than 4, members of the Council shall be affiliated with 1 of the major political parties~~
64 ~~and at least 2, but no more than 3, of the newly appointed members shall be affiliated with the other major political party;~~
65 ~~provided, however, there shall be no more than a bare majority representation of 1 major political party over the other~~
66 ~~major political party. Any person who declines to announce such person’s political affiliation shall also be eligible for~~
67 ~~appointment as a member of the Council.~~ [Repealed.]

68 (e) ~~Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable~~
69 ~~and necessary expenses incident to their duties as members of the Council.~~ A Council member does not receive
70 compensation but may be reimbursed for the member’s actual and necessary expenses incurred in the performance of the
71 member’s official duties.

72 (f) ~~A Chairperson of the Council shall be chosen by the members of the Council from among its members and~~
73 ~~shall serve in that capacity for a term of 1 year and shall be eligible for reelection.~~ The Council shall annually elect a chair
74 from among its members. A chair is eligible for reelection.

75 (g) ~~Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for~~
76 ~~the remainder of the term.~~ Each Council member is appointed for a term of 3 years. Each term of office expires on the date
77 specified in the appointment; however, a member remains eligible to participate in Council proceedings until the Governor
78 replaces that member. The Governor may appoint a member for a term of less than 3 years to ensure that members’ terms
79 expire on a staggered basis.

80 (h) The number of members who must be present at a Council meeting in order to have quorum and conduct
81 official business is a majority of appointed members. Counting for quorum does not include member positions that are
82 vacant.

83 (i) The Governor may remove a member for gross inefficiency, misfeasance, malfeasance, or neglect of duty in
84 office. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Council meetings or
85 attends less than 50% of Council meetings in a calendar year. The Governor may consider the member to have resigned and
86 may accept the member's resignation.

87 Section 3. Amend § 7929, Title 29 of the Delaware Code by making deletions as shown by strike through and
88 insertions as shown by underline as follows:

89 § 7929. Division for the Visually Impaired.

90 (a) ~~The Division for the Visually Impaired is established having the power to perform and be responsible for the~~
91 ~~performance of all powers, duties and functions heretofore vested in the Delaware Commission for the Blind, pursuant to~~
92 ~~Chapters 21 and 23 of Title 31 as formerly vested in the Division of Social Services. (“Division”)~~ has the power, duties, and
93 functions necessary to provide persons with blindness and persons with visual impairment, including the powers, duties,
94 and functions under this section, Chapter 21 of Title 31, and Chapter 23 of Title 31.

95 (b) ~~The Division for the Visually Impaired shall have the power to~~ may establish, ~~monitor~~ monitor, and oversee
96 the operation of business programs for the purpose of providing training and employment for Delaware residents who are
97 visually impaired under the Randolph-Sheppard Act [20 U.S.C. 107 et seq.]. ~~These business programs may include, but~~
98 ~~shall not be limited to, vending, engraving, retail food services, meal preparation and distribution, concession stands and~~
99 ~~any other such business programs as may be deemed appropriate by the Director of the Division for the Visually Impaired.~~
100 ~~Such programs shall be known as either Delaware Industries for the Blind or Business Enterprise Program. The business~~
101 ~~programs are known collectively as the “Business Enterprise Program” and may include vending, retail food services, meal~~
102 ~~preparation and distribution, concession stands, or other business programs that the Director of the Division may deem~~
103 appropriate.

104 (1) ~~The Division for the Visually Impaired shall be authorized to~~ may promulgate rules and regulations to
105 implement and operate the ~~programs~~ Business Enterprise Program. ~~These~~ The rules and regulations ~~shall include, but~~
106 ~~not be limited to, must include~~ provisions relating to participant eligibility, personnel management, fiscal controls,
107 marketing ~~plans~~ plans, and enforcement of production quality standards.

108 (2) ~~Participants in the business programs shall be employees of a particular program~~ A participant in the
109 Business Enterprise Program is not an employee of the Business Enterprise Program and may continue in that program
110 ~~only pursuant to the program only under~~ the rules of the program. ~~All participants~~ Each participant shall adhere to the
111 rules and regulations ~~promulgated by that~~ the Division for the Visually Impaired promulgates.

112 (c) The Director of the Division ~~Director shall be~~ is an exempt employee, and must be knowledgeable and skilled
113 in the field of services to the visually impaired and responsive to the needs and concerns of that population.

114 (d) ~~The~~ This State accepts the provisions and benefits of the Vocational Rehabilitation Act of 1973 (P.L. 93-112)
115 [29 U.S.C. § 701 et seq.], as amended. The Department of Health and Social Services ~~shall act as the sole state agency~~ is a
116 designated State agency, with the Secretary of the Department as the State ~~Officer,~~ Officer and the Division of the Visually
117 Impaired as ~~the Designated State Unit~~ a designated State unit for all moneys from the act Act that are designated for
118 persons with visual impairment ~~and~~ or persons with blindness. This is defined in a cooperative agreement dated December
119 1985 ~~between~~ among the Department of Labor, Division for the Visually Impaired ~~Impaired~~, and the Division of
120 Vocational Rehabilitation. The Department of Health and Social Services shall cooperate with the U.S. United States
121 Department of Education, Rehabilitation Services Administration, and, in accordance with all state laws, prepare the state
122 plan and carry out the Rehabilitation Act of 1973 and ~~amendments thereto~~ its amendments.

123 Section 4. Amend § 8210, Title 29 of the Delaware Code by making deletions as shown by strike through and
124 insertions as shown by underline as follows:

125 § 8210. State Council for Persons with Disabilities.

126 (J) For purposes of this section, the operations and activities of the Division for the Visually Impaired and the
127 ~~Governor's Advisory~~ Council on the Blind ~~shall be~~ are exempt from the purview of the State Council for Persons with
128 Disabilities.

129 Section 5. Amend Chapter 21, Title 31 of the Delaware Code by making deletions as shown by strike through and
130 insertions as shown by underline as follows:

131 CHAPTER 21. ~~Delaware Commission for the Blind~~ Division for the Visually Impaired.

132 Section 6. Amend § 2101, Title 31 of the Delaware Code by making deletions as shown by strike through and
133 insertions as shown by underline as follows and by redesignating accordingly:

134 § 2101. Definitions.

135 As used in this chapter:

136 (1) ~~“Commission” or “Delaware Commission for the Blind” or “Department”~~ means the Department of Health
137 and Social Services.

138 () “Division” means the Division for the Visually Impaired under § 7929 of Title 29, a division of the
139 Department of Health and Social Services.

140 (2) ~~“Person who is blind” means one who is totally blind or has~~ “Person with blindness” means an individual
141 with total blindness or visual acuity of not more than 20/200 in the better better-seeing eye with best conventional
142 correction or whose vision is limited in field so that the widest diameter subtends an angle no greater than 20 degrees.

143 () “Person with visual impairment” means an individual who has a visual acuity of not more than 20/70 to
144 20/200 in the better-seeing eye with the best conventional correction.

145 Section 7. Amend § 2102, Title 31 of the Delaware Code by making deletions as shown by strike through and
146 insertions as shown by underline as follows:

147 § 2102. ~~Persons who are blind; supervision, training and welfare.~~ Supervision of training.

148 The ~~Department shall have~~ Division, through the Department, has ~~supervision and control of the education,~~
149 ~~training and welfare of persons who are blind residing in the State~~ supervision of the training of a person with blindness or
150 a person with visual impairment.

151 Section 8. Amend § 2103, Title 31 of the Delaware Code by making deletions as shown by strike through and
152 insertions as shown by underline as follows:

153 § 2103. ~~Duties; appointment of instructor of persons who are blind; expenditures.~~ Division authority; instructors of
154 persons with blindness or visual impairment.

155 ~~The Commission shall have general supervision and control of the education, training and welfare of persons who~~
156 ~~are blind residing in the State, and for that purpose shall from time to time select and appoint suitable persons to be~~
157 ~~instructors of persons who are blind. The instructors shall at all times be under the sole control of the Commission and shall~~
158 ~~be employed upon such terms and shall do and perform such duties for such periods and in such manner as is determined by~~
159 ~~the Commission.~~ The Division has sole authority over the selection, appointment, employment terms, and performance of
160 an instructor of persons with blindness or persons with visual impairment.

161 Section 9. Amend § 2104, Title 31 of the Delaware Code by making deletions as shown by strike through and
162 insertions as shown by underline as follows:

163 § 2104. ~~Commission’s power to acquire and dispose~~ Acquisition and disposal of property; exemption of property
164 from taxation.

165 (a) ~~The Commission~~ Division may do all of the following:

166 (1) ~~solicit, purchase~~ Solicit, purchase, or otherwise acquire, hold, own, mortgage, ~~sell~~ sell, or assign real ~~and~~
167 or personal property, property.

168 ~~(2) may, solicit, accept and receive any private funds, bequests, legacies or gifts of property real and~~ Solicit,
169 ~~accept, or receive a private fund, bequest, legacy, or gift of property real or personal to be used for the education and~~
170 ~~training of persons who are blind~~ with blindness or persons with visual impairment.

171 (3) In accordance with the directions of a party who devises or donates property under this section, the
172 Division may do all of the following:

173 ~~a. and may hold, manage and~~ Hold, manage, or invest the same and property or collect and disburse the
174 ~~income thereof, and disburse the principal thereof, in accordance with the directions of the parties devising or~~
175 ~~donating the same. or principal of the property.~~

176 ~~b. Hold, own, sell, or dispose of the property and reinvest the proceeds from the sale of the property or~~
177 ~~collect or disburse the income and principal from the property.~~

178 ~~(b) In default of any such direction, the Commission~~ If a party who devises or donates property under this section
179 ~~does not leave direction for the Division to follow under paragraph (a)(3) of this section, the Division~~ shall accept, hold,
180 ~~manage~~ manage, and or dispose of the property and or disburse the income thereof of the property in any a manner in which
181 ~~it~~ the Division deems best adapted to promote the education, training and welfare of persons who are blind residing in the
182 ~~State of a person with blindness or a person with visual impairment. The Commission may hold, own, sell and dispose of~~
183 ~~any such property, real, personal or mixed so purchased or received and may reinvest the proceeds from the sale of any of~~
184 ~~the property and collect and disburse the income therefrom and the principal thereof in the manner above outlined.~~

185 ~~(c) The property of the Commission shall be~~ Division is exempt from taxation.

186 Section 10. Amend § 2105, Title 31 of the Delaware Code by making deletions as shown by strike through and
187 insertions as shown by underline as follows:

188 § 2105. ~~Expenditures by Commission.~~ Division expenditures.

189 ~~The Commission~~ Division may expend such the sums of money as it deems proper and necessary for effectuating
190 ~~the objects of this chapter. Such~~ The sums of money shall may not in the aggregate in any 1 year exceed the sum of money
191 ~~appropriated to the Commission~~ Division for such these purposes.

192 Section 11. Amend § 2106, Title 31 of the Delaware Code by making deletions as shown by strike through and
193 insertions as shown by underline as follows:

194 § 2106. Payment of ~~expenses of the Commission~~ Division expenses.

195 ~~All expenses of the Commission~~ The State Treasurer shall pay out of funds appropriated by the General Assembly
196 ~~the~~ Division's expenses for salaries and wages, office expenses, operation, working capital, materials, repairs and
197 ~~replacements, travel and~~ travel, or other expenses in connection with carrying out the duties of the Commission shall be

198 ~~paid by the State Treasurer out of funds appropriated by the General Assembly for such purpose~~ Division's duties, on
199 ~~vouchers issued by the proper officer or officers of the Commission~~ that the appropriate Division officer issues.

200 Section 12. Amend § 2107, Title 31 of the Delaware Code by making deletions as shown by strike through and
201 insertions as shown by underline as follows:

202 § 2107. Eligibility and applications for ~~instruction~~ services.

203 ~~Any adult person who is blind who is a resident of the State~~ An adult who is and either a person with blindness or
204 a person with visual impairment may make application to the ~~Commission~~ Division to receive ~~instruction and training~~
205 services from the instructors provided under § 2103 of this title. ~~The application shall be in writing and shall be endorsed by~~
206 ~~at least 2 substantial citizens residing in the community in which the applicant resides. The Commission may pass upon the~~
207 ~~application and may grant or refuse the same at its discretion. It shall indicate at what time the instruction shall commence,~~
208 ~~for how long it shall continue, and when it shall determine, and may discontinue the instruction whenever to it it shall seem~~
209 ~~wise or proper so to do.~~ The Division may grant or refuse an application based on eligibility and availability of funds.

210 Section 13. Amend § 2108, Title 31 of the Delaware Code by making deletions as shown by strike through and
211 insertions as shown by underline as follows:

212 § 2108. Duty of agencies, ~~physieians~~ physicians, and nurses to report persons ~~who are blind~~ with blindness and
213 persons with visual impairment.

214 ~~Every~~ Each health ~~and or~~ social agency, attending or consulting ~~physieian or physician,~~ or attending or consulting
215 nurse shall report report, in writing, to the ~~Delaware Commission for the Blind, in writing,~~ Division the name, age age, and
216 residence of ~~persons who are blind within the definition of blindness as set forth in this chapter and in such cases shall~~ each
217 person with blindness or person with visual impairment to whom the agency, physician, or nurse provides service, and
218 furnish such additional information as that the Commission Division requests for the registration or prevention of blindness
219 or visual impairment.

220 Section 14. Amend § 2109, Title 31 of the Delaware Code by making deletions as shown by strike through and
221 insertions as shown by underline as follows:

222 § 2109. Duty of parents and guardians to obtain instruction for children ~~who are blind;~~ with blindness; powers of
223 Commission and Governor. [Repealed.]

224 (a) ~~Every parent, guardian or other person having custody or control of a child who is blind between the ages of 7~~
225 ~~and 18 years residing in this State shall cause the child who is blind to receive instruction and training adapted for persons~~
226 ~~who are blind for at least 6 months in each year until the child has attained the age of 18 years.~~

227 (b) Any child who is blind may be excused by the Commission from receiving instruction and training upon the
228 presentation to the Commission of satisfactory evidence that the child is not in proper physical or mental condition to
229 receive instruction and training.

230 (c) A parent, guardian or other person having custody or control of any child who is blind shall make application
231 to the Commission for instruction and training for the child upon receipt of a notice from the Commission to that effect.
232 The Commission shall grant or refuse such application at its discretion.

233 (d) The amount paid by the Commission to any school or institution outside Delaware for the education of each
234 Delaware child who is blind enrolled therein shall not be greater than the amount paid by the state in which the institution is
235 located for each of its children who are blind enrolled therein.

236 Section 15. Amend § 2110, Title 31 of the Delaware Code by making deletions as shown by strike through and
237 insertions as shown by underline as follows:

238 § 2110. Visitation of institutions outside of State. [Repealed.]

239 ~~The Commission shall appoint a representative to visit the institutions outside this State wherein children who are~~
240 ~~blind of this State are maintained and instructed in order to ascertain whether or not they are receiving proper treatment and~~
241 ~~instruction and are making such improvement or advancement as will justify the State in incurring the necessary expenses~~
242 ~~attached to their remaining in such institutions.~~

243 Section 16. Amend § 2111, Title 31 of the Delaware Code by making deletions as shown by strike through and
244 insertions as shown by underline as follows:

245 § 2111. Payments for vocational rehabilitation.

246 (a) ~~The Commission~~ Division is the authorized agency for vocational rehabilitation of ~~Delawareans who are blind~~
247 a person with blindness or a person with visual impairment. ~~and The Division~~ may pay for the training, ~~maintenanece~~
248 maintenance, ~~and or~~ physical restoration of ~~the persons of this State who are blind who are found to be~~ a person with
249 blindness or a person with visual impairment, and whom the Division finds is eligible for vocational rehabilitation.

250 (b) ~~All payments authorized by this section shall be made by the State Treasurer upon proper voucher. On~~
251 receiving an appropriate voucher, the State Treasurer shall make a payment authorized under this section.

252 Section 17. Amend § 2112, Title 31 of the Delaware Code by making deletions as shown by strike through and
253 insertions as shown by underline as follows:

254 § 2112. Penalties. [Repealed.]

255 (a) ~~Whoever, being a parent, guardian or other person having control of a child who is blind, violates this chapter~~
256 ~~shall be fined not less than \$2.00 nor more than \$10, and, in default of payment of fine, shall be imprisoned not more than~~
257 ~~10 days.~~

258 (b) ~~Justices of the peace shall have jurisdiction of offenses under this section.~~

259 (c) ~~Any person convicted under this section shall have the right of an appeal to the Court of Common Pleas of the~~
260 ~~county in which the conviction was had, upon giving bond in the sum of \$100 to the State with surety satisfactory to the~~
261 ~~justice of the peace by whom the person was convicted. Such an appeal shall be taken and bond given within 3 days from~~
262 ~~the time of conviction.~~

263 Section 18. Amend § 2113, Title 31 of the Delaware Code by making deletions as shown by strike through and
264 insertions as shown by underline as follows:

265 § 2113. Limitations on applicability of chapter.

266 This chapter shall does not apply to ~~any child who is blind who~~ a child who is either a person with blindness or a
267 person with visual impairment and who is being otherwise instructed and educated in a manner ~~satisfactory to the~~
268 ~~Commission that the Division determines is satisfactory.~~

269 Section 19. Amend § 2114, Title 31 of the Delaware Code by making deletions as shown by strike through and
270 insertions as shown by underline as follows:

271 § 2114. Use of products and services of persons ~~who are blind~~ with blindness or persons with visual impairment
272 ~~by state agencies; exceptions; penalty. [Repealed.]~~

273 (a) ~~State institutions and agencies shall, where possible, purchase brooms, mops, rugs, rubber mats and other~~
274 ~~supplies, other than the product of prison labor, from the Commission; provided, that such goods and supplies are of~~
275 ~~standard quality and price.~~

276 (b) ~~State institutions and agencies requiring piano tuning or chair seating shall employ persons recommended by~~
277 ~~the Commission; provided, that such persons are qualified and the service rendered is of standard quality and price.~~

278 (c) ~~When convenience or emergency requires it the executive secretary of the Commission may upon request of~~
279 ~~the purchasing officer of any institution or agency relieve the purchasing officer from the obligation of this section.~~

280 (d) ~~Any purchasing officer who violates this section shall be guilty of a misdemeanor and punished accordingly.~~

281 Section 20. Amend § 2116, Title 31 of the Delaware Code by making deletions as shown by strike through and
282 insertions as shown by underline as follows:

283 § 2116. Contracts for library services.

284 The ~~Commission~~ Division may contract with ~~any a~~ a public library for that library to render library service to
285 ~~persons who are blind throughout the State and the Commission throughout this State to a person with blindness or a person~~
286 with visual impairment. The Division may reasonably compensate ~~sueh~~ the public library for the cost of the service it
287 renders under ~~sueh~~ the contract.

288 Section 21. Amend Chapter 23, Title 31 of the Delaware Code by making deletions as shown by strike through and
289 insertions as shown by underline as follows:

290 CHAPTER 23. Aid to Persons who are Blind. [Repealed.]

291 Section 22. Amend § 2301, Title 31 of the Delaware Code by making deletions as shown by strike through and
292 insertions as shown by underline as follows:

293 § 2301. Definitions. [Repealed.]

294 As used in this chapter:

295 (1) ~~“Applicant” means a person who has applied for assistance under this chapter.~~

296 (2) ~~“Assistance” means money payments to persons who are blind in need.~~

297 (3) ~~“Commission” or “Delaware Commission for the Blind” or “Department” means the Department of Health~~
298 ~~and Social Services.~~

299 (4) ~~“Ophthalmologist” means a physician licensed to practice medicine in this State and who is actively~~
300 ~~engaged in the treatment of diseases of the human eye.~~

301 (5) ~~“Person who is blind” means one who is totally blind or has visual acuity of not more than 20/200 in the~~
302 ~~better eye with correction or whose vision is limited in field so that the widest diameter subtends an angle no greater~~
303 ~~than 20 degrees.~~

304 (6) ~~“Publicly soliciting” means the wearing, carrying or exhibiting of signs denoting blindness or the carrying~~
305 ~~of receptacles for the reception of alms or the doing of the same by proxy or by begging from house to house.~~

306 (7) ~~“Recipient” means a person who has received assistance under the terms of this chapter.~~

307 (8) ~~“Supplementary services” means services other than money payments to persons who are blind in need.~~

308 Section 23. Amend § 2302, Title 31 of the Delaware Code by making deletions as shown by strike through and
309 insertions as shown by underline as follows:

310 § 2302. Duties of the Commission. [Repealed.]

311 ~~The Commission shall:~~

312 ~~(1) Administer assistance to the persons in need who are blind under the regulations of this chapter;~~

313 ~~(2) Make such rules and regulations and take such action as may be necessary or desirable for carrying out the~~
314 ~~provisions of this chapter;~~

315 ~~(3) Designate the procedure to be followed in securing a competent medical examination for the purpose of~~
316 ~~determining blindness in the individual applicant for assistance;~~

317 ~~(4) Establish standards for personnel employed by the Commission in the administration of this chapter and~~
318 ~~make necessary rules and regulations to maintain such standards;~~

319 ~~(5) Prescribe the form of and print such forms as it may deem necessary and advisable;~~

320 ~~(6) Cooperate with the federal government in matters of mutual concern pertaining to assistance to the persons~~
321 ~~in need who are blind, including the adoption of such methods of administration as are found by the federal~~
322 ~~government to be necessary for the efficient operation of the plan for such assistance;~~

323 ~~(7) Publish an annual report and such interim reports as may be necessary, said reports to be submitted to the~~
324 ~~Governor, General Assembly and the Federal Security Administrator or the Administrator's successor;~~

325 ~~(8) Designate ophthalmologists or physicians skilled in the diseases of the eye, duly licensed to practice~~
326 ~~medicine in Delaware and actively engaged in the treatment of diseases of the eye, to examine applicants and recipients~~
327 ~~of assistance to persons who are blind;~~

328 ~~(9) Promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual~~
329 ~~acuity which an applicant may have and still be eligible for assistance under this chapter; and~~

330 ~~(10) Initiate or cooperate with other agencies in developing measures for the prevention of blindness, the~~
331 ~~restoration of eyesight and the vocational adjustment of persons who are blind.~~

332 Section 24. Amend § 2303, Title 31 of the Delaware Code by making deletions as shown by strike through and
333 insertions as shown by underline as follows:

334 § 2303. Eligibility for assistance of persons ~~who are blind~~ with blindness. [Repealed.]

335 ~~Assistance shall be granted under this chapter to any person who is blind who:~~

336 ~~(1) Is 18 years of age or older;~~

337 (2) ~~Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency~~
338 ~~and health;~~

339 (3) ~~Is not an inmate of any public institution at the time of receiving assistance. An inmate of such an~~
340 ~~institution may, however, make application for such assistance but the assistance, if granted, shall not begin until after~~
341 ~~the inmate ceases to be an inmate;~~

342 (4) ~~Has not made an assignment or transfer of property for the purpose of rendering the person eligible for~~
343 ~~assistance under this chapter at any time within 2 years immediately prior to the filing of application for assistance~~
344 ~~pursuant to this chapter; and~~

345 (5) ~~Is not publicly soliciting alms in any part of this State.~~

346 Section 25. Amend § 2304, Title 31 of the Delaware Code by making deletions as shown by strike through and
347 insertions as shown by underline as follows:

348 § 2304. Application for assistance. [Repealed.]

349 ~~Application for assistance under this chapter shall be made to the Commission. The application shall be in writing~~
350 ~~or reduced to writing in the manner and upon the form prescribed by the Commission. Such application shall contain a~~
351 ~~statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which~~
352 ~~the applicant may have at the time of the filing of the application and such other information as may be required by the~~
353 ~~Commission.~~

354 Section 26. Amend § 2305, Title 31 of the Delaware Code by making deletions as shown by strike through and
355 insertions as shown by underline as follows:

356 § 2305. Investigation of applications. [Repealed.]

357 ~~Whenever the Commission receives an application for assistance under this chapter, an investigation and record~~
358 ~~shall promptly be made of the circumstances of the applicant in order to ascertain the facts supporting the application and in~~
359 ~~order to obtain such other information as may be required by the rules of the Commission.~~

360 Section 27. Amend § 2306, Title 31 of the Delaware Code by making deletions as shown by strike through and
361 insertions as shown by underline as follows:

362 § 2306. Eye examination for eligibility. [Repealed.]

363 ~~No application shall be approved until the applicant has been examined by an ophthalmologist, a physician skilled~~
364 ~~in diseases of the eye or an optometrist designated or approved by the Commission to make such examinations. The~~
365 ~~examining ophthalmologist, physician or optometrist shall certify in writing upon forms provided by the Commission the~~
366 ~~findings of the examination.~~

367 Section 28. Amend § 2307, Title 31 of the Delaware Code by making deletions as shown by strike through and
368 insertions as shown by underline as follows:

369 § 2307. Grant of assistance; notice; payments. [Repealed.]

370 ~~Upon the completion of such investigation the Commission shall decide whether the applicant is eligible for~~
371 ~~assistance under this chapter and shall determine in accordance with its rules and regulations the amount of such assistance~~
372 ~~and the date on which such assistance shall begin. The Commission shall notify the applicant of its decision. Such~~
373 ~~assistance shall be paid monthly to the applicant upon order of the Commission from funds allocated to the Commission for~~
374 ~~this purpose.~~

375 Section 29. Amend § 2308, Title 31 of the Delaware Code by making deletions as shown by strike through and
376 insertions as shown by underline as follows:

377 § 2308. Amount of assistance. [Repealed.]

378 ~~The amount of assistance which any person shall receive shall be determined by the Commission with due regard~~
379 ~~to the resources and necessary expenditures of the individual and the conditions existing in each case and in accordance~~
380 ~~with the rules and regulations made by the Commission and shall be sufficient, when added to all other income and support~~
381 ~~of the recipient, to provide such person with a reasonable subsistence compatible with decency and health. In determining~~
382 ~~the need of a person who is blind Commission shall, in order to provide an incentive to rehabilitation and self support,~~
383 ~~disregard the earnings of a person who is blind to the extent of \$150 per month and 50% of the earnings over and above~~
384 ~~\$150 per month, provided, however, that such earnings shall not be so disregarded if the effect thereof would be contrary to~~
385 ~~the requirements of the Federal Social Security Act [42 U.S.C. § 301 et seq.] as amended. In no case, however, shall any~~
386 ~~person who is blind receive assistance from the Commission in excess of a maximum set by the Commission based on the~~
387 ~~amount of funds available for assistance for any given period.~~

388 Section 30. Amend § 2309, Title 31 of the Delaware Code by making deletions as shown by strike through and
389 insertions as shown by underline as follows:

390 § 2309. Assistance not assignable. [Repealed.]

391 ~~Assistance granted under this chapter shall not be transferable or assignable, at law or in equity, and none of the~~
392 ~~money paid or payable under this chapter shall be subject to execution, levy, attachment, garnishment or other legal process~~
393 ~~or to the operation of any bankruptcy or insolvency law.~~

394 Section 31. Amend § 2310, Title 31 of the Delaware Code by making deletions as shown by strike through and
395 insertions as shown by underline as follows:

396 § 2310. Appeal to Commission; hearing. [Repealed.]

397 ~~Any applicant or recipient of assistance who is blind who is dissatisfied with the action of the Commission~~
398 ~~regarding that the claim for assistance under this chapter by the applicant or assistance recipient who is blind may appeal to~~
399 ~~the Chairperson of the Commission and upon such appeal shall be granted an opportunity for a fair hearing before the~~
400 ~~Commission. Any such petitioner shall be given written notice of the time and place of such hearing, as may be prescribed~~
401 ~~by the rules and regulations of the Commission, and may appear in person or by counsel.~~

402 Section 32. Amend § 2311, Title 31 of the Delaware Code by making deletions as shown by strike through and
403 insertions as shown by underline as follows:

404 § 2311. Periodic reconsideration and changes in amount of assistance. [Repealed.]

405 ~~All assistance grants made under this chapter shall be reconsidered by the Commission as frequently as may be~~
406 ~~required by its rules. After such further investigation, the amount of assistance may be changed or assistance may be~~
407 ~~entirely withdrawn if the Commission finds that the recipient's circumstances have altered sufficiently to warrant such~~
408 ~~action.~~

409 Section 33. Amend § 2312, Title 31 of the Delaware Code by making deletions as shown by strike through and
410 insertions as shown by underline as follows:

411 § 2312. Reexamination as to eyesight. [Repealed.]

412 ~~A recipient shall submit to a reexamination as to the recipient's eyesight when required to do so by the~~
413 ~~Commission and shall also furnish any information required by its rules and regulations.~~

414 Section 34. Amend § 2313, Title 31 of the Delaware Code by making deletions as shown by strike through and
415 insertions as shown by underline as follows:

416 § 2313. Supplementary services. [Repealed.]

417 ~~Supplementary services may be provided by the Commission to any applicant or recipient who is in need of~~
418 ~~treatment either to prevent blindness or to restore the applicant's or recipient's eyesight whether or not the applicant or~~
419 ~~recipient is blind if the applicant or recipient is otherwise qualified for assistance under this chapter. The supplementary~~
420 ~~services may include necessary traveling and other expenses to receive treatment from a hospital, clinic, ophthalmologist or~~
421 ~~physician skilled in diseases of the eye, designated by the Commission. In cases of total blindness even where the~~
422 ~~maximum amount of assistance of \$60 per month is allowed, the Commission may provide additional sums for medical and~~

423 nursing care where the income of the recipient from all sources, together with such help as that recipient's family is able to
424 render, is insufficient to provide reasonable subsistence and medical and nursing care compatible with decency and health.

425 Section 35. Amend § 2314, Title 31 of the Delaware Code by making deletions as shown by strike through and
426 insertions as shown by underline as follows:

427 § 2314. Recipient not deemed a pauper. [Repealed.]

428 ~~No person who is blind shall be deemed a pauper by reason of receiving relief under this chapter.~~

429 Section 36. Amend § 2315, Title 31 of the Delaware Code by making deletions as shown by strike through and
430 insertions as shown by underline as follows:

431 § 2315. Duty of recipient to report property or income; actions by the Commission to recover assistance in excess
432 of need. [Repealed.]

433 ~~If at any time during the period of assistance the recipient thereof becomes possessed of any property or income in
434 excess of the amount stated in the application provided for in § 2304 of this title, the recipient shall immediately notify the
435 Commission of the receipt or possession of such property or income and the Commission may, after investigation, either
436 cancel the assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the
437 recipient has come into possession of such property or income and in excess of the recipient's need shall be recoverable by
438 the Commission as a debt due it. Such action for the recovery of assistance shall not be abated by the death of the recipient.~~

439 Section 37. Amend § 2316, Title 31 of the Delaware Code by making deletions as shown by strike through and
440 insertions as shown by underline as follows:

441 § 2316. Federal financial participation. [Repealed.]

442 ~~The State Treasurer shall receive all money paid to the State by the Secretary of the Treasury of the United States
443 on account of assistance provided under this chapter and make payments from such moneys and moneys appropriated under
444 this chapter in accordance with this chapter and the United States Social Security Act [42 U.S.C. § 301 et seq.].~~

445 Section 38. Amend § 2317, Title 31 of the Delaware Code by making deletions as shown by strike through and
446 insertions as shown by underline as follows:

447 § 2317. Penalties for fraud. [Repealed.]

448 ~~Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain by means of a wilfully
449 false statement or representation or by impersonation, or other fraudulent device, assistance to which the person is not
450 entitled or assistance greater than that to which the person is justly entitled, or whoever aids or abets in buying or in any
451 way disposing of the property, either personal or real, of a recipient of assistance without the consent of the Commission~~

452 shall be fined not more than \$500, or imprisoned not more than 6 months, or both. In assessing the penalty the court shall
453 take into consideration, among other factors, the amount of money fraudulently received.

454 Section 39. Amend § 2318, Title 31 of the Delaware Code by making deletions as shown by strike through and
455 insertions as shown by underline as follows:

456 § 2318. Effect of change of law on assistance granted. [Repealed.]

457 All assistance granted under this chapter shall be deemed to be granted and to be held subject to the provisions of
458 any amending or repealing act that may hereafter be passed and no recipient shall have any claim for compensation or
459 consideration because of the recipient's assistance being affected in any way by any amending or repealing act.

SYNOPSIS

This Act is a result of the Joint Legislature Oversight and Sunset Committee's ("JLOSC") review of the Division for the Visually Impaired ("DVI") and represents the collaboration of several state agencies and other stakeholders.

The General Assembly originally codified DVI in 1909 as the Delaware Commission for the Blind, Delaware's first state agency. DVI was established in § 7929, Title 29 in 1978 and housed under the Department of Health and Social Services. The JLOSC review and subsequent task force on DVI revealed changes needed under Title 14, 29, and 31.

This Act modernizes the portions of Titles 14, 29, and 31 relating to persons with blindness, including:

- Updating sections language pertaining to the federal Vocational Rehabilitation ("VR") program, which includes the Business Enterprise Program. DVI is an approved VR agency under the federal program. The Rehabilitation Services Administration (RSA) is the federal agency who oversees DVI's VR program. The RSA completes audits on DVI's VR program and provides ongoing guidance and support. This Act makes amendments to areas identified in the JLOSC review process and by RSA during their recent audit.

- Updating language in Title 14 relating to teacher certification. Teachers that DVI employs are certified teachers of the visually impaired and must meet all Department of Education ("DOE") requirements. This area of law is extensively regulated under the DOE's regulations relating to educational services to all children with disabilities, including blindness. See Regulation 925 of Title 14 of the Delaware Administrative Code. DVI worked in collaboration with the Department of Education on updates to Title 14 and removed outdated information on teacher certification.

- Repealing Chapter 23, Title 31. Chapter 23 is outdated language that codified the duties of the previous entity, the Commission for the Blind. DVI does not provide the services under Chapter 23.

- Correcting the title of the Council on the Blind in § 8210, Title 29.

- Removing remaining references to the Commission on the Blind.

- Replacing antiquated language with the appropriate phrase, "person with blindness" or "person with visual impairment."

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.