



SPONSOR: Rep. Longhurst & Sen. Poore & Sen. Gay
Reps. Baumbach, Briggs King, K. Johnson, Minor-
Brown; Sens. Buckson, Hansen, Hocker, Hoffner,
Huxtable, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 160

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO 988 BEHAVIORAL HEALTH CRISIS INTERVENTION SERVICES.

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

Section 1. Amend Part XII, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 102A. 988 Behavioral Health Crisis Intervention Services

Subchapter I. General Provisions.

§ 10201A. Definitions.

As used in this chapter:

(1) "988" means the National Suicide Prevention Lifeline, or its successor, maintained under 42 U.S.C. § 290bb-36c.

(2) "Behavioral health condition" includes mental health conditions, substance use disorders, co-occurring disorders, and co-existing conditions.

(3) "Behavioral health crisis" means a situation in which an individual, because of the individual's actual or perceived behavioral health condition, is at risk of causing or experiencing harm absent the provision of appropriate treatment and services.

(4)a. "Behavioral health treatment program" means a provider delivering any combination of professional counseling, guidance services, or treatment to an individual with a behavioral health condition.

b. "Behavioral health treatment program" does not include a licensed behavioral health practitioner's outpatient practice office or a psychiatric hospital as defined in § 1001 of this title.

(5) "Board" means the Behavioral Health Crisis Intervention Services Board established under § 10211A of this title.

(6) "Call for crisis intervention services" or "call" means telecommunication by an individual to the Center.

(7) “Center” means the Behavioral Health Crisis Communications Center established under § 10232A of this title.

(8) “Certified peer recovery specialist” means an individual with a valid certification as a certified peer recovery specialist issued by the Delaware Certification Board.

(9) “Co-existing conditions” means the coexistence of a co-occurring disorder and a physical health condition.

(10) “Co-occurring disorders” means the coexistence of both a mental health condition and a substance use disorder.

(11)a. “Crisis intervention services” means services intended to address the needs of an individual in crisis.

b. “Crisis intervention services” includes mobile crisis teams, crisis receiving and stabilization programs, short-term residential programs, and certified peer recovery specialist-operated respite programs.

(12) “Division” means the Division of Substance Abuse and Mental Health of the Department of Health and Social Services.

(13) “Fund” means the Behavioral Health Crisis Intervention Services Fund created under § 10212A of this title.

(14) “Individual in crisis” means an individual experiencing a behavioral health crisis.

(15) “Licensed behavioral health practitioner” means an individual who is at least one of the following:

a. A psychiatrist, as defined under § 5001 of this title.

b. An advanced practice registered nurse as defined in § 1902 of Title 24 who is certified as a psychiatric-mental health nurse practitioner by the American Nurses Credentialing Center.

c. A registered nurse as defined in § 1902 of Title 24 who is certified as a psychiatric-mental health registered nurse by the American Nurses Credentialing Center.

d. A licensed professional counselor or licensed associate counselor of mental health as defined in § 3031 of Title 24.

e. A baccalaureate social worker, licensed clinical social worker, or master's social worker as defined in § 3902 of Title 24.

f. A psychologist or psychological assistant licensed under Chapter 35 of Title 24.

g. A licensed chemical dependency professional as defined in § 3041 of Title 24.

h. A certified advanced alcohol and drug counselor or certified alcohol and drug counselor certified by the Delaware Certification Board.

(16)a. “Mental health condition” means a substantial psychiatric disorder of thought, mood, perception, or orientation.

b. “Mental health condition” includes gambling disorders.

(17) “Mobile crisis team” means pairing a licensed behavioral health practitioner and a certified peer recovery specialist to respond on-site to an individual in crisis.

(18) “Public safety answering point” means 911-Enhanced Report Center as defined in § 10002 of this title.

(19) “Substance use disorder” means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual uses a substance despite significant substance-related problems such as impaired control, social impairment, risky behaviors, pharmacological tolerance, and withdrawal.

(20) “Telecommunication” means the transmission between and among points specified by the consumer, or information of the consumer's choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment, or technology used.

§ 10202A. Behavioral health crisis intervention services.

(a) The Division shall administer the provision of crisis intervention services in this State.

(b) Subject to this chapter, the Division shall establish operational standards, procedures, and protocols to administer the provision of crisis intervention services in this State.

(c) The Division may employ individuals qualified by appropriate ability, education, and experience to administer the provision of crisis intervention services in this State.

§ 10203A. Authorized disclosures by law-enforcement officers.

Whenever a law-enforcement officer reasonably believes that an individual is experiencing a behavioral health crisis, the officer may disclose identifying information of the individual in crisis and a brief event synopsis to the Division and a program offering crisis intervention services authorized by the Division.

Subchapter II. Behavioral Health Crisis Services Board and Fund

§ 10211A. Behavioral Health Crisis Intervention Services Board.

(a) The Behavioral Health Crisis Services Intervention Board is established.

(b) The Board shall do all of the following:

(1) Develop and recommend a comprehensive statewide crisis intervention services plan and annually review and update the recommended plan. The Board shall submit the recommended plan with the report required under paragraph (b)(4) of this section.

79 (2) Within 3 years of the initial convening of the Board, and every 3 years thereafter, the Board shall review
80 the provision of crisis intervention services in this State and make a written report of the Board's findings and
81 recommendations. The Board shall submit the report with the report required under paragraph (b)(4) of this section.

82 (3) Make recommendations to the Governor and General Assembly, consistent with the purposes for
83 expenditures under § 10213A(b) of this title, for appropriating moneys expected to be received in the next fiscal year.
84 The Board shall submit the recommendations with the report required under paragraph (b)(4) of this section.

85 (4) Provide a written report not later than November 15 of each year to all of the following:

86 a. The Governor.

87 b. The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

88 c. The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

89 d. The Controller General.

90 e. The Director and Legislative Librarian of the Division of Research.

91 f. The Director of the Public Archives.

92 g. The Secretary of the Department of Health and Social Services.

93 h. The Secretary of the Department of Safety and Homeland Security.

94 i. The Secretary of the Department of Services for Children, Youth and Their Families.

95 (c) The Board is comprised of all of the following members:

96 (1) The following members serving by virtue of position, or a designee appointed by the member:

97 a. The Director of the Division of Substance Abuse and Mental Health.

98 b. The Director of the Division of Prevention and Behavioral Health Services.

99 c. The Director of the Division of Medicaid and Medical Assistance.

100 d. The Insurance Commissioner.

101 e. The Chair of the Behavioral Health Consortium.

102 f. The Chair of the Behavioral Health Planning and Advisory Council.

103 g. The Chair of the Delaware Emergency Medical Services Oversight Council.

104 h. The Executive Director of the State Council for Persons with Disabilities

105 i. The President of the Delaware Association of Chiefs of Police.

106 j. The Chair of the Delaware Suicide Prevention Coalition.

107 k. The Executive Director of the Delaware Office of Veterans Services.

108 l. The Chair of the Enhanced 911 Emergency Reporting System Service Board.

109 m. The Executive Director of the Delaware Healthcare Association.

110 n. The Executive Director of the National Alliance on Mental Illness in Delaware.

111 o. The President of the Mental Health Association in Delaware.

112 (2) Three members serving by appointment of the Governor as follows:

113 a. A certified peer recovery specialist.

114 b. A licensed behavioral health practitioner who provides crisis intervention services.

115 c. A member of the public who has utilized crisis intervention services in this State.

116 (d) The members appointed by the Governor serve at the pleasure of the Governor.

117 (e) The Director of the Division of Prevention and Behavioral Health and the Director of the Division of Substance
118 Abuse and Mental Health, or their designees, shall serve as co-chairs of the Board.

119 (f) Whenever a member designates a designee under this section, the member shall inform the Board's co-chairs in
120 writing. A member's designee serves at the pleasure of the member and has the same duties and rights as the member.

121 (g) The Board shall adopt rules or procedures governing the Board's work, including ethical standards and
122 procedures to identify and address conflicts of interest.

123 (h) The Board shall meet at least quarterly.

124 (i) A majority of the Board's current membership constitutes a quorum. Vacancies do not count for purposes of
125 establishing a quorum.

126 (j) Official action of the Board requires approval of a majority of a quorum of the Board.

127 (k) The Division shall provide administrative services to the Board. The Division may seek reimbursement from
128 the Fund for reasonable costs incurred in providing administrative services to the Board.

129 § 10212A. Behavioral Health Crisis Intervention Services Fund.

130 (a) A special fund, known as the "Behavioral Health Crisis Intervention Services Fund," is created to support the
131 operation and maintenance of the Center, a crisis intervention services system, and the continuum of behavioral health
132 services.

133 (b) The Department of Finance shall deposit all of the following into the Fund:

134 (1) Money collected under this chapter.

135 (2) Grants, gifts, and other money intended for the Fund.

136 (3) Money appropriated or transferred to the Fund by the General Assembly.

(c) The State Treasurer shall invest the Fund consistent with the investment policies established by the Cash Management Policy Board and credit interest to the Fund monthly consistent with the rate established by the Cash Management Policy Board.

(d) Money in the Fund at the end of a State fiscal year carries forward and must not revert to the General Fund.

(e) At least monthly, the State Treasurer shall provide a statement of account of the Fund to the co-chairs of the Board.

§ 10213A. Disbursements from the Fund.

(a) The Division may not expend the moneys in the Fund except under an appropriation authorized in the annual appropriation act or annual bond and capital improvement act.

(b) Moneys in the Fund may be expended for any of the following purposes in furtherance of the administration of this chapter:

(1) Establishing, operating, maintaining, and improving 988 and the Center, including personnel costs, technology, and infrastructure enhancements necessary to achieve operational and clinical standards and evidence-based best practices.

(2) Providing crisis intervention services.

(3) Recruiting and retaining qualified personnel.

(4) Providing specialized training related to serving at-risk communities, including providing culturally and linguistically competent services.

(5) Raising public awareness of 988, behavioral health crisis intervention services available in this State, and education on behavioral health conditions.

(6) Data collection and analysis, reporting, evaluation participation, and related quality improvement activities.

(7) Administration, oversight, and evaluation of the Fund.

(8) Reimbursement of money appropriated by the General Assembly to implement this chapter.

(9) Any other purpose authorized by the annual appropriation act or annual bond and capital improvement act.

(c) The Director of the Office of Management and Budget may waive the procurement requirements under Chapter 69 of Title 29 for expenditures made from the Fund.

(d) The Secretary of the Department of Health and Social Services shall provide a written report not later than the second Tuesday of January each year to all of the following regarding each expenditure made under the Fund in the previous fiscal year and to what extent the expenditure accomplished the intended purpose of the expenditure:

167 (1) The Governor.

168 (2) The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

169 (3) The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

170 (4) The Controller General.

171 (5) The Director and Legislative Librarian of the Division of Research.

172 (6) The Director of the Public Archives.

173 (7) The Secretary of the Department of Safety and Homeland Security.

174 (8) The Secretary of the Department of Services for Children, Youth and Their Families.

175 (9) The Board.

176 Subchapter III. Behavioral Health Crisis Intervention Services Surcharges

177 § 10221A. Definitions

178 As used in this subchapter:

179 (1) “Access line” means a wireline, wireless, or VoIP communications service line allowing a consumer to
180 make an outbound communication to 988. The term does not include a direct inward dialing number, extension, or
181 other similar feature that routes an inbound call and cannot provide access to 988.

182 (2) “Communications services” includes prepaid, VoIP, wireless, and wireline communications services

183 (3) “Consumer” means a person who purchases communications services from a retailer. The term does not
184 include a person who purchases communications services from a retailer for resale.

185 (4) “Prepaid communications service” means a telecommunications service that must be paid for in advance,
186 sold in predetermined units or dollars declining with use in a known amount, and is capable of allowing a consumer to
187 make an outbound communication to 988.

188 (5) “Retail transaction” means purchasing prepaid communications service from a retailer for a purpose other
189 than resale.

190 (6) “Retailer” means a person that sells wireline, wireless, or VoIP communications service or prepaid
191 communications service to a consumer.

192 (7) “Behavioral health crisis intervention services surcharge” or “surcharge” means the amount imposed by a
193 retailer on a consumer under this subchapter.

194 (8) “Voice over Internet Protocol communications service” or “VoIP communications service” means a
195 service that enables real-time, two-way voice communication that originates from and terminates to the consumer's

location using Internet Protocol or any successor protocol and generally permits users to receive calls originating on the public switched telephone network and to terminate calls to the network.

(9) "Wireless communications service" means a telecommunication service provided to a consumer. The term does not include prepaid, wireline, or VoIP communications services.

(10) "Wireline communications service" means a local exchange or telecommunications service provided at a physical location to a consumer.

§ 10222A. Behavioral health crisis intervention services surcharges; persons subject to surcharges; exclusions.

(a) Except as provided under subsection (b) of this section, a retailer shall impose a surcharge of 60 cents per month on each access line provided to a consumer whenever any of the following occur:

(1) The retailer bills the consumer at a Delaware address.

(2) The agreement between the retailer and consumer is consummated at a physical location in Delaware.

(3) The access line is physically connected to a Delaware address.

(4) The consumer provides a Delaware address to the retailer, including an address associated with the customer's payment instrument.

(5) The retailer's records maintained in the regular course of business indicate a consumer has a Delaware address.

(6) A customer's telephone number contains the area code 302 or is otherwise associated with a Delaware location.

(b) A retailer may not impose the surcharge on Lifeline Program consumers or wholesalers.

(c) Except as provided under subsections (d) and (e) of this section, a retailer shall impose a surcharge of 60 cents on each retail transaction whenever any of the following occur:

(1) The transaction is consummated at a physical location in Delaware.

(2) The prepaid wireless telecommunications service is physically delivered to a Delaware address.

(3) A retailer's records maintained in the regular course of business indicate a consumer has a Delaware address.

(4) A consumer provides a Delaware address during the transaction's consummation, including an address associated with the consumer's payment instrument.

(5) A consumer's telephone number contains the area code "302" or is otherwise associated with a Delaware location.

(d) If a retailer sells a prepaid wireless device with prepaid communication service for a single, nonitemized price, and the amount of service is \$5.00 or less, the retailer may decline to impose the surcharge.

(e) A retailer may not impose the surcharge on prepaid communication services provided through the Lifeline program.

§ 10223A. Collection of surcharges by retailers; remittance; cost recovery; exclusion from base measurement.

(a) A retailer shall collect the surcharge under § 10222A of this title as follows:

(1) On each access line from a consumer on the State's behalf with each invoicing of the consumer.

(2) On each retail transaction from a consumer on the State's behalf with each retail transaction.

(b) A retailer shall separately state the amount of the surcharge on a bill, invoice, receipt, or other similar documents that the retailer provides to the consumer.

(c) A retailer shall remit collected surcharges to the Department of Finance quarterly.

(d) A retailer may deduct and retain 3% of collected surcharges.

(e) The surcharges collected by a retailer and documented under subsection (b) of this section may not be included in the base for measuring any tax, fee, surcharge, or other charges.

§ 10224A. Immunity and liability; uncollectable surcharges.

(a) The surcharge is the consumer's liability, not the retailer's.

(b) Except as provided under subsection (c) of this section, a retailer collecting the surcharge fulfills a governmental function and is immune from a suit for damages and not liable for refunds.

(c) If a retailer fails to collect or remit the surcharge, the immunity and liability provisions of subsection (b) of this section do not apply.

(d) A retailer is not responsible for uncollectable surcharges.

§ 10225A. Administrative provisions.

(a) The Department of Finance may adopt regulations or policies and procedures to administer, enforce, and implement this subchapter.

(b) A retailer shall remit surcharges under § 10222A of this title on forms authorized by the Director of the Division of Revenue.

(c) Subject to this chapter, the Department of Finance may make agreements with a retailer relating to collecting and remitting surcharges.

(d) To the extent practicable, the audit, appeal, and other administrative provisions of Chapters 3 and 5 of Title 30 apply to the administration of surcharges.

Subchapter IV. Behavioral Health Crisis Communications Center

§ 10231A. Definitions.

As used in this subchapter, “behavioral health crisis communications system” or “system” means the technological platform established under § 10234A of this title.

§ 10232A. Establishment of a statewide behavioral health crisis communications center.

(a) The Division shall establish, operate, and maintain a statewide behavioral health crisis communications center known as the “Behavioral Health Crisis Communications Center”.

(b) The purpose of the Center is to receive calls from individuals experiencing a behavioral health crisis or persons requesting assistance for an individual in crisis, provide appropriate crisis intervention services, deliver quality coordination of behavioral health crisis care, and conduct follow-up to ensure appropriate connection to treatment and services.

(c) Subject to this chapter, the Division shall establish operational standards, procedures, and protocols for the Center.

§ 10233A. Requirements.

(a) The Center shall operate 24 hours every day and answer each call made to the Center.

(b) The Center shall serve individuals regardless of age, behavioral health condition, or location.

(c) The Center shall establish and maintain an active network participation agreement with the National Suicide Prevention Lifeline.

(d) The Center shall meet the National Suicide Prevention Lifeline requirements and best practices guidelines for operational and clinical standards.

(e) The Center shall meet the National Suicide Prevention Lifeline requirements for serving high-risk and specialized populations identified by the Substance Abuse and Mental Health Services Administration of the United States Department of Health & Human Services.

(f) Subject to the requirements of § 10234A of this title, the Center shall develop, establish, operate, and maintain a behavioral health crisis communications system.

(g) The Center shall coordinate mobile crisis teams and other outgoing services to individuals experiencing a behavioral health crisis.

(h) The Center shall coordinate access to crisis receiving and stabilization services or other appropriate resources for individuals experiencing a behavioral health crisis.

(i) The Center shall provide follow-up services to individuals consistent with the National Suicide Prevention Lifeline's guidance and policies.

§ 10234A. Behavioral health crisis communications system.

(a) The system must be capable of receiving calls via telephone, text message, internet-based chat, and other similar methods.

(b) The system must do all of the following:

(1) Be interoperable with other crisis and emergency response systems, including systems used by public safety answering points.

(2) Have the capability to 1-button transfer call data to a public safety answering point.

(3) Include an integrated referral ability to provide information to other entities involved in behavioral health care.

(4) Provide access to real-time information relevant to the coordination of behavioral health crisis services, including bed availability for behavioral health treatment programs and services.

(5) Facilitate dispatching mobile crisis teams.

(6) Allow for tracking mobile crisis teams using global positioning technology.

(7) Include a mobile application for mobile crisis teams and others responding to an individual in crisis.

(c) The system must automatically collect data related to calls and provide real-time reporting.

(d) The system must either include or allow for the integration of case management, quality assurance, and billing software.

(e) The Board may establish additional requirements for the system.

Section 2. This Act takes effect on enactment and is to be implemented the earlier of the following:

(1) Six months from the date of the Act's enactment.

(2) The date of publication in the Register of Regulations of a notice of implementation by the Secretary of the Department of Health and Social Services.

SYNOPSIS

The National Suicide Hotline Designation Act of 2020 established 988 as the universal phone number for "the national suicide prevention and mental health crisis hotline system operating through the National Suicide Prevention Lifeline." This Act provides the framework to maximize the benefits of 988 and provide crucial support to Delawareans in need through the implementation of a practical, modern, and comprehensive, integrated crisis care system. Under this Act, the proposed integrated crisis care system consists of a statewide 24/7 behavioral health crisis communications center capable of telephonic, text, and chat to receive communications made to 988. This Act requires the Division of Substance Abuse and Mental Health to ensure the availability of mobile crisis teams to respond to individuals in crisis and crisis stabilization programs operated by community-based providers to provide a place for an individual in crisis to go.

To implement this framework, this Act establishes the Behavioral Health Crisis Services Board to provide additional oversight and input on the development of the system. This Act establishes the Behavioral Health Crisis Communications Center, a statewide and continuously operated communications hub for taking 988 and other communications related to behavioral health. The Center is under a partnership between the Division of Substance Abuse

and Mental Health and the Department of Children, Youth, and Their Families to provide services to Delawareans of all ages.

This Act establishes dedicated funding sources for behavioral health crisis services and creates the Behavioral Health Crisis Intervention Services Fund. Specifically, this Act establishes a 60-cent per month per line fee on phone lines and a 60-cent one-time fee on prepaid services.

This Act requires a greater than majority vote for passage because § 11 of Article VIII of the Delaware Constitution requires the affirmative vote of three-fifths of the members elected to each house of the General Assembly to impose or levy a tax or license fee.