



SPONSOR: Rep. Phillips & Rep. Dorsey Walker & Rep. Lynn & Sen. Hoffner & Sen. Pinkney & Sen. Townsend
Reps. Baumbach, Bolden, Lambert, Morrison, Neal, Romer, Wilson-Anton; Sen. S. McBride

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 55

AN ACT TO AMEND TITLE 6 AND TITLE 31 OF THE DELAWARE CODE RELATING TO INDIVIDUALS WHO ARE HOMELESS.

1 WHEREAS, the 2023 point in time check showed there were 1,255 homeless individuals in Delaware; and
2 WHEREAS, this was a significant increase in homelessness in Delaware especially unsheltered; and
3 WHEREAS, almost 200 people in Delaware were unsheltered during the 2023 point in time check; and
4 WHEREAS, this was a 28% increase from the prior year; and
5 WHEREAS, in January 2022 35,574 Veterans experienced homelessness; and
6 WHEREAS, Veterans are 50% more likely to experience homelessness than other Americans; and
7 WHEREAS, the Delaware 2023 stand down had 31 Veterans state they are at risk for homelessness; and
8 WHEREAS, it is the policy of the State to ensure that the peace, health, safety, and general welfare of all the
9 inhabitants of the State are protected.

10 NOW, THEREFORE:

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

12 Section 1. Amend Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as
13 shown by underline as follows:

14 Chapter 45A. Bill of Rights for Individuals Experiencing Homelessness.

15 § 4501A. Short title.

16 This chapter may be cited as the “Bill of Rights for Individuals Experiencing Homelessness”.

17 § 4502A. Declaration of Policy.

18 The policy of this State is to assure that all individuals, regardless of housing status, have equal opportunity to live
19 in decent, safe, sanitary, and healthful accommodations anywhere within the State. It is also the policy of this State that all

20 individuals, regardless of housing status, enjoy equality of opportunities, more generally, in order to protect and ensure the
21 peace, health, safety, and general welfare of all inhabitants of the State.

22 § 4503A. Definitions.

23 As used in this chapter:

24 (1) “Commission” means the State Human and Civil Rights Commission.

25 (2) “Complainant” means an individual who files a complaint alleging that a discriminatory act occurred.

26 (3) “Conciliation” means the attempted resolution of issues raised by a complaint, or by the investigation of a
27 complaint, through informal negotiations involving the aggrieved person, the respondent and the Division.

28 (4) “Discriminatory act” means a violation of § 4504A(a) of this title.

29 (5) “Division” means the Division of Human and Civil Rights.

30 (6) “Emergency shelter” means a facility that provides shelter for individuals experiencing homelessness.

31 (7) “Housing status” means the type and location of housing in which an individual resides or has resided, and
32 the status of having or not having a fixed or regular residence. All of the following are examples of “housing status”:

33 a. The status of living or having lived on the street, in a temporary shelter, or other temporary residence.

34 b. The status of living or having lived in an institution.

35 c. The status of living or having lived in public housing, at a particular address, or in a particular
36 neighborhood.

37 d. The status of being an individual experiencing homelessness.

38 (8) “Individual experiencing homelessness” means any of the following:

39 a. An individual who is living in a place not meant for human habitation or in a temporary shelter.

40 b. An individual who is exiting an institution and who met the definition of individual experiencing
41 homelessness under another paragraph (8)a., (8)c., (8)d., or (8)e. of this section immediately before entering the
42 institution.

43 c. An individual who will lose the individual’s housing within 14 days.

44 d. An individual that does not have housing and is unlikely to obtain housing, including an
45 unaccompanied youth or guardian with a child, that satisfies either of the following:

46 1. Has not had a lease or ownership interest in a housing unit in at least the previous 60 days and is
47 unlikely to obtain housing.

48 2. Changed housing at least twice in the last 60 days, and who is unlikely to obtain housing.

49 e. An individual who is fleeing or attempting to flee domestic abuse, has no other housing, and lacks the
50 resources or support networks to obtain housing.

51 f. An individual regarded as being an individual experiencing homelessness.

52 (9) “Institution” means a facility in which an individual is committed due to involvement with the criminal
53 justice system or committed or enters for treatment, and includes a prison, behavioral health facility, hospital, half-way
54 house.

55 (10) “Respondent” means the person named in a complaint filed with the Division of Human and Civil Rights
56 and that is alleged to have committed a discriminatory act.

57 (11) “Temporary shelter” means an emergency shelter or transitional housing provided to individuals
58 experiencing homelessness.

59 (12) “Transitional housing” means any facility whose primary purpose is to facilitate the movement of
60 individuals experiencing homelessness to permanent housing within approximately 24 months.

61 (13) “Unaccompanied youth” means a homeless child that is not in the physical custody of a parent or
62 guardian.

63 § 4504A. Bill of rights.

64 (a) An individual’s rights, privileges, and access to public services may not be denied or abridged solely because
65 the individual is an individual experiencing homelessness. An individual experiencing homelessness is granted the same
66 rights and privileges as any other resident of this State. An individual experiencing homelessness has all of the following
67 rights:

68 (1) To use and move freely in public spaces, including public sidewalks, public parks, public transportation,
69 and public buildings, in the same manner as any other individual and without discrimination on the basis of the
70 individual’s housing status.

71 (2) Not to face discrimination by a State, county, or municipal agency.

72 (3) Not to face discrimination while seeking or maintaining housing due to the individual’s lack of a
73 permanent address, the individual’s address being that of a shelter or social service provider, or the individual’s
74 housing status. This right does not, however, entitle an individual facing eviction to a truncated or expedited housing
75 application process that might limit consideration of the reason for eviction in an evaluation of the individual’s
76 reliability as a tenant, nor does it prohibit a shelter from establishing and adhering to a policy relating to a maximum
77 length of stay for an individual in that shelter.

78 (4) Not to face discrimination while seeking temporary shelter because of race, color, religion, creed, age,
79 gender, sexual orientation, gender identity, marital status, familial status, disability, national origin, or housing status,
80 except in the case of temporary shelters specifically designated for a specific gender or familial status, or in the case of
81 funding sources that require certain populations be served. This right does not introduce any new requirement with
82 regard to the obligation of shelters or other providers to update their facilities or provide new accommodations.

83 (5) To medical and dental care, free from discrimination based on the individual's housing status.

84 (6) To protection from unlawful disclosure of the individual's records and information provided to temporary
85 shelters, service providers, and State, county, municipal, and private entities, including the right to confidentiality of
86 personal records and information in accordance with all limitations on disclosure established by the Delaware
87 Community Management Information System, the federal Health Insurance Portability and Accountability Act of
88 1996, 42 U.S.C. §§ 1320d, et seq., and the federal Violence Against Women Act, 34 U.S.C. §§ 12291, et seq.

89 (7) The same reasonable expectation of privacy in the individual's personal property while residing in
90 temporary shelter as an individual residing in a permanent residence. This right may not, however, be construed to
91 prevent reasonable searches performed pursuant to posted rules.

92 (8) The same reasonable expectation of privacy in the individual's personal property while in public spaces as
93 an individual who is not homeless, and the same reasonable expectation of respect for the individual's personal
94 property as an individual who is not an individual experiencing homelessness. These rights may not be construed to
95 prevent reasonable searches otherwise conducted in accordance with law, or to prevent nondiscriminatory enforcement
96 of other laws, including anti-loitering laws.

97 (9) To occupy a motor vehicle or recreational vehicle, provided that the vehicle is legally parked on public
98 property.

99 (10) To pray, meditate, worship, or practice religion in a public space without discrimination based on
100 housing status.

101 (11) To eat, drink, share, accept, or give food and non-alcoholic beverages in a public space in which having
102 food and beverages is not prohibited.

103 (b) A political subdivision of this State may not adopt any policy, including a law, ordinance, or regulation,
104 contrary to subsection (a) of this section.

105 (c) An individual may file a complaint alleging a discriminatory act with the Division as described in §
106 4508A. The Division shall enforce this section in the manner provided in this chapter.

107 (d) Violation of this section subjects the violator to the civil penalties provided in this chapter.

108 § 4505A. Authority of the Commission to delegate.

109 (a) The Commission shall implement any of the provisions of this chapter that are not expressly vested in another
110 entity.

111 (b) The Commission may delegate to a panel of its members any power, duty, or function vested in it under this
112 chapter. No panel to which any power, duty, or function of the Commission is delegated may consist of fewer than 3
113 members of the Commission.

114 (c) The Commission may delegate to the Division any power, duty, or function vested in it under this chapter,
115 unless the delegation is expressly prohibited. If the Commission delegates to the Division a power, duty, or function vested
116 in it under this chapter, the delegation shall specifically state the power, duty, or function being delegated.

117 (d) The Commission may not delegate to the Division the Commission's power or duty to conduct public hearings
118 or order relief.

119 § 4506A. Commission's power to adopt rules.

120 (a) The Commission may, in accordance with the Administrative Procedures Act [Chapter 101 of Title 29], adopt
121 regulations concerning all of the following:

122 (1) The way in which complaints must be investigated.

123 (2) The way in which other investigations under this chapter must be conducted.

124 (3) The way in which public hearings must be conducted.

125 (4) The general form and content of agreements and orders provided under this chapter.

126 (5) Other topics that the Commission considers appropriate to assist it in performing its duties and in carrying
127 out the purposes of this chapter.

128 § 4507A. Education.

129 (a) The Commission and the Division may conduct educational activities and conferences to further the
130 purposes of this chapter. The Commission and the Division may issue reports on conferences.

131 (b) The Division shall endeavor to develop, with the advice of interested parties, programs of voluntary
132 compliance and enforcement.

133 (c) When undertaking their respective duties under this section, the Commission and the Division may consult
134 with state, county, and municipal officials, and other interested parties, to learn the extent, if any, to which discriminatory
135 acts exist in the State, county, or municipality, and whether and how state, county, or municipal enforcement
136 programs might be utilized to combat the discrimination. The Commission may issue reports on the consultations described
137 in this subsection.

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§ 4508A. Complaint procedure.

(a) An individual believing themselves aggrieved by a discriminatory act may file with the Division a complaint, in writing, which states all of the following:

(1) The individual's name.

(2) A description of where the alleged discriminatory act occurred, including the name of the place, if applicable and known, and the location.

(3) The date, time, and a description of the alleged discriminatory act.

(4) If known, the name and address of each respondent.

(5) The signature of the individual.

(6) Any other information that the Division requires.

(b) A complaint may not be filed with the Division more than 90 days after the occurrence of the alleged discriminatory act.

(c) Within 90 days after the complaint is filed, the Division shall investigate the complaint, and endeavor to eliminate any unlawful discriminatory act discovered through conciliation or refer the matter to the Attorney General as set out in subsection (d) of this section.

(1) If possible, a conciliation meeting will be held in the county where the alleged discriminatory act occurred.

(2) If the matter is resolved through conciliation, the parties shall enter a conciliation agreement stating the terms of the resolution of the matter.

(3) If the Division determines that the allegations in the complaint do not state a claim for which relief is available under this chapter or that the Division lacks jurisdiction, the Division may petition the Commission, with notice to the complainant and the respondent, if the respondent has been served the complaint at the time the Division petitions, to dismiss the complaint.

(d) When the party alleged to have engaged in a discriminatory act is a law enforcement officer or law enforcement agency, the Division will conduct a preliminary investigation to verify an interaction occurred. Upon preliminary confirmation, the Division shall refer the matter to the Department of Justice for further appropriate investigation and resolution.

(e) When the Division has reasonable cause to believe that a respondent breached a conciliation agreement, the Division shall refer the matter to the Attorney General with a recommendation that a civil action be filed under § 4511A of this title for the enforcement of the conciliation agreement.

167 (f) If a complaint cannot be resolved through conciliation as provided in subsection (c) of this section, the
168 Commission shall appoint a panel to hold a public hearing within 60 days after the expiration of 90-day period for
169 investigation and conciliation. On a showing of good cause, the Commission Chair or the panel's chair may extend the
170 deadlines provided in subsection (c) of this section and this subsection at the request of a party or an employee of the
171 Commission.

172 (g) Public hearings must be conducted in accordance with rules prescribed by the Commission. Each party may
173 appear in person, be represented by an attorney, present evidence, cross-examine witnesses, and obtain the issuance of
174 subpoenas under § 4509A of this chapter. The Delaware Rules of Evidence apply to the presentation of evidence in a
175 public hearing as the Rules would apply in an administrative hearing conducted in accordance with subchapter III of the
176 Administrative Procedures Act [Chapter 101 of Title 29]. A record kept of all public hearings, a transcript of which must be
177 provided at cost on request of a party. Decisions of the panel must be made by a majority of the members on the panel.

178 (h) If the panel determines that a violation of § 4504A of this title has not occurred, it shall issue an order
179 dismissing the complaint. The panel may award reasonable attorneys' fees, costs, and expenses to the respondent if the
180 panel determines that the complaint was brought for an improper purpose, such as to harass or embarrass the respondent.

181 (i) If the panel determines that a violation of § 4504A of this title has occurred, it shall issue an order stating its
182 findings of fact and conclusions of law and containing such relief as may be appropriate, including actual damages suffered
183 by the aggrieved individual, which may include damages caused by humiliation and embarrassment, costs, expenses,
184 reasonable attorneys' fees, and injunctive or other equitable relief. To vindicate the public interest, the panel may assess a
185 civil penalty against the respondent, to be paid to the Special Administration Fund as follows:

186 (1) In an amount not exceeding \$1,000 for each discriminatory act if the respondent has not been
187 adjudged to have committed any previous discriminatory acts under this chapter or does not satisfy paragraph
188 (i)(2) or (i)(3) of this section.

189 (2) In an amount not exceeding \$5,000 for each discriminatory act if the respondent has been adjudged to have
190 committed 1 other discriminatory act under this chapter during the 5-year period ending on the date that the complaint
191 was filed.

192 (3) In an amount not exceeding \$15,000 for each discriminatory act if the respondent has been adjudged to
193 have committed 2 or more discriminatory acts during the 7-year period ending on the date that the complaint was
194 filed.

195 (j) Copies of orders entered under subsections (h) and (i) of this section must be served personally or by registered
196 or certified mail to each party or their attorney.

197 (k) If the Division concludes, at any time following the filing of a complaint, that prompt judicial action is
198 necessary to carry out the purpose of this chapter, the Division may authorize a civil action for appropriate temporary or
199 preliminary relief pending final disposition of the complaint under this section. On receipt of the authorization to pursue a
200 civil action, the Attorney General may, in the absence of a conflict of duties, commence and maintain the civil action in the
201 Court of Chancery on behalf of the Division. If the Attorney General does not commence the civil action, the Division may,
202 with the written authorization of the Secretary of State, employ special counsel to commence and maintain an action
203 notwithstanding § 2507 of Title 29. The commencement of a civil action under this subsection does not affect the initiation
204 or continuation of proceedings under this section.

205 (l) The Commission shall promulgate regulations that establish procedures for dismissal of complaints based on
206 lack of jurisdiction or failure to state a claim for which relief is available under this chapter. Notwithstanding the limitation
207 of delegation in § 4505A of this chapter, the Commission may authorize dismissal for lack of jurisdiction or failure to
208 state a claim for which relief is available by a single commissioner before the appointment of a panel.

209 § 4509A. Compelling the attendance of witnesses and production of documents, oaths, subpoenas.

210 (a) The Commission may issue subpoenas and order discovery in aid of investigations and hearings under this
211 chapter.

212 (1) The Commission Chair or the panel chair shall sign a subpoena issued under this subsection, and a sheriff,
213 deputy sheriff, constable, member of the Commission, or employee of the Division may serve the subpoena.

214 (2) Subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would
215 apply if the subpoenas or discovery were ordered or served in aid of a civil action in the Superior Court, except that the
216 Attorney General shall first review the subpoenas and discovery in aid of investigations, to determine whether there is
217 reason to believe that there has been a violation of this chapter.

218 (b) At a public hearing, any member of the Commission may administer oaths to a witness who is called before the
219 Commission.

220 (c) A witness summoned by a subpoena under this chapter is entitled to the same witness and mileage fees as a
221 witness in proceedings in Superior Court.

222 (d) A person violates this section if the person fails or neglects to obey a subpoena or other lawful order under
223 subsection (a) of this section and had the power to obey the subpoena or order.

224 (1) The Attorney General, on behalf of the Commission, shall petition the Superior Court for an order
225 requiring the person to appear before the Commission to produce evidence or give testimony pertaining to the matter
226 under investigation or in question.

227 (2) The Attorney General shall file the petition under paragraph (d)(1) of this section in the county where the
228 person that is in violation of this section resides or conducts business.

229 (3) The Superior Court may punish the person who violates an order issued under paragraph (d)(1) of this
230 section as being in contempt of court.

231 (e) (1) A person who has the power to obey a subpoena or other lawful order under paragraph (a) of this section
232 but willfully fails or neglects to do so is subject to a fine for each instance of failure to obey of not more than \$2,500 or
233 imprisonment of not more than 1 year, or both.

234 (2) A person who, with intent to mislead another person in any proceeding under this chapter, commits any of
235 the following is subject to a fine for each instance of not more than \$2,500 or imprisonment of not more than 1 year, or
236 both:

237 a. Intentionally makes or causes to be made a false entry or statement of fact in a report, account, record,
238 or other document produced pursuant to a subpoena or other lawful order under paragraph (a) of this section.

239 b. Intentionally neglects or fails to make or cause to be made full, true, and correct entries in
240 reports, accounts, records, or other documents.

241 c. Intentionally mutilates, alters, or by any other means, falsifies documentary evidence.

242 § 4510A. Judicial review.

243 (a) A party aggrieved by an order for relief under § 4508A of this chapter granting or denying, in whole or in part,
244 the relief sought, may obtain a review of the order in the Superior Court in the county in which the discriminatory act is
245 alleged to have occurred, under the civil rules of that Court and the Administrative Procedures Act [Chapter 101 of Title
246 29]. An aggrieved party must file the petition for review not later than 30 days of the day the notice of the decision was
247 mailed or delivered.

248 (b) A party to a proceeding before the panel may intervene in the appeal process in the Superior Court.

249 (c) The Superior Court may not consider an objection that was not made before the panel, unless the failure or
250 neglect to object is excused because of extraordinary circumstances or when the interests of justice so require.

251 (d) If the Attorney General has not commenced a civil action within 60 days of notice of breach of a Commission
252 order or conciliation agreement as authorized by § 4511A of this title, an aggrieved party may commence an action in the
253 Superior Court or Court of Chancery, or both, seeking enforcement and appropriate relief within the court's subject matter
254 jurisdiction, including conversion of a Commission order conferring monetary relief to a judgment subject to execution.
255 The Court may also award the aggrieved party reasonable costs and attorneys' fees in connection with the enforcement
256 action.

257 § 4511A. Enforcement by the Attorney General.

258 (a) The Attorney General may commence a civil action in the Superior Court, Court of Chancery, or both, in any
259 county of the State for appropriate relief within the court's subject matter jurisdiction, including equitable relief, monetary
260 damages, reasonable attorneys' fees, costs, and expenses, if the Attorney General has reasonable cause to believe that any of
261 the following has occurred:

262 (1) A person is engaging in a pattern of discriminatory acts in violation of this chapter.

263 (2) A person has been denied any of the rights granted by this chapter and the denial of rights raises an issue
264 of general public importance.

265 (3) A party to a conciliation agreement has breached the conciliation agreement.

266 (b) To vindicate the public interest, the court may assess a civil penalty to be paid to the Special Administration
267 Fund in an amount not exceeding \$25,000 for a first violation of this chapter and in an amount not exceeding \$50,000 for a
268 subsequent violation of this chapter.

269 (c) When a civil action is initiated by the Attorney General pursuant to this section, no Court shall charge fees of
270 any kind in such proceeding to the Attorney General, the Commission or any of its members.

271 § 4512A. Criminal jurisdiction.

272 The Superior Court shall have exclusive original jurisdiction over all criminal violations of this chapter.

273 Section 2. Amend Chapter 30, Title 31 of the Delaware Code by making deletions as shown by strike through and
274 insertions as shown by underline as follows:

275 § 3004. Powers and duties.

276 The Commission shall cooperate with the Governor, the General Assembly, public agencies, officials, firms,
277 corporations, civic groups, and individuals in promoting amicable relationships among the various racial and cultural groups
278 within the State. To this end the Commission may do any of the following:

279 (4) Perform duties assigned to the Commission under Chapter ~~45~~ 45, 45A, and 46 of Title 6.

280 § 3005. Special Administration Fund.

281 (a) Creation. A special fund in the State Treasury, to be known as the Special Administration Fund of the Human
282 and Civil Rights Commission and referred to as "the Fund" throughout this section, consists of:

283 (1) All civil penalties assessed and collected under Chapter ~~45~~ 45, 45A, or 46 of Title 6.

284 (2) Costs, attorneys' fees, and expenses awarded to the Commission under Chapter ~~45~~ 45, 45A, or 46 of Title

285 6.

286 (b) Administration.

287 (1) All moneys collected under this section must be deposited or paid into the Fund, are continuously available
288 to the Commission for expenditure in accordance with this section, do not lapse at any time, and may not be transferred
289 to any other fund, except as provided in subsection (d) of this section. All moneys in the Fund must be prudently
290 invested to the credit of the Fund, administered and disbursed in the same manner as is provided by law for other
291 special funds in the State Treasury, and maintained in a separate ledger account on the books of the Secretary of
292 Finance.

293 (2) All moneys in the Fund which are received from the federal government, or any of its agencies, or
294 appropriated by this State for purposes described in this chapter or Chapters ~~45~~ 45, 45A, or 46 of Title 6, may be
295 expended solely for the proper and efficient administration of this chapter.

296 (c) Use. The Commission may use moneys in the Fund for any of the following purposes:

297 (1) The payment of litigation expenses, costs, and attorneys' fees in connection with the enforcement
298 provisions of Chapters ~~45~~ 45, 45A, and 46 of Title 6.

299 (2) The payment of the expenses of investigations conducted under Chapters ~~45~~ 45, 45A, and 46 of Title 6,
300 and this chapter.

301 Section 3. This Act is effective immediately and is to be implemented the earlier of the following:

302 (1) One year from the date of the Act's enactment.

303 (2) Notice by the Chair of the Commission, published in the Register of Regulations, that final
304 regulations to implement this Act have been promulgated.

SYNOPSIS

This Act is the Bill of Rights for Individuals Experiencing Homelessness to ensure that all individuals, regardless of housing status, have equal opportunity to live in decent, safe, sanitary, and healthful accommodations and enjoy equality of opportunities. To that end, this Act sets forth the rights of individuals experiencing homelessness and creates a process by which the State Human and Civil Rights Commission and the Division of Human and Civil Rights may accept and investigate complaints of discriminatory treatment, attempt conciliation, and refer enforcement actions to the Department of Justice where necessary.

This Substitute differs from the original House Bill No. 55 in that it expands the definition of "individuals experiencing homelessness" to include those who may be staying with different friends or family without a permanent home and it eliminates a reference to voting rights, since such rights are addressed elsewhere in the Code.