



SPONSOR: Rep. Briggs King & Sen. Poore  
Reps. Baumbach, J. Johnson, Keeley, Osienski, Paradee,  
Postles, D. Short; Sens. Cloutier, Hansen, Hocker,  
Lavelle, Sokola

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 344

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

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

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

3           § 6531. Treatment and rehabilitation programs.

4           (a) Persons committed to the institutional care of the Department shall be dealt with humanely, with effort directed  
5     to their rehabilitation. To the maximum extent possible, the Department shall evaluate each person using an objective risk  
6     and needs assessment instrument and shall create a case plan for those persons assessed to be moderate- to high-risk that  
7     targets the need factors identified by the assessment. The Department shall prioritize the provision of such evaluations  
8     according to the length of sentence and the severity of the conduct giving rise to the sentence of incarceration. The  
9     Department shall make efforts to provide treatment and services responsive to the person's needs and characteristics. Use of  
10    the objective risk assessment instrument shall commence by December 31, 2013.

11          (b) The Department shall establish alcohol and drug counseling and treatment programs for inmates. The  
12    Department may further establish a program of mandatory drug testing for inmates. In establishing such programs, the  
13    Department shall also establish rules and regulations regarding the order in which inmates shall be eligible to participate in  
14    such courses. Such regulations shall accord priority to inmates testing positive for illegal drugs, and inmates serving  
15    sentences imposed for drug-related offenses.

16          (c) When the Department shall make programs of counseling and treatment available to inmates at a correctional  
17    facility, inmates at such facility who are eligible in accordance with the rules and regulations of the Department established  
18    under subsection (b) of this section, shall be required to enroll in and participate in such programs.

19          (d) The costs of providing such counseling and treatment programs established pursuant to subsections (b) and (c)  
20    of this section shall, in accordance with a schedule to be established by the Department, be assessed against those inmates  
21    required under subsection (c) of this section to be enrolled, and may be deducted from said inmate's account in accordance  
22    with the provisions of § 6532(f) of this title.

23 (e) Inmates ~~required~~ who have been court ordered to participate in compulsory programs of drug or alcohol  
24 counseling or treatment ~~established by the Department~~ pursuant to this section shall not be eligible for parole nor shall the  
25 Department apply for modification of sentence until successfully completing such programs. Inmates refusing to participate  
26 in such programs shall further be subject to such other disciplinary measures as the Commissioner shall establish by  
27 regulation.

28 (f) The Department shall establish programs of work, case work counseling and psychotherapy, library and  
29 religious services and commissary, and shall further establish procedures for the classification of inmates for those  
30 purposes.

31 (g) The Department shall undertake an assessment of its ability to meet treatment and rehabilitation needs of the  
32 confined population every 3 years and endeavor to provide programs in accordance with identified needs. The first report  
33 shall be completed by December 31, 2012.

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

36 § 6531A. Education programs.

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

40 (b) The Department of Education and the Department of Correction shall be responsible for the oversight and  
41 management of the prison education program, including academic courses leading towards a high school diploma, life  
42 skills, special education, media resource services and vocational technical courses. The Department of Education shall be  
43 responsible for the establishment of rules and regulations regarding the administration of academic and vocational programs  
44 within the prison education program. The Department of Education shall be responsible for hiring teachers to provide  
45 instruction in these programs. The Department of Education shall further supervise these employees, who shall be  
46 considered employees of the Department of Education and are subject to all rules and regulations of the Department.  
47 Employees who are assigned to the prison education program as teachers that have remained Department of Correction  
48 employees shall be supervised by the Department of Education. Teachers who were employees at the time this legislation is  
49 enacted, that work for the Department of Correction, shall have the right to transfer to the Department of Education each  
50 year upon notification to the Department of Education by April 15 and such transfer shall become effective July 1 of that  
51 year. Any position transfer made pursuant to this section shall become permanent. If a remaining Department of Correction  
52 teacher position becomes vacant, the position and the associated funding shall be transferred to the Department of  
53 Education. Any Department of Education employee working in the prison education program and whose permanent work

54 assignment location resides within or on the campus of a Department of Correction Level 5 or Level 4 facility must submit  
55 to the same random drug testing procedure required of Department of Correction employees.

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

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

64 (e) Inmates required to participate in compulsory programs of education as established under this section shall not  
65 be eligible for parole nor shall the Department of Correction apply for a modification of sentence until successfully  
66 obtaining a high school diploma or G.E.D. or a high school diploma of modified performance standards. Inmates refusing  
67 to participate in such programs shall be subject to such disciplinary measures as the Commissioner of Correction shall  
68 establish by regulation.

69 (f) As used in this subsection a State of Delaware high school diploma of modified performance standards means  
70 an inmate who has met the requirements of the inmate's Individualized Education Plan.

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

74 (h) The Department of Education, with the consent of the State Board of Education, shall promulgate rules and  
75 regulations to implement this section.

#### SYNOPSIS

The language set forth in this statute would remove barriers and unrealistic goals to offenders with learning disabilities when being considered for parole or a sentence modification. Requiring an offender with learning disabilities or a low IQ to complete a GED or high school diploma, unless ordered by the courts, is counter-productive to the treatment and programming of this segment of the prison population and prohibits them from seeking the same benefits of parole or sentence modification afforded to the general population. This amendment to the law allows an offender the opportunity to earn a high school diploma of modified performance standards upon successful completion of their Individualized Education Plan.