



SPONSOR: Sen. Poore & Rep. Heffernan & Rep. Longhurst &  
Rep. K. Williams  
Sens. Hansen, Henry, Lopez, McBride, Sokola,  
Townsend; Reps. Baumbach, Bentz, Bolden, Brady,  
Hudson, J. Johnson, Keeley, Lynn, Osienski, Paradee,  
Viola, Wilson

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 169

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SEXUAL OFFENSES AND SEXUAL  
RELATIONS IN A DETENTION FACILITY.

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

1           Section 1. Amend Subpart D, Subchapter II, Chapter 5, Title 11 of the Delaware Code by making deletions as  
2 shown by strike through and insertions as shown by underline as follows:

3           § 769A. Sexual intercourse or penetration with a person in custody; class F felony.

4           (a) It is unlawful for a law-enforcement officer, an employee working at a detention facility, a contractor or  
5 employee of a contractor working at a detention facility, or a volunteer working at a detention facility to engage in sexual  
6 intercourse or penetration with a person who is in custody, as defined in § 1258 of this title.

7           (b) Subsection (a) of this section does not apply to a licensed medical doctor or nurse when the contact occurs for  
8 the purpose of diagnosis or treatment or to a law enforcement officer who is lawfully performing job duties.

9           (c) Consent of the person in custody is not a defense to an act in violation of subsection (a) of this section.

10          (d) A violation of subsection (a) of this section is a class F felony.

11          § 769B. Unlawful sexual contact with a person in custody; class G felony.

12          (a) It is unlawful for a law-enforcement officer, an employee working at a detention facility, a contractor or  
13 employee of a contractor working at a detention facility, or a volunteer working at a detention facility to intentionally have  
14 sexual contact with a person in custody, as defined in § 1258 of this title.

15          (b) Subsection (a) of this section does not apply to a licensed medical doctor or nurse when the contact occurs for  
16 the purpose of diagnosis or treatment or to a law enforcement officer who is lawfully performing job duties.

17          (c) Consent of the person in custody is not a defense to an act in violation of subsection (a) of this section.

18          (d) A violation of subsection (a) of this section is a class G felony.

19          Section 2. Amend § 1259, Title 11 of the Delaware Code by making deletions as shown by strike through and  
20 insertions as shown by underline as follows:

21 § 1259. ~~Sexual relations in detention facility; class G felony. [Reserved.]~~

22 ~~A person is guilty of sexual relations in a detention facility when, being an employee working at a detention~~  
23 ~~facility, a contractor or employee of a contractor at a detention facility, or a volunteer at a detention facility, the person~~  
24 ~~engages in consensual sexual intercourse or sexual penetration with a person in custody on the premises of a detention~~  
25 ~~facility.~~

#### SYNOPSIS

This Act modernizes the language of the crime of sexual relations in a detention facility and adds a prohibition on any sexual activity between law-enforcement personnel and persons in custody. The new statutes are different from the one being replaced as follows:

1. The crimes are located in the subpart relating to sexual offenses instead of the subchapter relating to crimes against public administration.
2. The crimes apply to law-enforcement officers in addition to employees, contractors, and volunteers at a detention facility.
3. Sexual contact is prohibited, in addition to sexual intercourse and sexual penetration.
4. States clearly that consent is not a defense.
5. Medical treatment and lawful searches are specifically excluded from the crimes.
6. The penalty for the crime of sexual intercourse or penetration with a person in custody is increased to a class F felony from a class G felony.
7. The penalty for the new crime of unlawful sexual contact with a person in custody is a class G felony.

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