



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

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
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.

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

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

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

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

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

§ 6531A. Education programs.

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

(b) The Department of Education and the Department of Correction shall be responsible for the oversight and management of the prison education program, including academic courses leading towards a high school diploma, life skills, special education, ~~media resource services~~ and vocational technical courses. The Department of Education shall be responsible for the establishment of rules and regulations ~~regarding the administration of academic and vocational programs within the prison education program~~ governing the maintenance of the Prison Education Program to provide educational services for the Department of Correction. The Department of Education shall be responsible for hiring teachers to provide instruction in these programs. The Department of Education shall further supervise these employees, who shall be considered employees of the Department of Education and are subject to all applicable rules and regulations of the Departments of Education and Correction. Employees who are assigned to the prison education program as teachers that

49 have remained Department of Correction employees shall be supervised by the Department of Education. Teachers who
50 were employees at the time this legislation is enacted, that work for the Department of Correction, shall have the right to
51 transfer to the Department of Education each year upon notification to the Department of Education by April 15 and such
52 transfer shall become effective July 1 of that year. Any position transfer made pursuant to this section shall become
53 permanent. If a remaining Department of Correction teacher position becomes vacant, the position and the associated
54 funding shall be transferred to the Department of Education. Any Department of Education employee working in the prison
55 education program and whose permanent work assignment location resides within or on the campus of a Department of
56 Correction Level 5 or Level 4 facility must submit to the same random drug testing procedure required of Department of
57 Correction employees.

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

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

66 (e) Inmates ~~required~~ who have been court ordered to participate in compulsory programs of education as
67 established under this section shall not be eligible for parole nor shall the Department of Correction apply for a
68 modification of sentence until the inmate has successfully obtaining ~~obtained~~ a high school diploma or G.E.D. or has been
69 awarded a State of Delaware Diploma of Alternate Achievement Standards. Inmates refusing to participate in such
70 programs shall be subject to such disciplinary measures as the Commissioner of Correction shall establish by regulation.

71 (f) As used in this subsection, a State of Delaware Diploma of Alternate Achievement Standards shall be awarded
72 to an inmate who has met the requirements of the inmate's Individualized Education Program but the inmate will not
73 complete the high school graduation course credit requirements established by the State, district, or charter school for a
74 regular State of Delaware High School Diploma.

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

SYNOPSIS

The language set forth in this statute would remove barriers for inmates who are students with disabilities and who have an Individualized Education Program (IEP) under state and federal law, when being considered for parole or a sentence modification. Requiring an inmate with an IEP to complete a GED or State of Delaware High School Diploma 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 those inmates who do not have an IEP. This amendment to the law allows an inmate the opportunity to earn a State of Delaware Diploma of Alternate Achievement Standards upon successful completion of the inmate's IEP.