



SPONSOR: Rep. Mitchell & Rep. Bentz & Sen. Townsend  
Reps. Brady, Briggs King, Hudson, Viola, Wilson; Sens.  
Hansen, Henry

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 458

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE PRESCRIPTION MONITORING PROGRAM.

1 WHEREAS, Delaware's prescription monitoring system contains information that can be critical to law  
2 enforcement officials investigating and prosecuting potential criminal matters involving prescription drugs; and

3 WHEREAS, Delaware's prescription monitoring system statute, since it was first enacted, has contained  
4 provisions designed to balance the needs of law enforcement against legitimate privacy interests; and

5 WHEREAS, Delaware's prescription monitoring system statute currently contains language that requires law  
6 enforcement officials, even when they have evidence that a crime may have been committed, to actually be able to identify  
7 a suspect before gaining access to the database; and

8 WHEREAS, the prescription monitoring system database may be the only means by which a suspect can be  
9 identified, even if there is evidence that a crime has occurred; and

10 WHEREAS, this language has proven to be a serious obstacle to state and federal law enforcement officials  
11 attempting to investigate serious crimes; and

12 WHEREAS, this language requiring an identified suspect before the database can be accessed is not found in the  
13 National Alliance for Model State Drug Laws Model Prescription Monitoring Program Act; and

14 WHEREAS, the Department of Justice is not aware of any other state that has this specific language in its state  
15 prescription monitoring program statute; and

16 WHEREAS the State wishes to address this issue with the prescription monitoring system while still maintaining  
17 the important privacy interests of Delawareans who take prescription medication.

18 NOW, THEREFORE:

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

20 Section 1. Amend Title 16, § 4798 of the Delaware Code by making deletions as shown by strike through and  
21 insertions as shown by underline as follows:

22 § 4798 The Delaware Prescription Monitoring Program.

23 (1) The Office of Controlled Substances shall maintain procedures to ensure that the privacy and confidentiality of  
24 patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in  
25 this section.

26 (2) The Office of Controlled Substances may provide data in the prescription monitoring program in the form  
27 of a report to the following persons:

28 d. A local, state, or federal law-enforcement or prosecutorial official engaged in the administration,  
29 investigation, or enforcement of the laws governing controlled substances and who is involved in a bona fide  
30 specific drug-related investigation or prosecution in which a report of suspected criminal activity involving  
31 controlled substances ~~by an identified suspect~~ has been made, ~~and~~ provided that such information be relevant and  
32 material to such investigation, limited in scope to the extent reasonably practicable in light of the purpose for  
33 which the information is sought, and include identifying information only upon a showing of need;

#### SYNOPSIS

This Act removes language from the state's Prescription Drug Monitoring Program statute that unreasonably prevents law enforcement officials from accessing the PMP database when officials can show that the information on the database is relevant to an investigation or prosecution. This Act leaves intact the statutory right and responsibility of the Office of Controlled Substances to maintain the privacy of patients and patient information except under circumstances enumerated in the Delaware Code.