



SPONSOR: Sen. Lockman

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 1
TO
SENATE BILL NO. 47

AMEND Senate Bill No. 47 by inserting the following between lines 2 and 3:

~~“(45) “Protected park, recreation area, church, synagogue or other place of worship” means:~~

~~a. Any building, structure, athletic playing field, playground, or other land contained on the property of any park or recreation area owned, operated or utilized by any county or municipality, or by the State, or by any board, commission, department, agency, corporation or organization thereof, or in any "parkland" as defined in § 8110(a)(2) of Title 9 or any church, synagogue or other place of worship; or~~

~~b. Any area accessible to the public located within 300 feet of the property of any park or recreation area owned, operated or utilized by any county or municipality, or by the State, or by any board, commission, department, agency, corporation or organization thereof, or in any "parkland" as defined in § 8110(a)(2) of Title 9 or any church, synagogue or place of worship.~~

~~For the purposes of this section an "area accessible to the public" shall include: sidewalk; streets; parking lots; parks; playgrounds; stores and restaurants; and any other outdoor locations such as front porches or front yards.”.~~

FURTHER AMEND Senate Bill No. 47 by deleting lines 15 through 18 and inserting in lieu thereof the following:

“For the purposes of this subchapter:

(1) Each of the following ~~shall be~~ is an “aggravating factor” within the meaning of the offenses in this subchapter:

a. The offense was committed within a protected school zone, as defined in § 4701 of this ~~title;~~ title.”

FURTHER AMEND Senate Bill No. 47 by deleting lines 26 through 32 and inserting in lieu thereof the following:

~~“e. The defendant, during or immediately following the commission of any offense in this title;~~ did one of the following:

24 1. Intentionally prevented or attempted to prevent a law-enforcement officer, as defined in § 222(15) of
25 Title 11, from effecting an arrest or detention of the defendant by use of force or violence towards the law-
26 enforcement ~~officer~~; or officer.

27 2. Intentionally fled in a vehicle from a law-enforcement officer, as defined in § 222(15) of Title 11,
28 while the law-enforcement officer was effecting an arrest or detention of the defendant, thereby creating a
29 substantial risk of physical injury to other persons.”

30 FURTHER AMEND Senate Bill No. 47 on line 33 by deleting “(2)” and inserting in lieu thereof “(2)”.

31 FURTHER AMEND Senate Bill No. 47 on line 35 by inserting the following after “~~committed~~”:

32 “When a defendant is alleged to have committed an offense under this subchapter with an aggravating factor
33 under paragraph (1)e.1. of this section, the defendant may be charged with resisting arrest under § 1257 or the offense
34 to which the aggravating factor applies, but not both.”

35 FURTHER AMEND Senate Bill No. 47 on line 36 by deleting “(3)” and inserting in lieu thereof “(3)”.

36 FURTHER AMEND Senate Bill No. 47 on line 38 by deleting “[~~Repealed.~~]” and inserting in lieu thereof the
37 following:

38 “For an aggravating factor under paragraph (1)a. of this section to be charged, a defendant must commit the
39 conduct of an offense under this subchapter in a protected school zone. The aggravating factor under paragraph (1)a. of
40 this section may not be charged if a defendant commits the conduct of an offense under this subchapter outside a
41 protected school zone but is arrested in a protected school zone.”

42 FURTHER AMEND Senate Bill No. 47 on line 257 by deleting “in a protected school zone.” and inserting in lieu
43 thereof “and an aggravating factor applies.”.

44 FURTHER AMEND Senate Bill No. 47 on line 364 by deleting “within a protected school zone, as defined in §
45 4701 of this title,” and inserting in lieu thereof “and an aggravating factor applies.”.

SYNOPSIS

This Amendment does the following:

- (1) Removes an existing defined term that is made unnecessary by changes made by the Act.
- (2) Restores the aggravators for resisting arrest by and fleeing from a law enforcement officer.
- (3) Makes clear that a defendant may be charged with the crime of resisting arrest or the aggravator for resisting, but not both.
- (4) Makes clear the aggravator for a protected school zone applies when the conduct occurs in a protected school zone, but not when a pursuit of a suspect ends in the protected school zone.
- (5) Replaces references to “protected school zone” in offenses enhanced by the protected school zone with references to “aggravating factor”.

Author: Senator Lockman