SPONSOR: Rep. Heffernan & Rep. Bolden & Rep. Chukwuocha & Rep. Cooke & Rep. Dorsey Walker & Rep. Gray & Rep. Griffith & Rep. Jaques & Rep. Minor-Brown & Sen. McDowell & Sen. Sokola & Sen. Cloutier Reps. Bentz, K. Johnson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 170

AN ACT TO AMEND THE DELAWARE CODE RELATING TO SCHOOL ATTENDANCE.

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

Section 1. Amend § 2702, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2702. Compulsory attendance requirements; evaluation of readiness; exit interview. [Effective until Sept. 1, 2022]

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age, including any person acting as a caregiver ~~pursuant to~~ under the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's ~~residence~~ residence, in another school district under the school district enrollment choice program under Chapter 4 of this title, or in a charter school established under Chapter 5 of this title.

Section 2. Amend § 2702, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2702. Compulsory attendance requirements; evaluation of readiness; exit interview. [Effective Sept. 1, 2022, until Sept. 1, 2023]

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and ~~16 years~~ 17 years of age, including any person acting as a caregiver ~~pursuant to~~ under the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's ~~residence~~ residence, in another school district under the school district enrollment choice program under Chapter 4 of this title, or in a charter school established under Chapter 5 of this title.

Section 3. Amend § 2702, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2702. Compulsory attendance requirements; evaluation of readiness; exit interview. [Effective Sept. 1, 2023]

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and ~~16 years~~ 18 years of age, including any person acting as a caregiver ~~pursuant to~~ under the provisions of § 202(f) of this title, shall enroll the child in a public school in the school district of the person's ~~residence~~ residence, in another school district under the school district enrollment choice program provided in Chapter 4 of this title, or in a charter school established under Chapter 5 of this title.

Section 4. Amend § 2705, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2705. Exemption of children from compulsory attendance requirements. [Effective until Sept. 1, 2022]

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title under any of the following circumstances:

(1) If the child receives a high school diploma or a diploma of alternative achievement standards under § 152 of this title.

(2) If the child obtains a waiver from the superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled. A superintendent of the district or a president of a board of a charter school may grant a waiver only upon proof that the child is 16 years of age or older and has an alternative learning plan for obtaining either a high school diploma or a secondary credential. The requirements for a high school diploma and secondary credential are prescribed by regulations under § 122(b) of this title.

a. An alternative learning plan must include age-appropriate academic rigor and the flexibility to incorporate the child's interests and manner of learning. A plan may include such components or combination of components of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses.

b. An alternative learning plan must be developed, and amended if necessary, in consultation with the child, the school principal, and at least one parent or guardian of the child. The superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled must approve the alternative learning plan.

c. If the superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled does not approve the alternative learning plan, the parent or guardian of the child may appeal such decision to the board of education of the school district in which the child resides. A

parent or guardian may appeal the decision of the board of education to the State Board of Education. The State Board of Education's decision is final.

(3) If the child, who is any age, and a ~~upon request of the~~ parent, ~~guardian~~ guardian, or other person legally having control of that child ~~when the request is supported by~~ requests an exemption and provides in support of such a request written documentation of a physician, psychiatrist, ~~psychologist~~ psychologist, or ~~neurologist, as the case may require.~~ neurologist.

a. The request and documentation ~~shall~~ must be addressed to the superintendent of ~~schools of~~ the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

b. Any disputed decision under this paragraph must first be presented to the board of education of the school district in which the child resides and may thereafter be appealed to the State Board of Education. The State Board of Education's decision is final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] apply.

~~(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] shall apply.~~

(b) The Secretary of the Department of Education may propose regulations to implement the provisions of this section, subject to approval by the State Board of Education.

Section 5. Amend § 2705, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2705. Exemption of children from compulsory attendance requirements. [Effective Sept. 1, 2022]

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title under any of the following circumstances:

(1) If the child receives a high school diploma or a diploma of alternate achievement standards under § 152 of this title.

(2) If the child obtains a waiver from the superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled. A superintendent of the district or a president

of a board of a charter school may grant a waiver only upon proof that the child is 17 years of age or older and has an alternative learning plan for obtaining either a high school diploma or a secondary credential. The requirements for a high school diploma and secondary credential are prescribed by regulations under § 122(b) of this title.

a. An alternative learning plan must include age-appropriate academic rigor and the flexibility to incorporate the child's interests and manner of learning. A plan may include such components or combination of components of extended learning opportunities as independent study, private instruction, performing groups, internships, community service, apprenticeships, and on-line courses.

b. An alternative learning plan must be developed, and amended if necessary, in consultation with the child, the school principal, and at least one parent or guardian of the child. The superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled must approve the alternative learning plan.

c. If the superintendent of the district in which the child is enrolled or the president of the board of the charter school at which the child is enrolled does not approve the alternative learning plan, the parent or guardian of the child may appeal such decision to the board of education of the school district in which the child resides. A parent or guardian may appeal the decision of the board of education to the State Board of Education. The State Board of Education's decision is final.

(3) If the child, who is any age, and a ~~upon request of the~~ parent, ~~guardian~~ guardian, or other person legally having control of that child ~~when the request is supported by~~ requests an exemption and provides in support of such a request written documentation of a physician, psychiatrist, ~~psychologist~~ psychologist, or ~~neurologist, as the case may require.~~ neurologist.

a. The request and documentation ~~shall~~ must be addressed to the superintendent of ~~schools of~~ the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

b. Any disputed decision under this paragraph must first be presented to the board of education of the school district in which the child resides and may thereafter be appealed to the State Board of Education. The State Board of Education's decision is final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] apply.

~~(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] shall apply.~~

(b) The Secretary of the Department of Education may propose regulations to implement the provisions of this section, subject to approval by the State Board of Education.

Section 6. Amend § 2723, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2723. Responsibility of police officers. [Effective Sept. 1, 2022, until Sept. 1, 2023]

(a) Any pupil under the ~~age of 16~~ age of 17 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the ~~age of 16~~ age of 17 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

Section 7. Amend § 2723, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2723. Responsibility of police officers. [Effective Sept. 1, 2023]

(a) Any pupil under the ~~age of 16~~ age of 18 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the ~~age of 16~~ age of 18 identified by a police officer as being off school property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

Section 8. Sections 1 and 4 of this Act take effect on enactment. Sections 2, 5, and 6 of this Act take effect on September 1, 2022. Sections 3 and 7 of this Act take effect on September 1, 2023.

SYNOPSIS

This Act increases the age requirement for compulsory school attendance in Delaware from 16 to 18 years of age. The age increase is phased in over a 2-year period; accordingly, there is a 1-year interim period where the compulsory school attendance age requirement will be 17 years of age.

The Act further provides that a child may be exempt from the age requirement for compulsory school attendance if the child has received a high school diploma or a diploma of alternate achievement standards or obtains permission to withdraw from school from the superintendent of the district in which the child is enrolled or from the president of the board of the charter school in which the child is enrolled. To obtain a waiver from the date of enactment of this Act until August 31, 2022, a child must be at least 16 years old. To obtain a waiver on or after September 1, 2022, a child must be at least 17 years old. The Act preserves the exemption under which a child may be excused from compulsory attendance upon

request of the child's parent or legal guardian coupled with supporting written documentation from a qualified health professional.