



SPONSOR: Rep. K. Johnson & Sen. McBride

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 355

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

1 Section 1. Amend Chapter, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 ~~§ 7909 Advisory Council to the Division of Substance Abuse and Mental Health.~~

4 ~~(a) There is established an Advisory Council to the Division of Substance Abuse and Mental Health to serve in an~~
5 ~~advisory capacity to the Director of the Division of Substance Abuse and Mental Health. It shall consider matters related to~~
6 ~~alcoholism, drug abuse, mental health and any other matters that may be referred to it by the Governor or the Department of~~
7 ~~Health and Social Services. The Council may study, research, plan and advise the Director, Secretary, General Assembly~~
8 ~~and the Governor on matters it deems appropriate to enable the Division and the Department to function in the best possible~~
9 ~~manner.~~

10 ~~(b) The Council shall be composed of 17 members who shall be appointed for 3 year terms by the Governor. The~~
11 ~~members of the Council shall be eligible to serve more than 1 term. Consideration for appointment should be given to those~~
12 ~~who have a particular interest or expertise in the areas of substance abuse and mental health.~~

13 ~~(c) At least 6, but not more than 8, members of the Council shall be affiliated with 1 of the major political parties~~
14 ~~and at least 5, but not more than 7, of the newly appointed members shall be affiliated with the other major political party.~~
15 ~~Any person who declines to announce such person's political affiliation shall also be eligible for appointment as a member~~
16 ~~of the Council.~~

17 ~~(d) Members of the Council shall serve without compensation; however, they may be reimbursed for reasonable~~
18 ~~and necessary expenses incident to their duties as members of the Council.~~

19 ~~(e) A chairperson and vice chairperson of the Council shall be chosen by the Council membership for a term of 1~~
20 ~~year. Persons chosen for these positions shall be eligible for reelection at the end of their term.~~

21 ~~(f) The Council may adopt its own bylaws subject to the approval of the Director of the Division of Substance~~
22 ~~Abuse and Mental Health and the Secretary of the Department of Health and Social Services.~~

23 (g) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled
24 for the remainder of the term.

25 § 7909 Behavioral Health Planning and Advisory Council.

26 (a) The Advisory Council to the Division of Substance Abuse and Mental Health is hereby dissolved and
27 reestablished as the Behavioral Health Planning and Advisory Council ("Council") to assume the functions of the Advisory
28 Council to the Division of Substance Abuse and Mental Health and to administer and implement this chapter, and to
29 perform such other responsibilities as may be entrusted to it by law.

30 (b) The Council shall do all of the following:

31 (1) Review plans provided by the Division pursuant to Title XIX of the Public Health Service Act (42 U.S.C.
32 300x-4(a)) to the Council and submit to the Division any recommendations of the Council for modifications to the
33 plans.

34 (2) Serve as an advocate for adults and children with serious mental illness, children with a severe emotional
35 disturbance, and other individuals with mental illnesses or emotional problems.

36 (3) Monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health
37 services within the State.

38 (c) The Council may study, research, plan, and advise the Governor, General Assembly, Secretary, and Director on
39 matters related to behavioral health as it deems appropriate.

40 (d) The Council shall be comprised of 17 members as follows:

41 (1) The following individuals serve by virtue of position who may appoint a designee:

42 a. Director of the Division of Substance Abuse and Mental Health.

43 b. Secretary of the Department of Education.

44 c. Director of the Division of Vocational Rehabilitation.

45 d. Secretary of the Department of Safety and Homeland Security.

46 e. Director of the Delaware State Housing Authority.

47 f. Director of the Division of Social Services.

48 g. Director of the Division of Prevention and Behavioral Health Services.

49 (2) The following shall be appointed by the Governor:

50 a. A licensed medical provider of mental health services.

51 b. 9 individuals who are not employees of the State or providers of mental health care, as follows:

- 52 1. 2 individuals with severe mental illness who are receiving, or have received, mental health
53 services.
- 54 2. 2 individuals with a substance use disorder who are receiving, or have received, mental health
55 services.
- 56 3. A family member of an individual in recovery.
- 57 4. 3 parents or guardians of children with a substance use disorder or serious emotional disturbance.
- 58 5. An individual who advocates on behalf of those with behavioral health issues.
- 59 (e) Members appointed by the Governor shall serve for a term of up to 3 years. The terms of no more than 3
60 members shall expire in the same year.
- 61 (f) The Director of the Division of Substance Abuse and Mental Health shall serve as the temporary chair, and
62 shall set the date, time, and place for the initial organizational meeting where the members of the Council shall elect a Chair
63 and Vice-Chair from among the members. The Vice-Chair's duty shall be to act as Chair in the absence of the Chair.
- 64 (g) The Council may adopt bylaws for operating procedures including the election of officers, the conducting of
65 meetings, and other matters to promote the efficient operation of the Council in the performance of its duties under this
66 section.
- 67 (h) Members of the Council shall serve without compensation; however, members may be reimbursed for
68 reasonable and necessary expenses incidental to their duties as members of the Council.
- 69 (i) A majority of the membership of the Council shall constitute a quorum. A vacant position is not counted for
70 quorum purposes.
- 71 (j) Administrative support for the Council shall be provided by the Division of Substance Abuse and Mental
72 Health.
- 73 (k) The Council is a "public body," as defined in and for the purposes of the Freedom of Information Act, Chapter
74 100 of Title 29.
- 75 (l) The Council is designated as Delaware's State Mental Health Planning Council under Title XIX of the Public
76 Health Service Act (42 U.S.C. 300x).

SYNOPSIS

This Act creates the 17-person Behavioral Health Planning and Advisory Council to the Division of Substance Abuse and Mental Health and ensures the Council will satisfy the requirements of Title XIX of the Public Health Service Act (42 U.S.C. 300x-4(a)). The Act designates the Council as Delaware's State Mental Health Planning Council under Title XIX of the Public Health Services Act (42 U.S.C. 300x). The Act also makes clear that the Council is a public body for the purposes of the Freedom of Information Act.