



SPONSOR: Rep. Heffernan & Rep. Dorsey Walker & Rep. Longhurst
& Sen. S. McBride
Rep. Baumbach; Sen. Gay

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 314

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO MANDATORY SENTENCES FOR JUVENILES.

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

1 Section 1. Amend Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1009. Adjudication; disposition following adjudication; commitment to custody of Department of Services for
4 Children, Youth and Their Families; effect.

5 (a) Where the evidence supports such holding, the Court may declare a child to be dependent, neglected, abused,
6 as those terms are defined by § 902 of Title 16, or delinquent. In declaring a child to be dependent, neglected or abused
7 pursuant to this section, the Court shall give priority to ensuring the well-being and safety of the child.

8 (b) Following an adjudication by the Court in which it declares a child to be dependent or neglected, the Court
9 may:

10 (k) (1) Subject to the provisions governing amenability pursuant to § 1010 of this title, the Court shall commit a
11 delinquent child 16 years of age or older to the custody of the Department of Services for Children, Youth and Their
12 Families if the child who has been adjudicated delinquent by this Court of 1 or more offenses which were committed after
13 the child's 16th birthday, which would constitute either possession of a firearm during the commission of a felony or
14 robbery first degree (where such offense involves the display of what appears to be a deadly weapon or involves the
15 representation by word or conduct that the person was in possession or control of a deadly weapon or involves the infliction
16 of serious physical injury upon any person who was not a participant in the crime) were the child charged as an adult under
17 the laws of this State. Upon adjudication, such child is declared a child in need of mandated institutional treatment, and this
18 Court shall commit the child so designated to the Department of Services for Children, Youth and Their Families for a
19 minimum sentence of 6 months of Level V incarceration or institutional confinement for a first offense, and 1 year of Level
20 V incarceration or institutional confinement for a second and each subsequent offense, which shall not be subject to
21 suspension.

22 (2) A child committed to the custody of the Department of Services for Children, Youth and Their Families
23 pursuant to this subsection shall not be released from institutional confinement on pass, on extended leave or to
24 aftercare during the first 6 months of said commitment unless the Director of Youth Rehabilitation Services, in the
25 Director's discretion, determines that it is in the best interest of the child's treatment to participate in programs which
26 may require the child to leave the institution; thereafter, a child committed to the Department of Services for Children,
27 Youth and Their Families pursuant to this subsection shall not be released from institutional confinement on pass, on
28 extended leave or to aftercare, unless the Judge of the Family Court who originally sentenced the child or a Judge of
29 the Family Court designated by the Chief Judge, upon a petition filed by the Department of Services for Children,
30 Youth and Their Families, the child, the parent or parents or guardian of said child, or by the Court's own initiative,
31 with notice to the Attorney General, determines by a preponderance of the evidence presented at a hearing that the
32 child has progressed in a course of mandated institutional treatment that release would serve both the welfare of the
33 public and the interest of the child or be in the best interest of the child's treatment to participate in programs which
34 may require the child to leave the institution as determined by the Director of Youth Rehabilitation Services;

35 (3) Whenever a child appears before the Court on charges subject to the minimum commitment provisions of
36 this subsection or § 1448 of Title 11, said child and the parent, guardian or custodian of said child who is present shall
37 be specifically advised of the operation of this subsection;

38 (4) Nothing provided herein shall be construed as prohibiting the Court, upon petition and recommendation of
39 the Department of Services for Children, Youth and Their Families, from securing for any child otherwise subject to
40 the minimum commitment provisions of this subsection or § 1448 of Title 11, such care and treatment as it deems
41 necessary for diagnosed mental disorders or incapacities, or intellectual disabilities, provided that the provisions for
42 such treatment shall not deter the Court from imposing such minimum term of commitment as is applicable.

SYNOPSIS

This bill clarifies House Bill 307 from 2018 by making it clear that a 6-month or 12-month mandatory commitment to Level 5 incarceration or institutional confinement for a juvenile only applies to adjudications of delinquency for the charge of Robbery First Degree or Possession of a Firearm during the Commission of a Felony if the offense was committed after the child's 16th birthday.