SPONSOR: Rep. Schwartzkopf & Sen. McBride
Reps. Longhurst, Viola, D. Short, Hudson; Sens. Henry, Poore, Simpson, Lavelle

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 465
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6, TITLE 7, TITLE 8, TITLE 10, TITLE 11, TITLE 14, TITLE 16, TITLE 24, TITLE 29, AND TITLE 30 OF THE DELAWARE CODE RELATING TO TECHNICAL CORRECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Amend § 12B-101, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 12B-101. Definitions [Effective Apr. 14, 2018]

For purposes of this chapter:

(5) "Notice" means any of the following:

d. Substitute notice, if the person required to provide notice under this chapter demonstrates that the cost of providing notice will exceed $75,000, or that the affected number of Delaware residents to be notified exceeds 100,000 residents, or that the person does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

2. Conspicuous posting of the notice on ~~the~~ a web site page of the person if the person maintains one or more web site pages.

Section 2. Amend § 7014, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7014. Conversion permit.

(c) An application for a conversion permit made under subsection (a) or (b) of this section must be in writing on a form approved by the Secretary and must include the items listed in § 7004(b) and § 7005(a)(1) of this title, the items required by regulation promulgated under this chapter, and all of the following items to be considered in assessing a conversion permit application:

(8) Evidence of financial assurances in sufficient form and amount necessary to ensure that: (i) there are sufficient resources for all costs of compliance with the ~~Delaware Hazardous Substances Control Act~~ Delaware Hazardous Substance Cleanup Act ("HSCA"), Chapter 91 of this title, and other relevant state and federal

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environmental statutes concerning contamination on the site at the time of application; and (ii) upon the event of an incident resulting in environmental contamination, or upon termination, abandonment, or liquidation of all activities at the site of any heavy industry use, all means will be taken to minimize environmental damage and stabilize and secure the heavy industry use site in accordance with a concept plan that will be approved by the Department of Natural Resources and Environmental Control as part of the conversion permit. A final plan approved by the Department of Natural Resources and Environmental Control is required prior to the initiation of operation of the activity being authorized under the conversion permit.

Section 3. Amend § 503, Title 8 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 503. Rates and computation of franchise tax.

(c) Except as provided in this subsection, in no case shall the tax on any corporation for a full taxable year, computed by paragraph (a)(1) of this section be more than $200,000 nor less than $175; or computed by paragraph (a)(2) of this section be more than $200,000 nor less than $400. In each calendar year, the Secretary of State shall compile a list of each corporation that as of December 1:

(1) Had a class or series of stock listed on a national securities exchange; and

(2) Reported in its financial statements prepared in accordance with United States generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS) and included in its most recent annual report filed with the United States Securities and Exchange Commission or any similar agency outside the United States with responsibility for enforcing securities laws or serving as a public repository for the corporation's financial disclosures, both of the following:

a. Consolidated annual gross revenues equal to or greater than $750,000,000 or consolidated assets equal to or greater than $750,000,000; and

b. Consolidated annual gross revenues not less than $250,000,000 and consolidated assets not less than $250,000,000;

provided that if the corporation's financial statements are reported in a currency other than United States dollars, then, for purposes of measuring the amount of revenues and assets set forth therein, such amounts shall be converted into United States dollars using the applicable spot exchange rate for value established by Bloomberg as of the last day of the corporation's most recently completed fiscal year.

~~Notwithstanding subsection (a) of this section and the first sentence of this subsection, for each corporation satisfying the requirements of paragraphs (c)(1) and (2) of this section for a fiscal year for which its annual franchise tax would otherwise be $200,000 as computed under paragraph (a)(1) or (2) of this section (each, a "large corporate filer"), the Secretary of State shall fix the annual franchise tax for such taxable year at $250,000. In the event that a corporation would~~

~~otherwise qualify as a large corporate filer but has no filed annual report with the United States Securities and Exchange Commission (or any similar foreign agency), and became listed on a national securities exchange in connection with a succession within the taxable year, then reference shall be made to the most recent annual report of the predecessor of such corporation for purposes of determining whether such corporation has satisfied the requirements of paragraphs (c)(2)a. and b. of this section.~~

(3) As used in this subsection:

a. "Predecessor" means, with respect to any corporation, any other corporation or other entity whose consolidated assets and liabilities, immediately prior to a succession, are substantially the same as the consolidated assets and liabilities of such corporation immediately following such succession; and

b. "Succession" means the direct acquisition of assets and liabilities comprising a going business from a predecessor, whether by merger, consolidation, purchase or other direct transfer.

(4) Notwithstanding subsection (a) of this section and the first sentence of this subsection, for each corporation satisfying the requirements of paragraphs (c)(1) and (c)(2) of this section for a fiscal year for which its annual franchise tax would otherwise be $200,000 as computed under paragraph (a)(1) or (2) of this section (each, a "large corporate filer"), the Secretary of State shall fix the annual franchise tax for such taxable year at $250,000. If a corporation would otherwise qualify as a large corporate filer but has no filed annual report with the United States Securities and Exchange Commission (or any similar foreign agency), and became listed on a national securities exchange in connection with a succession within the taxable year, then reference must be made to the most recent annual report of the predecessor of such corporation for purposes of determining whether such corporation has satisfied the requirements of paragraphs (c)(2)a. and (c)(2)b. of this section.

Section 4. Amend § 2807, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2807. Prohibited activities and employments.

A justice of the peace constable appointed pursuant to this chapter shall not receive any other fees or emoluments for discharging judicial duties, except as may otherwise be provided by law, or engage in any occupation concerned with or growing out of the collection of any judgment rendered by a justice, or engage in the private security business under Chapter 12 or Chapter 13 of Title 24 or hold any state office, or be employed by the State in any other capacity.

Section 5. Amend § 1457, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

(h) This section shall not apply to any law-enforcement or police officer, or to any ~~security officer as [formerly] defined in § 1302(20) of Title 24 [repealed]~~ private security guard defined in § 1302(t) of Title 24.

Section 6. Amend § 1086, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1086. Absentee voting.

(a) Any individual qualified to vote in a school district election who shall be unable to appear to cast their ballot at the polling place of their school district on the date of the election may cast their vote by absentee ballot provided that the voter qualifies under 1 of the provisions of § 5502 of Title 15 and files ~~an affidavit of eligibility~~ a statement under § 5503 of Title 15, in a form prescribed by the State Commissioner of Elections, with the appropriate county department of elections by 12:00 noon, local time of the day prior to the election.

Section 7. Amend § 1086, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1086. Absentee voting.

(b) The Commissioner of Elections, in consultation with the Department of Elections for the counties, shall promulgate an absentee voting system that shall include envelopes and instructions similar to those provided for in Chapter 55 of Title 15. The Department of Elections responsible for conducting a public school election within a reorganized school district shall prepare the appropriate absentee ballots for any election conducted in accordance with this title. Upon receipt of the executed ~~affidavit of eligibility~~ statement under § 5503 of Title 15, by at least 12:00 noon of the day prior to the election, the department of elections shall:

(1) Deliver an official ballot to the elector if the elector personally appears at the appropriate department of elections office; or

(2) Follow the instructions contained within the elector's ~~affidavit~~ statement to mail the official ballot and instructions to the elector; provided, that the ~~affidavit~~ statement is received by the department of elections by at least 12:00 noon, local time, of the fourth day prior to the election.

Section 8. Amend § 1210, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1210. Tier One — Initial licensure [For application of this section, see 81 Del. Laws, c. 43, § 5]

(d) ~~Notwithstanding the provisions of § 1210 of this title and subsection (a) of this section and pursuant~~ Pursuant to rules and regulations promulgated and adopted pursuant to this chapter, the Department may issue an initial license to an applicant with at least 1 year of teaching experience but less than 4 years of teaching experience who is licensed as an educator in another jurisdiction or to an applicant who previously held a valid Delaware certificate that has since expired. An applicant issued an initial license under this subsection must complete all requirements enumerated in subsection (c) of this section, except for obtaining a passing score on an approved performance assessment.

Section 9. Amend § 4112A, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4112A. Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in ~~§ 4161~~ § 4164 of this title.

(c) The Ombudsperson shall have the power to:

(1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses and incidents of bullying committed on school property;

(2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under § 4112 of this title and incidents of bullying as required under ~~§ 4161~~ § 4164 of this title;

Section 10. Amend § 3121, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3121. Registration of births.

(d) The acknowledgment provided for in subsection (c) of this section shall contain:

(3) Subject to the provisions of ~~[former] § 804(c)~~ subchapter III of Chapter 8 of Title 13, their acknowledgment of a right to blood, tissue or other genetic testing to determine paternity or nonpaternity and of the right to otherwise dispute paternity in any civil or criminal action in which the paternity of the child by the putative father is an element of the claim for relief or a defense;

(4) A statement of the presumptive effect of the acknowledgment of paternity under ~~[former] § 804(c)~~ § 8-305 of Title 13;

Section 11. Amend § 1329, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1329. Disciplinary proceedings; appeal.

(a) Grounds. — Subject to the provisions of this chapter, the Director pursuant to the authority of the Board may impose any of the following sanctions (subsection (b) of this section) singly or in combination when it finds a licensee or identification card holder is guilty of any offense described herein:

(4) Obtaining criminal charges or convictions pursuant to ~~§§ 1314, 1315, 1316, 1317, 1318, 1319, 1320~~ § 1314, § 1315, § 1316, § 1317, § 1318, § 1319, or § 1320 of this title; or

Section 12. Amend § 1329, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1329. Disciplinary proceedings; appeal.

(d) All decisions of the Board shall be final and conclusive. Where the applicant, licensee or identification card holder is in disagreement with the action of the Board, the individual may appeal the Board's decision to the Secretary within 30 days of service or the postmarked date of the copy of the decision mailed to the individual. The appeal shall be on the record to the Secretary as provided in the Administrative Procedures ~~Act §§ 10142-10145~~ Act, Subchapter V of Chapter 101 of Title 29 (§ 10141 et seq. of Title 29).

Section 13. Amend § 1732, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1732. Investigations of complaints; Executive Director authority.

(e) When a complaint is made by a law-enforcement agency or employee thereof and involves allegations of criminal activity, the Division of Professional Regulation and the Executive Director shall suspend any new or pending investigation upon a written request to do so by the Delaware Department of Justice or a federal law-enforcement authority. Such written request shall suspend the duty to investigate pursuant to this section, duty to regularly advise the complainant ~~pursuant to § 1733(a)(2) of this title [repealed]~~ under § 8735 of Title 29, and any other duties that would interfere with the ability of law enforcement to investigate the allegations successfully. The suspension shall remain in effect until the Delaware Department of Justice or federal law enforcement informs the Executive Director in writing that action by the Division of Professional Regulation will not interfere with a pending law-enforcement investigation.

Section 14. Amend § 1738, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1738. Temporary suspension pending hearing.

(e) In addition to making findings of fact, the hearing panel shall also determine whether the facts found by it constitute a clear and immediate danger to public health. If the hearing panel determines that the facts found constitute a

clear and immediate danger to public health, the order of temporary suspension must remain in effect until the Board, ~~pursuant to § 1734(g) of this title [repealed],~~ under § 8735 of Title 29, deliberates and reaches conclusions of law based upon the findings of fact made by the hearing panel. An order of temporary suspension may not remain in effect for longer than 60 days from the date of the decision rendered by the hearing panel unless the suspended person requests an extension of the order pending a final decision of the Board. Upon the final decision of the Board, an order of temporary suspension is vacated as a matter of law and is replaced by the disciplinary action, if any, ordered by the Board.

Section 15. Amend § 1799HH, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows

§ 1799HH. Midwifery Advisory Council.

(2) In the event of a formal or informal complaint concerning the activity of a licensee that the Board determines, exercising its reasonable discretion, presents a clear and immediate danger to the public health, safety or welfare, the Board may temporarily suspend the person's license, pending a hearing, upon the written order of the Secretary of State or the Secretary's designee, with the concurrence of the Council Chair or the Council Chair's designee.

e. In addition to making findings of fact, the hearing panel shall also determine whether the facts found by it constitute a clear and immediate danger to public health. If the hearing panel determines that the facts found constitute a clear and immediate danger to public health, the order of temporary suspension must remain in effect until the Board, ~~pursuant to § 1734(g) of this title [repealed],~~ under § 8735 of Title 29, deliberates and reaches conclusions of law based upon the findings of fact made by the hearing panel. An order of temporary suspension may not remain in effect for longer than 60 days from the date of the decision rendered by the hearing panel unless the suspended midwife requests an extension of the order pending a final decision of the Board. Upon the final decision of the Board, an order of temporary suspension is vacated as a matter of law and is replaced by the disciplinary action, if any, ordered by the Board.

Section 16. Amend § 1914, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1914. Qualifications for licensed practical nurse.

An applicant for a license to practice as a licensed practical nurse shall submit to the Board written evidence, verified by oath, that such applicant:

(5) Has committed no acts which are grounds for disciplinary action as set forth in § 1922(a) of this title; however, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum may waive § 1922(a) of this title if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on ~~parole~~ parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

Section 17. Amend § 2314, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2314. Disciplinary proceedings; appeal.

(d) All decisions of the Superintendent shall be final and conclusive. Where the applicant or licensee is in disagreement with the action of the Superintendent, the practitioner may appeal the Superintendent's decision to the Secretary within 30 days of service or the postmarked date of the copy of the decision mailed to the individual. The appeal shall be on the record to the Secretary as provided in the Administrative Procedures ~~Act §§ 10142-10145~~ Act, Subchapter V of Chapter 101 of Title 29 (§ 10141 et seq. of Title 29).

Section 18. Amend § 3034, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3034. Reciprocity.

(a) Upon payment of the application fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who is certified by the National Board for Certified Counselors or other national mental health specialty certifying organization acceptable to the Board who shall present proof of current licensure in good standing in another State, the District of Columbia or territory of the United States, whose standards for licensure are substantially similar to those of this State. A "license in good standing" is defined in § ~~3032(a)(4)-(7)~~ § 3032(a)(4) through (8) of this title.

Section 19. Amend § 3051, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3051. Definitions.

(b) "Licensed associate marriage and family therapist" (LAMFT) is an individual licensed as an associate marriage and family therapist under this chapter who is obtaining experience under ~~the~~ professional direct ~~professional~~ supervision for the purpose of becoming licensed as a marriage and family therapist.

Section 20. Amend § 4861, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4861. Legislative findings and purpose [Expires July 1, 2019, pursuant to § 4868(b) of this title]

(a) The General Assembly hereby finds and declares that:

(2) Interactive fantasy sports contests are not wagers on future contingent events and are not under the contestants' control or influence because contestants have control over which players they choose and the outcome of each contest is not dependent upon the performance of any 1 player or any 1 actual team. The outcome of any fantasy sports contest does not correspond to the outcome of any 1 sporting event. Instead, the outcome depends on how the performances of participants' fantasy roster choices compare to the performance of others' roster choices.

Section 21. Amend § 5901, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5901. Definitions.

(b) The definitions of terms appearing in ~~§ 1301 of Title 19 shall also~~ § 1302 of Title 19 apply to this chapter.

Section 22. Amend § 7420, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7420. Project restrictions.

(a) All new construction and/or reconstruction of existing structures financed with the proceeds of bonds or notes shall comply with flood plain management requirements adopted by the municipality in which such structure is located pursuant to the National Flood Insurance Act of 1968 [42 U.S.C. § 4011 et seq.], as amended, or successor acts. If any such structure is in a flood program nonparticipating municipality, then the State shall comply with the criteria set forth in ~~Title 24, Code of Federal Regulations, §§ 1910.3, 1910.4 and 1910.5 [now §§ 60.3, 60.4, 60.5 and 60.6]~~ Chapter 55 of Title 24 of the Code of Federal Regulations (24 C.F.R. § 55.1 et seq.) issued pursuant to the National Flood Insurance Act of 1968, as amended, or successor acts.

Section 23. Amend § 1109, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1109. Itemized deductions [For application of this section, see 66 Del. Laws, c. 86, § 8]

(a) General. — In determining taxable income under this chapter, in lieu of the standard deduction provided by § 1108 of this title, a resident individual may elect to deduct the sum of the itemized deductions claimed on the federal income tax return as shall be permitted under the laws of the United States as the same are or shall become effective for any taxable year in determining the federal taxable income, or, if the person does not itemize deductions or elects the credit for foreign taxes paid on the federal return, the person may deduct the sum of the itemized deductions to which the person would have been entitled had the person itemized the deductions (including the deduction for foreign taxes paid) on the federal return:

(2) Increased by:

c. ~~[Repealed.]~~ For taxable years beginning after December 31, 1986, and before January 1, 1988, an amount equal to 12% of itemized deductions determined under this section without regard to this subparagraph.

Section 24. Amend § 2301, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2301. Occupations requiring licenses; definitions; fees; exemptions.

(t) Chapter 12 of Title 24 notwithstanding, the term of new licenses and renewals issued to security alarm businesses shall be governed exclusively by this part; provided, however, that the Division shall not issue a license to a security alarm business without the approval of the Superintendent of the Delaware State Police ~~in accordance with § 1202(a) of Title 24 [repealed]~~ under Chapter 12 of Title 24. Two-year security business licenses expiring between June 27, 1989, and June 27, 1991, shall be renewed for a period no greater than 1 year at an annual fee of $75, and such license shall expire the following December 31. The fee shall be reduced according to the number of full calendar months remaining in the year.