

SPONSOR: Sen. Pinkney & Rep. Minor-Brown &
Rep. Dorsey Walker
Sens. Gay, Lopez, Sokola, Townsend; Reps. Baumbach, Kowalko, Morrison

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 321
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE BOARD OF PARDONS.

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

Section 1. Amend § 4362, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4362 ~~Psychiatric~~ Mental Health examinations.

(a) When the Board of Pardons considers for recommendation to the Governor, for pardon or commutation of sentence, any person who has been convicted of an act causing death (subpart B of subchapter II of Chapter 5 of this title); sexual offenses (subpart D of subchapter II of Chapter 5 of this title); kidnapping and related offenses (subpart E of subchapter II of Chapter 5 of this title); arson and related offenses (subpart A of subchapter III of Chapter 5 of this title); home invasion; burglary in the first degree; burglary in the second degree; robbery (subpart C of subchapter III of Chapter 5 of this title); offenses relating to children and vulnerable adults (subchapter V of Chapter 5 of this title); cruelty to animals; abusing a corpse; unlawful use of an incendiary device, bomb or other explosive device; abuse of children (Chapter 9 of Title 16); and distribution of a controlled substance to a person under age 18 (former § 4761 of Title 16 (repealed)); or for an attempt as provided by statute to commit any of these crimes, there shall be furnished to each member of the Board of Pardons and to the Governor, in case recommendation for a pardon or commutation of sentence be made, a copy of the report of the ~~psychiatrist and/or psychologist~~ mental health examiner who ~~have~~ has examined such person, as provided in subsection (b) of this section.

(b) Prior to consideration by the Board of Pardons of any application for a pardon or a commutation of sentence made by any person who has been incarcerated for any of the crimes stated in subsection (a) of this section, such person shall be examined by a ~~psychiatrist or by a psychologist~~ mental health examiner within a 12-month period immediately preceding consideration of such person's case by the Board of Pardons. The Commissioner of the Department of Correction or the Commissioner's designee may request the Director of the Delaware Psychiatric Center to cause examination and studies to be made.

(c) Any ~~psychiatrist or psychologist~~ mental health examiner who, pursuant to subsection (b) of this section, examines any applicant for a pardon or a commutation of sentence shall furnish to each member of the Board of Pardons a report containing their respective findings, opinions as to the mental and emotional health of the applicant, and opinions as to the probability of the applicant again committing any crime if released. If the Board of Pardons recommends a pardon or a commutation of sentence, a copy of any report submitted to the Board by any ~~psychiatrist or psychologist~~ mental health examiner shall be provided to the Governor.

(d) If examination and clinical studies as provided in this section cannot be made at the correctional institution, the prisoner may be transferred, under adequate security safeguards, to the Delaware Psychiatric Center for such examination and studies.

(e) For the purposes of this section, a mental health examiner may be a Psychiatrist, Psychologist, Licensed Clinical Social Worker, Psychiatric/Mental Health Nurse Practitioner, Licensed Professional Counselor of Mental Health,