



SPONSOR: Rep. Minor-Brown & Rep. Harris & Rep. Osienki &
Rep. Dukes & Rep. Spiegelman & Sen. Sokola &
Sen. Townsend & Sen. Lockman & Sen. Hocker &
Sen. Pettyjohn

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 320
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT PROPOSING AMENDMENTS TO THE DELAWARE CONSTITUTION RELATING TO TECHNICAL CORRECTIONS.

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

Section 1. Amend § 17A, Article II of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 17A. Bingo games; organizations authorized to conduct; submission to referendum; districts; regulation; penalties.

(a) The game of bingo shall be lawful when sponsored and conducted by volunteer fire companies, veterans' organizations, religious or charitable organizations, or ~~by~~ fraternal societies provided the net receipts or profits arising from the conducting or operating of such bingo games by the aforementioned companies, organizations, or societies are used solely for the promotion or achievement of the purposes of such companies, organizations, or societies, and provided further that the aforementioned companies, organizations, or societies are operated in a manner so as to come within the provisions of ~~Section §~~ 170 of the ~~U.S.~~ United States Internal Revenue Code and ~~Regulations~~ regulations promulgated thereunder by the ~~U.S.~~ United States Secretary of the Treasury.

Section 2. Amend § 17B, Article II of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 17B. Lotteries not under State control; organizations authorized to conduct; submission to referendum; districts; regulation; penalties.

(a) Lotteries not under State control shall be lawful when sponsored and conducted by volunteer fire companies, veterans organizations, religious or charitable organizations, or ~~by~~ fraternal societies provided that the company, organization, or society has been in existence a minimum of 2 years and provided the net receipts or profits arising from the conducting or operating of such lotteries by the aforementioned companies, organizations, or societies are used solely for

the promotion or achievement of the purposes of such companies, organizations, or societies, and provided further that the aforementioned companies, organizations, or societies are operated in a manner so as to come within § 170 of the United States Internal Revenue Code and regulations promulgated thereunder by the United States Secretary of the Treasury.

Section 3. Amend § 10, Article III of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10. Members of the Governor's cabinet; confirmation of appointment or reappointment, term, and vacancy; Secretary of State's duties and compensation.

(e) Except as provided by paragraph (e)(1) of this Section, a member of the Governor's cabinet shall become a bona fide resident of this State within 6 months after appointment.

(2) After becoming a resident of this State, ~~of State~~ a member of the Governor's cabinet shall continuously be a resident of this State during the member's term of ~~while in~~ office.

Section 4. Amend § 19, Article III of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 19. Lieutenant Governor; election, term, and qualifications; President of the Senate; compensation.

(b) The Lieutenant Governor, for services as President of the Senate, shall receive the same compensation as the Speaker of the House of Representatives; the Lieutenant ~~Governor~~ Governor, for services as a member of the Board of Pardons and for all other duties of the office which may be provided by law, shall receive such compensation as shall be fixed by the General Assembly.

Section 5. Amend § 35, Article IV of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 35. Proceedings pending at time of 1951 amendment; books, records, and papers; effect of 1951 amendment on Court of Chancery.

(a) All writs of error and appeals and proceedings ~~pending~~, pending on May 14, 1951, in the Supreme Court as heretofore constituted shall be proceeded within the Supreme Court hereby established, and all the books, records, and papers of the Supreme Court as heretofore constituted shall be the books, records, and papers of the Supreme Court hereby established.

(b) All suits, ~~proceedings~~ proceedings, and matters ~~pending~~, pending on May 14, 1951, in the Superior Court as heretofore constituted shall be proceeded within the Superior Court hereby established and all the books, records, and papers of the Superior Court as heretofore constituted shall be the books, records, and papers of the Superior Court hereby established.

(c) All indictments, proceedings, and matters of a criminal nature pending in the former Court of General Sessions and in the former Court of Oyer and ~~Terminer~~, Terminer on May 14, 1951, and all books, records, and papers of the former Court of General Sessions and former Court of Oyer and Terminer shall be transferred to the Superior Court hereby established, and the indictments, proceedings, and matters pending shall be proceeded with to final judgment and determination in the Superior Court hereby established.

Section 6. Amend § 37, Article IV of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 37. Court on the Judiciary.

(g) In the absence or disqualification of a member of the Court on the Judiciary, the Chief Justice, or in the Chief Justice's absence or disqualification the ~~the~~ next qualified and available Justice, who by seniority is next in rank to the Chief Justice, shall appoint a substitute member pro tempore.

Section 7. Amend § 1, Article V of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1. Time and manner of holding general election.

The general election shall be held biennially on the Tuesday next after the first Monday in the month of November, and shall be by ballot; but the General Assembly may by law prescribe the means, methods, and instruments of voting so as best to secure secrecy and the independence of the voter, preserve the freedom and purity of elections, and prevent ~~fraud~~, fraud, corruption, and intimidation thereat.

Section 8. Amend § 4, Article V of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4. Registration of voters; days for registration; application to strike name from list; appeals; registration as prerequisite for voting.

(c) From the decision of the registration officers granting or refusing registration, or striking or refusing to strike a name or names from the registration list, any person interested, or any registration officer, may appeal to the resident Judge of the County, or in case of disability or absence from the County, to any Judge entitled to sit in the Superior Court, whose determination shall be final; and the Judge shall have power to order any name improperly omitted from the registry to be placed thereon, and any name improperly appearing on the ~~the~~ registry to be stricken therefrom, and any name appearing on the registry, in any manner incorrect, to be corrected, and to make and enforce all necessary orders in the premises for the correction of the registry. Registration shall be a prerequisite for voting only at general elections, at which Representatives to the General Assembly shall be chosen, unless the General Assembly shall otherwise provide by law.

Section 9. Amend § 8, Article V of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8. Prosecution for election offenses; procedure; appeal; bond.

(a) Every prosecution for any of the offenses mentioned in Section 7 of this Article shall be on information filed by the Attorney General after examination and commitment or holding to bail by a judge or Justice of the Peace, and the cause shall be heard, tried, and determined by the court without the intervention of either a grand jury or petit jury.

(b) The accused, if adjudged guilty of the offense charged, shall have the right at any time within the space of 3 calendar months next after sentence is pronounced to an appeal to the Supreme Court. The court below, or any judge thereof, in term time or vacation, shall upon application by the accused allow such appeal; but such appeal shall not operate as a supersedeas unless the appellant shall at the time of the allowance thereof give an appeal bond to the State of Delaware in such amount and with such surety as shall be approved by such court or judge.

(c) On such appeal the Supreme Court shall, with all convenient speed, review the evidence adduced in the cause in the court below, as well as the other proceedings therein, and the law applicable thereto, and give final judgment accordingly, either affirming or reversing the judgment below.

(d) If the appellant shall fail to prosecute the appeal under the rules and practice hereinafter provided for, the Supreme Court shall affirm the judgment of the court below.

(e) Where the sentence in the court below includes a term of imprisonment and an appeal bond is given and approved in manner aforesaid, the Supreme Court, if it affirm the judgment below, shall sentence the appellant to a term of imprisonment equal to that imposed by the court below, after deducting therefrom a period equal to the time of imprisonment, if any, already suffered under the sentence of the court below.

(f) The surety or sureties in any appeal bond given under the provisions of this Section shall have the right at any time after its approval and until final judgment shall be rendered by the Supreme Court, and, in case the judgment of the court below shall be affirmed, until the expiration of the space of 30 days next following such affirmance, to take, wherever found, and render the appellant to the sheriff of the county in which the appellant was sentenced; and a certified copy of the appeal bond shall be the sufficient warrant for such surety or sureties for such taking and rendering.

(g) If the Supreme Court shall reverse any judgment of the court below imposing a fine, and if the accused shall have fully paid such fine and the costs of prosecution, the amount thereof shall be refunded to the appellant through a warrant drawn by the court below on the treasurer of the county in which the accused was sentenced.

(h) All the judges entitled to sit in the Supreme Court shall, as soon as conveniently may be, meet at the usual place of sitting of the court, and they, or a majority of them, shall adopt rules prescribing the forms and conditions of appeal

bonds to be used under the provisions of this Section, and the manner of certifying copies thereof, providing for the printing or reduction to writing of all oral evidence in the cause in the court below and of the opinion of the court, for the certification of the same when so printed or reduced to writing, and of copies thereof; for the copying and certification of all documentary or other written or printed evidence in the cause in the court below and of the record therein; for the transmission to the Supreme Court of such certified copies of such record, and of all the evidence adduced in the court below and of the opinion of the court for the transmission to the court below of a certified copy of the final judgment of the Supreme Court and of any additional sentence pronounced by the court, for the discharge of securities in appeal bonds, and for the framing, issuance, service, and enforcement of all process and rules necessary to give full effect to the provisions of this Section; and regulating generally the practice and procedure of the Supreme Court and the court below in cases of appeal under this Section.

(i) The judges, or a majority of them, met as aforesaid, may also provide that when complaint shall be made in due form, prescribed by them, to any judge entitled to sit in the Supreme Court, that any offense mentioned in Section 7 of this Article has been committed in the county in which such judge shall reside, or out of this State, such judge shall have power to cause the person charged with such offense to be arrested within any county of this State and brought before such judge, and to bind the person with sufficient surety, or, for want of bail, commit the person for appearance and answer at the next term of the Court of General Sessions in such manner and under ~~and~~ such rules and regulations as the judges, or a majority of them, shall prescribe.

(j) From time to time hereafter, whenever a majority of all the judges entitled to sit in the Supreme Court shall so request, all of the judges so entitled shall, as soon as conveniently may be, meet at the usual place of sitting of the court; and they, or a majority of them, shall have power to revise, amend, add to, or annul, any rule or rules theretofore adopted touching forms, practice or procedure in cases of appeal under this Section, or arrest and binding or commitment for appearance and answer, in such manner and to such extent as in their judgment shall best serve to effectuate the purposes hereof.

(k) No person shall be adjudged guilty of an offense mentioned in Section 7 of this Article without the concurrence of all the judges trying the case; and upon appeal no judgment of the court below shall be affirmed without the concurrence of all of the judges of the Supreme Court sitting in the case, and their failure to concur as aforesaid shall operate as a reversal of the judgment of the court below; provided, however, that such concurrence of the judges sitting in the Supreme Court shall not be necessary for the affirmance of the judgment of the court below where the appellant shall fail to prosecute the appeal under the rules and practices herein provided for.

Section 10. Amend § 10, Article VIII of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10. Limitation on increase of rate of taxes and license fees; exception to meet obligation under faith and credit pledge; allocation of public moneys to meet such obligation if revenues are not sufficient to meet such pledge.

(a) The effective rate of any tax levied or license fee imposed by this State may not be increased except by an Act ~~an act~~ of the General Assembly adopted with the concurrence of three-fifths of all members of each House.

Section 11. Amend § 2, Article IX of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2. Acceptance of Constitution by existing corporations as prerequisite for amendment or renewal of charter.

No corporation in existence on June 10, 1897, shall have the corporation's charter amended or renewed without first filing, under the corporate seal of the corporation, and duly attested, in the office of the Secretary of State, an acceptance of the provisions of this Constitution.

Section 12. Amend § 18, Article I of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18. Prohibition against quartering soldiers in homes.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but by a civil magistrate, in a manner to be prescribed by law.