



SPONSOR: Rep. Spence & Sen. Adams;
Reps. Lee, Atkins, Booth, Boulden, Buckworth,
Carey, Cathcart, Caulk, DiPinto, D. Ennis, Ewing,
Fallon, Hocker, Hudson, Lavelle, Lofink, Maier,
Oberle, Quillen, Reynolds, Roy, Stone, Thornburg,
Ulbrich, Valihura, Wagner, Gilligan, Van Sant, B.
Ennis, George, Hall-Long, Houghton, Keeley, Plant,
Schwartzkopf, Viola, Williams; Sens. McDowell,
Still, Sorenson

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 358

AN ACT TO AMEND TITLE 11 RELATING TO THE ESTABLISHMENT OF A SPECIAL COMMISSION ON
CRIMINAL JUSTICE.

WHEREAS, Delaware is faced with a financial situation that has made it more difficult to meet essential health, education, public safety and other service needs that are required for the well being of all Delaware citizens this year; and

WHEREAS, members of the General Assembly and the Governor want to ensure that the citizens of Delaware have a cost-effective, efficient, criminal justice system that protects the safety of the public; and

WHEREAS, Delaware spends one (1) dollar out of thirteen (13) of its budget on corrections alone and the budgets of all of the State's criminal justice agencies have increased dramatically over the past few years; and

WHEREAS, Delaware has just completed an unprecedented expansion of its prison system, adding 2,650 beds at a capital cost of more than \$180 million and additional annual operational cost increases in excess of \$40 million; and

WHEREAS, despite this expansion, the present system's capacity of 6, 587 custodial beds is already exceeded by a custodial population of about 6,600, leading to a situation which, if unchecked will cost hundreds of millions of additional expenditures for further expansion; and

WHEREAS, despite these expenditures, the high rate of recidivism for offenders released from Delaware's prisons continues to be a threat to public safety; and

WHEREAS, a special commission should be created which is geographically diverse and is drawn from diverse communities and should include senior officials of the State representing the Executive Branch, the General Assembly, the Judiciary, the Attorney General, the Public Defender, the Department of Correction, law enforcement, The Criminal Justice

Council, The Sentencing Accountability Commission, the State Bar Association, The University of Delaware, Delaware State University, medical and rehabilitation treatment community, and the business community.

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

1 Section 1. Amend Title 11, Chapter 65, Delaware Code by inserting as new “Subchapter XII” the following:

2 “Subchapter XII. The Special Commission on Criminal Justice.

3 § 6595 Establishment; composition; purpose.

4 (a) A ‘Special Commission on Criminal Justice’ is hereby established. The Commission shall undertake a
5 comprehensive review of Delaware’s charging decisions, pre-trial detention, plea bargaining, sentencing
6 and correctional systems, rehabilitation, programming, offender re-entry mechanisms, services and
7 programming available in the community, and further, to identify modifications that can be made in
8 those systems to improve their cost-effectiveness, in conformance with justice, public safety and
9 constitutional requirements.

10 (b) The Special Commission shall consist of 17 members, the body of which shall be comprised as follows:

11 (1) three (3) persons appointed by the Governor;

12 (2) two (2) persons appointed by the President Pro-Tempore of the Senate;

13 (3) one (1) person appointed by the Minority Leader of the Senate;

14 (4) two (2) persons appointed by the Speaker of the House of Representatives;

15 (5) one (1) person appointed by the Minority Leader of the House of Representatives;

16 (6) two (2) persons appointed by the Chief Justice of the Delaware Supreme Court;

17 (7) two (2) persons appointed by the Attorney General;

18 (8) two (2) persons appointed by the Public Defender; and

19 (9) two (2) persons appointed by the Delaware Police Chief’s Council, Inc.

20 (c) The Governor shall appoint the Chair and Co-Chair from the members of the Special Commission.

21 (d) The Special Commission shall review Delaware’s criminal justice system for fiscal accountability and
22 discipline, sentence modification, re-entry and reduction of recidivism, pre-trial detention and
23 correctional operations and facilities.

24 (e) The Special Commission is authorized to organize special sub-committees consisting of core
25 Commission members as chairpersons and including other persons impacted by or having special
26 expertise in the areas to be studied.

- 27 (f) The Special Commission shall enjoy the complete cooperation and assistance of all departments of the
28 State of Delaware including the Statistical Analysis Center and the Administrative Offices of the Courts,
29 and shall have the authority to call witnesses and obtain reports.
- 30 (g) The highest priority and objective of the Special Commission is the continued or improved safety of law
31 abiding citizens.
- 32 (h) The Special Commission shall, by March 31, 2005, provide an interim report to members of the General
33 Assembly and the Governor, and by January 15, 2006, a final report providing conclusions and
34 recommendations, including any recommended legislation, so as to permit an informed assessment of
35 the viability of alternatives to embarking upon a construction program for additional Level V capacity
36 for the Department of Correction.”.

37 Section 2. This Act shall sunset on July 1, 2006.

SYNOPSIS

The Bill creates a Special Commission on criminal justice to conduct an informed assessment of the viability of alternatives to embarking upon a construction program for additional Level V capacity for the Department of Correction.

The Special Commission will undertake a comprehensive review of Delaware’s charging decisions, pre-trial detention, plea bargaining, sentencing and correctional systems, rehabilitation, programming, offender re-entry mechanisms, services and programming available in the community and, further, will identify modifications that can be made in those systems to improve their cost-effectiveness and reduce the risk of re-offense in conformance with justice, public safety and constitutional requirements.

The Special Commission will provide an interim report to the General Assembly and the Governor by March 31, 2005, and a full report by January 15, 2006. The report will include the Commission’s conclusions, recommendations and any recommended legislation.

The Special Commission consists of a geographically diverse selection of seventeen (17) members, including three (3) persons appointed by the Governor, two (2) persons appointed by the President Pro-Tempore of the Senate, one (1) person appointed by the Senate Minority Leader, two (2) persons appointed by the Speaker of the House of Representatives, one (1) person appointed by the House Minority Leader, two (2) persons appointed by the Chief Justice, two (2) persons appointed by the Attorney General, two (2) persons appointed by the Public Defender, and two (2) persons appointed by the Delaware Police Chief’s Council, Inc.