SPONSOR: Rep. J. Johnson & Sen. Ennis & Sen. Henry & Sen. Sorenson & Sen. Venables
Reps. Barbieri, Kowalko, Plant, Schooley, Scott

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 338

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CLASSIFICATION OF OFFENSES AND SENTENCES.

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

Section 1. Amend Chapter 42, Title 11 of the Delaware Code by adding a new "§4221" thereto as follows:

"§4221. Modification, deferral, suspension or reduction of sentence for serious medical illness, injury or infirmity.

Notwithstanding any provision of law to the contrary, a Court may modify, defer, suspend or reduce a minimum or mandatory sentence of one year or less, or a portion thereof, required, where the Court finds by clear and convincing evidence, or by stipulation of the State, that the person to be sentenced suffers from a serious medical illness, injury or infirmity with continuing treatment needs which make incarceration inappropriate and that such person does not constitute a substantial risk to the community.".

SYNOPSIS

This Act authorizes a sentencing court to modify, defer, reduce or suspend a minimum or mandatory sentence of one year of less if it finds the person to be sentenced has serious and ongoing medical treatment needs which make incarceration inappropriate and that the person does not pose a substantial risk to the community. The Department of Corrections has authority (11 *Del. C.* §4217) to request the modification of an inmate's sentence based on medical illness or infirmity. This Act would give Delaware's courts similar authority in imposing sentences, but only where the sentence required is for 1 year or less. Minimum and mandatory sentences for virtually all violent crimes would not be eligible for modification under this Act because the sentences required for such crimes exceed one year.

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