



**149th GENERAL ASSEMBLY  
FISCAL NOTE**

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<b>BILL:</b>	<b>HS #1 to HOUSE BILL NO. 302</b>
<b>SPONSOR:</b>	<b>Representative Bentz</b>
<b>DESCRIPTION:</b>	<b>AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO INDIVIDUALS WITH MENTAL ILLNESS.</b>

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**Assumptions:**

1. This act would become effective 90 days after enactment.
2. This act would do the following:
  - a. Create a new § 5403 of Title 16, which permits a mental health service provider, institution, agency, or hospital to disclose confidential communications to law enforcement if the mental health service provider, institution, agency, or hospital concludes that the patient is dangerous to self or dangerous to others.
  - b. Add definitions for "dangerous to others" and "dangerous to self" that are based on the definition in § 5001 of Title 16, but expand the temporal imminence of the individual's actions.
  - c. Permit a law-enforcement officer to obtain an order of relinquishment from the Justice of the Peace Court, if the officer has probable cause to believe that an individual who is subject to a mental health provider report under §5402 or 5403 of Title 16 is deemed dangerous to others or self and in possession of a fire arm or ammunition. The process of obtaining a search or arrest warrant will require an expedited process. If there is probable cause, then the Justice of the Peace Court must order the relinquishment of firearms to law enforcement to search for and seize firearms. An order from the Justice of the Peace Court is valid for 60 days. However, if the Department of Justice does not file a petition in Superior Court within 60 days, the Justice of the Peace Court's order is void and law enforcement must return the firearms.
  - d. Makes clear that an individual has a right to a hearing before an order of relinquishment may be granted by the Superior Court.
  - e. Makes clear that the Justice of the Peace Court and Superior Court may, as part of an order of relinquishment include an order for an individual to not reside with an individual who owns, possesses, or controls firearms. However, the Courts may not impair or limit the right to keep and bear arms of an individual who is not subject to an order.
  - f. Adds consistent relinquishment provisions to Title 16 so that if the Superior Court orders an individual to outpatient treatment or an involuntary commitment hearing, the court must also order for the individual to relinquish firearms or ammunition.
  - g. An individual subject to the order of relinquishment may seek relief from the Relief from Disabilities Board.

3. This Act would have an estimated one-time fiscal impact of \$144,000 in Fiscal Year 2019. The estimated costs consist of the following:
- a. The Delaware Criminal Justice Information System (DELJIS) would be required to design and create file structures necessary for storing the data elements required by this Act. The following inquiry functions would be designed and created:
    - 1. Case Inquiry
    - 2. Rap Sheet Flags
    - 3. DMV Records
    - 4. Multiple Inquiry Functions
    - 5. Special Inquiry Functions for Viewing Orders
    - 6. Add to Pre-Gun Check
  - b. To accomplish the design and programming tasks required by this Act, DELJIS would require 2 contractual programmers for 24 weeks at an estimated cost of \$144,000.
  - c. Federal Byrne Justice Assistance Grants or National Instant Criminal Background Check System (NICS) grants may be available to offset all or a portion of the estimated costs but are not guaranteed at this time.

**Cost:**

Fiscal Year 2019:	\$144,000
Fiscal Year 2020:	\$0
Fiscal Year 2021:	\$0

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Prepared by Huma Haroon  
Office of the Controller General