

**SEAN M. LYNN**  
STATE REPRESENTATIVE  
31<sup>st</sup> District



**HOUSE OF REPRESENTATIVES**  
**STATE OF DELAWARE**  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

**COMMITTEES**  
Judiciary, Chair  
Agriculture  
Education  
Health & Human Development  
Public Safety & Homeland Security

### **6.9.21 House Judiciary Committee Meeting Minutes**

Chair Lynn called the meeting to order at 1:00 pm. He stated that the meeting was planned in accordance with HCR 1 and took a roll call of the committee's members. Members present included Vice Chair Griffith and Reps. Cooke, Brady, Dorsey Walker, Smyk, Spiegelman, Vanderwende, and Gray. For a list of guests present, please see the attendance list below.

Chair Lynn introduced **HB 230, AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUDICIAL PRIVACY**. Rep. Griffith, the sponsor of the bill, explained that Delaware's judicial officers must be able to act without fear of personal reprisal for the fair decisions they make. She referred to an incident where a judicial officer, U.S. District Court Judge Esther Salas's son was killed by someone in retaliation for a court decision. Rep. Griffith stated that the bill would allow judicial officers to make a written request to the Administrative Office of the Courts that their personal information not be published and remain confidential. A judge must give notice to Delaware agencies and private entities to remove any information deemed confidential. Entities would have 72 hours after notification to comply.

Rep. Griffith added that she received a letter in support of HB 230 from the Delaware State Bar Association, which will be included in the minutes for this meeting.

With permission of the Chair, Family Court Judge Mardi Pyott stated that the bill would provide security to judicial officers in an increasingly unsafe world. She stated that it takes very little effort and readily available technology for an angry litigant to the identify family members and behaviors of a judicial officer.

Rep. Smyk thanked Judge Pyott for her remarks, stating that he is concerned for judicial officers as well as staff inside State courthouses.

Rep. Cooke asked where the addresses would be removed.

Rep. Griffith responded that information in the government's public records would be removed and iterated that the bill would be implemented a year after enactment.

With permission from the Chair, Deputy Court Administrator Ashley Tucker explained that the bill provides the Courts with one year to identify the particular State agencies publishing judicial officer information. She added that the plan for implementation is still a work in progress.

Rep. Cooke expressed concerns over the effectiveness of the bill and asked whether the sponsor had any data on related complaints.

Rep. Griffith stated that judicial officers are being attacked for their decisions but cannot publicly discuss due to the pending nature of the case. She mentioned that she was working at the Department of Justice (DOJ) when two individuals were murdered at the Family Court Courthouse, and that harassment does take place.

Rep. Cooke repeated that he would like the same treatment of this bill applied to other members of the criminal justice field.

Chair Lynn added that county records maintain and publish deeds of ownership. He asked Ms. Tucker how the Courts will apply the bill to third party entities.

Ms. Tucker mentioned that a letter would be sent to third party entities and added that civil or criminal remedies would apply.

With permission from the Chair, Judge Pyott added that she has had two threats made against her by litigants that required Capitol Police interference.

Rep. Smyk asked about the how the bill addresses the ability of the Division of Motor Vehicles (DMV) to provide addresses.

Chair Lynn stated that the DMV is included in the definition of “governmental agency”. Rep. Griffith affirmed his statement.

Chair Lynn asked Rep. Griffith how a judicial officer is expected to deal with a noncompliant third-party entity. At the request of the sponsor, Ms. Tucker stated that the Courts will be working out the correct implementation plan in the established year.

Chair Lynn asked the Courts to provide counsel resources to judicial officers to ensure they are adequately represented in any action including a noncompliant third-party entity.

Chair Lynn opened the meeting up to public comment.

Javonne Rich, Policy & Advocacy Director for the ACLU of Delaware, stated that there were concerns with the bill from the organization and that it restricted free speech. She added that the bill should be narrowed in scope and changed to ensure that it does not restrict media reporting.

Bonnie Metz, Director of State and Local Government Affairs for Verizon, stated that language was provided to the sponsor to address telephone books and their inability to retract information within the required three days. She stated that the provided amendments include language that would allow the information in question

Rep. Brady made a motion to release, and Rep. Dorsey Walker seconded the motion; motion carried. Yes=8 (Cooke, Brady, Dorsey Walker, Griffith, Lynn, Gray, Smyk, Vanderwende). Absent=3 (Bush, Mitchell, Spiegelman). HB 230 w/HA 1 was released from committee with a F=2, M=5, U=0 vote.

Chair Lynn introduced **HB 190 w/HA 1, AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE**. Rep. Griffith, the sponsor of the bill, explained that the bill pertains to misdemeanor domestic violence offenses. It updates the domestic violence first offender diversion program to include assault third, terroristic threatening, and criminal contempt of a domestic violence protective order or lethal violence protective order. She added that the legislation extends the ability to use the first offender diversion program to the Court of Common Pleas if appropriately applied to intimate partners, and emphasized that the intent is to provide offenders with more appropriately tailored services.

With permission from the Chair, Rep. Griffith had Jenna Milecki of the Delaware Department of Justice elaborate on the bill’s intent. Deputy Attorney General Milecki stated that the bill was created to address an inadvertent loophole and ensure that the first offender diversion program is available to perpetrators of intimate partner violence and prohibit all offenses available for this programming from receiving Probation Before Judgement (PBJ).

Rep. Smyk asked Deputy Attorney General Milecki if the bill would help with caseloads. She responded the bill ensures that DOJ has the ability to say no to PBJ if they do not feel it is appropriate.

Chair Lynn opened up the meeting to public comment.

Jon Offredo of the Office of Defense Services (ODS) thanked DOJ for hearing out the agency’s concerns but stated that ODS had concerns about the effect HB 190 would place on its clients.

Marcy Rezac, Policy Coordinator for the Delaware Coalition Against Domestic Violence, stated support for the bill on behalf of the organization. She iterated the bill’s premise and stated that diversion programs have proven to be effective. Ms. Rezac added that the likelihood of recidivism is reduced when offenders are provided with resources to address what they have done.

Rep. Griffith mentioned that an amendment has been filed to address a technical error.

Rep. Brady made a motion to release, and Rep. Dorsey Walker seconded the motion; motion carried. Yes=9 (Cooke, Brady, Bush, Dorsey Walker, Griffith, Lynn, Gray, Smyk, Vanderwende). Absent=2 (Mitchell, Spiegelman). HB 190 was released from committee with a F=2, M=5, U=0 vote.

Chair Lynn introduced **HB 182 w/HA 1, AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO VICTIMS OF CRIMES**. Rep. Williams, the sponsor of the bill, stated that the bill addresses the Victims Compensation Assistance Program (VCAP) to expand eligibility, include human trafficking survivors as eligible participants, and update the Code to reflect current practices, membership, and terminology.

Chair Lynn opened the meeting up to public comment.

Marcy Rezac from the Delaware Coalition Against Domestic Violence stated support for the bill on behalf of the organization. She added that VCAP is an essential program that needs continued support.

Paige Schmittinger, Executive Director of VCAP, thanked the sponsor for their support in moving the bill along. She stated that the goal of the bill is to provide VCAP with more statutory tools to reach victims everywhere.

Rep. Griffith made a motion to release, and Rep. Brady seconded the motion; motion carried. Yes=9 (Cooke, Brady, Bush, Dorsey Walker, Griffith, Lynn, Gray, Smyk, Vanderwende). Absent=2 (Mitchell, Spiegelman). HB 182 was released from committee with a F=2, M=5, U=0 vote.

Chair Lynn then introduced **HB 215, AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ELECTRONIC RECORDATION OF CUSTODIAL INTERROGATIONS**. Rep. Minor-Brown, the sponsor of the bill, stated that the bill mandates electronic recording of the custodial interrogation process by law enforcement. She explained that recording interrogations will resolve disputes about officer behavior, reduce the number of citizen complaints, and allow the officer to concentrate on the interrogation rather than on their notes.

With permission from the Chair, Lisa Minutola (ODS) stated that recording interrogations would codify a best practice, ensure the rights of the innocent are upheld, and will allow judges and juries to provide quicker and fairer case decisions.

With permission from the Chair, Nathaniel Erb of the National Innocence Project thanked the sponsor for their work on the bill and stated that 29 states have also adopted legislation on this issue. He added that law enforcement officers appreciate the policy of recording custodial interrogations.

With permission from the Chair, Detective James Trainum, formerly of the Metropolitan Police Department of D.C., stated that he now works with law enforcement agencies across the country to improve interrogation and interview processes. He relayed a personal experience with a false interrogation and explained how he was able to use his video recording to understand where the interrogation had gone wrong. Detective Trainum noted that agencies greatly prefer recording their interrogation processes, and added that increased transparency and accountability only improves police work and public trust in the criminal justice.

Rep. Griffith asked what protections are in place to protect victims if a recording is unable to be made.

Rep. Minor Brown replied that the bill does have exceptions that apply to unrecorded interrogations. With permission from the Chair, Lisa Minutola stated that there are exceptions: for exigent circumstances, for when someone does not want to be recorded, for when there are safety issues for a person being interviewed, and for when an interrogation takes place in another jurisdiction that does not require recording. She added that the state has a set process to address it at the discretion of the judge. Referring to Rep. Griffith's question for lost or destroyed footage, she mentioned there are jury instructions in place for lost or misplaced evidence.

Detective Trainum added that interrogations taking place outside of the interrogation room very rarely happen as the detective usually prefers to interrogate within their quarters. He stated that a mandate for frequent recording keeps essential equipment maintained.

Rep. Griffith asked if State Prosecutor AJ Roop would be willing to comment on the exceptions outlined in the bill.

With permission from the Chair, Deputy Attorney General JS Taylor stated the Department's support for the recording of interrogations but cautioned that the bill could result in the dismissal or non-prosecution of violent crimes and removes judicial discretion. He added that not all police departments have the ability to record interrogations.

Chair Lynn stated that he did not understand any objections from the DOJ.

Rep. Cooke agreed with the premise of Deputy Attorney General Taylor's objections to the bill but stated that the bill ensures

similar compliance through all police departments.

Chair Lynn opened the meeting up for public comment.

Megan Davies, Executive Director of Innocence Delaware, expressed support for the bill. She stated that it promotes good police work and a fair justice system.

Sherry Long opposed the bill as written and stated that the bill would place undue hardship on police.

Javonne Rich, ACLU of Delaware, expressed support for HB 215 and stated that HB 215 could provide insight on suspect vulnerabilities that make them more susceptible to providing a false confession.

Chief Patrick Ogden of the Delaware Police Chiefs' Council stated that the Council publicly supports the concept of HB 215, adding that they created a model policy in previous years. He expressed concerns over the unfunded mandate and the burden on smaller police departments.

Kailyn Richards of the Delaware Center for Justice stated the organization's support for the bill, emphasizing that the policy protects both the innocent and law enforcement officers.

Chair Lynn commented on several arguments against the bill, stating that the bill does not require high-tech equipment to record interrogations. He expressed doubt over the argument that the bill provides an unfunded mandate.

Rep. Cooke made a motion to release, and Rep. Dorsey Walker seconded the motion; motion carried. Yes=7 (Cooke, Brady, Dorsey Walker, Griffith, Lynn, Gray, Vanderwende). Absent=4 (Bush, Mitchell, Smyk, Spiegelman). HB 215 was released from committee with a F=2, M=5, U=0 vote.

Respectfully Submitted By:  
Alex Southerst

### **Speaker List**

Javonne Rich, ACLU of Delaware  
Bonnie Metz, Verizon  
Jon Offredo, Office of Defense Services  
Marcy Rezac, Delaware Coalition Against Domestic Violence  
Paige Schmittinger, Victims Compensation Assistance Program  
Megan Davies, Innocence Delaware  
Sherry Long  
Chief Patrick Ogden, Delaware Police Chiefs' Council  
Kailyn Richards, Delaware Center for Justice