



Krista Griffith
STATE REPRESENTATIVE
12th District

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

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House Judiciary Committee Meeting Minutes

3.27.24

House Committee Recording

Chair Griffith called the meeting to order at 11:07 a.m.

Members present:

Rep. Griffith, Chair

Rep. Romer, Vice Chair

Rep. Cooke

Rep. Phillips

Rep. Schwartzkopf

Rep. Dukes

Rep. Jones Giltner

Rep. Shupe

Rep. Spiegelman

Chair Griffith introduced **HB 318, AN ACT TO AMEND TITLE 10 AND TITLE 19 OF THE DELAWARE CODE RELATING TO EXEMPTIONS IN BANKRUPTCY AND DEBT PROCEEDINGS.** *Time Stamp: 11:10*

Rep. Baumbach, the primary sponsor of the legislation, said that he introduced this legislation to address significant issues concerning bankruptcy laws and workers' compensation in Delaware. He pointed out the precarious financial situation of many Delawareans, who are often just one car accident or illness away from bankruptcy. The current bankruptcy laws allow individuals to retain certain assets like vehicles and homes to sustain their employment and housing stability. He noted that the dollar limits for these exemptions have not been adjusted since 2011, despite the escalating cost of real estate in the state. The bill aims to update these limits to better reflect the current economic landscape. He also highlighted a disparity in how workers' compensation policies are treated based on whether they were issued in Delaware or another state. Workers injured while working in another state may face obstacles in accessing compensation, potentially jeopardizing their financial recovery. The bill seeks to rectify this inconsistency by ensuring that workers from other states receive equitable treatment in terms of compensation eligibility. He

411 Legislative Avenue, Legislative Hall, House of Representatives,
Dover, Delaware 19901 House Offices: Wilmington: (302) 577-8476
Dover: (302) 744-4351 Fax: (302) 739-2313
Email: Krista.Griffith@delaware.gov

added that there have been some technical amendments to the bill based on feedback from the Delaware State Bar Association. He invited expert witness Vivian Houghton, the Delaware Chair of the National Association of Consumer Bankruptcy Attorneys, to comment on the legislation.

Vivian Houghton explained the critical role that bankruptcy plays as a lifeline for individuals facing financial turmoil. She added that as a practicing attorney of 42 years, including 20 in bankruptcy law, she is familiar with the importance of exemptions granted to debtors. These exemptions, determined by state laws, safeguard certain assets from creditors seeking repayment through means like wage garnishment or sheriff sales. Houghton reflected on her past advocacy efforts, notably lobbying for an increase in Delaware's homestead exemption, which was raised to \$125,000 from \$5,000. She underscored the current challenge posed by rising property values nationally, which could exceed the exemption limit, leading to potential foreclosure. She noted the economic hardships exacerbated by factors like COVID-19 and inflation, where individuals struggle to meet mortgage payments while grappling with mounting credit card debt due to increased home values. She discussed a case in which a Delawarean working for Chrysler had to relocate to Illinois for work-related reasons and subsequently suffered an injury, resulting in a valid workers' compensation claim. However, upon returning to Delaware and filing for bankruptcy, the bankruptcy court ruled that the compensation from Illinois couldn't be accessed in Delaware due to existing legal constraints. Houghton pointed out that the individual lost \$40,000 to creditors, highlighting the need for reform.

Chair Griffith asked if the legislation exempts worker's compensation awards from bankruptcy proceedings.

Rep. Baumbach confirmed that worker's compensation awards would be exempt under this bill.

Rep. Romer thanked Vivian Houghton for her work on this issue.

Chair Griffith opened the floor for public comment.

No members of the public provided testimony in support or in opposition to the bill.

A motion was made by Rep. Dorsey Walker and seconded by Rep. Romer to release HB 318 from committee; motion carried. Yes = 8 (Spiegelman, Schwartzkopf, Phillips, Dukes, Dorsey Walker, Cooke, Romer, Griffith); No = 0; Absent = 3 (Shupe, Jones Giltner, Lynn). The bill was released from committee with a F=, M=, U= vote.

Chair Griffith introduced **HB 336, AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE DELAWARE LIMITED LIABILITY COMPANY ACT.**

Time Stamp: 11:24

Chair Griffith, the primary sponsor of the legislation, invited expert witness Louis Hering from the Delaware State Bar Association to comment on the legislation.

Louis Hering explained that the bill primarily focuses on two aspects: clarifying revocation of dissolution mechanics for LLCs and allowing more flexibility in amending Certificate of Formation during mergers. The proposed changes aim to streamline the process and provide clarity, especially regarding revocation of dissolution procedures and ensuring consistency with LLC agreements.

Rep. Phillips thanked Louis Herring for his work on this legislation.

Chair Griffith opened the floor for public comment.

No members of the public provided testimony in support or opposition of the bill.

A motion was made by Rep. Schwartzkopf and seconded by Rep. Phillips to release HB 336 from committee; motion carried. Yes = 7 (Spiegelman, Schwartzkopf, Phillips, Dukes, Dorsey Walker, Cooke, Griffith); No = 0; Absent = 4 (Shupe, Lynn, Jones Giltner, Romer). The bill was released from committee with a F=0, M=8, U=0 vote.

Chair Griffith introduced **HB 337, AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE DELAWARE REVISED UNIFORM LIMITED PARTNERSHIP ACT.** *Time Stamp: 11:34*

Chair Griffith, the primary sponsor of the legislation, invited Louis Herring to comment on the legislation.

Louis Herring noted that HB 337 is similar to HB 336 in addressing issues related to LLCs and limited partnerships. The bill proposes a change regarding the amendment of the name of the general partner in limited partnerships during mergers. Currently, this requires two steps, but the proposed change aims to streamline the process into a single step, providing efficiency and clarity, particularly in cases where new general partners are involved.

Chair Griffith opened the floor for public comment.

No members of the public provided testimony in support or opposition of the bill.

A motion was made by Rep. Schwartzkopf and seconded by Rep. Phillips to release HB 337 from committee; motion carried. Yes = 7 (Spiegelman, Schwartzkopf, Phillips, Dukes, Dorsey Walker, Cooke, Griffith); No = 0; Absent = 4 (Shupe, Lynn, Jones Giltner, Romer). The bill was released from committee with a F=0, M=8, U=0 vote.

Chair Griffith introduced **HB 339, AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE DELAWARE REVISED UNIFORM LIMITED PARTNERSHIP ACT.** *Time Stamp: 11:37*

Chair Griffith, the primary sponsor of the legislation invited Louis Herring to comment on the legislation.

Louis Herring explained that HB 339 is similar to HB 336 and 337 but addresses a different aspect of the Uniform Limited Partnership Act.

Chair Griffith opened the floor for public comment.

No members of the public provided testimony in support or opposition of the bill.

A motion was made by Rep. Schwartzkopf and seconded by Rep. Dorsey Walker to release HB 339 from committee; motion carried. Yes = 7 (Spiegelman, Schwartzkopf, Phillips, Dukes, Dorsey Walker, Cooke, Griffith); No = 0; Absent = 4 (Shupe, Lynn, Jones Giltner, Romer). The bill was released from committee with a F=0, M=8, U=0 vote.

Chair Griffith introduced **HB 338, AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION, AND DISSOLUTION OF DOMESTIC STATUTORY TRUSTS.** *Time Stamp: 11:40*

Chair Griffith, the primary sponsor of the legislation, invited Louis Herring to comment on the legislation.

Louis Herring said that the legislation clarifies that trusts and their subsets are bound by their governing instruments, even if not signed. It also specifies that certain amendments to governing instruments in connection with mergers only apply to the surviving entity. Further amendments synchronize the timing of approval and filing for conversions and domestications of entities into Delaware statutory trusts. Additionally, the bill grants trustees of statutory trusts the authority to pass voting rights through to shareholders, particularly relevant for large mutual funds.

Rep. Spiegelman asked for confirmation that the proposed legislation enables rather than mandates a specific setup for statutory trusts.

Louis Herring confirmed that this is the case.

Chair Griffith opened the floor for public comment.

No members of the public provided testimony in support or opposition of the bill.

A motion was made by Rep. Schwartzkopf and seconded by Rep. Phillips to release HB 338 from committee; motion carried. Yes = 7 (Spiegelman, Schwartzkopf, Phillips, Dukes, Dorsey Walker, Cooke, Griffith); No = 0; Absent = 4 (Shupe, Lynn, Jones Giltner, Romer). The bill was released from committee with a F=0, M=8, U=0 vote.

Chair Griffith introduced **HS 2 for HB 55, AN ACT TO AMEND TITLE 6 AND TITLE 31 OF THE DELAWARE CODE RELATING TO INDIVIDUALS WHO ARE HOMELESS.**

Time Stamp: 11:52

Rep. Phillips, the primary sponsor of the legislation, explained that its purpose is to centralize rights for Delawareans experiencing homelessness, ensuring they are afforded protections against discrimination. The bill establishes a complaint-driven process, handled primarily by the Division of Civil Rights and Civil Rights Commission, with an emphasis on mediation. She said that it aims to educate and provide a place for those experiencing homelessness to seek help when facing discrimination. She also shared statistics on homelessness in Delaware and cited successful outcomes from similar legislation in other states. The bill has garnered support from various stakeholders, including students, advocacy groups, and individuals experiencing homelessness. She added that amendments have been made based on ongoing conversations with stakeholders. She asked expert witnesses DeBorah Gilbert White and Joseph Dawson to comment on the legislation.

Dr. DeBorah Gilbert White shared her experiences with sheltered homelessness in Wilmington and how it led her to advocate against the discrimination faced by those without permanent housing. She highlighted various circumstances that can lead to homelessness and emphasized the need for protections against discrimination based on housing status. Dr. She stressed the importance of empowering individuals experiencing homelessness to have a voice and recourse against discrimination in housing, employment, and services.

Joseph Lawson, Chair of the Delaware Human and Civil Rights Commission, briefly discussed his background in enforcing fair housing and accommodations laws and highlighted the Commission's endorsement of the legislation. He shared insights from his experience as a former investigator and judge, illustrating the challenges faced by individuals experiencing homelessness within the criminal justice system. He recounted cases where homelessness influenced judicial decisions and emphasizes the need for protections against discrimination faced by the homeless population. He argued that the bill would safeguard the basic rights of all citizens, preventing the criminalization of homelessness and providing essential support to those in need.

Chair Griffith asked Rep. Phillips to explain the proposed amendments to the bill.

Rep. Phillips explained that the current bill contains a provision that gives people the right to occupy a vehicle as long as it is legally parked on public property. The amendment would replace "legally parked on public property" with "legally parked in a public parking lot" to address certain concerns raised by stakeholders. She added that another amendment suggested by a stakeholder was found to be already included in the bill by the legal team.

Chair Griffith inquired about the stakeholders assisting Rep. Phillips with amending this legislation.

Rep. Phillips responded that she has been collaborating with the Department of Justice and the Ministry of Caring.

Rep. Dorsey Walker thanked Rep. Phillips for her willingness to engage with community partners on this issue.

Rep. Spiegelman raised concerns about lines 133 through 137 of the bill. He questioned the language stating that the commission and division "may" consult with state, county, and municipal officials and "may" issue reports of consultation. He argued that "shall" should be used instead of "may" to mandate consultation, particularly since persons experiencing homelessness are primarily located in municipalities. He suggested that at the very least, the bill should require the issuance of a report on whether consultation with local subdivisions occurred or not. He emphasized the need for clarity and accountability in the language of the bill.

Rep. Phillips asked Joseph Dawson to respond.

Joseph Dawson explained that the use of "shall" regarding consultation with political subdivisions could require significant staffing and resources to conduct studies across all municipalities. Instead, the commission typically responds to events or issues brought to their attention and then reaches out to the relevant parties. Dawson emphasized the practicality of the language used in the bill and the commission's approach to addressing issues as they arise.

Rep. Spiegelman questioned the necessity of Section C of the legislation if Section B already covers consultation with municipalities as interested parties. He argued that even if current officials commit to working with municipalities, future officials may not uphold this commitment. Spiegelman also challenged the idea that staffing would be required to issue reports on consultations, as the language is specific to reports on consultations described in the subsection. He also inquired about the need to include Section C if consultations are optional, as it would be redundant to have a section allowing for something that can already be done at the discretion of the commission.

Joseph Dawson recognized Rep. Spiegelman's points but reiterated his concern that the use of "shall" would end up requiring the generation of too many reports.

Rep. Spiegelman expressed apprehension regarding the consolidation of existing rights into HB 55. He noted that the bill aims to upgrade the office and establish a complaint-driven process for enforcing these rights. Spiegelman highlighted existing provisions in the Delaware code that already allow individuals to occupy a legally parked motor vehicle or live in a place not meant for human habitation. He raised concerns about the potential implications of granting rights to live in places not meant for human habitation, particularly regarding health and safety concerns, such as living in commercial properties where it is not permitted. He emphasized the need for careful consideration of these provisions to ensure that individuals experiencing homelessness have rights without compromising health and safety standards.

Rep. Phillips clarified that the bill does not grant individuals the right to occupy public or private property beyond what is already permitted by law. She explained that commercial properties with specific rules prohibiting occupancy remain unaffected by the bill. The provisions apply only to situations specifically involving individuals experiencing homelessness and do not alter existing regulations regarding property use.

Rep. Spiegelman distinguished between privileges, such as his reserved parking spot, and rights, suggesting that the ability to park overnight could be considered a privilege rather than a right. He highlighted a potential scenario where someone could park in his spot and live in their vehicle if they have the same access privileges to the area.

Rep. Phillips acknowledged the concerns regarding parking spots reserved for legislators. She suggested that if there are specific laws governing these spots, they can be examined and potentially amended if necessary.

Rep. Spiegelman expressed appreciation for the clarification provided by Rep. Phillips. He raised concerns about incidents involving individuals sleeping in public areas, such as lobbies or restaurants, which he believes are at the core of the concerns surrounding the bill.

Rep. Phillips noted that some states have seen a decrease in homelessness following the enactment of similar bills. She refuted the notion that the bill would lead to more individuals experiencing homelessness. She highlighted the importance of relying on data and evidence when discussing the potential impacts of the bill.

Rep. Jones Giltner asked Rep. Phillips about the factors contributing to decreases in homelessness in states with similar legislation.

Rep. Phillips replied that while she cannot provide a definitive answer, one conclusion is that bills like HB 55 remove obstacles for people experiencing homelessness. She explained that such legislation prohibits discrimination based solely on housing status, which can help individuals facing such challenges in securing housing.

Rep. Jones Giltner suggested amending the bill to include a time limit for occupying motor vehicles or recreational vehicles on public property. She highlighted the issue of areas in Georgetown where parking is allowed without time limits, which could lead to prolonged occupancy.

Rep. Phillips reiterated that she has introduced an amendment to remove the reference to "public property" from the bill and instead focus on "public parking lots." She explained that this change would accommodate municipalities or businesses that want to enforce restrictions on parking after a certain time through signage.

Rep. Jones Giltner asked whether this would prevent a state agency or municipality from being able to deem an area unsafe for habitation, even if it's not originally intended for housing.

Rep. Phillips acknowledged Rep. Jones Giltner's concern and expressed willingness to investigate the matter further.

Rep. Jones Giltner requested clarification on the time allowance outlined in the bill. She emphasized the need for a specified time limit to prevent potential exploitation of the legislation.

Rep. Phillips replied that she would consider incorporating this feedback into the bill.

Rep. Dorsey Walker emphasized the importance of cultural competency in the conversation, urging everyone to be mindful of the language used.

Rep. Romer questioned whether the State Human and Civil Rights Commission, as outlined in the bill, would have the authority to address systemic issues beyond simply investigating complaints and recommending remedies for individual violations. She suggests considering broader solutions, such as providing public facilities like showers and restrooms, particularly in areas like beaches where homelessness is prevalent.

Rep. Phillips responded that the Commission would be free to issue recommendations. She asked Joseph Dawson to comment.

Joseph Dawson clarified that the bill does not create a new protected class under the Delaware equal accommodations law. He noted that the bill primarily focuses on access to public services and areas, with limited involvement in private establishments like restaurants.

Rep. Romer emphasized the need for holistic solutions to address discrimination and other barriers faced by homeless individuals. She questions whether the Commission tasked with investigating complaints under the bill will have the authority to propose systemic changes.

Joseph Dawson indicated that his commission engages in proactive efforts to address issues brought to their attention. They participate in discussions on various topics, such as source of income, and collaborate with stakeholders to consider potential solutions.

Rep. Shupe raised a concern about public parking lots in downtown areas, stating that they primarily serve businesses and patrons. He questioned whether under the bill individuals experiencing homelessness could park in these lots for extended periods, potentially hindering access for business patrons.

Rep. Phillips clarified that individuals experiencing homelessness can already park in public parking lots if there are no specific regulations against it. She emphasized that businesses or municipalities can designate certain parking spots for their own use through signage, ensuring access for patrons. Additionally, municipalities retain the authority to regulate public parking lots as they deem appropriate.

Rep. Spiegelman pointed out that the bill could also indirectly affect businesses, particularly those with sidewalk access. He raised concerns about the potential impact on businesses and

safety due to individuals sleeping or loitering outside their establishments. He questioned the enforceability of ordinances related to panhandling, sleeping, or obstructing sidewalks and highlighted the challenges faced by business owners in addressing these issues.

Rep. Phillips asked whether the individuals that Rep. Spiegelman is concerned with are doing anything illegal.

Rep. Spiegelman pointed out that even if this activity is not illegal, it poses challenges for businesses and affects their patrons' access.

Rep. Phillips responded that she is not aware of any ordinances that address this issue. She invited House Majority Caucus Attorney Gwendolyn Osborn-Gustavson to respond.

Gwendolyn Osborn-Gustavson said that she did not have that information with her at the moment.

Rep. Phillips suggested that community dialogue and customer feedback should inform whether this situation is truly affecting business.

Rep. Spiegelman contended that expecting business owners to conduct a quantitative study on the impact of individuals sleeping outside their store is unreasonable. He argued that the fear and inconvenience they experience daily should be evidence enough of the problem's severity.

Rep. Phillips recognized the importance of ensuring that small business owners are not negatively impacted by the bill, which is the reason she sought specific data.

Rep. Dorsey Walker asked DeBorah Gilbert White to describe her experience with homelessness.

DeBorah Gilbert White shared her personal experience with homelessness, emphasizing that homelessness takes many forms beyond what is visible on the streets. She described her own experience of “sheltered homelessness,” where she faced eviction despite having a PhD. She highlighted that homelessness affects a diverse range of individuals, including women, children, young adults, and senior citizens. She stressed the importance of recognizing the systemic issues in housing that lead people to homelessness.

Rep. Romer asked DeBorah Gilbert White how this bill would have altered her experience with homelessness.

DeBorah Gilbert White explained that the bill would provide people experiencing homelessness with a platform to address discrimination based on their housing status and seek remedies for their grievances. She suggested that having such protections could have positively impacted individuals she encountered in the shelter system who faced discrimination but lacked avenues for recourse.

Rep. Jones Giltner inquired about the civil penalty discussed in lines 266 to 268 of the bill.

Rep. Phillips replied that she would find an attorney to answer Rep. Jones Giltner's questions about the civil penalty.

Rep. Shupe addressed the economic impact of homelessness on businesses based on his own experiences. He recounted instances where nearby homelessness led to decreased revenue and safety concerns for employees and customers. He emphasized the importance of clarity regarding the responsibilities of municipalities and the need for a multi-layered approach to address the issue effectively. He expressed his hope that the proposed commission does not overshadow the influence of municipalities in addressing the concerns of local businesses and residents.

Rep. Phillips pointed out that harassment in public spaces is already prohibited regardless of the proposed bill. She added that municipalities will retain the authority to regulate public spaces, such as closing parks after dark. She underscored that while the bill protects the rights of people experiencing homelessness, it does not grant them unlimited access to public spaces indefinitely.

Rep. Shupe expressed concern that municipalities and businesses may feel they lack a voice in addressing issues related to homelessness due to fear of repercussions.

Rep. Phillips acknowledged the input and engagement of municipalities, citing conversations with local government officials. She expressed gratitude for their ongoing participation in the dialogue.

Rep. Cooke shared anecdotes about his encounters with homeless individuals and advocated for more effective collaboration with local organizations and government agencies to address the problem effectively. He also stressed the importance of understanding the diverse experiences and challenges faced by homeless individuals and suggested the need for amendments to the bill to better address these issues.

Rep. Phillips reiterated that harassment is not permissible under the bill. She mentioned the support garnered from individuals across different districts and emphasized the diversity of experiences among those who have been affected by homelessness.

Chair Griffith opened the floor for public comment.

Bill West, Mayor of Georgetown, and Lisa Oglesby, New Castle County Hope Center, provided testimony in support of the bill.

Richard Forsten, Ministry of Caring, Rob Snowberger, Stitch House Brewery, Scott Kidner, Delaware Apartment Association, and Mike Hare, Buccini Pollin Group, provided testimony in opposition of the bill.

Chair Griffith adjourned the meeting at 1:30 p.m.

Respectfully submitted by:

Wyatt Patterson

Attendance List

- DeBorah Gilbert White
- Joseph Dawson, Delaware Human and Civil Rights Commission
- Vivian Houghton, National Association of Consumer Bankruptcy Attorneys
- Louis Hering, Delaware State Bar Association
- Bill West, Mayor of Georgetown
- Lisa Oglesby, New Castle County Hope Center
- Richard Forsten, Ministry of Caring
- Rob Snowberger, Stitch House Brewery
- Scott Kidner, Delaware Apartment Association
- Mike Hare, Buccini Pollin Group