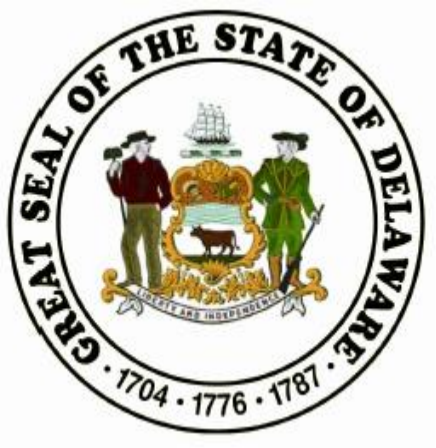
SENTAC



Delaware Sentencing Accountability Commission

Benchbook 2016*

*INCLUDES RELEVANT LEGISLATION OF THE 148th GENERAL ASSEMBLY

SUMMARY OF PRESUMPTIVE SENTENCES

Crime Classification	Presumptive Sentence	Statutory	Page Ref.
Felonies			
Class A (Other than Murder)	15 yrs @ Level V	15 yrs. to Life	28
Class B	2 to 5 yrs (1st 2 yrs @ Level V)	2 to 25 yrs	31
Class C (Violent)	Up to 30 m @ Level V	up to 15 yrs	37
Class C (Nonviolent)	Up to 1 yr @ Level V	up to 15 yrs	41
Class D (Violent)	Up to 2 yrs @ Level V	up to 8 yrs	43
Class D (Nonviolent)	Up to 12 m @ Level II or III	up to 8 yrs	47
Class E (Violent)	Up to 15 m @ Level V	up to 5 yrs	49
Class E (Nonviolent)	Up to 12 m @ Level II	up to 5 yrs	53
Class F (Violent)	Up to 9 m @ Level V	up to 3 yrs	57
Class F (Nonviolent)	Up to 12 m for Title 11; Up to 18 m for Title 16 @ Level II	up to 3 yrs	60
Class G (Violent)	Up to 6 m @ Level V Title 16, §§4767,4768: 3-9 m @ Level V	up to 2 yrs	64
Class G (Nonviolent)	Up to 12 m @ Level II	up to 2 yrs	67
Misdemeanors			
Class A (Violent) MA1	Up to12 m @ Level II	up to 1 yr	72
Class A (Escape) MA2	Up to 3 m @ Level IV	up to 1 yr	74
Class A (Property) MA3	Up to 12 m @ Level I	up to 1 yr	75
Class A (Order/Decency) MA4	Up to 12 m @ Level I	up to 1 yr	77
Class A (Controlled Substance)	16-4764: FOP Minimum 12 m @ Level I (7/12/05) 1stOffense 12m @Level II	up to 1 yr	80
Class B	Fine, Costs & Restitution	up to 6 m.	81
Unclassified	Fine, Costs & Restitution	up to 30 d	83
Violations	Fine, Costs & Restitution	$0 to $345	85
Habitual Criminal	Up to Life	Up to Life	119
Violation of Probation	1 Level Higher	1 Level Higher	121

SUMMARY OF ACCEPTANCE OF RESPONSIBILITY GUIDELINES

Crime Classification	Presumptive Sentence	Acceptance of Responsibility Guideline	Page
Felonies			
Class C (violent)	Up to 30 mos. @ Level V	Up to 22 mos. @ Level V	37
Class C (non-violent)	Up to 1 yr. @ Level V	Up to 9 mos. @ Level V	41
Class D (violent)	Up to 2 yrs. @ Level V	Up to 18 mos. @ Level V	43
Class D (non-violent)	Up to 12 mos. @ II or III	Up to 9 mos. @ II or III	47
Class E (violent)	Up to 15 mos. @ Level V	Up to 11 mos. @ Level V	49
Class E (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	53
Class F (violent)	Up to 9 mos. @ Level V	Up to 7 mos. @ Level V	57
Class F (non-violent)	Up to 12 mos. @ L II for T 11 Up to 18 mos. @ L II T 16	Up to 9 mos. @ L II for T 11 Up to 14 mos. @ L II for T 16	60
Class G (violent)	Up to 6 mos. @ Level V	Up to 4 mos. at Level V	64
Class G (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	67
Misdemeanors			
Class A (violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	72
Class A (escape)	Up to 3 mos. @ Level IV	Up to 2 mos. @ Level IV	74
Class A (property)	Up to 12 mos. @ Level I	Up to 9 mos. @ Level I	75

SUMMARY OF PRESUMPTIVE SENTENCES			
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INTRODUCTION

The Delaware Sentencing Accountability Commission (hereinafter referred to as "SENTAC") was created under Title 11, §6580 of the Delaware Code. The overall purpose of the creation of the Commission was to establish a system that emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public. In fulfillment of that purpose, the Commission created the sentencing guidelines embodied in this Benchbook. Said guidelines were approved of and implemented by Administrative Directive Seventy-Six of the Supreme Court of Delaware.[1] The guidelines are designed to ensure certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost. However, it should be noted that Delaware's sentencing guidelines are voluntary, non-binding, and as such, in the absence of constitutional violations, are not generally subject to appeal.[2]

This Benchbook is designed to assist sentencing judges, prosecutors and defense attorneys in the formulation of sentences that are consistent with the goals of sentencing reform promulgated by SENTAC. Contained within are recommended sentencing ranges and statutory mandates for each offense. The overall sentencing philosophy of the General Assembly and SENTAC is that offenders should be sentenced to the least restrictive and most cost-effective sanction possible given the severity of the offense, the criminal history of the offender and the focus, which is, above all, to protect the public's safety. Other goals in order of priority include: (1) Incapacitation of the violence-prone offender; (2) restoration of the victim as nearly as possible to the victim's pre-offense status, and (3) rehabilitation of the offender. (64 Del. Laws, c. 402 § 1)

This Benchbook is revised annually to reflect legislative changes since the passage of the Truth in Sentencing Act of 1989.

How to Use This Book

The Table of Contents appears in the front of the book and will serve to guide you to the basic categories within this book. Appearing directly after the Table of Contents is an alphabetical listing of the offenses, their classifications and the corresponding page numbers. Prior to the actual specific categories is a summary of the broad offense categories and their general respective presumptive sentences. Following that you will find the recommended sentences and sentencing mandates for each particular crime in the offense category itself. The general offense categories have been listed in the Table of Contents.

In general, presumptive sentences are based on the classification of the offense, and whether it is violent or non-violent in nature. The majority of crimes have been divided into violent and non-violent categories based upon legislative determination (Title 11, §4201(c)). The recommended penalties for violent crimes are more severe than those prescribed for non-violent crimes in the same class. All Class A Felonies have been designated as violent. All other felony classifications have been separated into violent and non-violent offenses. Whenever appropriate,

[1] Sept. 15th, 1987
[2] *Siple v State*, 701 A.2d 79, 82-83 (Del. 1997)

sentences should reflect the objective of rehabilitation by including specific conditions of probation designed to aid in the treatment and/or vocational training of the offender.

Class A Misdemeanors have been divided into five general categories by SENTAC: Violent MA1, Escape MA2, Property MA3, Order & Decency MA4, and Controlled Substances MA5. The presumptive sentencing pages for misdemeanors share the same format as the felony offenses. Please note that some sentences require a period of time at one level to be followed by a period of time at another level. (For example: the presumptive sentence for the second conviction of a class A violent misdemeanor is up to 6 months at Level III AND up to 6 months at Level II.) The maximum fine is also included for misdemeanor offenses.

The recommended sentencing range for a particular crime classification, when aggravating or mitigating factors are not present, can be found at the beginning of the crime category. Crimes are listed in order of statute number with respect to title and section numbers, appearing as they would in the Delaware Code. When a particular offense requires specific treatment as mandated by the legislature a notation will be attached to said offense and supplementary notations will follow at the end of a given category. The presumptive sentencing range for a first conviction generally represents 25% of the statutory maximum; while serious aggravating factors may increase the penalty up to 100% of the statutory maximum. However, examples of common aggravated sentences as a result of prior criminal history, excessive cruelty or commission of the offense while under the control of the Department of Correction are contained in the box following the listing of statutes included within the offense category.

Within the Table of Contents you will find a Summary of Drug Offenses that gathers all of the drug offenses in one section of the book for ease of reference. The drug offenses are also listed in their respective offense level classifications. In addition, there is a listing of Aggravating and Mitigating Factors. You will also find the topic "Exceptional Sentences" and under that category are considerations that would take a sentence out of the normal range. Those topics include: (A) Special categories of (1) Domestic Violence and (2) Escape, (3) Juveniles Being Sentenced As Adults; and (B) Habitual Criminal sentences.

Aggravating and mitigating factors are to be used to explain a sentence imposed either above or below the presumptive sentence. Other factors, which do not appear on this list, may be utilized at the discretion of the sentencing judge. Although the increased or decreased penalties for most aggravating/mitigating circumstances are not specified, the "up to 25%" increase/decrease guide should be utilized whenever suitable.

When an offender is sentenced on multiple charges, only the primary charge should carry an enhanced penalty based on prior criminal history. All other charges should receive penalties consistent with or lower than the presumptive sentence for the offense, unless aggravated by some factor specific to the individual charge. In this way, judges can impose serious penalties when necessary and construct meaningful probation sentences to follow incarceration. It should be noted that all sentences that impose a period of incarceration of one or more years at Level V, require that the court must include as part of its sentence a six-month "Reintegration Period" at Custodial Supervision Level IV (quasi-incarceration), III, or II.[3]

[3] Title 11, §4204 (l)

Following the Exceptional Sentences category are recommendations on the sentences appropriate for Violations of Probation. The reporting of these proceedings, along with aggravating factors, should follow the same procedures as for new offenses.

General Sentencing Information:

Levels of Supervision:

There are five levels of supervision in the Delaware criminal justice system as defined according to Title 11, §4204 and SENTAC policy.[4] They are as follows:

Level I	***Unsupervised:*** Fine or Administrative Supervision, i.e. criminal record checks, checks to determine compliance with program completion, certification of payment of financial obligations, etc.
Level II	***Field supervision***: 1 to 50 hours of supervision per month. This may be accomplished by office visits or field visits and/or the imposition of special conditions such as payment of a fine.
Level III	***Intensive supervision***: 1 hr./day and no more than 56 hrs./wk. Level is supervised by officers carrying limited caseloads to allow sufficient time for full follow up. It may include sentencing options such as community service, payment of a fine, day reporting, curfews, etc.
Level IV	***Quasi-Incarceration or Partial Confinement:*** Offender is placed under house arrest with electronic monitoring, a halfway house, a restitution center, a residential treatment facility, &/or a reentry program. As a result, supervision should amount to approximately 9 or more hours daily.
Level V	***Incarceration or Full Confinement:*** Commitment to the Department of Correction for a period of incarceration with or without the imposition of a fine as provided by law.

Probationary Sentences:

A. Maximum Probationary Sentences:

1. The period of probation for violent felonies[5] is limited to 24 months.[6]
2. The period of probation for Title 16 felonies[7] is limited to 18 months.[8]\
3. The period of probation for all other offenses is limited to 1 year.[9]

B. Multiple Sentences:

In most cases, if an offender is serving more than one sentence as a result of convictions in more than one case, the offender shall not serve a consecutive period of probation or suspension in excess of the above time limitations. Instead, such probation shall be deemed to run concurrently with the previously imposed sentence of probation. However, the

[4] *Master Plan for Effective Sentencing Reform in Delaware*, SENTAC (May 1' 1986).
[5] Title 11, §4201(c)
[6] Title 11, §4333 (b)(1)
[7] Title 16 (Health and Safety)
[8] Title 11, §4333 (b)(2)
[9] Title 11, §4333 (b)(3)

limitations of this section shall not apply to a sentence imposed for a conviction involving an offense committed while the offender was on probation or suspension of sentence.10

C. Exceptions to the General Rules

1.) The above limits do not apply to sex offenses[11] if the sentencing court determines on the record that a longer period of probation will reduce the likelihood of re-offending.[12]

2.) The above limits shall not apply to Title 11 violent felonies[13] if the sentencing court determines on the record that public safety will be enhanced as a result.[14]

3.) Limits may be exceeded if additional time is necessary in order to collect restitution, but must be served at Accountability Level I.[15]

4.) Limits may be exceeded by up to 90 days if more substance abuse treatment time is needed.[16]

5.) Total probation time cannot exceed maximum commitment time, or one year, whichever is greater.[17]

6.) Limits do not apply to the Title 11, §4204(l) sentences which provide for a six-month transition period from Level V incarceration to a lower level of supervision. The six-month transition period may be in excess of the maximum statutory sentence of imprisonment.[18]

7.) Portions of a sentence designated to be served at Accountability Level IV (quasi-incarceration) are not considered a "period of probation or suspension of sentence" as used in this section.[19]

8.) Ex Post Facto Considerations. The above sections, A, B and C (1-4), are inapplicable to sentences imposed prior to June 1, 2003 unless an application has been made to the Court

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[10] Title 11, §4333 (c)
[11] Title 11, §761: 763 Sexual harassment, 764 Indecent Exposure 2d°, 765 Indecent Exposure 1st°, 766 Incest, 767 Unlawful Sexual Contact 3rd°, 768 Unlawful Sexual Contact 2d°, 769 Unlawful Sexual Contact 1st°, 770-773 Rape, 776 Sexual Extortion, 777 Bestiality, 778 Continuous Sexual Abuse of a Child, 779 Dangerous Crime Against a Child, 780 Female Genital Mutilation, 1108 Sexual Exploitation of a Child, 1109 Unlawful Dealing in Child Pornography, 1110 Subsequent Convictions of 1108 and 1109, 1111 Possession of Child Pornography, 1112 Sexual Offenders/Prohibitions from School Grounds, 1112A Sexual Solicitation of a Child
[12] Title 11, §4333 (d)(1)
[13] Title 11, §4201 (c)
[14] Title 11, §4333 (d)(2)
[15] Title 11, §4333 (d)(3)
[16] Title 11, §4333 (e)
[17] Title 11, §4333 (f)
[18] Title 11, §4333 (g)(1)
[19] Title 11, §4333 (g)(2)

by the Department of Correction for sentence modification based upon good cause and an order is entered to that effect.[20]

A Word of Caution:

Please remember that under the Truth in Sentencing Act, there is no parole, and all Level V sentences will be served with only very limited good time possibilities. This means that instead of serving from 25% to 50% of the sentence, a minimum of 75% will be served prior to release.

It should be noted that, absent extraordinary reasons, any Level IV (quasi-incarceration) sentence should only be imposed as an alternative to incarceration. Any person sentenced to Level IV (quasi-incarceration) should be held at Level V until space is available. If an individual can be held at Level III while awaiting Level IV (quasi-incarceration), please consider whether a Level III sentence might not be more appropriate.

SENTAC STATEMENT OF POLICY

1. The purposes of the Sentencing Standards are as follows: (a) To incapacitate, through incarceration, the violence prone offender and (b) To avoid, in so far as possible, the incarceration of the non-violent offender for the purposes of:
   - Enabling the offender to make any ordered restitution in a more timely manner.
   - Enabling participation in programs aimed at rehabilitation of the offender.
   - Conserving the limited incarceration facilities for use by violent felons.

2. For the purposes of sentencing, a violence-prone offender is defined as one for whom the current most serious offense is a crime included in the current list of violent crimes. (See definition sheets)

3. For the purposes of sentencing, only those offenses adjudicated at age 14 or older shall be counted in prior history.

4. For the purposes of sentencing, a conviction-free period of ten (10) years after final release from incarceration, or from date of sentence if only probation at levels I thru IV was ordered, shall be sufficient to "wash" the criminal history prior to that date. Felony A and Felony B crimes are excluded from this policy and should always be considered at time of sentencing.

5. In an instance where an offender, who is awaiting sentencing after conviction, is brought before the court and convicted of additional charges, the sentencing order may include all the offenses in a single order. The earlier unsentenced offenses shall not be considered in the prior history of the later offenses unless the later offenses occurred in the period after conviction on the earlier offenses.

[20] Title 11, §4333 (j)

6. When it can be determined that two or more prior convictions were the result of a single incident, only one conviction per incident shall be considered for criminal history purposes in reaching a decision on the appropriate guideline. (Example: Conviction on same date of Robbery 2 and Possession of Deadly Weapon During Commission of Felony = 1 prior violent Felony.)

   In addition to its normal definition, convictions for a single incident shall include all convictions resulting from a single indictment or information.

7. When sentencing on multiple charges, prior criminal history should be considered only in determining the guideline for the "lead" or most serious offense. Sentences for other current charges shall be calculated based on zero criminal history.
   a. Whenever a defendant is sentenced on multiple offenses to probation, the level of probation should be the same for all concurrent sentences. Senate Bill 50, codified as 11 Delaware Code Section 4333(c) makes with narrow exceptions, all periods of probation concurrent. Section 4333(b) also, with exceptions, places limits on the length of probation. If an offender is sentenced to different levels of probation, Probation and Parole places him or her in the highest level of probation imposed and that classification applies to all sentences imposed even at different levels. Title 11 Section 4333(i) empowers the Department of Correction to evaluate offenders after 60 days from the date of sentence. Such evaluation is to determine the appropriate level of probation within Level 3, 2, or 1.
      This new policy does not apply to Level 1 – Restitution Only.

8. When sentencing on multiple charges and the lead offense is a violent felony, time for other current violent felonies will be added to Level V time.

9. When considering multiple charges, a violent felony shall be considered to be the most serious offense, for sentence calculation purposes, even though non-violent felonies of higher classification are present.

10. When ordering a sentence, the Judge will order the offender to a specific initial level of supervision (Assessment of Risk). The judge may recommend a specific treatment program. The DOC will make every effort to assign the offender, or procure admittance into, the recommended program, or equivalent, as slots become available.

11. In those cases where the Court would consider a level IV alternative to Level V incarceration and no vacancy exists, the judge should sentence the offender to Level IV, with the proviso that the offender be held at Levels V, IV, and III at the discretion of the Court until a Level IV facility becomes available.

12. All probation sentences handed down at one time (levels I, II, and III) should in the normal case be imposed to run concurrently.

13. Traffic offenses as listed in Del.C, Title 21, with the exception of section 2810, Driving after Judgment Prohibited, will not currently come under the purview of the Sentencing Standards. However, in the interest of conserving expensive and limited prison space for the violent and proven incalcitrant offender, it is strongly recommended that Title 21 offenders not be given a sentence to Level V incarceration unless they have previously been sentenced to, and failed at, supervision in Level III and Level IV, or unless incarceration is mandated by law.

14. Repetitive criminal history, as an aggravating factor, is defined as conviction or adjudication for the same or similar offense on two or more previous occasions. This policy is subject to

the limitations outlined in Policy Nos. 3 and 4, and to the limitations outlined in the various misdemeanor presumptive sentencing standards.

15. Excessive cruelty, as an aggravating factor, is defined as those facts surrounding the commission of a violent felony, which demonstrate such a callousness and cruelty towards the victim of the offense as to shock the conscience of the court.

16. Aggravating factors for the use of Level V as sanction for the non-violent categories of misdemeanor should be limited to objective factors, such as: Vulnerability of victim due to age or impairment Lack of Amenability – If offender is or was already at or above the presumptive Level of Supervision.

17. When an offender is released from incarceration by any means (good time credits, conditional release, etc.) the release will be to the highest level specified by the court, or by statute, for any unserved sentence, or portion thereof. If no level has been specified, release will be to Level II by default.

18. The supervisory levels (Level IV [Quasi-Incarceration]; Level III [Intensive Supervision]; etc.) refer to the perceived risk and resultant control to be exercised over the individual. An offender may, as a result of evaluation, be assigned to any type of treatment program without affecting the supervision level. Therefore, a change in supervisory level does not require a change in treatment program.

19. For purposes of determining conformance to standard, the final sentence, after any suspensions, is the determinant factor. For example, if a given sentence is 2 years at Level V suspended for 2 years at Level II, the Level II sentence is the portion which will actually be served and, therefore, the portion which will be considered as conforming (or not conforming) to the standard.

20. In those instances involving non-violent felonies, where a decision to incarcerate, with appropriate aggravating factors, has been made, the sentence should be UP TO, but NOT IN EXCESS of, 25% of the statutory maximum for the crime.

21. In those instances involving misdemeanors, where, due to stated aggravating factors, a decision has been reached that a sentence to incarcerate is unavoidable; the sentence should not exceed the "recommended maximum" as noted in the standards.

22. In instances when a non-TIS sentence to Level V is followed by a sentence to Level IV and/or Level III supervision, the Board of Parole may grant parole as follows:

    a. Parole to the highest level specified by the original sentencing order. Should a violation occur during the parole period, the offender would be returned before the Board of Parole for violation of parole. Upon successful completion of the required period, the Department may, if appropriate, move the offender pursuant to Policy No. 26, if such a move is not in conflict with the Board of Parole Order. (Revised 9/22/98)
    b. Offenders released upon reaching their short-time release date (conditional release) shall be released to serve the balance of the Level V sentence (i.e. conditional release supervision period) to the next highest level specified by the original court order or other subsequent sentencing order. If appropriate, the Department may move the offender pursuant to Policy No. 26, if such a move is not in conflict with the Board of Parole Order.
    c. If a paroled or mandatory-released offender is serving a court-ordered Level IV or III sentence and the unexpired portion of the Level V sentence is less than one (1)

year, the Board of Parole, upon application by the Department of Correction, may issue an order discharging the offender from the balance of the Level V sentence, once an equivalent period has been successfully served at Level IV or III.

23. In those cases where an offender is subject to sentences for more than one offense, and when the combined sentence to intermediate sanction at level IV is in excess of one year, including any work release time on a sentence of incarceration, the Department of Correction shall, absent specific objections from the judge(s), be permitted to move the offender, after one year, to a lower level of supervision, providing the offender has met, and continues to meet, the regulations and any special conditions placed upon him/her by the courts. Any lapse in meeting those conditions shall be grounds for a return to completion of the Level IV sentence without recourse to the courts. In like manner, combined sentences to Level III in excess of twelve months shall be subject to movement to a lower level. Such movements, both up and down, will have no effect on the overall length of sentence, except when a formal violation report is filed with the court.

24. Any person failing to return to a Level IV facility shall be deemed to be on escape status. The facility shall cause a warrant to be issued charging the offender with Escape After Conviction and identifying him as a Level IV escapee. Any such person arrested on the warrant shall be returned to the original sentencing court for both a violation hearing and the new charge.

25. Where a defendant is directly sentenced to Level IV Work Release Center, residential treatment, or home confinement and has awaited placement pending slot availability at Level V for a period of 90 days or one half of the Level IV sentence (whichever is less), the Department of Correction shall make appropriate sentence modification recommendations to the sentencing Judge.

26. Level IV, work release center or halfway house, is deemed quasi-incarceration. A defendant serving a sentence at Level IV, work release or halfway house, i.e., quasi-incarceration, is entitled to earn "good time credits" pursuant to 11 Del. C s4381(b) and (c).

27. It is further the policy of SENTAC that individuals sentenced to Level IV (any variation), who must serve a term at Level V awaiting placement at Level IV, shall, during the time served with good conduct at Level V, be awarded good time pursuant to 11 Del. C. S4381(b)(2).

28. Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge.

29. With regard to sentences of incarceration conditioned by section 4204(k) of Title 11, as amended in 1997, it shall be understood that such sentences are to be served in their entirety at level V, and that there shall be no diminution of such sentence by any of the normally available early release devices, including (but not limited to) good time credits, furlough, work release or community transition. Because such sentences add significant complexity to the management of the population of incarcerated offenders, and, if used indiscriminately, would substantially increase the prison population, Section 4204(k) should be used by judges only in exceptional circumstances.

30. Since imposition of a sentence pursuant to 11 Del C., sec 4204(k) is, in effect, a departure from the presumptive sentencing guidelines; the reason for use of Sec 4204(k) must be stated on the record and included in the sentencing order. When Section 4204(k) is used with a sentence for an escape-related offense, the reasons for its use are self explanatory and need not be stated on the record or sentencing order.

31. For any Title 16 offense in which no fine is imposed, the Court shall consider imposing a SARTEP (Substance Abuse, Rehabilitation, Treatment, Education and Prevention Fund) civil penalty not to exceed $300.

32. There is a significant cost benefit to the Court, police agencies, attorneys, Department of Correction, the victim and the public in general when a defendant resolves a case early in the criminal process and admits his or her involvement. As such, the Commission, in recognition of these efficiencies, reduces the guideline sentence by 25% when a defendant pleads guilty to the offense and resolves the matter 30 days prior to the scheduled trial. This guideline will only apply when there has been an admission of guilt and is not applicable to Robinson or nolo contendere pleas.

33. Per the passage of House Bill 312 (147th Delaware General Assembly), which amends Title 11 Section 3901 (d) The court shall direct whether the sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently or consecutively with any other sentence of confinement on such criminal defendant. Notwithstanding the foregoing, no sentence of confinement of any criminal defendant by any court of this State shall be made to run concurrently with any other sentence of confinement imposed on such criminal defendant for any conviction of the following crimes:

Title 11 Section	Crime
803	Arson in the First Degree
826	Burglary in the first degree
825	Burglary in the second degree
826A	Home Invasion
636	Murder in the first degree
635	Murder in the second degree
632	Manslaughter
783	Kidnapping in the second degree
783A	Kidnapping in the first degree
606	Abuse of a pregnant female in the first degree
613	Assault in the First Degree
832	Robbery in the first degree
836	Carjacking in the first degree
772	Rape in the second degree
773	Rape in the first degree
777A	Sex offender unlawful sexual conduct against a child
778(1), (2), or (3)	Sexual Abuse of a Child by a Person of Trust, Authority, or Supervision in the First Degree
1254	Assault in a detention facility
1447A	Possession of a firearm during the commission of a felony
	Or for any sentence for Possession of a Firearm by a Person Prohibited where the criminal defendant was previously convicted of a Title 11 violent felony. (e) For purposes of this section, "Title 11 violent felony" means any Title 11 offense identified in Section 4201(c) of this title, or any offense set forth under the laws of the United States, any other

state or any territory of the United States which is the same as or equivalent to any of the offenses designated as a Title 11 offense identified in Section 4201(c) of this title.

Please familiarize yourself with the above policies and follow them, insofar as possible, in each and every case. If questions should arise, contact either a member of the Commission or the SENTAC staff, Ron Keen, at (302) 577-8728 or Ronald.Keen@state.de.us .

MEMBERS OF THE SENTENCING ACCOUNTABILITY COMMISSION

Description of Commissioner Position	Commission Member:
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	**Chair: Honorable William C. Carpenter, Jr.**
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	**Honorable T. Henley Graves**
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	**Honorable Alan G. Davis**
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	**Honorable Kenneth S. Clark Jr.**
The Attorney General or the Attorney General's designee;	**Honorable Matthew Denn**
The Public Defender or the Public Defender's designee;	**Honorable Brendan J. O'Neill**
The Commissioner of Corrections or the Commissioner of Corrections' designee;	**Honorable Robert Coupe**
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices 1 by the Pres. Pro Tempore of the Senate	**Drewry N. Fennell Esq.**
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor	**Martin W. Johnson, III Chief Delaware Police Chief's Council**
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 1 by the Speaker of the House	**Colonel Nathaniel McQueen**
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor.	**James D. Wilson Jr., Ed. D.**

Class A Felony (Violent)

(FAV):

Sentence Range (Violent Category) FAV (Exclusive of 1st Degree Murder (11-4209))	
Statutory Range	15 yrs to life (First 15 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	15 yrs @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-634	**Child Murder by Abuse/Neglect 1st Degree** (a) Reckless: Death of Vt<14 y.oa. by (1) abuse/ neglect/ (2) previous pattern
11-635	**Murder 2nd Degree (see note)** (1) Reckless:Cruel,Wicked,DepravedIndiff/ (2) Neg: Comm.Fel
11-636	**Murder1st Degree (see note)** (a)(1)Intentional/ (2)Reckless:Comm.Fel/ (3)Causes Suicide by Force/ (4)Reckless: Death LEO, CO, FF/ (5)Death Detonation/ (6)Prevent Arrest
11-773	**Rape 1st Degree (see note)** (a)(1)W/out Consent & SeriousInjury/ (2)Comm.Crime/ (3)DeadlyW/ (4)Principle-Accomp/ (5)Vt<12,D>18/ (6)Vt<16 & D=Trust
11-777A(e)(5)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778(1)	**Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree (see note)**
11-787(b)(1)	**Trafficking of Persons and Involuntary Servitude (see note)**
11-787(b)(2)	**Trafficking of Persons and Involuntary Servitude (see note)**
11 787(b)(3)	**Trafficking of Persons and Involuntary Servitude (see note)**
11-1304	**Hate Crime (Underlying Offense: Class A Felony) (see note)**
11-1339	**Adulteration: Death**
16-1136(a)	**Abuse/Neglect of Patient: Death**
31-3913(c)	**Abuse/Neglect of Infirm Adult: Death**

Sentences For Prior Criminal History Categories	
Offense committed while on release or pending trial or sentencing	15 to 25 yrs @ Level V
Two or more prior felonies	15 to 25 yrs @ Level V
One prior violent Felony	15 to 25 yrs @ Level V
Two or more prior violent Felonies	15 to Life @ Level V
Excessive Cruelty	15 to Life @ Level V

Supplemental Notations for Class A Felonies

11-4381(a) Probation is not available for offenders sentenced to life.
All sentences for over 1 year at Level V require a six-month reintegration at Levels IV (quasi-incarceration), III, OR II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for the rehabilitation fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-635	**<u>Murder 2nd Degree. Reclassified in 6/2003</u>** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-636	**<u>Murder 1st Degree</u>** • 4209(a) Punished by death or by imprisonment for the remainder of the person's natural life, without benefit of probation or parole, or any other reduction. • If the defendant had not reached 18th birthday when the offense was committed, spec. attention should be given to 11 Del Code, sect. 4209A & sect. 4217(f). • 4209(d)(1): The following sentence was added in regard to sentencing by the court: The jury's recommendation concerning whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist shall be given such consideration as deemed appropriate by the Court in light of the particular circumstances or details of the commission of the offense and the character and propensities of the offender as found to exist by the Court. The jury's recommendation shall not be binding upon the Court. • 4209(d)(4): After the Court determines the sentence to be imposed, it shall set forth in writing the findings upon which its sentence is based. If a jury is impaneled, and if the Court's decision as to whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist differs from the jury's recommended finding, the Court shall also state with specificity the reasons for its decision not to accept the jury's recommendation. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement

11-773	**<u>Rape 1st Degree</u>** • (c) A person convicted under this section shall be sentenced to life without benefit of probation, parole or other reduction if: (1) vt<16+serious injury, (2) permanent disfigures or disables (3) 3 or more vts or (4) prior conviction of unlawful sexual intercourse 1st degree, rape 1st or 2nd degree or equivalent offense • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 yrs at Lev V up to life (7/26/06) • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-777A(e)(5)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(5) If the underlying sexual offense is a class A or B felony, the crime of sex offender unlawful sexual conduct against a child shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement • 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is < 14 years of age, then the min. man. Is 25 years at Level V up to life.
11-778(f)(1)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree:</u>** b. Notwithstanding any law to the contrary, a person convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this subsection shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if: • 1. at the time of the offense the person inflicts serious physical injury on the victim; or • 2. the person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member of the victim's body; or • 3. the person is convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this subsection against 3 or more separate victims; or • 4. the person has previously been convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree, unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement • 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is < 14 years of age, then the min. man. Is 25 years at Level V to life

11-787(b)(1)	**<u>Trafficking an individual- Victim is a minor AND Aggravating Circumstance present.</u>** An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless;, or • b. the person used or threatened use of force against, abduction of, serious harm to, or a physical restraint of the victim
11-787(b)(2)	**<u>Forced Labor-Victim is a minor AND Aggravating Circumstance present.</u>** Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim
11-787(b)(3)	**<u>Sexual Servitude-Victim is a minor AND Aggravating Circumstance present.</u>** Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of serious harm to, or physical restraint of the victim
11-1304(b)(4)	**<u>Hate Crime (Underlying Offense: Class A Felony)</u>** If the underlying offense is a Class A Felony, the minimum sentence of incarceration shall be doubled.

Class B Felony (Violent)

I.) (FBV)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 yrs (First 2 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	2 – 5 yrs @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-606	**Abuse of Pregnant Female 1st Degree (see note)** Intentionally causes termination through violence without consent
11-613	**Assault 1st Degree (see note)** (a)(1) Intentional: Serious Injury & DW/ (2)Perm.Disfiguremt/ (4)Comm.Fel+SeriousInjury/ (5)Serious Injury: LEO, FF, (6) Medical Personnel, (7)>62y.o.a (a)(3) Recklessly: Serious Injury/ (4)Comm.Fel+SeriousInjury
11-632	**Manslaughter (see note)** (1)Recklessly: Death/ (2)Intent=Serious Injury: Death/ (3)Intentionally: Death but Extreme Emotion (4)Non-therapeutic Abortion: Death/ (5)Intentionally Causes Suicide
11-633	**Child Murder by Abuse/Neglect 2nd Degree** (a)Negligently: Death of Vt<14 y.o.a. by (1)abuse, neglect/ (b)previous pattern
11-771	**Rape 3rd Degree (see note) (7/26/06)** (a)(1) Intercourse: vt<16 & D>10 yrs older/ vt<14 & D=19+ y.o.a. (a)(2) Penetration: (a) w/out consent; Comm.fel; SeriousInjury/ (b) vt<16,Comm.Fel.; injury (a)(3) Intercourse or penetration, V>16, V<18, defendant at least 4 yrs older than v and in a position of trust, authority, or supervision over the child, or is an invitee of a person who stands in a position of trust, authority or supervision over the child.
11-772	**Rape 2nd Degree (See note)**
11-776	**Continuous Sexual Abuse of Child**

11-777	**Dangerous Crime Against Child (see note) (7/26/06)**
11-777A(e)(2),(e)(3)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778(2)	**Sexual Abuse of a Child by a person in a position of trust authority or supervision in the first degree (see note)** The minimum sentence for a person convicted of sexual abuse of a child by a person in a position of trust authority or supervision in the first degree as set forth in subsection (b) of this section shall be 10 years at Level V.
11-778(3)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the 1st degree (see note)** As set forth in subsection (3) of this section is a class B felony.
11-783A	**Kidnapping 1st Degree (see note)** Unlawful restraint w/out voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
11-787(b)(1)	**Trafficking an individual (victim is a minor) (see note)**
11-787(b)(2)	**Forced labor (victim is a minor) (see note)**
11-787(b)(3)	**Sexual servitude (victim is a minor) (see note)**
11-826(a)(2)	**Burglary 1st Degree (Vt> 62 y.o.a.) (see note)** (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
11-826A	**Home Invasion (see note)**
11-832	**Robbery 1st Degree (see note)** (a)(1)injury to nonparticip/ (2) DW or threat of/ (3)armed & use or threat/ (4)vt>62)
11-836(a)(4-6)	**Carjacking 1st Degree (see note)** (a)(4)DW or threat/ (5)Injury/ (6)Vt>62 or <14 y.o.a
11-1108	**Sexual Exploitation of Child (see note)**
11-1109	**Dealing in Child Pornography**
11-1110	**Unlawful Dealing Child Pornography (2nd offense of 11- 1109)**
11-1112A (h)	**Sexual Solicitation of a Child**
11-1112B(g)	**Promoting Sexual Solicitation of a Child**
11-1253	**Escape After Conviction (injury)(Special Esc. Cat. May Apply)(see note)**
11-1254(b)	**Assault in Detention Facility w/Serious Injury (see note)**
11-1304(b)(3)	**Hate Crime (Underlying Offense: Class C Felony)**
11-1304(b)(4)	**Hate Crime (Underlying Offense: Class B Felony) (see note)**
11-1447	**Possession of Deadly Weapon during Commission of a Felony (see note)**
11-1447A	**Possession of Firearm during Commission of a Felony (see note)**
11-1448(e)(2)	**Poss/Purchase Firearm/Destructive Weapon by Prohibited Person w/Prior Conviction of Violent Felony (see note)**
11-1449	**Wearing Body Armor during Commission of a Felony (see note)**
11-1503	**Racketeering (see note)**
11-3533	**Aggravated Act of Intimidation (see note)**
16-4752	**Drug dealing – Aggravated possession**
16-4757(c)(2)	**Misc. Drug Crimes, Solic. of Multiple Prescrip. Drug Crimes (see note)**

Supplemental Notations For Class B Felony (Violent):

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-606	**Abuse of a pregnant female in the first degree** Per Title 11 Section 3901 (d) No sentence of confinement may run concurrently with any other sentence of confinement
11-613	**Assault 1st Degree. Reclassified in 6/2003** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-632	**Manslaughter. Reclassified in 6/2003** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-771 **11-771(a)(2)**	**Rape 3rd Degree** • (c) If a child is born as a result of offense and remains in the custody of the vt or vt's family, timely child support payments ordered by Family Ct shall be a condition of probation • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)
11-772	**Rape 2nd Degree** • (c) Minimum mandatory sentence: 10 yrs at Level V but see below. • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life(7/26/06) • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-777	**Dangerous Crime Against Child** • (b) Mandatory Minimum for 2nd offense= life imprisonment. • (c) Defendants sentenced pursuant to this statute shall be not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis until sentence is served. • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life (7/26/06)

11-777A(e)(2), (e)(3)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • (e)(3) If the underlying sexual offense is a Class A, or B felony, the crime of sex offender unlawful sexual conduct against a child shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement. • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) if the victim is <14 years of age, then the min. man.is 25 years at Level V up to life.
11-778(2)	Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age, then the min. man. Is 25 years at Level V to life
11-778(3)	Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement

11-783A	**<u>Kidnapping in the first degree</u>** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-787(b) (1)	**<u>Trafficking an individual –Victim is a minor OR Aggravating Circumstance present.</u>** Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless; or • b. the person used or threatened use of force against, abduction of, serious harm to or physical restraint of the victim If BOTH minor victim and aggravating circumstance, it is a Class A Felony
11-787(b) (2)	**<u>Forced labor Victim is a minor OR Aggravating Circumstance present.</u>** Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim If BOTH minor victim and aggravating circumstance, it is a Class A Felony

11-787(b) (3)	**<u>Sexual servitude Victim is a minor or Aggravating Circumstance present.</u>** Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim If BOTH minor victim and aggravating circumstance, it is a Class A Felony
11-826(a)(2)	**<u>Burglary 1st Degree (Vt> 62 y.o.a.)</u>** • (b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt First Conviction — 24 m. to 48 m. @ Level V On release pending trial/sentence — 36 m. to 60 m. @ Level V 2 or more Prior Felonies — 48 m. to 96 m. @ Level V 1 Prior Violent Felony — 48 m. to 96 m. @ Level V 2 or more Prior Violent Felonies — 60 m. to 120 m. @ Level V Excessive Cruelty — 60 m. to 120 m. @ Level V Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-826A	**<u>Home Invasion</u>** • (b)(1)a. Minimum sentence of 6 years at Level V. • (b)(1)b. 8 years at Level V, if the conviction is for an offense that was committed within 5 years of the date of a previous conviction for home invasion or burg. 1st or 2nd degree or if the conviction is for an offense that was committed within 5 years of the date of termination of all periods of incarceration or confinement imposed pursuant to a previous conviction for home invasion or burglary 1st or burg. 2nd degree. • (b)(2) Notwithstanding the provisions of par. (b)(1) of this section or Code to the contrary, any person convicted of home invasion where the other person present in the dwelling, who is not a participant in the crime, is a person 62 yoa or older shall receive a minimum sentence of: a. 7 years at Level V; or b. 9 yrs at Lev. V, if the conviction is for an offense that was committed within 5 yrs of the date of a prev. conviction for home invasion or burg. 1st or 2nd degree or if the conviction is for an offense that was committed within 5 yrs of the date of termination of all periods of incarceration or confinement imposed pursuant to a prev. conv. for home invasion or burg. 1st or 2nd deg. conv. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement

11-832	**<u>Robbery 1st Degree</u>** • (b) Min. Mand. sentence of (1) 3 yrs at Level V or (2) 5 yrs at Level V if the conviction is for an offense that was committed within 10 years of the date of a prev. conviction or termination of the date of confinement from such prev. conviction, whichever date is later. Sentence not subject to terms of §4215 (Prev. Conv. Enhancement) • (c) Sentencing provisions equally applicable to Attempt. • Original jurisdiction over juveniles charged with Robbery 1st shifted to Superior Court with reverse amenability available. 1 year mandatory commitment for Robbery 1st involving weapons or serious physical injury or for PFDCF in Family Court. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-836(a)(4-6)	Per Title 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1108	**<u>Sexual Exploitation of Child</u>** Any person convicted of a 2nd or subseq. Viol. shall be sentenced to life.(Title 11, §1110)
11-1253	**<u>Escape After Conviction</u>** Any sentence imposed shall not run concurrently with any other sentence.

11-1254(b)	**<u>Assault in Detention Facility w/Serious Injury</u>** • Minimum Mandatory Sentence: 3 yrs at Level V to begin immediately upon sentencing. • Such sentence shall not be susp. nor shall the Defendant be eligible for parole or prob. • Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1304(b)(4)	**<u>Hate Crime (Underlying Offense: Class B Felony)</u>** If the underlying offense is a Class B Felony, the minimum sentence of incarceration shall be doubled.
11-1447	**<u>Possession of Deadly Weapon during Commission of a Felony</u>** • (b) Any sentence imposed shall not be subject to suspension, good time, parole or probation. • (c) Any sentence imposed shall not run concurrently. The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense. • (d) Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available.
11-1447A	**<u>Possession of Firearm during Commission of a Felony</u>** • (b) Minimum Mandatory Sentence= 3 years at Level V • (c) If conviction represents 3rd felony conviction= minimum mandatory sentence= 5 years at Level V • (d) Any sentence imposed shall not be subject to suspension, good time, parole or probation. • (f) Juveniles > 15 shall be tried as an adult, with reverse amenability available • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement

11-1448(e)(2)	**<u>Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony</u>** • Mandatory Minimum Sentence-(e)(2): a. 4 years at Level V; or • b. 6 years at Level V, if the person causes such injury or death within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or • C. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1449	**<u>Wearing Body armor during Commission of a Felony</u>** • Minimum Mandatory Sentence= 3 years at Level V which shall not be subject to suspension, parole or probation • Any sentence shall not run concurrently. • The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense • Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available •
11-1503	**<u>Racketeering</u>** • 1504(a): Minimum fine= $25,000 • 1504(b): Mandatory forfeiture of property; Superior Ct shall authorize seizure by AG • 1504(c): In lieu of fine, Defendant may be ordered to pay 3x gross value gained or gross loss caused, whichever is greater, together with investigation, prosecution and court costs reasonably incurred.
11-3533	**<u>Aggravated Act of Intimidation</u>** Per 11-3534 a person attempting to commit 11-3533 is guilty of the offense without regard to the success or failure of the attempt.
16-4752	**<u>Drug dealing – Aggravated possession</u>** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 4 quantity; (2) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity, and there is an aggravating factor; (3) Possesses a controlled substance in a Tier 5 quantity; (4) Possesses a controlled substance in a Tier 3 quantity, and there is an aggravating factor; or (5) Possesses a controlled substance in a Tier 2 quantity as defined in any of Section 4751C(4)a.-i., of this title and there are two aggravating factors.

Class B Felony (Nonviolent)

II.) (FBNV)

Statutory Range	2 to 25 yrs (First 2 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	2-5 yrs @ Level 5
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-841(3)(b)	**Theft (> $100,000) (see note)**
11-913A(c)(3)	**Health Care Fraud** (Intended loss > $100,000/ Provider (see note)
11-917(d)(3)	**New Home Construction Fraud (Loss > $100,000)**
11-1103B	**Child Abuse in the First Degree**
16-4757(c)2	**Miscellaneous Drug Crimes (see note)**
31-610(a)(3)	**Traffick in Food Stamps (Firearms/Ammunition/Cont. Substances) (see note)**

Sentences For Prior Criminal History Categories	
Offense committed while on release or pending trial/sentencing	Up to 10 yrs at Level V
Two or more prior felonies	Up to 10 yrs at Level V
One prior violent Felony	Up to 10 yrs at Level V
Two or more prior Violent Felonies	Up to 25 yrs at Level V
Excessive Cruelty	Up to 25 yrs at Level V

Supplemental notations for Class B Felony (Non-violent)

11-841(3)(b)	**Theft (> $100,000)** 841 (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-913A(c)(3)	**Health Care Fraud** (Intended loss > $100,000/ provider 913 (c)(4) Fine may be up to 5x pecuniary benefit sought or obtained.
16-4757(c)(2)	**Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes:** A person who solicits, directs, hires, employs, or otherwise uses 1 or more other persons 3 or more times within a 30-day period to violate any provision of subsection (a) of 4757 and there is an aggravating factor in connection with at least one of the times.

31-610(a)(3)	**<u>Trafficking in Food Stamps (Firearms/Ammunition/Controlled Substances)</u>** May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act

Class C Felony (Violent)

I.) (FCV)

Sentence Range (Violent Category) FCV	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Acceptance of Responsibility	Up to 22 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-605	**Abuse of Pregnant Female 2nd Degree** Recklessly causes termination through violence without consent
11-612 (11)	**Assault 2nd Degree** The person recklessly or intentionally causes physical injury to a law enforcement officer, security officer, fire policeman, fire fighter, paramedic, or emergency medical technician in the lawful performance of their duties by means of an electronic control device shall be a class c felony.
11-630A	**Vehicular Homicide in the First Degree (see note)** DUI & Criminally Negligent Driving: death
11-770	**Rape 4th Degree** (a)(1) vt<16/ (2) vt<18 & D=30+, unless married/ (3)penetration (a)w/out consent or (b) vt<16/ vt>16 but< 18 & D= trust
11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778(f)(4)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree: (see note)**
11-783	**Kidnapping 2nd Degree (see note)** Unlawful restraint w/ voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
11-787(b)(1)	**Trafficking an individual (No Aggravating Circumstance victim is an adult) and no Aggrav. Circ. (see note)**
11-787(b)(2)	**Forced Labor (No Aggravating Circumstance and victim is an adult) (see note)**
11-787(b)(3)	**Sexual Servitude (No Aggravating Circumstance and victim is an adult (see note)**
11-787(b)(4)	**Patronizing a victim of sexual servitude (see note)**
11-803	**Arson 1st Degree (see note)** Intentionally damage bldg by fire/explosion w/knowledge that bldg is either: (1) occupied or (2) it is within reason that it would have been

11-825	**Burglary 2nd Degree (Vt> 62 y.o.a.) (see note)** (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant
11-826	**Burglary 1st Degree (see note)** (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
11-836(a)(1– 3)	**Carjacking 1st Degree** (a)(1) Class D Felony or higher/ (2) DUI/ (3) Drug Offense
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1112A	**Sexual Solicitation of a Child**
11-1112B(f)	**Promoting Sexual Solicitation of a Child**
11-1253	**Escape After Conviction (Special Escape Category May Apply)(see note)** Force/Threat/Deadly Weapon
11-1304(b)(3)	**Hate Crime (Underlying offense: Class D Felony)**
11-1312	**Stalking w/ Deadly Weapon (see note)**
11-1353	**Promoting Prostitution 1st Degree** (1) Compels or profits by force or intimidation/ (2) Profits by prostitute < 16 y.o.a
11-1448(e)(1)	**Poss/Purchase Firearm/Destructive Weapon by Prohibited Person w/Prior Conviction of Violent Felony (see note)**
11-1455	**Firearm Transaction on Behalf of Another (Prior Conviction)**
16-1136(a)	**Abuse/Neglect of patient in Facility** (serious physical injury, sexual penetration, sexual intercourse)
16-4753	**Drug dealing – Aggravated Possession; (see note)**
16-4757(c)(1)	**Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes (see note)**
31-3913(b)	**Exploitation of Infirm Adult (>$50,000/Prior Conviction)**

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 5 years @Level V
Two or more prior felonies	Up to 5 years @ Level V
One prior Violent felony	Up to 5 years @ Level V
Two or more prior violent felonies	Up to 10 years @ Level V
Excessive cruelty	Up to 10 years @ Level V

Supplemental Notations for Class C Violent Felonies

If crime is secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-630A	**Vehicular Homicide 1st Degree** • (b) Minimum mandatory sentence = 2 years which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody for the first 18 m. • Every person >16 y.o.a., shall be treated as an adult, subject to reverse amenability provisions, except that mandatory minimum sentences in (b) shall not apply. Incarceration, if ordered, shall be initially served in juvenile facility until 18 y.o.a and then shall continue in an adult facility.

11-777A(e)(2)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age, then the min. man. Is 25 years at Level V up to life.
11-778(f)(4)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first 16-476O</u>** as set forth in subsection (d) (intentionally engages in sexual intercourse or sexual penetration with a child and the Victim >16 <18) of this section is a class C felony.
11-787(b) (1)	**<u>Trafficking an individual</u>** If either minor victim or aggravating circumstance, it is a Class B Felony Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless; or • b. the person used or threatened use of force against, abduction of, serious harm to or physical restraint of the victim
11-787(b) (2)	**<u>Forced labor</u>** If either minor victim or aggravating circumstance, it is a Class B Felony Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim
11-787(b) (3)	**<u>Sexual servitude (No Aggravating Circumstance and victim is an adult)</u>** If either minor victim or aggravating circumstance, it is a Class B Felony Aggravating Circumstance: An aggravating circumstance during the commission of an offense under paragraph (b)(1)-(3) occurs when: • a. the person recruited, enticed, or obtained the victim from a shelter designed to serve victims of human trafficking, victims of domestic violence, victims of sexual assault, runaway youth, foster children, or the homeless, or • b. the person used or threatened use of force against, abduction of, serious harm to, or physical restraint of the victim If an aggravating circumstance occurred, the classification of the offense under paragraph (b) (1)-(3) is elevated one felony grade higher than the underlying offense.
11-787 (b)(4)	**<u>Patronizing a victim of sexual servitude-Victim is a minor</u>**
11-803	**<u>Arson in the first degree</u>** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement

11-825	**<u>Burglary 2nd Degree (Vt> 62 y.o.a.)</u>** • (b) Minimum Mandatory Sentences: (1) 1 yr. at Level V or (2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt **First Conviction** 12 m. to 36 m. @ Level V **On release pending trial/sentence** 18 m. to 36 m. @ Level V **2 or more Prior Felonies** 36 m. to 72 m. @ Level V **1 Prior Violent Felony** 36 m. to 72 m. @ Level V **2 or more Prior Violent Felonies** 48 m. to 96 m. @ Level V **Excessive Cruelty** 48 m. to 96 m. @ Level V Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-826	**<u>Burglary 1st Degree</u>** • (b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt • Presumptive sentences: **First Conviction** 24 m. to 48 m. @ Level V **On release pending trial/sentence** 36 m. to 60 m. @ Level V **2 or more Prior Felonies** 48 m. to 96 m. @ Level V **1 Prior Violent Felony** 48 m. to 96 m. @ Level V **2 or more Prior Violent Felonies** 60 m. to 120 m. @ Level V **Excessive Cruelty** 60 m. to 120 m. @ Level V Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1105	**<u>Crime Against a Vulnerable Adult</u>** For this offense to be a class C felony, the underlying offense must be a class D felony. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.
11-1253	**<u>Escape After Conviction</u>** Any sentence imposed shall not run concurrently with any other sentence.
11-1312	**<u>Stalking w/ Deadly Weapon</u>** • (6) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension • (7) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension

11-1448 (e)(1)	**<u>Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony</u>** Mandatory Minimum Sentence- (e)(1)a: 3 yrs at Level V if previously convicted of a violent felony or (e)(1)b.: 5 yrs at Level V if offense occurs within 10 yrs of the conviction or incarceration for any violent felony, whichever is later or (e)(1)c.: 10 yrs at Level V if the person has been convicted on 2 or more separate occasions of any violent felony. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
16-4753	**<u>Drug dealing – Aggravated Possession;</u>** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity; (2) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance, and there is an aggravating factor; (3) Possesses a controlled substance in a Tier 4 quantity as defined in any of Section 4751C(2)a.-i. of this title; (4) Possesses a controlled substance in a Tier 2 quantity, as defined in any of Section 4751C(4)a.-i. of this title; and there is an aggravating factor; or (5) Possesses a controlled substance in a Tier 1 quantity, and there are 2 aggravating factors;
16-4757(c)(1)	**<u>Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes</u>** (1) A person who solicits, directs, hires, employs, or otherwise uses 1 or more other persons 3 or more times within a 30 day period to violate any provision or subsection of 4757(a).

Class C Felony (Nonviolent)

II.) (FCN)

Sentence Range (Nonviolent Category) FCN	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 1 year at Level 5
Presumptive Sentence DUI	2.5 yr. minimum term of imprisonment. (see note)
Acceptance of Responsibility	Up to 9 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-503	**Criminal Solicitation 1st Degree** Solicit to commit Class A Felony + Solicited <18 & D>18/Solicited<15 & D= 3+ yrs older
11-907B(b)	**Criminal Impersonation of a Police Officer w/Injury or Felonies (see note)**
11-1458	**Removing Firearm from a Law Enforcement Officer**
11-1471(c)(f)(g)(h)(i)(j)	**Video Lottery Cheat Device >$99,999.99**
16-2513(b)	**Conceal/Destroy/Falsify/Forge Document Which Results in False Authorization of Maintenance Medical Treatment for Life Prolongation**
16-4760A	**Operate or Attempt to Operate a Clandestine Laboratory**
21-4177(d)	**Drive Vehicle While Under the Influence (7th or any subsequent offense) (see note)**
31-1003	**Benefit by False Representation >$10,000 (see note)**
31-1004(2)	**Falsify Reimbursement Report >$10,000 (see note)**
31-1006	**Unlawful Conversion of Benefits >$10,000 (see note)**

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

Supplemental Notations for Class C Nonviolent Felonies

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-907B(b)	**Criminal Impersonation of a Police Officer w/Injury or Felonies** During the commission of the offense: (1) causes injury to a nonparticipant or (2) commits a Class A or Class B Felony or any sexual offense as defined in Title 11, §761(d)
21-4177(d)	**Drive Vehicle While Under the Influence (7th or any subsequent offense)** • **7th or any subsequent offense:** (Class C Felony) (1) 5y-15y at Level V, at least half of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to one-half of any minimum sentence set forth in this section, provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section; (2) Fined not more than $15,000; (3) Completion of alcohol abstinence of not less than 90 days of sobriety as measured by a transdermal continuous monitoring device or through periodic breath or urine analysis. In addition to such monitoring the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision; (4) 60m revocation; (5) An intensive inpatient or outpatient treatment program of not less than 3 months; (6) Ignition Interlock Device shall be installed on all vehicles registered to the Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period.
31-1003 **31-1004(2)** **31-1006**	**Benefit by False Representation** **Falsify Reimbursement Report** **Unlawful Conversion of Benefits** • 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State • 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class D Felony (Violent)

I.) (FDV)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Acceptance of Responsibility	Up to 18 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-607(a)(3)	**Strangulation (see note)**
11-612	**Assault 2nd Degree** (a)Intentionally: (1) Serious Injury/ (2)Injury w/DW/ (3) Injures LEO, FF, CO/ (4) Medical personnel/ (5) Vt>62/ (6)Assaults LEO w/spray/ (7)Uses spray commit crime/ Injures State Employee/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a. (a)Recklessly: (1) Serious Injury/ (2)Injury w/DW/ (5)Vt>62/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a.
11-630	**Vehicular Homicide 2nd Degree (see note)** (a)(1) Criminally negligent driving: death/ (2) DUI + Negligent driving: death
11-631	**Criminally Negligent Homicide**
11-769	**Unlawful Sexual Contact 1st Degree** Causing physical injury/using deadly weapon or threat of
11-775	**Bestiality**
11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778(5)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree: (see note)**
11-778A(1)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree: (see note)**
11-787(b)(4)	**Patronizing a victim of sexual servitude (adult victim)**
11-802	**Arson 2nd Degree** Intentionally damage unoccupied bldg by fire/explosion
11-825	**Burglary 2nd Degree (see note)** (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant

11-835(b)(2)	**Carjacking 2nd Degree** (a)Risk of Death or Serious Injury/(b)Compels Lawful Occupant to Leave/(c) Reckless Operation
11-846	**Extortion (Vt>62 y.o.a.)**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1250(c)	**Assault 1st Degree on Law Enforcement Animal** Intentionally or Recklessly causes Death or Serious Injury
11-1253	**Escape After Conviction** (Special Escape Category May Apply)(see note)
11-1254(a)	**Assault in Detention Facility: Injury (see note)**
11-1254(c)	**Assault in Detention Facility: Bodily Emissions (see note)**
11-1304(b)(3)	**Hate Crime (Underlying Offense: Class E Felony)**
11-1338	**Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive (see note)**
11-1442	**Carrying Concealed Deadly Weapon (Firearm) (see note)**
11-1459	**Possession of a Firearm with Altered Serial Number**
16-4754(1)	**Drug dealing – Aggravated possession; (see note)**
31-3913(b)	**Exploitation of Infirm Adult ($10,000 – $50,000)**
31-3913(c)	**Abuse of Infirm Adult: Bodily Harm**

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 4 yrs @ Level V
Two or more prior felonies	Up to 4 yrs @ Level V
One Prior violent felony	Up to 4 yrs @ Level V
Two or more prior violent felonies	Up to 8 yrs @ Level
Excessive Cruelty	Up to 8 yrs @ Level V

Supplemental Notations for Class D Violent Felonies

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-607(a)(3)	**Strangulation** • If person used or attempted to use a deadly weapon or dangerous instrument while committing the offense; or • The person caused serious physical injury to the other person while committing the offense; or • The person has previously been convicted of strangulation
11-630	**Vehicular Homicide 2nd Degree** • (b) Mandatory minimum sentence for violation of (a)(2) DUI: 1 yr. which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody during the 1st year. • (c) Persons 16 y.o.a. or older, shall be treated as an adult except that mandatory minimum sentence shall not apply & any period of incarceration shall be served at a juvenile facility until 18 y.o.a. at which time the person shall be transferred to an • adult facility to continue their sentence

<table>
<tr><td>11-777A(e)(2)</td><td><u>Sex Offender Unlawful Sexual Conduct Against a Child</u>
• (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony.
• Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
• 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age, then the min. man. Is 25 years at Level V up to life.</td></tr>
<tr><td>11-778(f)(5)</td><td><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree</u>
as set forth in subsection (e)(engages in an act of sexual extortion as defined in Section 774 of this chapter, and the victim is <16) is a class D Felony.</td></tr>
<tr><td>11-778A(1)</td><td><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree</u>
as set forth in subsection (a)(intentionally has sexual contact with a child <16 or causes the child to have sexual contact with the person or a third person and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child) is a class D felony.</td></tr>
<tr><td>11-825</td><td><u>Burglary 2nd Degree</u>
• Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
• Minimum Mandatory Sentences: (b)(1) 1 yr at Level V or (b)(2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.
• (c) Sentencing provisions equally applicable to Attempt
• Minimum Presumptive Sentences:
<table>
<tr><td>1st Conviction</td><td>12 to 36 m @ Level V</td></tr>
<tr><td>While on Release or pending Trial</td><td>18 to 36 m @ Level V</td></tr>
<tr><td>Two or more prior felonies</td><td>36 to 72 m @ Level V</td></tr>
<tr><td>One Prior Violent Felony</td><td>36 to 72 m @ Level V</td></tr>
<tr><td>Two or more prior violent felonies</td><td>48 to 96 m @ Level V</td></tr>
<tr><td>Excessive cruelty</td><td>48 to 96 m @ Level V</td></tr>
</table></td></tr>
<tr><td>11-1105</td><td><u>Crime Against a Vulnerable Adult</u>
For this offense to be a class D felony, the underlying offense must be a class E felony. See page 114 for listing of qualifying underlying offenses for this statute.
"Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.</td></tr>
<tr><td>11-1253</td><td><u>Escape After Conviction</u>
Any sentence imposed shall not run concurrently with any other sentence.</td></tr>
</table>

11-1254(a)	**Assault in Detention Facility: Injury** • Minimum Mandatory Sentence: 2 years at Level V to begin immediately upon sentencing. • Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1254(c)	**Assault in Detention Facility: Bodily Emissions** • Minimum Mandatory Sentence: 1 yr at Level V to begin immediately upon sentencing. • Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. • Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed. • The Defendant shall be tested for communicable diseases and the costs assessed as costs upon conviction. Results are to be communicated to the AG, the Victim, the Defendant and the medical care provider for D.O.C. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-1338	**Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive** Any person over 16 y.o.a. who violates this section shall be charged as an adult.
11-1442	**Carrying Concealed Deadly Weapon (Prior conviction < 5 yrs)** • Weapon is a firearm

16-4754	**Drug dealing – Aggravated possession** (1) Manufactures, delivers, or possesses with the intent to manufacture or deliver a controlled substance; (2) Possesses a controlled substance in a Tier 3 quantity; or (3) Possesses a controlled substance in a Tier 1 quantity, and there is an aggravating factor

Class D Felony (Nonviolent)

II.) (FDN)

Sentence Range (Nonviolent Category) FDN	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 12 months @ Level II or III
Presumptive Sentence DUI	2 year minimum term of imprisonment (see note)
Acceptance of Responsibility	Up to 9 months at Level II or III
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-841(c)(3)(a)	**Theft ($50,000-$99,999) (see note)**
11-850(b)(3)	**Unlawful Telecommunication Device (>2 prior convictions/ 50+ devices) (see note)**
11-854	**Identity Theft (see note)**
11-913A(c)(2)	**Health Care Fraud (see note)** Intended loss = $50,000-$99,999/ Pattern of claims when offender is provider
11-917(d)(2)	**New Home Construction Fraud** Loss = $50,000-$99,999
11-932	**Unauthorized Computer Access (>$10,000) (see note)**
11-933	**Theft Computer Services (>$10,000) (see note)**
11-934	**Interruption Computer Services (>$10,000) (see note)**
11-935	**Misuse Computer System Information (>$10,000) (see note)**
11-936	**Destruction Computer Equipment (>$10,000) (see note)**
11-937	**Unauthorized Electronic Mail (>$10,000) (see note)**
11-938	**Fail to Cease Electronic Communication (>$10,000) (see note)**
11-939	**Computer Offense Penalties (>$10,000) (see note)**
11-951	**Money Laundering**
11-1223	**Perjury 1st Degree** Material, False Testimony
11-1448(c)(1 of a1-a8)	**Poss/Purchase Firearm/Ammunition by Prohibited Person**
11-1448(a)(5)	**Poss/Purchase Firearm/Ammunition by Prohibited Person (see note)**
11-1457(j)(3)	**Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Class E Fel.) (see note)**
11-1457(j)(4)	**Poss. Of a Weapon in a Safe School and Recreation Zone ; Class D Felony (see note)**
11-3532	**Act of Intimidation (see note)**
11-9616A	**Public Posting Individual's Confidential Information (see note)**
16-4754(2)(3)	**Drug Dealing Aggravated Possession**

21-4177(d)	**Drive Vehicle While Under the Influence (6th offense) (see note)**
29-4713(d)	**Tamper w/Biological Sample**

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

Supplemental Notations for Class D Nonviolent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-841(c)(3)(a)	**Theft ($50,000-$99,999)** Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-850(b)(3)	**Unlawful Telecommunication Device (>2 prior convictions/ 50+ devices)** • (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints • (b)(7) All fines shall be imposed for each unlawful telecommunication or access device • (b)(8)Restitution shall be ordered in the manner prescribed by §4106 • (b)(9) The court may order forfeiture of unlawful device(s)
11-854	**Identity Theft** Restitution shall be ordered for monetary loss including documented loss of wages and reasonable attorney's fees
11-913A(c)(2)	**Health Care Fraud** 913A(c)(4) Fine may be up to 5x pecuniary benefit sought or obtained.
11-932 **11-933** **11-934** **11-935** **11-936** **11-937** **11-938** **11-939**	**Unauthorized Computer Access** **Theft Computer Services** **Interruption Computer Services** **Misuse Computer System Information** **Destruction Computer Equipment** **Unauthorized Electronic Mail** **Fail to Cease Electronic Communication** **Computer Offense Penalties** • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be $250 or (i) in the case of private personal data, $500.

11-1448(a)(5)	**<u>Poss/Purchase Firearm/Ammunition by Prohibited Person</u>** • (f)(1) Any juvenile 14 y.o.a or older convicted under (a)(5) shall for a 1st offense, receive a minimum sentence of 6 m. at Level V, or, for a 2nd or subsequent offense, 1 yr of Level V, which shall not be suspended. §§4205(b) and 4215 shall not be applicable to this subsection. • (g) In addition, said juvenile shall be ordered after a first conviction to view a film/slide presentation related to the damage and injury caused by a gun and must meet with a victim of or family of a deceased victim of violent crime.
11-1457(j)(3)	**<u>Poss. Weapon in Safe School/Recreation Zone</u>** (Underlying Offense: Class E Fel.) (j)(3) If the underlying offense is a class d or e felony the crime shall be a class d felony. (j)(5) An elementary or secondary school student shall be expelled for 180d.
11-1457(j)(4)	**<u>Poss. Weapon in Safw School/Recreation Zone</u>** (jj)(4) Underlying Offense is a Class D felony (j)(5) An elementary or secondary school student shall be expelled for 180 days
11-3532	**<u>Act of Intimidation</u>** Per 11-3534 a person attempting to commit 11-3532 is guilty of the offense without regard to the success or failure of the attempt
11-9616A	**<u>Public posting or displaying program participants actual address, telephone number, or image on the internet</u>** Violation results in serious physical injury to the program participant or a member of program participant's household
21-4177(d)	**<u>Drive Vehicle While Under the Influence (6th offense)</u>** • **6th Offense:** (Class D Felony) (1) 4y-8y at Level 5, at least half of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to one-half of any minimum sentence set forth in this section provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section; (2) Fined not more than $10,000; (3) Completion of alcohol abstinence program of not less than 90 days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision; (4) 60m DL revocation; (5) An intensive inpatient or outpatient treatment program for a period of not less than 3 months; (6) Ignition Interlock Device shall be installed on all vehicles registered to the Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period.

Class E Felony (Violent)

I.) (FEV)

Sentence Range (Violent Category): FEV	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 15 m. @ Level V
Acceptance of Responsibility	Up to 11 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-513	**Conspiracy 1st Degree** Conspires to Commit Class A Felony
11-602(b)	**Aggravated Menacing (Display Deadly Weapon)**
11-604	**Reckless Endangering 1st Degree** Conduct likely to cause death
11-607(a)(1)	**Strangulation**
11-774	**Sexual Extortion**
11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-831	**Robbery 2nd Degree** (a)Theft w/force to (1) overcome resistance/(2)compel owner's cooperation
11-835	**Carjacking 2nd Degree** Intentional Theft Occupied Motor Vehicle by Coercion/Duress
11-846	**Extortion**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1304(b)(3)	**Hate Crime (Underlying Offense: Class F Felony)**
11-1339	**Adulteration (Injury/Illness)**
11-1444	**Possess Destructive Weapon (see note)**
11-1445(5)	**Unlawful Dealing with Dangerous Weapon** Enabling Felony/Class A Misdemeanor/Drug Crime
16-4774(c)	**Delivery Drug Paraphernalia to Minor (until 12/18/15)**
16-4774(d)	**Delivery Drug Paraphernalia to Minor (effective 12/18/15)**
31-3913(b)	**Exploitation of Infirm Adult (>$5,000/<$10,000)**

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 30 m. @ Level V
Two or more prior felonies	Up to 30 m. @ Level V
One prior violent felony	Up to 30 m. @ Level V
Two or more prior violent felonies	Up to 5 yrs @ Level V

Supplemental Notations For Class E Violent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-777A(e)(2)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • 11-4205A: (1) If prior conviction for Class A or B felojious sex offense (or similar from another state) or (2) If the victim is < 14 years of age, then the min. man. Is 25 years at Level V up to life.
11-1105	**<u>Crime Against a Vulnerable Adult</u>** For this offense to be a class E felony the underlying offense must be a class F felony. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.
11-1444	**<u>Possess Destructive Weapon</u>** • 11-1457(b)(1&2)&(j)(4): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class D Violent Felony. • 11-1457(j)(5):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.

Class E Felony (Nonviolent)

II.) (FEN)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Presumptive Sentence 4th DUI	6 month minimum term of imprisonment (see note)
Presumptive Sentence 5th DUI	1.5 year minimum term of imprisonment (see note)
Acceptance of Responsibility	Up to 9 months @ Level II
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-503	**Criminal Solicitation 1st Degree** Solicit to commit Class A Felony
11-621(a)(2)a	**Terroristic Threat** Knowing that the statement or statements are likely to cause evacuation of a building, place of assembly, or facility of public transportation **(see note)**
11-780	**Female Genital Mutilation**
11-841B(c)	**Theft: Organized Retail Crime; class A misd; class E felony (see note)**
11-876	**Tamper w/ Public Record 1st Degree** With Intent to Defraud
11-907B	**Criminal Impersonation Police Officer**
11-926(d)(3)	**Trademark Counterfeiting (2+Conv/Mfr/>1,000/>$10,000+) (7/7/05)**
11-932	**Unauthorized Computer Access ($5,000–$9,999) (see note)**
11-933	**Theft Computer Services ($5,000–$9,999) (see note)**
11-934	**Interruption Computer Services ($5,000–$9,999) (see note)**
11-935	**Misuse Computer System Information ($5,000–$9,999) (see note)**
11-936	**Destruction Computer Equipment ($5,000–$9,999) (see note)**
11-937	**Unauthorized Electronic Mail ($5,000–$9,999) (see note)**
11-938	**Fail to Cease Electronic Communication ($5,000–$9,999) (see note)**
11-939	**Computer Offense Penalties ($5,000–$9,999) (see note)**
11-1100	**Dealing in Children**
11-1101	**Abandonment of Child (<than 14 yrs of age)**
11-1102(b)(1)	**Endanger Welfare of Child: Death**
11-1201	**Bribery of a Public Servant**
11-1203	**Receiving a Bribe by a Public Servant**

11-1239	**Wearing Disguise during Felony**
11-1248	**Obstruct Rabies Control during Emergency**
11-1261	**Bribery of a Witness**
11-1262	**Receiving a Bribe by a Witness**
11-1263	**Tamper with a Witness**

11-1263A(a)(2)	**Interfere with Child Witness** Fail to Produce
11-1263A(a)(3)(b)	**Interfere with Child Witness** Bribes Another: Fail to Produce
11-1263A(a)(4)(b)	**Interfere with Child Witness** Threaten Another: Fail to Produce
11-1264	**Bribery of a Juror**
11-1265	**Receiving a Bribe by a Juror**
11-1326(a)	**Animals; fighting and baiting (see note)**
11-1327(c)(1)	**Dangerous Animal: Death of Person**
11-1352	**Promoting Prostitution 2nd Degree** (1)Manages or Owns Business w/2+ prostitutes/ (2)Profits by prostitute < 18 y.o.a
11-1361	**Providing Obscenity to Minor (see note)**
11-1457(j)(3)	**Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class F Felony) (see note)**
11-1471(c)(f)(g)(h)(i)(j)	**Video Lottery Cheat Device >50,000<100,000**
16-4755	**Aggravated possession** Possession of a controlled substance in a Tier 2 quantity as defined in 4751C(4)a.-i.
16-4758	**Unlawful dealing in a counterfeit or purported controlled substance**
21-4177(d)	**Driving Vehicle While Under the Influence (4th offense) (see note)**
21-4177(d)	**Driving Vehicle While Under the Influence (5th offense) (see note)**
31-610(a)(1)	**Transfer/Alter/Possess Food Stamps ($500>) (see note)**
31-1003	**False Representation for Benefits ($500–$9,999) (see note)**
31-1004(2)	**Falsify Reimbursement Report ($500–$9,999) (see note)**
31-1004(3)	**Misrepresentation to Qualify as Provider (see note)**
31-1004(4)	**Misrepresentation as to Operation of Provider/Facility (see note)**
31-1005	**Kickback Schemes (see note)**
31-1006	**Unlawful Conversion of Benefits ($500–$9,999) (see note)**

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 15 m. @ Level V
Lack of amenability to lesser sanctions	Up to 15 m. @ Level V

Supplemental Notations for Class E Nonviolent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-621(a)(2)a	**Terroristic Threat** 1.Pay a fine of not less than $1,000 nor more than $2,500 which fine cannot be suspended 2. Be sentenced to perform a minimum of 100 hours of community service
11-841B(c)	**Theft: Organized Retail Crime; class A misdemeanor; class E felony** In addition to the provisions of Section 841(c) and (d) of this chapter, if a defendant has two or more times been convicted of Theft: Organized Retail Crime, the offense of Theft: Organized Retail Crime is a class E felony.
11-932 **11-933** **11-934** **11-935** **11-936** **11-937** **11-938** **11-939**	**Unauthorized Computer Access** **Theft Computer Services** **Interruption Computer Services** **Misuse Computer System Information** **Destruction Computer Equipment** **Unauthorized Electronic Mail** **Fail to Cease Electronic Communication** **Computer Offense Penalties** • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be $250 or (i) in the case of private personal data, $500.
11-1326(a)	**Animals; fighting and baiting** • All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be disposed of in a humane manner. • A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.
11-1361	**Providing Obscenity to Minor** • If the obscenity involved live conduct, the business or establishment shall be closed for 6 m. • (c) Minimum mandatory sentence for 2nd or subsequent conviction within 5 yrs.: (1) $5,000 fine ($10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.
11-1457 (j)(3)	**Poss. Weapon in Safe Scool/Recreation Zone)** (j)(5) An elem. or secondary school student shall be expelled for 180 days

21-4177 (d)	**<u>Driving Vehicle While Under the Influence (4th Offense)</u>** • **4th Offense:** (Class E Felony) (1) 2y-5y at Level V, first 6 months shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind; Sentencing court may suspend up to 18 months of any minimum sentence, provided, however, that any sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol treatment program as set forth in 4177(d)(9); (2) Fined not more than $7,000; (3) Completion of alcohol abstinence program of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring the offender shall participate in random breath or urine analysis during the entire period of supervision; (4) 60m revocation; (5) An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3 months; (6) Ignition Interlock Device shall be installed on all vehicles registered to the Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period.
21-4177(d)	**<u>Driving Vehicle While Under the Influence (5th Offense)</u>** • **5th Offense:** (Class E Felony) (1) 3y-5y at Level V, at least one-half of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to one-half of any minimum sentence set forth in this section provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section; (2) Fined not more than $10,000; (3) Completion of alcohol abstinence program of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision; (4) 60m revocation; (5) An intensive inpatient or outpatient treatment program for a period of not less than 3 months; (6) Ignition Interlock Device shall be installed on all vehicles registered to the Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period.

31-610(a)(1)	**<u>Transfer/Alter/Possess Food Stamps ($500>)</u>** May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act
31-1003 **31-1004(2)** **31-1004(3)** **31-1004(4)** **31-1005** **31-1006**	**<u>Benefit by False Representation</u>** **<u>Falsify Reimbursement Report</u>** **<u>Misrepresentation to Qualify as Provider</u>** **<u>Misrepresentation as to Operation of Provider/Facility</u>** **<u>Kickback Schemes</u>** **<u>Unlawful Conversion of Benefits</u>** • 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State • 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class F Felony (Violent)

I.) (FFV)

Sentence Range (Violent Category): FFV	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 9 m. @ Level V
Acceptance of Responsibility	Up to 7 months at Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-617(b)(2)	**Criminal Youth Gang: Recruitment/Retention:Violence or Threat (7/10/06)**
11-629	**Vehicular Assault 1st Degree** DUI & criminally negligent driving: Serious Injury
11-645	**Promoting Suicide**
11-768	**Unlawful Sexual Contact 2nd Degree** Vt<16 y.o.a.
11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778A(2)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree: (see note)**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1256	**Promoting Prison Contraband** Deadly Weapon, mobile phone, cellular phone or other prohibited electronic device
11-1302	**Riot**
11-1304(b)(3)	**Hate Crime (Underlying Offense: Class G Felony)**
11-1312	**Stalking (see note)** Causing Fear/Defendant=21+ y.o.a. & Vt= <14 y.o.a., def. viol. N.c. ord. w/vic, or vic >62, or thrt of death/serious phys. inj. to vic. or another person, serious phys. inj. to vic.
16-4761(d)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who delivers or intends to deliver prescription drug and there is an aggravator

Sentences for Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 18 Months @ Level V
Two or more prior felonies	Up to 18 months @ Level V
One prior violent felony	Up to 18 Months @ Level V
Two or more prior violent felonies	Up to 36 Months @ Level V

Supplemental Notations for Class F Violent Felonies:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child** • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • 11-4205A: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age, then the min. man. Is 25 years at Level V to life.
11-778A(d)(2)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree;** as set forth in subsection (b)(1)(Is a male who intentionally exposes his genitals or buttocks to a child who <16 under circumstances in which he knows his conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and he stands in a position of trust, authority or supervision over the child or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child): or (2)(Is a female who intentionally exposes her genitals, breast or buttocks to a child <16 under circumstances in which she knows her conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and she stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.) is a class F felony.
11-1105	**Crime Against a Vulnerable Adult** For this offense to be a class F felony, the underlying offense must be a class G felony. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.
11-1312	**Stalking** • (6) If act(s) has been prev. prohibit. by crt order or sentence, min. mand. Sent. = 6 m. at Lev. V; the first 6 m. of sentence shall not be subject to suspension • (7) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension

Class F Felony (Nonviolent)

II.) (FFN)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II for Title 11 offenses Up to 14 months @ Level II for Title 16 offenses
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-502	**Criminal Solicitation 2nd Degree (see note)** Solicit to commit Felony
11-616(b)	**Gang Participation**
11-621(a)(2)b	**Terroristic Threat (see note)** False Stmt likely to: (a)evacuation/ (b)serious inconvenience/ (c)terror + School or Care Facility
11-621(a)(2)c	**Terroristic Threat**
11-621(a)(3)	**Terroristic Threat (see note)** Intent to Cause Belief of Substance Exposure: Death/Serious Injury
11-622	**Hoax Device**
11-651	**Abortion**
11-824	**Burglary 3rd Degree (see note)** Building
11-828	**Possess Burglary Tools**
11-840A	**Use of Illegitimate Sales Receipt/UPC Label (15+ Receipts/ UPC Labels/ $1,500+)**
11-841(c)(2)	**Theft (see note)** $1500+/vt= 62+ y.o.a./Infirm/Disabled
11-841C(b)	**Theft: Theft of a blank prescription form or pad**
11-850(b)(2)	**Unlawful Telecommunication Device (Previous Conviction/ 10-49 Devices)**
11-860	**Possess Shoplifters Tools**
11-861(b)(1)	**Forgery 1st Degree (see note)** Money/Stamps/Stocks/Bonds etc.

11-903	**Unlawful Use Credit Card** Vt= 62+ y.o.a & >$1,500
11-922(c)	**Improper Labeling (PriorConv 100>) (see note) (7/10/06)**
11-1101	**Abandonment of Child (14 yrs of age or older)**
11-1111	**Possession of Child Pornography**
11-1112(a)(2)	**Sex Offender (Loiter w/in 500 ft School)**
11-1222	**Perjury 2nd Degree** Written, Material False Stmt Intended to Mislead Public Servant
11-1263A(a)(1)	**Interfere with Child Witness** Complainant removed from jurisdiction
11-1263A(a)(3)(a)	**Interfere with Child Witness** Bribe to cause Complainant's removal from jurisdiction
11-1263A(a)(4)(a)	**Interfere with Child Witness** Threat to cause Complainant's removal from jurisdiction
11-1271A(b)(c)	**Crim. Contempt Dom Violence Pro. Order (PFA) (see note)**
11-1303(3)(b)	**Disorderly Conduct: Funeral/Memorial Service (Prior Conv) (6/1/06)**
11-1325	**Cruelty to Animals (see note)** Cruelly or Unnecessarily kills or seriously injures under (b)(4) or (5)
11-1326(b)(c)	**Fighting/Baiting Animals (see note)**
11-1327(c)(2)	**Dangerous Animal: Serious Injury to Person**
11-1351	**Promoting Prostitution 3rd Degree** Profit from prostitution
11-1448(f)(1)(a)(5)	**Poss/Purchase Deadly Weapon (Other than Destructive Weapon/Firearm/Ammunition) by Prohibited Person (see note)**
11-1450	**Receiving Stolen Firearm**
11-1451	**Theft of firearm**
11-1454	**Giving Firearm to Person Prohibited**
11-1455	**Firearm Transaction on Behalf of Another (1st Offense)**
11-1457(j)(3)	**Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class G Felony) (see note)**
16-107(e)3	**Neglect of Duty (see note)**
16-4756	**Aggravated Possession** A person who possesses a controlled substance in a Tier 1 quantity
16-4757(b)	**Miscellaneous Drug Crimes (see note)**
16-4759(b)(1,2,4)	**Registrant Crimes** Violates (a)(1),)a)(2), or (a)(4)
16-4760	**Maintaining a Drug Property**
18-4354	**Unlawfully Acting as a Bail Bond Agent**
21-4134(d)	**Operation of vehicles on approach of authorized emergency vehicles**

Standard Sentences for Prior Criminal History Categories	
Repetitive criminal history	Up to 9 m. @ Level V
Lack of amenability at lesser sanctions	Up to 9 m. @ Level V

Supplemental Notations for Class F Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-502	**Criminal Solicitation 2nd Degree** Class F Felony unless the solicitor is 18 y.o.a. or older and the solicited is >18 y.o.a. or unless the solicitor is more than 3 yrs older than the solicited, who is less than 15 y.o.a. in which case, this crime is a Class D Felony.
11-621(a)(2)b	**Terroristic Threat** • (c)(1) Mandatory fine: $1,000–$2,500 which cannot be suspended and a minimum of 100 hrs community service • If the defendant is 17 y.o.a. or > & it is a first offense = Class A Misd
11-621(a)(3)	**Terroristic Threat** (d) Mandatory fine: $2,000 which shall not be suspended
11-824	**Burglary 3rd Degree** Presumptive sentences: First Conviction – Quasi Incarceration (Level IV) for 3 Mo. Repetitive Criminal History – Level V for 3 to 12 Mo. Lack of amenability to Lesser Sanction – Level V for 3 to 12 Mo.
11-841(c)(2)	**Theft** Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-850(b)(2)	**Unlawful Telecommunication Device** • (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints (b)(7) All fines shall be imposed for each unlawful telecommunication or access device • (b)(8)Restitution shall be ordered in the manner prescribed by §4106 • (b)(9) The court may order forfeiture of unlawful device(s)
11-861	**Forgery 1st Degree** (c) Restitution for resultant losses to all parties.
11-922(c)	**Improper Labeling (PriorConv 100 >)** 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.

11-1271A(b)(c)	**<u>Criminal Contempt of a Domestic Violence Protection Order (PFA)</u>** • (b) Unless any of the elements set forth in subsection (c) of this section are met, in which case the offense shall be a class F felony. • (c) A person is guilty of felony criminal contempt of a domestic violence protection order if: 1. Such contempt resulted in physical injury; or 2. Such contempt involved use/threat use/weapon
11-1325	**<u>Cruelty to Animals</u>** (d) The Defendant shall not own or possess any animal for 15 yrs following conviction (but see exceptions). Violation of this condition is punishable by a mandatory $5,000 fine and forfeiture of the animal.
11-1326(b)(c)	**<u>Fighting/Baiting Animals</u>** • (c) All animals, equipment, and money shall be forfeited to the State. Animals shall be humanely disposed of. • (e) The Defendant shall not own or possess any animal for 15 yrs following conviction.
11-1448(f)(1)(a)(5)	**<u>Poss/Purchase Deadly Weapon by Prohibited Person</u>** • Poss Destructive Weapon (No Prior Conviction) should be filed under §1338 • (f)(1) Any juvenile 14 y.o.a or older convicted under (a)(5) shall for a 1st offense, receive a minimum sentence of 6 m. at Level V, or, for a 2nd or subsequent offense, 1 yr of Level V, which shall not be suspended. §§4205(b) and 4215 shall not be applicable to this subsection. • (g) In addition, said juvenile shall be ordered after a first conviction to view a film/slide presentation related to the damage and injury caused by a gun and must meet with a victim of or family of a deceased victim of violent crime.
11-1457	**<u>Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class G Felony)</u>** • 11-1457(b)(4)&(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class E Felony. • 11-1457(j)(5):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d..
16-107(e)(3)	**<u>Neglect of Duty:</u>** Term of imprisonment not to exceed 3 years.

16-4757(b)	**<u>Miscellaneous Drug Crimes 16-4757(a)</u>** (1)To distribute as a registrant controlled substance classified in Schedule I or II except pursuant to an order form as required by Section 4738 of this chapter; (2)To use in the course of manufacture, distribution, prescribing, dispensing, or research of a controlled substance, a registration number which is fictitious, revoked, suspended, expired or issued to another person; (3)To acquire or obtain or attempt to acquire or obtain, possession of a controlled substance or prescription drug by misrepresentation, fraud, forgery, deception or subterfuge; (4)To furnish false or fraudulent material information in or omit any material information from, any application, report or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; (5)To make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance; (6)To acquire or attempt to or obtain possession of a controlled substance by theft; (7)To prescribe, or administer to another, any anabolic steroid, as defined in Section 4718(f) of this title, for the purposes of increasing human muscle weight or improving human performance in any form of exercise, sport, or game.

Class G Felony (Violent)

I.) (FGV)

Sentence Range (Violent Category) FGV	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 6 m. @ Level V For 16-4767 & 16-4768: 3 to 9 m. @ Level V
Acceptance of Responsibility	Up to 4 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-614	**Abuse of Sports Official (Prior Conv) (see note)**
11-617(b)(1)	**Criminal Youth Gang: Recruitment (7/10/06)**
11-777A(e)(2)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-778A(3)	**Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree (see note)**
11-782	**Unlawful Imprisonment 1st Degree** Risk of Serious Injury
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1257(a)	**Resisting Arrest with Force or Violence**
11-1304(b)(2)	**Hate Crime (Underlying Offense: Class A, B or C Misdemeanor)**
11-1312(a)	**Stalking**
11-1445(4)	**Unlawfully Dealing with a Dangerous Weapon**
16-1136(a)	**Abuse/Neglect of Patient: Sexual Contact**
16-1136(b)	**Exploit Patient's Resources ($1000+)**
16-4761(c)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who violates subsection (a) of this section and delivers, or intends to deliver the prescription drug to another
16-4774(b)	**Drug paraphernalia** Manufacture and sale
31-3913(b)	**Exploitation of Infirm Adult ($500- $4,999)**

Sentences for Prior Criminal History Categories	
While on release or pending trial or sentence	Up to 12 months @ Level V
Two or more prior felonies	Up to 12 months @ Level V
One prior violent felony	Up to 12 months @ Level V
Two or more prior violent felonies	Up to 24 months @ Level V

Supplemental Notations for Class G Violent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All criminal fines require 18% surcharge for Victims fund
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-614	**<u>Abuse of Sports Official (Prior Conv)</u>** Mandatory Penalty: fine=>$1,000/<$2,350 & prohibition from participation/attending an organized sporting event for >3 m./<12 m.
11-777A(e)(2)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(1) If the underlying sexual offense is a Class C, D, E, F, or G, felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • 11-4205A: (1) If prior conviction for Class A or R felonious sex offense (or similar from another state) or (2) If the victim is < 14 years of age, then the min. man. Is 25 years at Level V to life.
11-778A(d)(3)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree</u>** as set forth in subsection (c)(Suggests, solicits, requests, commands, importunes or otherwise attempts to induce a child <16 to have sexual contact or sexual intercourse or unlawful sexual penetration with the person or a third person, knowing that the person is thereby likely to cause annoyance, affront, offense or alarm to the child or another when the person is at least 4 years older than the child and the person stands in a position of trust authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.) is a class G felony.
11-1105	**<u>Crime Against a Vulnerable Adult</u>** For this offense to be a class G felony, the underlying offense must be a class A misdemeanor. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older, who by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term "vulnerable adult includes any adult for whom a guardian or the person or property has been appointed.

Class G Felony (Nonviolent)

II.) (FGN)

Sentence Range (Nonviolent Category) FGN	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Presumptive Sentence DUI	3 month minimum term of imprisonment (see note)
Acceptance of Responsibility	Up to 9 months @ Level II
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-512	**Conspiracy 2nd Degree** Conspires to commit Felony
11-621(a)(1)	**Terroristic Threat (Vt= 62+ y.o.a.) (see note)**
11-621(a)(2)b, or c	**Terroristic Threat (see note)** False statement likely to cause (b) serious inconvenience/ (c) terror
11-626	**Unlawful Administration Controlled Substance/Narcotic**
11-785	**Interfere w/Custody** Removal from State
11-801	**Arson 3rd Degree** Recklessly damage unoccupied bldg by fire/explosion
11-804	**Reckless Burning ($1500+ Damage)**
11-811(b)(1)	**Criminal Mischief ($5000+ Loss/Substantial Interruption) (see note)**
11-812(a)(2)	**Graffiti and Possession of Graffiti Implements ($1500+ damage) (see note)**
11-840	**Shoplift ($1500+)**
11-841	**Theft (see note) $1500+**
11-841A	**Theft: Motor Vehicle (6/20/06)**
11-841C(a)	**Possession of a blank prescription form or pad**
11-848	**Misapplication of Property ($1500+)**
11-849	**Theft of Rental Property ($1500+)**
11-851	**Receive Stolen Property ($1500+/2 prior convictions)**
11-852A	**Selling Stolen Property; class G felony (see note)**

11-859	**Larceny of Livestock (see note)**
11-861(b)(2)	**Forgery 2nd Degree (see note)** Deed/Will/Commercial Instrument/Public Record/Tokens/Prescriptions
11-862	**Possess Forgery Devices**
11-878	**Issue False Certificate**
11-900	**Issue Bad Check ($1500+)**
11-903	**Unlawful Use Credit Card** Vt= 62+ y.o.a or >$1,000
11-907A	**Criminal Impersonation (Accident Related) (see note)**
11-908	**Unlawful Concealing Will**
11-911	**Fraudulent Conveyance of Public Lands**
11-912	**Fraudulent Receipt of Public Lands**
11-913	**Insurance Fraud**
11-913A	**Health Care Fraud (see note)**
11-916	**Home Improvement Fraud** $1500+/vt=62+y.o.a./Prior Conviction
11-917(d)(1)	**New Home Construction Fraud ($1,500–$49,999)**
11-920	**Transfer of Recorded Sounds**
11-922(b)	**Improper Labeling (1st Offense 100 >) (see note) (7/10/06)**
11-926(d)(2)	**Trademark Counterfeiting(PriorConv/100-999/$2,000–$9,999) (7/7/05)**
11-932	**Unauthorized Computer Access ($500–$999) (see note)**
11-933	**Theft Computer Services ($500–$999) (see note)**
11-934	**Interruption Computer Services ($500–$999) (see note)**
11-935	**Misuse Computer System Information ($500–$999) (see note)**
11-936	**Destruction Computer Equipment ($500–$999) (see note)**
11-937	**Unauthorized Electronic Mail ($500–$999) (see note)**
11-938	**Fail Cease Electronic Communication ($500–$999) (see note)**
11-939	**Computer Offense Penalties ($500–$999) (see note)**
11-951(f)	**Money Laundering**
11-1001	**Bigamy**
11-1102(b)(2)	**Endanger Welfare of Child: Serious Injury**
11-1102(b)(3)	**Endanger Welfare of Child: Sex Offense**
11-1112(a)(1)	**Sex Offender (Residing w/in 500 ft of School)**
11-1103A	**Child Abuse in the Second Degree**
11-1113	**Aggravated Criminal Non-Support (see note)** Prior Conviction/ Delinquent as to Full Amt/ $10,000+
11-1114A(c)	**Tongue Splitting (Prior conviction)**
11-1206	**Receiving Unlawful Gratuity (value > $1,000)**
11-1240	**Terroristic Threat to Public Officials/Servants**
11-1244(b)	**Hinder Prosecution of a Felony**
11-1245	**False Report Incident/Child Abduction (Prior Conv) (see note) (6/30/05)**
11-1249	**Abetting Driver's License Violation (Prior Conviction/Death)**
11-1252	**Escape 2nd Degree** (Spec. Esc. Cat. May Apply) Esc. From detention facil. Or cust. Of DHSS or DOC
11-1257A	**Use Animal to Avoid Capture** Prevent Prosecution/Injures L.E.O
11-1259	**Sexual Relations in Detention Facility**
11-1260	**Misuse of Prisoner Mail (Prior Conviction)**
11-1263A(a)(1)	**Interfere with Child Witness** Removal from Jurisdiction

11-1263A(a)(3)(a)	**Interfere with Child Witness** Bribes to Cause Removal from Jurisdiction
11-1263A(a)(4)(a)	**Interfere with Child Witness** Threatens to Cause Removal from Jurisdiction
11-1269	**Tampering with Physical Evidence**
11-1312	**Aggravated Harassment** Only applies to offenses prior to 11/1/08; statute repealed, now only Harassment
11-1312	**Stalking (see note)**
11-1326(b)	**Fighting/Baiting Animals (see note)** Knowledge and Presence during Preparation
11-1335(a)(6)-(7)-(9)(c)& (9)(d)	**Violation of Privacy** Prurient Recording w/out Consent
11-1339	**Adulteration**
11-1361	**Obscenity (see note)**
11-1442	**Carry Concealed Deadly Weapon (see note)**
11-1446A	**Undetectable Knives (Mfr/Import/Sell/Possess) (6/30/06)**
11-1448A(f)	**Firearm Sale Violation: False Statement/Information**
11-1448A(e)	**Firearm Sale Violation (Second Offense)**
11-1461	**Report of Loss, Theft of Firearm (3rd or subsequent offense)**
11-1471(a)(b)(d)(e)(l)	**Video Lottery Cheat Device** (Prior Conviction w/in 3 yrs)
11-1471(c)(f)(g)(h)(i)(j)	**Video Lottery Cheat Device >$1500<$50000**
11-2109(c)(1)	**Breach of Conditions of Bail (see note)**
11-2113(c)(1)	**Breach of Release Conditions (Felony/Prior Conviction Crime) (see note)**
11-4120(k)	**Sex Offender (Fail to Register)**
11-4121(t)	**Sex Offender (Fail to Comply with Registration Mandates)**
11-8562(b)	**Provide False Child Abuser Information**
11-9616A	**Public posting or displaying program participant's actual address, telephone number, or image on the internet** Violation results in physical injury to the program participant or a member of the program participant's household
16-3111(a)	**Crimes Regarding Vital Records (see note)**
16-4762(d)	**Hypodermic syringe or needle; delivering or possessing; disposal**
16-4774 (b)	Manufacture and sale of drug paraphernalia (until 12/18/15)
16-4774(c)	**Manufacture and sale paraphernalia (effective 12/18/15)**
21-4177(d)	**Driving While Under the Influence (3rd offense) (see note)**
31-309(c)	**Background Checks for child serving entities**
31-311(c)	**Personal History Disclosure (effective 4/7/16)**

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 6 m. @ Level V
Lack of Amenability to Lesser Sanctions	Up to 6 m. @ Level V

Supplemental Notations for Class G Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-621(a)(1) **11-621(a)(2)b or c**	**Terroristic Threat (Vt= 62+ y.o.a.)** **Terroristic Threat** • (c)(1) Mandatory fine: $1,000–$2,500 which cannot be suspended and a minimum of 100 hrs community service • If the defendant is 17 y.o.a. or younger, the offense is a Class A Misdemeanor • If the place at which the risk of evacuation, serious inconvenience or terror is created is a daycare facility, nursery or preschool, kindergarten, elementary, secondary or vocational-technical school, or any long-term care facility in which elderly persons are housed, it is a class F felony.
11-811(b)(4)	**Criminal Mischief** • If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9), the court shall impose a minimum mandatory fine of at least $500.

11-812(a)(2)	**Graffiti and Possession of Graffiti Implements** The penalty for graffiti shall include a minimum fine of not less than $1,000 which shall not be subject to suspension, restitution for damages to the property and 250 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of an act of graffiti. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed on or along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).
11-841	**Theft** (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-852A	**Selling Stolen Property** value of the resold property is $1,000 or more, or unless the seller has been convicted 2 or more times of Selling Stolen Property
11-859	**Larceny of Livestock** Minimum sentence of imprisonment, if any, not subject to suspension,, probation or parole during 1st 6 m.
11-861(b)(2)	**Forgery 2nd Degree** (c) Restitution for resultant losses to all parties.
11-907A	**Criminal Impersonation (Accident Related)** (1) If Defendant pretended to be someone other than the driver, upon conviction, driving privileges are to be suspended by DMV for 2 yrs.
11-913A	**Health Care Fraud** 913(c)(4): Fine may be up to 5x pecuniary benefit sought or obtained.
11-922(b)	**Improper Labeling (1st Offense 100 >)** 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.

11-932 **11-933** **11-934** **11-935** **11-936** **11-937** **11-938** **11-939**	**Unauthorized Computer Access** **Theft Computer Services** **Interruption Computer Services** **Misuse Computer System Information** **Destruction Computer Equipment** **Unauthorized Electronic Mail** **Fail to Cease Electronic Communication** **Computer Offense Penalties** • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be $250 or (i) in the case of private personal data, $500.
11-1113	**Aggravated Criminal Non-Support** • Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person • (j) Restitution shall be ordered in the amount of the total accrued arrearages
11-1245	**False Report Incident/Child Abduction (Prior Conviction)** Minimum Mandatory sentence: Fine= $500 or for (3)(d): $1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response
11-1312	**Stalking** • (6) If act or acts include conduct which has previously been prohibited by a then-existing court order or sentence shall receive a minimum sentence of 6 months incarceration at Level V which shall not be subject to suspension. • (7) Any person who is convicted of stalking within 5 years of a prior conviction of stalking shall receive a minimum sentence of 1 year incarceration at Level V which shall not be subject to suspension.
11-1326	**Fighting/Baiting Animals. (c)** All animals, equipment, devices, and money shall be forfeited to the State. Forfeited animals shall be disposed of humanely.
11-1361	**Obscenity** • If the obscenity involved live conduct, the business or establishment shall be closed for 6 m. • (c) Minimum mandatory sentence for 2nd or subsequent conviction within 5 yrs.: (1) $5,000 fine ($10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.
11-1442	**Carrying Concealed Deadly Weapon** • 11-1457(b)(1)&(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class F NonViolent Felony. • 11-1457(j)(4):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
11-2109(c)(1)	**Breach of Conditions of Bail** Maximum Penalty: Imprisonment not to exceed 5 years and/or a fine of $5,000.00
11-2113(c)(1)	**Breach of Release Conditions** (Felony/Prior Conviction Crime). Maximum Penalty: Imprisonment not to exceed 5 years and/or a fine of $5,000.00.
16-3111(a)	**Crimes Regarding Vital Records** Maximum Penalty: Imprisonment= 5 yrs or less; Fine= $10,000

21-4177(d)	**<u>Driving While Under the Influence (3rd offense)</u>** • **3rd Offense:** (Class G Felony) (1) 1y-2y @ Level V, first 3m shall not be suspended but shall be served at Level V and shall not be subject to any early release, furlough, or reduction of any kind; Sentencing court may suspend up to 9 months of any minimum sentence, provided however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program as set forth in 4177(d)(9);(2) Fined not more than $5,000; (3) Completion of alcohol abstinence program of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring the offender shall participate in random breath or urine analysis during the entire period of supervision; (4) 24m DL revocation, if B.AC.L.is .15-.19, 30m, if B.A.L. > .19, 36m; (5) An intensive inpatient or outpatient drug and alcohol treatment program of not less than 3 months; (6) Ignition Interlock Device shall be installed on all vehicles registered to the Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period.

Class A Misdemeanors

I.) Violent (MA1)

Sentence Range (Violent Category) MA1	
Statutory Range	0 to 1 yr @ Level V and up to $2,300 Fine
Presumptive Sentence	1st offense: Up to 12 m. @ Level II 2nd offense w/in 2 yrs: Up to 6 m. @ Level III & Up to 6 m. @ Level II 3rd offense w/in 5 yrs: Up to 3 m. @ Level V & Up to 9 m @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II

Crimes in Category

11-603	**Reckless Endangering 2nd Degree** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-611	**Assault 3rd Degree** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-614	**Abuse of Sports Official (1st Offense)**
11-621(a)(1)	**Terroristic Threatening** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents Fine minimum of $1,000 up to $2,000 which cannot be suspended. Sentenced to a minimum of 100 hrs. community service
11-621(a)(2)	**Terroristic Threat** First offense where person is 17 years old or younger Fine minimum of $1,000 up to $2,000 which cannot be suspended Also perform a minimum of 100 hrs. of community service
11-766	**Incest** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-767	**Unlawful Sexual Contact 3rd Degree** (SpecialDVCategory May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-777A(e)(1)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-777A(e)(3)	**Sex Offender Unlawful Sexual Conduct Against a Child (see note)**
11-1103	**Child Abuse in the Third Degree**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1250(b)	**Assault 2d Degree Against Law enforcement Animal** Reckless: Risk of injury
11-1271A	**Criminal Contempt: DV Protective Order** (SpecialDVCategory May Apply) (see note)Refer to Exceptional Sentence Listing in Table of Contents
11-1304(b)(1)	**Hate Crime** (Underlying Offense: Violation or Unclassified Misdemeanor)
11-1443	**Carrying Concealed Dangerous Instrument**
16-1136(a)	**Abuse/Neglect of Patient in Residential Facility**
31-3913(a)	**Abuse/Neglect of Infirm Adult**

Supplemental Notations Violent Class A Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-777A(e)(1)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(1) If the underlying sexual offense is a misdemeanor, the crime of sex offender sexual conduct against a child shall be a class G felony except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class c felony. • 11-4205: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age then the min. man. Is 25 years at Level V up to life.
11-777A(e)(3)	**<u>Sex Offender Unlawful Sexual Conduct Against a Child</u>** • (e)(3) If the underlying sexual offense is a misdemeanor and the victim is under 18 years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child is a Class C felony. • 11-4205: (1) If prior conviction for Class A or B felonious sex offense (or similar from another state) or (2) If the victim is <14 years of age, then the min. man. Is 25 years at Level V up to life.
11-1105	**<u>Crime Against a Vulnerable Adult</u>** For this offense to be a class A misdemeanor the underlying offense must be a class B misdemeanor. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.
11-1271A	**<u>Criminal Contempt of a Dom Viol Protection Order</u>** Class A Misd, Class F felony • (c) Mandatory minimum sentence of 15 days imprisonment if contempt resulted in: (1) injury, (2) threat of Deadly Weapon or (3) 2 prior convictions this section • (d) Minimum sentence shall not be subject to suspension, probation, parole, furlough, or suspended custody

Class A Misdemeanors

II.) Escape (MA2)

Sentence Range (Escape Category) MA2	
Statutory Sentence	0 to 1 yr @ Level V and up to $2,300 fine
Presumptive Sentence	Up to 3 m. in quasi-incarceration (Level IV) Recommended Maximum: Up to 1 m. @ Level V
Acceptance of Responsibility	Up to 2 months @ Level IV

Crimes in Category

11-1251	**Escape 3rd Degree** (Special Escape Category May Apply) Escape from custody including nonsecure facilities of DYRS

Supplemental Notations for Class A Misdemeanors (Escape):

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

Class A Misdemeanors

III.) Property (MA3)

Sentence Range (Property Category) MA3	
Statutory Sentence	0 to 1 yr @ Level V and up to $2,300 fine
Presumptive Sentence	1st Offense: Up to 12 m. @ Level I 2nd w/in 18 m: Up to 6 m. @ Level II 3rd w/in 3 yrs: Up to 3 m. @ Level IV (quasi-incarceration) & 0 to 9m. @ Level II Recommended Maximum: 15 days @ Level V
Acceptance of Responsibility	Up to 9 months @ Level I

Crimes in Category

11-804	**Reckless Burning/Exploding (< $1500)**
11-805	**Cross or Religious Symbol Burning**
11-811(b)(2)(4)	**Criminal Mischief (>$1000-<$5000) (see note)**
11-812(a)(2)	**Graffiti and Possession of Graffiti Implements (<$1500 damage) (see note)**
11-813	**Theft of Property from a Cemetery**
11-823	**Criminal Trespass 1st Degree** Dwelling/Animal Shelter, i.e. barn, stable
11-840	**Shoplifting (<$1500)**
11-840A	**Use of Illegitimate Sales Receipt/UPC Label (<1500)**
11-841	**Theft (<$1500) (see note)**
11-841B	**Theft: Organized Retail Crime (V<62, not infirm, value < $1,000)**
11-848	**Misapplication of Property (< $1500)**
11-849	**Theft of Rental Property (< $1500)**
11-851	**Receiving Stolen Property (< $1500)**
11-852A	**Selling Stolen Property (<$1000)**
11-853	**Unauthorized Use of a Vehicle**
11-858(a)(2)	**Unlawful Operation Recording Device (Motion Picture) (see note) (6/28/06)**
11-861(b)(3)	**Forgery 3rd Degree (see note)**
11-891	**Defrauding Secured Creditors**
11-892	**Fraud in Insolvency**
11-900	**Issue Bad Check (< $1500)**
11-903	**Unlawful Use Credit Card (< $1500)**
11-906	**Deceptive Business Practices**
11-916	**Home Improvement Fraud (< $1500)**
11-917(d)	**New Home Construction Fraud (<$1,500)**
11-918	**Ticket Scalping (Prior Conviction)**
11-926(d)(1)	**Trademark Counterfeiting** (No priors/<100 items/<$2,000) (7/7/05)
11-932	**Unauthorized Computer Access (<$500) (see note)**

11-933	**Theft Computer Services (<$500) (see note)**
11-934	**Interruption Computer Services (<$500) (see note)**
11-935	**Misuse Computer System Information (<$500) (see note)**
11-936	**Destruction Computer Equipment (<$500) (see note)**
11-937	**Unauthorized Electronic Mail (<$500) (see note)**
11-938	**Fail Cease Electronic Communication (<$500) (see note)**
11-939	**Computer Offenses Penalties (<$500) (see note)**
11-9616A	**Public posting or displaying program participant's actual address, telephone number, or image on the internet**
16-1136(b)	**Exploit Patient's Resources (<$1000)**
31-1003	**False Statement to Obtain Benefits (<$500) (see note)**
31-1004(1)	**False Benefit Reimbursement Statement (<$500) (see note)**
31-1006	**Unlawful Conversion of Benefits (<$500) (see note)**
31-3913(b)	**Exploitation of Infirm Adult (<$500)**

Supplemental Notations for Class A Misdemeanors: Property

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-811(b)(2)(4)	**Criminal Mischief** • (4) If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 109(a)(9), the court shall impose a minimum mandatory fine of at least $500.
11-812(a)(2)	**Graffiti and Possession of Graffiti implements** The penalty for graffiti shall include a minimum fine of not less than $1,000 which shall not be subject to suspension, restitution for damages to the property and 250 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of an act of graffiti. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed on or along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).
11-841	**Theft** (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-858(a)(2)	**Unlawful Operation Recording Device (Motion Picture)** Notwithstanding any law to the contrary, may include a max. fine of $50,000
11-861(b)(3)	**Forgery 3rd Degree** (c) Restitution for resultant losses to all parties.

11-932 **11-933** **11-934** **11-935** **11-936** **11-937** **11-938** **11-939**	**Unauthorized Computer Access** **Theft Computer Services** **Interruption Computer Services** **Misuse Computer System Information** **Destruction Computer Equipment** **Unauthorized Electronic Mail** **Fail to Cease Electronic Communication** **Computer Offense Penalties** • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be $250 or (i) in the case of private personal data, $500.

31-1003 **31-1004(1)** **31-1006**	**False Statement to Obtain Benefits** **False Benefit Reimbursement Statement** **Unlawful Conversion of Benefits** • 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State • 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class A Misdemeanors

IV.) Order & Decency (MA4)

Sentence Range (Order & Decency Category) MA4	
Statutory Sentence	0 to 1 yr @ Level V and up to $2,300 fine
Presumptive Sentence	1st Offense: Up to 12 m. @ Level I 2nd w/in 18 m.: Up to 12m. @ Level II 3rd w/in 3 yrs.: Up to 6m. @ Level III & 0 to 6m. @ Level II Recommended Maximum Up to 15d. @ Level V
Acceptance of Responsibility	Up to 9 months @ Level I
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-501	**Criminal Solicitation 3rd Degree** Solicit to commit misdemeanor
11-511	**Conspiracy 3rd Degree** Conspires to commit misdemeanor
11-601(a)(1)	**Offensive Touching** Vt= LEO, FF, CO, Medical personnel
11-601(a)(2)	**Offensive Touching (see note)** Bodily Emissions
11-625	**Unlawfully Administer Drugs**
11-628A	**Vehicular Assault 2nd Degree** (1) Criminal negligence: serious injury/ (2) DUI: injury
11-652	**Self Abortion**
11-765	**Indecent Exposure 1st Degree** Vt= <16 y.o.a.
11-781	**Unlawful Imprisonment 2nd Degree** (Special DVCategory May Apply) Knowingly restrain Refer to Exceptional Sentence Listing in Table of Contents
11-785	**Interference with Custody** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-791	**Coercion** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents

11-871	**Falsifying Business Records**
11-873	**Tampering w/ Public Records 2nd Degree**
11-877	**Offering False Instrument for Filing**
11-881	**Bribery**
11-882	**Receiving a Bribe**
11-893	**Interference Levied-Upon Property**
11-907	**Criminal Impersonation**
11-909	**Execution of Document by Deception**
11-918	**Ticket Scalping**
11-921	**Sale Transferred Recorded Sound**
11-1102	**Endanger Welfare of Child** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-1105	**Endanger Welfare of Incompetent**
11-1113(a)	**Aggravated Criminal Non-support (Prior Conviction) (see note)**
11-1114	**Body Piercing & Tattoos** (Prior Conviction)
11-1114A(a)	**Tongue Splitting 1st Degree**
11-1205	**Give Unlawful Gratuity**
11-1206	**Receive Unlawful Gratuity (value < $1,000)**
11-1207	**Improper Influence**
11-1211	**Official Misconduct**
11-1212	**Profiteering**
11-1221	**Perjury 3rd Degree** False statement under oath
11-1233	**Make False Written Statement**
11-1243	**Obstructing Firefighting**
11-1244	**Hinder Prosecution of Misdemeanor**
11-1245	**False Report Incident/Child Abduction (see note) (6/30/05)**
11-1246	**Compound a Crime**
11-1249	**Abetting Violation of Driver's License**
11-1256	**Promote Prison Contraband**
11-1257(b)	**Resist Arrest Without Violence**
11-1257A	**Use of Animal to Avoid Capture**
11-1260	**Misuse of Prisoner Mail**
11-1266	**Tampering w/Juror**
11-1267	**Misconduct by Juror**
11-1271(2–8)	**Criminal Contempt** (2)Breach of peace/ (3) Intentional disobedience/ (4)Refusal of Oath/to Answer/ (5)Publish false proceedings/ (6)Refuse Jury Service/ (7)Juror fail to attend trial/ (8)Defendant's failure to appear for criminal proceedings
11-1303(3)(a)	**Disorderly Conduct: y/Funeral/Memorial Service (6/1/06)**
11-1311	**Harassment** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-1325	**Cruelty to Animals (see note)**
11-1325A(b)	**Trade in Dog/Cat By-Products (Flesh) (see note)**
11-1327	**Dangerous Animal** Injury to Person/Serious Injury or Death Animal
11-1331	**Desecration**
11-1332	**Abusing a Corpse**

11-1335(a)(1–5, 8)	**Violation of Privacy (6/30/06)** (1)Trespass to eavesdrop/ (2) Installs recording device in private place/ (3)Installs/uses recording device outside private place/ (4) Intercepts/ (5) Divulges private communication/ (8) Installs in MV electronic/mechanical tracking device
11-1340	**Desecration of Burial Place (see note)**
11-1365	**Obscene Literature Harmful to Minors**
11-1401	**Advancing Gambling 2nd Degree** Unlawful(ly) (1)Sell/dispose/PWI lottery policy or similar/ (2)Device to do same/ (3)Interest in lottery policy writing or in selling/disposing policy or similar/ (4)Device to do same
11-1402	**Foreign Lotteries**
11-1403	**Advancing Gambling 1st Degree** Unlawful(ly) (1)Keeping "books"/ (2)Owner/occupant property for purpose of bookkeeping/ (3)Recording bets/ (4)Place bets
11-1404	**Providing Premises for Gambling (Prior Conviction w/in 5 yrs)**
11-1405	**Possession Gambling Device**
11-1406	**Interest in Keeping Gambling Device**
11-1411	**Unlawful Dissemination Gambling Information**
11-1428	**Maintaining an Obstruction (Prior Conviction w/in 2 yrs)**
11-1448A(e)	**Improper Request/Dissemination Criminal History Check**
11-1448A(f)	**Firearm Sale Violation**
11-1456	**Allow Unlawful Access to Firearm by Minor**
11-1457(j)(1)	**Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class B Misdemeanor) (see note)**
11-1471(a)(b)(d)(e)(l)	**Video Lottery Cheat Device** (first offense)
11-1471(c)(f)(g)(h)(i)(j)	**Video Lottery Cheat Device <1500**
11-8522	**Refusal to Permit Photo or Fingerprints**
11-8523(a)	**Refusal/Neglect/Hinder Report**
11-8523(d)	**Unlawful Use of Criminal History Record Information**
11-8562(a)	**Fail to Obtain Child Sex Abuser Information**
16-1136(c)	**Fail to Correct Abuse/Neglect of Patient in Residential Facility**
29-4713(k)(1)	**Unlawful Dissemination of DNA Database Information**
29-4830(f)(1)(f)(2)	**Standards of Licensing**
29-4831(a)(b)	**Prohibition on employment of persons or service agencies w/o a license**
29-4836(a)(b)	**Penalties for wagering by excluded persons**
31-610(a)(2)	**Transfer/Alter/Possess Food Stamps (<$500) (see note)**
31-310(a)	**Background Checks for Child Serving Entities**

Supplemental Notations for Class A Misdemeanors (Order & Decency):

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-601(a)(2)	**Offensive Touching** (b) The Defendant shall be tested for communicable diseases, the costs of which are to be assessed as costs of conviction. The results are to be provided to the AG, the victim, the Defendant and the D.O.C. medical provider

11-1113(a)	**<u>Aggravated Criminal Non-support (Prior Conviction)</u>** • Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person • • (j) Restitution shall be ordered in the amount of the total accrued arrearages
11-1245	**<u>False Report Incident/Child Abduction</u>** Minimum Mandatory sentence: Fine= $500 or for (3)(d): $1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response
11-1325	**<u>Cruelty to Animals</u>** (c) The Defendant shall not own or possess any animal for 5 yrs following conviction (but see exceptions). Violation of this condition is punishable by a mandatory $1,000 fine and forfeiture of the animal.
11-1325A	**<u>Trade in Dog/Cat By-Products</u>** (c) Defendant shall: (1) be prohibited from possessing dog/cat for 15 yrs after conviction (but see exceptions),(2) pay a fine of $2,500 and (3) forfeit any dog/cat.
11-1340	**<u>Desecration of Burial Place</u>** Mandatory Minimum Fine= >$1,000 up to $10,000.
11-1457	**<u>Possession Weapon in Safe School/Recreation Zone</u>** (Underlying Offense: Class B Misdemeanor). (j)(4) An elementary or secondary school student shall be expelled for 180d.
31-610(a)(2)	**<u>Transfer/Alter/Possess Food Stamps (<$500)</u>** • May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act

Class A Misdemeanors

V.) Controlled Substances (MA5)

Sentence Range (Controlled Substance Category) MA5	
Statutory Sentence	0 to 1 yr @ Level V and up to $2,300 fine
Presumptive Sentence	1st Offense w/16-4764 First Offender Program: Minimum 12 m. @ Level I (7/12/05) 1st Offense: 12 m. @ Level II 2nd Offense w/in 2 Years: 6 m. @ Level III & 6m. @ Level II 3rd Offense w/in 3 Years: 6 m. @ Level V
Acceptance of Responsibility	Up to 9 months @ Level II

Crimes in Category

16-4740	**Sale of Pseudoephedrine/Ephedrine (6/14/05)**
16-4759(b)	**Registrant Crimes** Violates (a)(3)
16-4763(a)	**Possession of Controlled Substances or Counterfeit Controlled Substances** Is an aggravating factor
16-4774(a)	**Possession of Drug Paraphernalia**

Supplemental Notations for Class A Misdemeanors (Controlled Substances):

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Any violations of Title 16, §§4751-4761: 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V
Any offenses under Title 16, Chapter 47: 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
Costs of prosecution may be ordered. (Title 11, §4204(i))

Class B Misdemeanors

Sentence Range (Class B Misdemeanors) MB	
Statutory Sentence	0 to 6m. @ Level V and up to $1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

Crimes in Category

11-628	**Vehicular Assault 3rd Degree (see note)** Criminal negligence: physical injury
11-653	**Issuing Abortion Articles**
11-812(b)(1)	**Possession of Graffiti Implements (see note)**
11-820	**Trespass with Intent to Peep**
11-858(a)(2)	**Unlawful Operation Recording Device (Still Photograph) (6/28/06)**
11-910	**Debt Adjusting**
11-918	**Ticket Scalping**
11-1106	**Unlawful Dealing with Child**
11-1113(a)	**Criminal Non-support (see note)**
11-1114	**Body Piercing & Tattoos**
11-1114A(b)	**Tongue Splitting 2nd Degree** Performed by doctor/dentist and recipient is: (1)under the influence/ (2)minor w/out legal guardian's consent
11-1241	**Refusing to Aid Police Officer**
11-1248	**Obstructing Control of Rabies**
11-1271(1)	**Criminal Contempt** Disorderly Behavior
11-1273	**Unlawful Grand Jury Disclosure**
11-1313	**Malicious Interference with Emergency Communications**
11-1325A(a)	**Trade in Dog/Cat Byproducts (Fur/Hair)**
11-1333	**Trading in Human Remains/Funerary Objects**
11-1341	**Lewdness**
11-1342	**Prostitution**
11-1355	**Permitting Prostitution**
11-1452	**Unlawful Dealing with Knuckles-Combination Knife (see note)**
11-1453	**Unlawful Dealing with Martial Arts Throwing Star (see note)**
11-1457(j)(2)	**Poss. Weapon in Safe School/Recreation Zone** (Underlying Offense: Unclassified Misdemeanor)(see note)
16-4761(b)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who violates subsection (a) of this section and there is an aggravator
16-4763(b)	**Possession of Controlled Substances or Counterfeit Controlled Substances** Violates 4763(a)
16-4764(a)	**Possession of Marijuana (until 12/18/15)**
16-4764(a)	**Possession of Marijuana (effective 12/18/15)** Under the age of 18 Is an aggravating factor
16-4764(a)	**Possession of Marijuana (effective 12/18/15)** 18 or older and aggravating factor And possesses other than a personal use quantity

16-4774(a)	**Drug Paraphernalia (reference 16-4771(a)) (Until 12/18/15)** Possession
16-4774(a)	**Drug Paraphernalia, (reference 16-4771(a)) Possession (effective 12/18/15)**

Supplemental Notations Class B Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-812 (b)(1)	**Possession of Graffiti Implements** Min. fine of not less than $500 which shall not be subject to suspension, restitution for damages to property and 100 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of possession of graffiti implements. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).
11-1113	**Criminal Non-support** • Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person • (j) Restitution shall be ordered in the amount of the total accrued arrearages
11-1452 **11-1453**	**Unlawful Dealing with Knuckles-Combination Knife** **Unlawful Dealing with Martial Arts Throwing Star** • 11-1457(b)(5&6)&(j)(1): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class A Misdemeanor. • 11-1457(j)(4):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
11-1457	**Poss. Weapon in Safe School/Recreation Zone** (Underlying Offense: Unclass Misdemeanor) (j)(4) An elementary or secondary school student shall be expelled for 180d.

Unclassified Misdemeanors

Sentence Range (Unclassified Misdemeanors) UM	
Statutory Sentence	Up to 30d. @ Level V and up to $575 fine
Presumptive Sentence	1st or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs:0 to 6m. @ Level I or II

Crimes in Category

11-601	**Offensive Touching** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-602	**Menacing** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-627	**Substances Releasing Vapors or Fumes**
11-763	**Sexual Harassment** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-764	**Indecent Exposure 2nd Degree**
11-811(b)(3)(4)	**Criminal Mischief (<$1000) (see note)**
11-822	**Criminal Trespass 2nd Degree** Building/ Real Property + Fenced/ Enclosed
11-850(b)(1)	**Unlawful Telecommunication Device (see note)**
11-914	**Unlawful Use of Consumer Identification Information**
11-915	**Unlawful Use of Credit Card Information**
11-915A	**Unlawful Printing Credit Card Receipt**
11-922	**Improper Labeling (<100) (see note) (7/10/06)**
11-925	**Video Privacy Protection**
11-1107	**Endangering Children**
11-1250(a)	**Harassment of Law Enforcement Animal**
11-1301	**Disorderly Conduct** (Special DV Category May Apply)Refer to Exceptional Sentence Listing in Table of Contents
11-1315	**Public Intoxication** (3rd Offense w/in 1 Year)
11-1322	**Criminal Nuisance**
11-1324	**Obstructing Ingress/Egress at Public Building**
11-1343	**Patronizing a Prostitute (see note)**
11-1404	**Providing Premises for Gambling**
11-1445 (1-3)	**Unlawful Dealing with Dangerous Weapon** (1) Possess/Sell BB/Air gun or ammunition for same/ (2)Unlawfully transfer to u/16 a BB/Air gun/ (3)Parent permits u/16 to have FA, BB/ Air/ Spear gun unsupervised
11-1446	**Unlawful Dealing with Switchblade (see note)**

11-1907(c)	**Fail to Answer Summons (see note)**
11-2109(c)(2)	**Breach of Conditions of Bail (see note)**
11-2113	**Breach Conditions of Release (Misdemeanor) (see note)**
11-6562A	**Furnishing Contraband**
16-2513(a)	**Threat/Coerce/Intimidate to W/D Medical Treatment (see note)**
16-3111(b)	**Violations Concerning Vital Statistics Records (see note)**
16-4761(a)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs**
16-4764(b)	**Possession of Marijuana (Effective 12/18/15)** Under the age of 18 Fine not more than $100
16-4764(b)	**Possession of Marijuana (Effective 12/18/15)** 18 years of age or older; More than personal use of quantity of 16-4714(d)(19); Fine not more than $575 and imprisonment not more than 3 months or both
16-4764(c)	**Possession of Marijuana (Effective 12/18/15)** 18 years of age to less than 21 years of age; Possess or use in private of personal use quantity of 16-4714(d)(19) substance; second or subsequent offense
16-4764(b)	**Possession of Marijuana (Until 12/18/15)** Fine not more than $575 and imprisonment not more than 3 months or both
16-4764 (d)	**Possession of Marijuana (effective 12/18/15)** 18 years of age or older Personal use quantity of controlled substance or counterfeit controlled substance In an area accessible to the public or in a moving vehicle Fined not more than $200, imprisoned not more than 5 days or both
16-4774 (d)	**Advertisement and Promotion of Drug Paraphernalia (Until 12/18/15)**
16-4774(e)	**Advertisement and Promotion of Drug Paraphernalia (Effective 12/18/15)**
16-6611(b)	**Violation of Fire Regulations (see note)**
29-4810	**Lottery Sales to persons prohibited**

Supplemental Notations Unclassified Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-811(b)(3)(4)	**Criminal Mischief** • (4) If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9), the court shall impose a minimum mandatory fine of at least $500.
11-850(b)(1)	**Unlawful Telecommunication Device** • Punishable by up to 1 yr at Level V; Fine up to $10,000 • (b)(7) All fines shall be imposed for each unlawful telecommunication or access device • (b)(8) Restitution shall be ordered in the manner prescribed by §4106 • (b)(9) The court may order forfeiture of unlawful device(s)
11-922	**Improper Labeling (<100)** 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.
11-1343	**Patronizing a Prostitute** • (b) Minimum Mandatory Fine= $500, which shall not be suspended • (c)/(d) For a prior conviction w/in 5 yrs, any vehicle used in connection shall be seized
11-1446	**Unlawful Dealing with Switchblade** • 11-1457(b)(3)&(j)(2): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class B Misdemeanor. • 11-1457(j)(4):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
11-1907	**Fail to Answer Summons** Maximum penalty: 30 d. imprisonment &/or $100 fine.
11-2109(c)(2)	**Breach of Conditions of Bail** Maximum penalty: Imprisonment not to exceed 1 year or a fine of $500.00 or both.
11-2113	**Breach Conditions of Release (Misdemeanor)** Maximum penalty: Not to exceed 1 yr. imprisonment &/or $500 fine.
16-2513(a)	**Threat/Coerce/Intimidate to W/D Medical Treatment** Mandatory penalty: >$500/<$1,000 fine; >30 d. /<90 d. imprisonment
16-3111(b)	**Violations Concerning Vital Statistics Records** Maximum penalty: Fine up to $1,000; Imprisonment up to 1 yr.
16-6611(b)	**Violation of Fire Regulations** • Reckless violation-Maximum penalty: up to 10 d. imprisonment &/or up to $100 fine. • Each & every day the violation continues after notification shall be deemed a separate offense

Violations

Sentence Range (Violations) V	
Statutory Sentence	1st offense: Up to $345 2nd offense (same violation): Up to $690 3rd offense (same viol. W/in 5 yrs): Up to $1150
Presumptive Sentence	1st or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: Up to 6m. @ Level I

Crimes in Category

11-821	**Criminal Trespass 3rd Degree**
11-1116	**Tobacco Sale Violations: Sell/Distribute to u/18 (see note)**
11-1117	**Tobacco Sale Violations: Fail to Post Notice to u/18 (see note)**
11-1118	**Tobacco Sale Violations: Dist Samples/Coupons to u/18 (see note)**
11-1119	**Tobacco Sale Violations: Dist by Vending Machine (see note)**
11-1120	**Tobacco Sale Violations: Sell from Unlawful Package (see note)**
11-1315	**Public Intoxication**
11-1316	**Out-of-State Liquor Agent Registration (see note)**
11-1320	**Loitering on State-Supported School Property**
11-1321	**Loitering**
11-1323	**Obstructing Public Passages**
11-1330	**Smoking on Bus or Trolley**
11-1407	**Engaging in Crap Game**
11-1428	**Maintaining an Obstruction**
11-1461	**Report of Loss, Theft of Firearm**

Supplemental Notations for Violations:

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-1116-11120 (penalties §11-1121)	**Tobacco Sale Violations** • Mandatory Fines: 1st offense= $250, 2nd offense= $500, 3rd and subsequent offenses= $1,000 • Prior conviction w/in 12 m.: Defendant's license to sell tobacco may be suspended for up to 6m. w/out refund of registration fees
11-1316	**Out-of-State Liquor Agent Registration** Violations shall result in the loss of the right to register or registration for period of 6m.
11-1461	**Report of Loss, Theft of Firearm** • For the first offense be guilty of a violation and be subject to a civil penalty of not less than $75.00 nor more than $100.00. • For a second offense committed at any time after the sentencing or adjudication of a first offense, be guilty of a violation and be subject to a civil penalty of not less than $100.00 nor more than $250.00.

Title 21 and Title 23 Offenses

These offenses are not covered by Truth in Sentencing but are provided as a reference for commonly prosecuted motor vehicle offenses.

Crimes In Category

21-2810	**Driving After Judgment Prohibited (See note)**
21-4103(b)	**Flee or Attempt to Elude (See Note)**
21-4112A(c)	**Unlawful Sale Traffic Control Signal Preemption Devices (See Note)**
21-4175	**Reckless Driving (See Note)**
21-4175A	**Aggressive Driving (See Note pg)**
21-4176	**Careless or Inattentive Driving (See Note)**
21-4176A	**Operation of Vehicle Causing Death (See Note)**
21-4177 et seq.	**Driving a Vehicle While Under the Influence (See Note for 4177 (d) and 4177A**
21-4201 et seq.	**Leaving the Scene of an Accident (See Note)**
21-4202	**Leaving the Scene of an Accident (Injury/Death) (See Note)**
23-2302	**Operation of a Vessel or Boat While Under the Influence (See Note)**

21-2810	**Driving After Judgment Prohibited** Statutory Sentence: • Habitual Offender: (1) 1st Conviction- Mandatory Imprisonment from 90d. up to 30m. & Fine up to $1,150; (2) Prior Conviction- Mandatory Imprisonment from 180d. up to 5 yrs. & Fine up to $2,300. • Mandatory Imprisonment not subject to suspension Presumptive Sentence: (1) 1st Conviction: 3m. @ Level V (2) Prior Conviction: 6m. @ Level V
21-4103(b)	**Flee or Attempt to Elude** Class G Felony. 1st Conv: Min.Man. fine of $575 which may not be suspended. Subsequent Conv.: Min.Man. fine of $1150 which may not be suspended.
21-4112A(c)	**Unlawful Sale Traffic Control Signal Preemption Devices** Class A Misdemeanor
21-4134(d)	**Operation of vehicles upon approach of authorized emergency vehicles** Class F Felony
21-4175	**Reckless Driving** Mandatory Minimum Sentences: • 1st Offense: 10 – 30d. @ Level V; Fine= $100–$300 • Prior Conviction w/in 3 yrs.: 30 – 60d.@ Level V; Fine= $300–1,000. Sentence may not be suspended. • If charge is result of DUI reduction: Completion of course required under §4177D and payments of its attendant fees are mandated. The court must notate the record that the conviction was alcohol-related and, as result, shall be reflected upon Defendant's motor vehicle record.

21-4175A	**<u>Aggressive Driving</u>** Mandatory Minimum Sentences • 1st Offense: 10-30d. @ Level V; Fine= $100–$300 • Prior Conviction w/in 3 yrs.:30-60d.@ Level V; Fine= $300–1,000. Sentence may not be suspended. • Driving privileges suspended for 30d. • Comp. of Behav. Mod. course and pmt. of its attendant fees are mandated.

21-4176	**<u>Careless or Inattentive Driving</u>** Mandatory Minimum Sentences: • 1st Offense: Fine= $25–$75 • Prior Conviction w/in 3 yrs: Fine=$50–$95 • (d)(1) In addition to any other penalty if the court determines that the commission of that offense contributed to the serious physical injury of a vulnerable user of a public right of way, the court shall: a. Impose a sentence that requires the convicted person to: 1. complete a traffic safety course approved by DMV 2. Perform up to 100 hours of community service which much include activities related to driver improvement and providing public education on traffic safety; b. Impose, but suspend on the condition that the person complete the requirements of (d)(1)a, 1. A fine of not more than $550 2. A suspension of driving privileges as provided in Section 2733(a)(2) of this; and 3. Set a hearing date up to one year from the date of sentencing. At that Hearing, the court shall: A. If the person has successfully completed the requirements described in paragraph (d)(1)(a) of this section, dismiss the penalties imposed under (d)(1)b. 1. and 2 of this section. B. If the person has not successfully completed the requirements Described in (d)(1)(a) of this section, either I. grant the person an extension based on good cause shown, or II. impose the penalties under (d)(1)b. 1. and 2. of this section.
21-4176A	**<u>Operation of Vehicle Causing Death</u>** • Maximum penalty 1st Conviction: up to 30 m. imprisonment &/or $1,150 Fine • Prior Conviction: up to 60 m. imprisonment &/or $2,300 Fine
21-4177(d)(15)	**<u>Driving Vehicle While Under the Influence</u>** • Notwithstanding any law to the contrary, the phrase "all crimes" as used in the Truth in Sentencing Act of 1989 shall include felonies under this section of the Delaware Code, and any amendments thereto.

21-4177(d)	**<u>Driving Vehicle While Under the Influence(Effective July 1, 2012)</u>** • **1st Offense:** (1) up to 12m @ Level V; (2) Fine= $500-$1,500;(3) Completion of alcohol evaluation and program (4177)(d)(12)(f) not to exceed a total of 15m & to pay a fee not to exceed the maximum fine; (4) 12m DL revocation; if BAC .15-.19 Revocation 18m; if BAC >.19 Revocation 24m • **2nd Offense:** Occurring within 10 years of prior offense: (1)60d-18m @ Level V, minimum sentence may not be suspended; The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender shall successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program. (2) Fine = $750-$2,500;(3) Completion of alcohol evaluation and program (4177)(d)(12)(f);(4) 18m DL revocation; if BAC is .15-.19 Revocation 24m; if BAC >.19 Revocation 30m.(5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant 12 months from the effective date of the revocation and shall remain installed for the remainder of the revocation period; **4177(d)(10) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section, committed while a person who has not yet reached the person's seventeenth birthday is on or within the vehicle shall:** a. For the first offense, be fined an additional minimum of $500 and not more than an additional $1,500 and sentenced to perform a minimum of 40 hours of community service in a program benefiting children. b. For each subsequent like offense, be fined an additional minimum of $750 and not more than an additional $2,500 and sentenced to perform a minimum of 80 hours of community service in a program benefiting children. 4177L Driving by persons under the age of 21 after consumption of alcohol; penalties [Effective July 1, 2012] (a) Whoever, being under the age of 21 years, drives, operates or has actual physical control of a vehicle, an off-highway vehicle or a moped while consuming or after having consumed alcoholic liquor shall have that person's driver's license and/or privileges revoked for a period of 2 months for the first offense and not less than 6 months nor more than 12 months for each subsequent offense. If the underage person does not have a driver's license and/or privileges, the person shall be fined $200 for the first offense and not less than $400 nor more than $1,000 for each subsequent offense. **<u>4177(d) Driving a vehicle while under the influence or with a prohibited alcohol or drug content; (Effective until fulfillment of 79 Del. Laws, c. 396, section 5)</u>** (d) Whoever is convicted of a violation of subsection (a) of this section shall: (1) For the first offense, be fined not less than $500 nor more than $1,500 or imprisoned not more than 12 months or both. Any period of imprisonment imposed under this paragraph may be suspended. (2) For a second offense occurring at any time within 10 years of a prior offense, be fined not less than $750 nor more than $2,500 and imprisoned not less than 60

	days nor more than 18 months. The minimum sentence for a person sentenced under this paragraph may not be suspended. The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender shall successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program. (3) For a third offense occurring at any time after 2 prior offenses, be guilty of a class G felony, be fined not more than $5,000 and be imprisoned not less than 1 year nor more than 2 years. The provisions of § 4205(b)(7) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 3 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 9 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section. (4) For a fourth offense occurring any time after 3 prior offenses, be guilty of a class E felony, be fined not more than $7,000, and imprisoned not less than 2 years nor more than 5 years. The provisions of § 4205(b)(5) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 6 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 18 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section. (5) For a fifth offense occurring any time after 4 prior offenses, be guilty of a class E felony, be fined not more than $10,000 and imprisoned not less than 3 years nor more than 5 years. (6) For a sixth offense occurring any time after 5 prior offenses, be guilty of a class D felony, be fined not more than $10,000 and imprisoned not less than 4 years nor more than 8 years. (7) For a seventh offense occurring any time after 6 prior offenses, or for any subsequent offense, be guilty of a class C felony, be fined not more than $15,000 and imprisoned not less than 5 years nor greater than 15 years. (8) For the fifth, sixth, seventh offense or greater, the provisions of § 4205(b) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, at least 1/2 of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 1/2 of any minimum sentence set forth in this section provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section. No conviction for a violation of this section, for which a sentence is imposed pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section, shall be considered a predicate felony for conviction or sentencing pursuant to § 4214 of Title 11. No offense for which sentencing pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section is applicable shall be considered an underlying felony for a

4177(d)	murder in the first degree charge pursuant to § 636(a)(2) of Title 11. (9) Any minimum sentence suspended pursuant to paragraph (d)(3), (d)(4), or (d)(8) of this section shall be upon the condition that the offender shall complete a program of supervision which shall include: a. A drug and alcohol abstinence program requiring that the offender maintain a period of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device. In addition to such device, the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision. b. An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3 months. Such treatment and counseling may be completed while an offender is serving a Level V or Level IV sentence. c. Any other terms or provisions deemed appropriate by the sentencing court or the Department of Correction. (10) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section, committed while a person who has not yet reached the person's seventeenth birthday is on or within the vehicle shall: a. For the first offense, be fined an additional minimum of $500 and not more than an additional $1,500 and sentenced to perform a minimum of 40 hours of community service in a program benefiting children. b. For each subsequent like offense, be fined an additional minimum of $750 and not more than an additional $2,500 and sentenced to perform a minimum of 80 hours of community service in a program benefiting children. c. Violation of this paragraph shall be considered as an aggravating circumstance for sentencing purposes for a person convicted of a violation of subsection (a) of this section. Nothing in this paragraph shall prevent conviction for a violation of both subsection (a) of this section and any offense as defined elsewhere by the laws of this State. d. Violation of or sentencing pursuant to this paragraph shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim, nor shall a violation of or sentencing pursuant to this paragraph be admissible as evidence in the trial of any civil action. (11) A person who has been convicted of prior or previous offenses of this section, as defined in § 4177B(e) of this title, need not be charged as a subsequent offender in the complaint, information or indictment against the person in order to render the person liable for the punishment imposed by this section on a person with prior or previous offenses under this section. However, if at any time after conviction and before sentence, it shall appear to the Attorney General or to the sentencing court that by reason of such conviction and prior or previous convictions, a person should be subjected to paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the Attorney General shall file a motion to have the defendant sentenced pursuant to those provisions. If it shall appear to the satisfaction of the court at a hearing on the motion that the defendant falls within paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the court shall enter an order declaring the offense for which the defendant is being sentenced to be a felony and shall impose a sentence accordingly.

(12) The Court of Common Pleas and Justice of the Peace Courts shall not have jurisdiction over offenses which must be sentenced pursuant to paragraph (d)(3), (d)(4), (d)(5), (d)(6), (d)(7), (d)(8) or (d)(9) of this section

4177 Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties [Effective upon fulfillment of 79 Del. Laws, c. 396, § 5]

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

(1) For the first offense, be fined not less than $500 nor more than $1,500 or imprisoned not more than 12 months or both. Any period of imprisonment imposed under this paragraph may be suspended.

(2) For a second offense occurring at any time within 10 years of a prior offense, be fined not less than $750 nor more than $2,500 and imprisoned not less than 60 days nor more than 18 months. The minimum sentence for a person sentenced under this paragraph may not be suspended. The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender shall successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program.

(3) For a third offense occurring at any time after 2 prior offenses, be guilty of a class G felony, be fined not more than $5,000 and be imprisoned not less than 1 year nor more than 2 years. The provisions of § 4205(b)(7) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 3 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 9 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section.

(4) For a fourth offense occurring any time after 3 prior offenses, be guilty of a class E felony, be fined not more than $7,000, and imprisoned not less than 2 years nor more than 5 years. The provisions of § 4205(b)(5) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the first 6 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 18 months of any minimum sentence set forth in this paragraph provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section.

(5) For a fifth offense occurring any time after 4 prior offenses, be guilty of a class E felony, be fined not more than $10,000 and imprisoned not less than 3 years nor more than 5 years.

(6) For a sixth offense occurring any time after 5 prior offenses, be guilty of a class D felony, be fined not more than $10,000 and imprisoned not less than 4 years nor more than 8 years.

4177(d)	(7) For a seventh offense occurring any time after 6 prior offenses, or for any subsequent offense, be guilty of a class C felony, be fined not more than $15,000 and imprisoned not less than 5 years nor greater than 15 years. (8) For the fifth, sixth, seventh offense or greater, the provisions of § 4205(b) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, at least 1/2 of any minimum sentence shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. The sentencing court may suspend up to 1/2 of any minimum sentence set forth in this section provided, however, that any portion of a sentence suspended pursuant to this paragraph shall include participation in both a drug and alcohol abstinence program and a drug and alcohol treatment program as set forth in paragraph (d)(9) of this section. No conviction for a violation of this section, for which a sentence is imposed pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section, shall be considered a predicate felony for conviction or sentencing pursuant to § 4214 of Title 11. No offense for which sentencing pursuant to this paragraph or paragraph (d)(3) or (d)(4) of this section is applicable shall be considered an underlying felony for a murder in the first degree charge pursuant to § 636(a)(2) of Title 11. (9) Any minimum sentence suspended pursuant to paragraph (d)(3), (d)(4), or (d)(8) of this section shall be upon the condition that the offender shall complete a program of supervision which shall include: a. A drug and alcohol abstinence program requiring that the offender maintain a period of not less than 90 consecutive days of sobriety as measured by a transdermal continuous alcohol monitoring device or through periodic breath or urine analysis. In addition to such monitoring, the offender shall participate in periodic, random breath or urine analysis during the entire period of supervision. b. An intensive inpatient or outpatient drug and alcohol treatment program for a period of not less than 3 months. Such treatment and counseling may be completed while an offender is serving a Level V or Level IV sentence. c. Any other terms or provisions deemed appropriate by the sentencing court or the Department of Correction. (10) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section, committed while a person who has not yet reached the person's seventeenth birthday is on or within the vehicle shall: a. For the first offense, be fined an additional minimum of $500 and not more than an additional $1,500 and sentenced to perform a minimum of 40 hours of community service in a program benefiting children. b. For each subsequent like offense, be fined an additional minimum of $750 and not more than an additional $2,500 and sentenced to perform a minimum of 80 hours of community service in a program benefiting children. c. Violation of this paragraph shall be considered as an aggravating circumstance for sentencing purposes for a person convicted of a violation of subsection (a) of this section. Nothing in this paragraph shall prevent conviction for a violation of both subsection (a) of this section and any offense as defined elsewhere by the laws of this State. d. Violation of or sentencing pursuant to this paragraph shall not be considered as evidence of either comparative or contributory negligence in any civil suit or

insurance claim, nor shall a violation of or sentencing pursuant to this paragraph be admissible as evidence in the trial of any civil action.

(11) A person who has been convicted of prior or previous offenses of this section, as defined in § 4177B(e) of this title, need not be charged as a subsequent offender in the complaint, information or indictment against the person in order to render the person liable for the punishment imposed by this section on a person with prior or previous offenses under this section. However, if at any time after conviction and before sentence, it shall appear to the Attorney General or to the sentencing court that by reason of such conviction and prior or previous convictions, a person should be subjected to paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the Attorney General shall file a motion to have the defendant sentenced pursuant to those provisions. If it shall appear to the satisfaction of the court at a hearing on the motion that the defendant falls within paragraph (d)(3), (d)(4), (d)(5), (d)(6) or (d)(7) of this section, the court shall enter an order declaring the offense for which the defendant is being sentenced to be a felony and shall impose a sentence accordingly.

(12) The Court of Common Pleas and Justice of the Peace Courts shall not have jurisdiction over offenses which must be sentenced pursuant to paragraph (d)(3), (d)(4), (d)(5), (d)(6), (d)(7), (d)(8) or (d)(9) of this section.

4177A Revocation of license for violation of § 4177 of this title [Effective until fulfillment of 79 Del. Laws, c. 396, § 5]

(a) The Secretary shall forthwith revoke the driver's license and/or driving privileges of any person convicted of a violation of § 4177 of this title or any offense under the laws of any state or of the United States or local jurisdiction or the District of Columbia which prohibits driving under the influence of drugs. Such revocation shall be for a period of:

(1) *First offense.* — 12 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 18 months, or if the offender's blood alcohol concentration was .20 or greater or the offender refused a chemical test, the period of revocation shall be 24 months.

(2) *Second offense.* — 18 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 24 months, or if the offender's blood alcohol concentration was .20 or greater, or the offender has refused a chemical test, the revocation period shall be 30 months.

(3) *Third offense.* — 24 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 30 months, or if the offender's blood alcohol concentration was .20 or greater, or the offender has refused a chemical test, revocation period shall be 36 months.

(4) *Fourth or further subsequent offenses.* — 60 months regardless of the blood alcohol concentration.

(b) Any person sentenced under § 4177(d) of this title shall have the person's

driver's license and/or driving privileges revoked by the Secretary until the person has satisfactorily completed a program established pursuant to § 4177D of this title; provided however, that successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

(c) The Secretary shall have power and authority to refuse to issue a driver's license to any individual whose driver's license or driving privilege was revoked pursuant to this section until such person has satisfied the Secretary that the person has been of good behavior for the entire period of the revocation and until the person has complied with all applicable provisions of this section. If the Secretary refuses to issue a driver's license after the period of revocation has ended and after all fines and/or fees are paid, the applicant may appeal to the Superior Court of the county of residence

4177A Revocation of license for violation of § 4177 [Effective upon fulfillment of 79 Del. Laws, c. 396, § 5]

(a) The Secretary shall forthwith revoke the driver's license and/or driving privileges of any person convicted of a violation of § 4177 of this title or any offense under the laws of any state or of the United States or local jurisdiction or the District of Columbia which prohibits driving under the influence of alcohol or drugs. Such revocation shall be for a period of:

(1) *First offense.* — 12 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 18 months, or if the offender's blood alcohol concentration was .20 or greater or the offender refused a chemical test, the period of revocation shall be 24 months.

(2) *Second offense.* — 18 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 24 months, or if the offender's blood alcohol concentration was .20 or greater, or the offender has refused a chemical test, the revocation period shall be 30 months.

(3) *Third offense.* — 24 months; except that if the offender's blood alcohol concentration was between .15-.19 the revocation period shall be 30 months, or if the offender's blood alcohol concentration was .20 or greater, or the offender has refused a chemical test, the revocation period shall be 36 months.

(4) *Fourth or further subsequent offenses.* — 60 months regardless of the blood alcohol concentration.

(b) Any person sentenced under § 4177(d) of this title shall have the person's driver's license and/or driving privileges revoked by the Secretary until the person has satisfactorily completed a program established pursuant to 4177D of this title and complied with the ignition interlock device requirements set forth in §§ 4177C and 4177G of this title; provided however, that successful completion of the Court of Common Pleas Driving Under the Influence Treatment Program shall satisfy this requirement.

(c) The Secretary shall have power and authority to refuse to issue a driver's license to any individual whose driver's license or driving privilege was revoked pursuant to this section until such person has satisfied the Secretary that the person has been of good behavior for the entire period of the revocation and until the person has complied with all applicable provisions of this section. If the

4177A	Secretary refuses to issue a driver's license after the period of revocation has ended and after all fines and/or fees are paid, the applicant may appeal to the Superior Court of the county of residence.

21-4201	**<u>Leaving the Scene of an Accident</u>** Mandatory Minimum Sentence: (1) 60d.-6m. imprisonment; (2) Fine $230-$1,150; (3) 6m. driver's license revocation.
21-4202	**<u>Leaving the Scene of an Accident (Injury/Death)</u>** Mandatory Minimum Sentences: • (b) Injury (unclassified misdemeanor): (1) 1-2 yrs. imprisonment; (2) Fine= $1,000–$2,000; (3) 1 yr. driver's license suspension • (c) Death (class E felony): (1) 1 yr. minimum imprisonment of which the first 6m. may not be suspended; (2) 2 yr. driver's license suspension
23-2302	**<u>Operation of a Vessel or Boat While Under the Influence</u>** Mandatory Minimums: • **(1) 1st Offense:** (1) 60d.-6m. @ Level V &/or (2) Fine= $200–$1,000 • **(2) 2nd Offense w/in 5 yrs:** (1) 60d.-18m. @ Level V and (2) Fine= $500–$2,000; minimum sentence may not be suspended and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • **(3) 3rd Offense w/in 5 yrs:** (Class G Felony): (1) 1-2 yrs. @ Level V (first 3m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) and (2) Fine= $1,000-$3,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • **(4) 4th or Subsequent Offense:** (Class E Felony): (1) 2-5 yrs. @ Level V (first 6m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) and (2) Fine: $2,000-$6,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • **(5)(a) Aggravating factor-If a juvenile <17 y.o.a. was on board, then:** • 1st Offense: Additional fine= $200-$1,000 and 40 hrs. community service Subsequent Offense: Additional fine= $500-$2,000 and 80 hrs. community service

Summary of Drug Offenses- Class B Felonies

Class B Felony (Violent)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 Years (First 2 yrs @ Level V may not be suspended. 11-4205(d)
Presumptive Sentence	2 – 5 yrs;
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4752	**Drug dealing – Aggravated possession (see note)**

Supplemental Notations:

16-4752	**Drug dealing-Aggravated Possession** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 4 quantity; (2) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity, and there is an aggravating factor; (3) Possesses a controlled substance in a Tier 5 quantity; (4) Possesses a controlled substance in a Tier 3 quantity, and there is an aggravating factor; or (5) Possesses a controlled substance in a Tier 2 quantity as defined in any of Section 4751C(4)a.-i., of this title and there are two aggravating factors.

Class B Felony (Non-Violent)

16-4757(c)(2)	**Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes (see note)**

Supplemental Notations:

16-4757(c)(2)	**Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes:** • A person who solicits, directs, hires, employs, or otherwise uses 1 or more other persons 3 or more times within a 30-day period to violate any provision of subsection (a) of 4757 and there is an aggravating factor in connection with at least one of the times.

Summary of Drug Offenses- Class C Felonies

Class C Felony (Violent)

Sentence Range (Violent Category) FCV	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Acceptance of Responsibility	Up to 22 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 1 year for all • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4753	**Drug dealing – Aggravated Possession; (see note)**

Supplemental Notations:

16-4753	**Drug Dealing-Aggravated Possession** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity; (2) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance, and there is an aggravating factor; (3) Possesses a controlled substance in a Tier 4 quantity as defined in any of Section 4751C(2)a.-i. of this title; (4) Possesses a controlled substance in a Tier 2 quantity, as defined in any of Section 4751C(4)a.-i. of this title; and there is an aggravating factor; or (5) Possesses a controlled substance in a Tier 1 quantity, and there are 2 aggravating factors;

Class C Felony (Non-violent)

Sentence Range (Nonviolent Category) FCN	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 1 yr @ Level V
Acceptance of Responsibility	Up to 9 months @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

16-4757(c)(1)	**Miscellaneous Drug Crimes, Solicitation of Multiple Prescription Drug Crimes** (1) A person who solicits, directs, hires, employs, or otherwise uses 1 or more other persons 3 or more times within a 30 day period to violate any provision or subsection of 4757(a).
16-4760A	**Operate or Attempt to Operate a Clandestine Laboratory**

Summary of Drug Offenses- Class D Felonies

Class D Felony (Violent)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Acceptance of Responsibility	Up to 18 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4754	**Drug dealing – Aggravated possession; (see note)**

Supplemental Notations:

16-4754	**Drug Dealing-Aggravated Possession** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance; (2) Possesses a controlled substance in a Tier 3 quantity; or (3) Possesses a controlled substance in a Tier 1 quantity, and there is an aggravating factor

Class D Felony (Non-violent)

Sentence Range (Nonviolent Category) FDN	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 12 months @ Level II or III
Presumptive Sentence DUI	2 year minimum term of imprisonment can be suspended pursuant to Title 21 Section (d)9 with a treatment program at Level 4 or Level 5 for a long term treatment program
Acceptance of Responsibility	Up to 9 months at Level II or III
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Summary of Drug Offenses- Class E Felonies

Class E Felony (Violent)

Sentence Range (Violent Category): FEV	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 15 m. @ Level V
Acceptance of Responsibility	Up to 11 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4774(d)	**Delivery Drug Paraphernalia to Minor**

Supplemental Notations:

Summary of Drug Offenses- Class E Felonies

Class E Felony (Nonviolent)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4755	**Aggravated Possession** Possession of a controlled substance in a Tier 2 quantity as defined in 4751C(4)a.-i.
16-4758	**Unlawfully dealing in a counterfeit or purported controlled substance**

Supplemental Notations:

Summary of Drug Offenses Class F Felonies

Class F Felony (Violent)

I.) (FFV)

Sentence Range (Violent Category): FFV	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 9 m. @ Level V
Acceptance of Responsibility	Up to 7 months at Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4761(d)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who delivers or intends to deliver prescription drug and there is an aggravator

Summary of Drug Offenses- Class F Felonies

Class F Felony (Nonviolent)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II for Title 11 offenses Up to 14 mos. @ Level II for Title 16 offenses
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4756	**Aggravated Possession** A person who possesses a controlled substance in a Tier 1 quantity
16-4757(b)	**Miscellaneous Drug Crimes (see note)**
16-4759(b)(1,2,4)	**Registrant Crimes** Violates (a)(1),)a)(2), or (a)(4)
16-4760	**Maintaining a Drug Property**

Supplemental Notations:

16-4757(b)	**Miscellaneous Drug Crimes 16-4757(a)** (1)To distribute as a registrant controlled substance classified in Schedule I or II except pursuant to an order form as required by Section 4738 of this chapter; (2)To use in the course of manufacture, distribution, prescribing, dispensing, or research of a controlled substance, a registration number which is fictitious, revoked, suspended, expired or issued to another person; (3)To acquire or obtain or attempt to acquire or obtain, possession of a controlled substance or prescription drug by misrepresentation, fraud, forgery, deception or subterfuge; (4)To furnish false or fraudulent material information in or omit any material information from, any application, report or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; (5)To make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance; (6)To acquire or attempt to or obtain possession of a controlled substance by theft; (7)To prescribe, or administer to another, any anabolic steroid, as defined in Section 4718(f) of this title, for the purposes of increasing human muscle weight or improving human performance in any form of exercise, sport, or game.

Summary of Drug Offenses- Class G Felonies

Class G Felony (Violent)

Sentence Range (Violent Category) FGV	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 6 m. @ Level V. For 16-4767 & 16-4768: 3 - 9 m. @ Level V.
Acceptance of Responsibility	Up to 4 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4761(c)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who violates subsection (a) of this section and delivers, or intends to deliver the prescription drug to another

Supplemental Notations:

Class G Felony (Nonviolent)

Sentence Range (Nonviolent Category) FGN	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II
Probation or Suspension of Sentence (11-4333)	• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4762(d)	**Hypodermic syringe or needle; delivering or possessing; disposal**
16-4774(c)	**Drug paraphernalia** Manufacture and sale

Supplemental Notations:

Summary of Drug Offenses- Misdemeanors:

Class A Misdemeanor

Sentence Range (Controlled Substance Category) MA5	
Statutory Sentence	0 to 1 yr @ Level V and up to $2,300 fine
Presumptive Sentence	1st Offense w/16-4764 First Offender Program Minimum 18 m. @ Level I(7/12/05) 1st Offense 12 m. @ Level II 2nd Offense w/in 2 Years: 6 m. @ Level III & 6m. @ Level II 3rd Offense w/in 3 Years: 6 m. @ Level V
Acceptance of Responsibility	Up to 9 mos @ Level II

Crimes in Category:

16-4740	**Sale of Pseudoephedrine/Ephedrine**
16-4759(b)	**Registrant Crimes** Violates (a)(3)
16-4763(a)	**Possession of Controlled Substances or Counterfeit Controlled Substances** Is an aggravating factor

Supplemental Notations:

Class B Misdemeanor

Sentence Range (Class B Misdemeanors) MB	
Statutory Sentence	0 to 6m. @ Level V and up to $1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

Crimes in Category:

16-4761(b)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs** Any person who violates subsection (a) of this section and there is an aggravator
16-4763(b)	**Possession of Controlled Substances or Counterfeit Controlled Substances** Violates 4763(a)
16-4764(a)	**Possession of Marijuana**
16-4774(a)	**Drug Paraphernalia**

Supplemental Notations:

Unclassified Misdemeanors

Sentence Range (Unclassified Misdemeanors) UM	
Statutory Sentence	Up to 30d. @ Level V and up to $575 fine
Presumptive Sentence	1st or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs:0 to 6m. @ Level I or II

Crimes in Category

16-4761(a)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs**
16-4764(b), (c), (d)	**Possession of Marijuana** • Under 18, possess, use or consume, any quantity – up to $100 fine • 18-21, possess, personal use quantity, second or subsequent offense – up to $100 fine • 18-21, use or consume, personal use quantity, in private, second of subsequent offense – up to $100 fine • 18 or over, personal use quantity, use or consume in area accessible to public or moving vehicle – up to $200 fine, 5 days Level V or both • 18 or over, more than personal use quantity, possess use or consume – up to $575, 3 months Level V, or both
16-4774(d)	**Advertisement of Drug Paraphernalia**

Civil Violations

(not criminal offenses subject to TIS; included for informational purposes)

Crimes in Category

16-4761(a)	**Illegal Possession and Delivery of Noncontrolled Prescription Drugs**
16-4764(c)	**Possession of Marijuana** • 18-21, possess personal use quantity, first offense – up to $100 civil penalty • 18-21, use or consume personal use quantity in private, first offense – up to $100 civil penalty • 21+ possess, personal use quantity – up to $100 civil penalty • 21+ use or consume, in private, personal use quantity – up to $100 civil penalty
16-4774(b)	**Possession of Drug Paraphernalia for Personal Use Quantity Marijuana** • Up to $100 civil penalty • Note: can receive civil penalty only for paraphernalia *or* for marijuana

Revisions to Controlled Substances Act

Guide to HB-19 (2011) & HB 39 (2015)

Overview

Below are several tables that graphically relate charges under the revised drug offense scheme:

1. **Quantity thresholds by substance and tier;**
2. **Applicable aggravating factors;**
3. **Qualifying prior convictions;**
4. **Simple and aggravated possession offenses by quantity tier;**
5. **Marijuana possession;**
6. **Drug dealing and manufacturing offenses by quantity tier;**
7. **Revised Title 16 offenses by section number;**
8. **Applicable penalties by offense classification.**

CONTROLLED SUBSTANCE QUANTITY TIERS (16 DEL. C. § 4751C)

SUBSTANCE	TIER 1:	TIER 2:	TIER 3:	TIER 4:	TIER 5:
Cocaine	≥5g	≥10g	≥15g	≥20g	≥ 25g
Morphine / Opium / Heroin	≥1g	≥2g	≥3g	≥4g	≥ 5g
Marijuana	≥175g	≥1,500g	≥3,000g	≥4,000g	≥ 5,000g
Methamphetamine	≥5g	≥10g	≥15g	≥20g	≥ 25g
Amphetamine	≥5g	≥10g	≥15g	≥20g	≥ 25g
PCP	≥5g	≥10g	≥15g	≥20g	≥ 25g
LSD	≥2.5 ml or ≥25 doses	≥5 ml or ≥50 doses	≥10 ml or ≥100 doses	≥25 ml or ≥250 doses	≥ 50ml or
Designer Drug	≥2.5 ml or ≥2.5g or ≥12.5 doses	≥5 ml or ≥5g or ≥25 doses	≥7.5 ml or ≥7.5g or ≥37.5 doses	≥10 ml or ≥10 g or ≥50 doses	≥ 12.5ml or ≥ 12.5g
Ecstasy (MDMA)	≥2.5 ml or ≥2.5g or ≥12.5 doses	≥5 ml or ≥5g or ≥25 doses	≥7.5 ml or ≥7.5g or ≥37.5 doses	≥10 ml or ≥10g or ≥50 doses	≥ 12.5ml or ≥ 12.5g
Prescription Drug: Narcotic Schedule II or III	N/A	≥3g or ≥30 doses	N/A	≥ 6g or ≥ 60 doses	N/A

"Dose" is defined by 16 DEL. C. § 4701(14) (2011).

AGGRAVATING FACTORS (16 DEL. C. § 4751A)

a)	Offense committed within a protected school zone
b)	Offense committed within a protected park or place of worship zone
c)	Offense occurred in a vehicle

d)	Defendant was an adult and:
	• The Offense involved a juvenile as
	  ○ A co-conspirator or accomplice, or
	  ○ As the intended or actual recipient of the controlled substances;
	• And the defendant was more than four years older than the juvenile

e)	• Defendant, during or immediately following the commission of any offense in this Title, intentionally
	  ○ Prevented or attempted to prevent officer from making an arrest by use of violence or force; or
	  ○ Fled in a vehicle from a law enforcement officer, thereby creating a substantial risk of physical injury to other persons

- If both "Protected School Zone" and "Protected Park or Place of Worship Zone" are present as Aggravating Factors, then both may be alleged and proven, but together they count only as one.

QUALIFYING PRIOR CONVICTIONS (16 DEL. C. § 4751B)

IF CHARGED WITH A FELONY:

One Qualifying Prior:	**Two or More Qualifying Priors:**
1) "Within previous 5 years from date of offense, Defendant has:	Has One Qualifying Prior (see left); **AND**
• Adult felony conviction under former Title 16 sections 4751, 4752, or 4753A; **OR**	Within previous 10 years has an additional adult felony conviction or juvenile adjudication for:
• Adult felony conviction under any former Title 16 section that was a Class C Felony or higher; **OR**	• Former Title 16 sections 4751, 4752, or 4753A; **OR**
• Conviction under current Title 16 sections 4752, 4753, 4754, 4755, or 4756; **OR**	• Any former Title 16 section that was a Class C Felony or higher; **OR**
• Conviction under controlled substance law of any other U.S. jurisdiction that is same as or equivalent to any offense under Delaware law.	• Current Title 16 sections 4752, 4753, 4754, 4755, or 4756; **OR**
	• Controlled substance law of any other U.S. jurisdiction that is same as or equivalent to any offense under Delaware law.

Note: if charged with a misdemeanor, one qualifying prior is as above, but also includes any convictions under sections 4761(a), 4761(b), 4763, or 4764, if within previous five years.

SIMPLE & AGGRAVATED POSSESSION:					
QUANTITY (TIER):	**CONTROLLED SUBSTANCE:**	**AGGRAVATING FACTORS:**	**NO PRIOR CONVICTIONS:**	**ONE PRIOR:**	**TWO OR MORE PRIORS:**
No Tier Quantity Alleged	All Substances EXCEPT Marijuana (for marijuana see next chart)	0	Class B Misd. § 4763(b)	Class A Misd. § 4763(c) (§4751B(4)(a)(11))	Class A Misd. §4763(c) (§4751B(4)(a)(11))
		≥1	Class A Misd. § 4763(c)	Class A Misd. § 4763(c)	Class A Misd. § 4763(c)
Tier 1	All Substances	0	Class F Felony § 4756	Class D Felony § 4754(3)	Class C Felony §4753 (5) (§4751B(4)(b)(3))
		1	Class D Felony § 4754 (3)	Class C Felony § 4753(5) (§4751B(4)(a)(5))	Class C Felony §4753(5) (§4751B(4)(a)(5))
		≥2	Class C Felony § 4753(5)	Class C Felony §4753(5)	Class C Felony §4753(5)
Tier 2	All Substances	0	Class E Felony § 4755	Class C Felony §4753(4) (§4751B(4)(a)(6))	Class B Felony §4752(5) (§4751B(4)(b)(2))
		1	Class C Felony § 4753(4)	Class B Felony §4752(5) (§4751B(4)(a)(2))	Class B Felony §4752(5) (§4751B(4)(a)(2))
		≥2	Class B Felony § 4752(5)	Class B Felony § 4752(5)	Class B Felony §4752(5)
Tier 3	All Substances	0	Class D Felony § 4754(2)	Class B Felony §4752(4) (§4751B(4)(a)(4))	Class B Felony §4752(4) (§4751B(4)(a)(4))
Tier 3 or Tier 4	All Substances	≥1	Class B Felony § 4752 (4)	Class B Felony §4752(4)	Class B Felony §4752(4)
Tier 4	All Substances	0	Class C Felony § 4753(3)	Class C Felony §4753(3)	Class C Felony §4753(3)
Tier 5	All Substances	≥0	Class B Felony §4752(3)	Class B Felony § 4752(3)	Class B Felony §4752(3)

MARIJUANA POSSESSION					
AGE	**QUANTITY**	**ACTION**	**CONDITION**	**STATUTORY REFERENCE AND PENALTY**	**COURT**
Under 18	Any	Possess, use or consume		Unclassified Misd. (4764(b)) (up to $100)	Family Court
Under 18	Any	Possess, use or consume	Aggravating factor	B Misd. (4764(a))	Family Court
18-21	Personal Use[21]	Possess		1st: Civ. Pen. (4764(c)) 2nd or Subseq.: Uncl. Misd. $100	JP Court
18-21	Personal Use	Use or Consume	Private	1st: Civ.Pen.$100 (4764(c)) 2nd or Subseq.: Uncl. Misd. $100	JP Court
21+	Personal Use	Possess		Civ. Penalty $100 (4764(c))	JP Court
21+	Personal Use	Use or Consume	Private	Civ. Penalty $100 (4764(c))	JP Court
18+	Personal Use	Use or consume	Area Accessible to Public[22] or Moving Vehicle	Uncl. Misd. (4764(d)) (up to $200, 5 days or both)	CCP
18+	More than personal use	Possess, use or consume		Uncl. Misd. (4764(b)) (up to $575, 3 mos, or both	CCP
18+	More than personal use	Possess, use or consume	Aggravating factor	B Misd. (4764(a))	CCP

Note: the jurisdiction listed above is non-exclusive (except for Family Court). Superior Court continues to have jurisdiction over any adult Title 16, Chapter 47 violation. 16 *Del. C.* §4795(a

[21] "Personal use quantity shall mean one ounce or less of marijuana in the form of leaf marijuana. Leaf marijuana means the dried leaves and flowering tops of the plant cannabis sativaL." 16 *Del. C.* § 4701(33).

[22] Areas accessible to the public include "sidewalks, streets, alleys, parking lots, parks, playgrounds, stores, restaurants, and any other areas to which the general public is invited," outdoor locations within 10 feet of such areas, and outdoor locations within "10 feet from the entrances, exits, windows that open, or ventilation intakes of any public or private building." 16 *Del. C.* § 4764(d).

DRUG DEALING/MANUFACTURING (OR POSSESSION W/INTENT FOR EITHER					
QUANTITY (TIER):	**CONTROLLED SUBSTANCE**	**AGGRAVATING FACTORS:**	**NO PRIOR CONVICTIONS:**	**ONE PRIOR:**	**TWO OR MORE PRIORS:**
No Tier Quantity Alleged or Tier 1	All Substances	0	Class D Felony § 4754(1)	Class C Felony §§ 4754(1) & 4751B(4)(a)(3)	Class B Felony §§ 4754(1) & 4751B(4)(b)(1)
		≥1	Class C Felony §§ 4753(2) & 4753(5)	Class C Felony §§ 4753(2) & 4753(5)	Class C Felony §§ 4753(2) & 4753(5)
Tier 2 or Tier 3	All Substances	0	Class C Felony § 4753(1)	Class B Felony §§ 4753(1) & 4751B(4)(a)(1))	Class B Felony §§ 4753(1) & 4751B(4)(a)(1))
		≥1	Class B Felony §§ 4752(2) & 4752(4) Class C Felony 4753(4)	Class B Felony §§ 4752(2) & 4752(4) §§ 4753(4) & 4751B(4)(a)(2)	Class B Felony §§ 4752(2) & 4752(4) §§ 4753(4) & 4751B(4)(a)(2)
Tier 4 or Tier 5	All Substances	≥0	Class B Felony § 4752(1)	Class B Felony § 4752(1)	Class B Felony § 4752(1)

REVISED TITLE 16 OFFENSES BY SECTION NUMBER				
16 DEL. C. §	**OFFENSE:**	**NO PRIOR CONVICTIONS:**	**ONE PRIOR:**	**TWO OR MORE PRIORS:**
4752	(1): Del./Mfg./PWI Tier 4 or Tier 5	Class B Felony	Class B Felony	Class B Felony
	(2): Del/ Mfg./PWI Tier 2 or Tier 3 + Aggravator	Class B Felony	Class B Felony	Class B Felony
	(3): Poss. Tier 5	Class B Felony	Class B Felony	Class B Felony
	(4): Poss. Tier 3 or Tier 4 + Aggravator	Class B Felony	Class B Felony	Class B Felony
	(5): Poss. Tier 2 + 2x Aggravators	Class B Felony	Class B Felony	Class B Felony
4753	(1): Del./Mfg./PWI Tier 2 or Tier 3	Class C Felony	Class B Felony	Class B Felony
	(2): Del./Mfg./PWI + Aggravator	Class C Felony	Class C Felony	Class C Felony
	(3): Poss. Tier 4	Class C Felony	Class C Felony	Class C Felony
	(4): Poss. Tier 2 + Aggravator	Class C Felony	Class B Felony	Class B Felony
	(5): Poss. Tier 1 +2x Aggravators	Class C Felony	Class C Felony	Class C Felony
4754	(1): Del./Mfg./PWI No Tier or Tier 1	Class D Felony	Class C Felony	Class B Felony
	(2): Poss. Tier 3	Class D Felony	Class B Felony	Class B Felony
	(3): Poss. Tier 1 + Aggravator	Class D Felony	Class C Felony	Class C Felony
4755	Possession Tier 2	Class E Felony	Class C Felony	Class B Felony
4756	Possession Tier 1	Class F Felony	Class D Felony	Class C Felony

REVISED TITLE 16 OFFENSES BY SECTION NUMBER (CONTINUED)				
16 DEL. C. §:	**OFFENSE:**	**NO PRIOR CONVICTION:**	**ONE PRIOR:**	**TWO OR MORE PRIORS:**
4757	(a)(3): Unlawfully Obtaining Poss. of a Controlled Substance or Prescription Drug	Class F Felony	Class F Felony	Class F Felony
	(a)(6): Unlawfully Obtaining Poss. of a Controlled Substance or Prescription Drug by Theft	Class F Felony	Class F Felony	Class F Felony
	(a)(7): Admin. of Steroids for Performance	Class F Felony	Class F Felony	Class F Felony
	(c)(1): Solicitation of Multiple Prescription Drug Crimes	Class C Felony	Class B Felony	Class B Felony
	(c)(2): Solicitation of Multiple Prescription Drug Crimes + Aggravator	Class B Felony	Class B Felony	Class B Felony
4758	(a): Deliver/Mfg./PWI Counterfeit or Purported Controlled Substance	Class E Felony	Class E Felony	Class E Felony
4760	Maintain a Drug Property	Class F Felony	Class F Felony	Class F Felony
4761	(a): Illegal Possession of Non-Ctrl. Prescription Drug	Unclassified Misdemeanor	Class B Misdemeanor	Class B Misdemeanor
	(b): Illegal Poss. of Non-Ctrl. Pres. Drug + Aggravator	Class B Misdemeanor	Class B Misdemeanor	Class B Misdemeanor
	(c): Illegal Possession & Delivery of Non-Ctrl. Prescription Drug	Class G Felony	Class F Felony	Class F Felony
	(d): Illegal Possession & Delivery of Non-Ctrl Prescription Drug + Aggravator	Class F Felony	Class F Felony	Class F Felony

REVISED TITLE 16 OFFENSES BY SECTION NUMBER (CONTINUED (2))				
16 DEL. C. §:	**OFFENSE:**	**NO PRIOR CONVICTIONS:**	**ONE PRIOR:**	**TWO OR MORE PRIORS:**
4763	(b): Poss./ Consume Ctrl. Substance Not Marijuana	Class B Misdemeanor	Class A Misdemeanor	Class A Misdemeanor
	(c): Poss./ Consume Ctrl. Substance Not Marijuana + Aggravator	Class A Misdemeanor	Class A Misdemeanor	Class A Misdemeanor
4764	(a): Poss. /Consume More than Personal Use Quantity Marijuana + Aggravator	Class B Misdemeanor	Class B Misdemeanor	Class B Misdemeanor
	(b): 18 and over Possession / Consume More than Personal Use Quantity Marijuana OR Under 18 Possession / Consume Any Quantity	Unclass. Misd.; Juveniles - $100 fine Adults – Fine ≤ $575 & Imprisoned ≤ 3 months	Class B Misdemeanor	Class B Misdemeanor
4774	(a): Use / Possession with / Intent to Use Drug Paraphernalia	Class B Misdemeanor	Class B Misdemeanor	Class B Misdemeanor
	(b): Use / Possession with / Intent to Use Drug Paraphernalia for Personal Use Quantity Marijuana	$100 Civil Penalty	$100 Civil Penalty	$100 Civil Penalty

PENALTIES BY OFFENSE CLASSIFICATION		
	OFFENSE CLASSIFICATION	**PENALTIES**
Felonies	Class B	2 to ≤ 25 years @ Level 5
	Class C	≤ 15 years @ Level 5
	Class D	≤ 8 years @ Level 5
	Class E	≤ 5 years @ Level 5
	Class F	≤ 3 years @ Level 5
	Class G	≤ 2 years @ Level 5
Misdemeanors	Class A	≤ 1 year @ Level 5 and ≤ $ 2,300 fine
	Class B	≤ 6 months @ Level 5 and ≤ $1,150 fine
	Unclassified	≤ 30 days @ Level 5 and ≤ $575 fine; unless otherwise defined by statute (e.g., §§ 4764(b), (c), & (d))

SENTAC CONTROLLED SUBSTANCE "SUPER WEIGHTS"			
SUBSTANCE	**4-10 YEARS**	**6-12 YEARS**	**8-15 YEARS**
Cocaine	≥100g	≥250g	≥500g
Morphine / Opium / Heroin	≥20g	≥50g	≥100g
Marijuana	≥15,000g (33 lbs.)	≥37,500g (83 lbs.)	≥75,000g (165 lbs.)
Methamphetamine	≥100g	≥250g	≥500g
Amphetamine	≥100g	≥250g	≥500g
PCP	≥100g	≥250g	≥500g
LSD	≥50 ml or ≥500 doses	≥125ml or ≥1,250 doses	≥250 ml or ≥ 2,500 doses
Designer Drug	≥50 ml or ≥50 g or ≥250 doses	≥125ml or ≥125g or ≥625 doses	≥250 ml or ≥250g or ≥1,250 doses
Ecstasy (MDMA)	≥50 ml or ≥50 g or ≥250 doses	≥125ml or ≥125G or ≥625 doses	≥250 ml or ≥250g or ≥1,250 doses
Prescription Drug: Narcotic Schedule II or III	≥30g or ≥300 doses	≥75g or ≥750 doses	≥150g or ≥1,500 doses

- "Dose" is defined by 16 DEL. C. § 4701(14) (2011).

AGGRAVATING AND MITIGATING FACTORS

The standard sentence range is presumed to be appropriate for the typical criminal case. The court may impose a sentence outside the standard sentence range for that offense if it finds that there are substantial and compelling reasons justifying an exceptional sentence.

The following aggravating and mitigating circumstances for exceptional sentences are provided as examples and are not intended to be exclusive reasons for departure. An aggravating or mitigating circumstance, whether listed below or not, shall only apply if it does not reflect the statutory language defining the current offense, or constitute an element thereof.

When an exceptional sentence is decreed, the governing factor(s) leading to the exceptional sentence must be stated for the record, and should be identified in the sentencing order or on the sentencing worksheet.

Aggravating Factors:

A1	Excessive Cruelty
A2	Prior Violent Criminal Conduct
A3	Repetitive Criminal Conduct
A4	Need for Correctional Treatment
A5	Undue Depreciation of Offense
A6	Major Economic Offense or Series of Offenses
A7	Prior Abuse of Victim
A8	Custody Status at Time of Offense
A9	Lack of Remorse
A10	Betrayal of Public Trust
A11	Supervision to Monitor Restitution
A12	Lack of Amenability
A13	Vulnerability of Victim
A14	Statutory Aggravation
A15	Statutory Habitual Offender
A16	Child Domestic Violence Victim
A17	Offense Against a Child
A18	Sentenced to Time Already Served Only

Mitigating Factors:

M1	Victim Involvement
M2	Voluntary Redress or Treatment
M3	Under Duress or Compulsion
M4	Inducement By Others
M5	Physical/Mental Impairment
M6	Concern for Victim by Non-Principal
M7	No Prior Convictions
M8	Treatment Need exceeds Need for Punishment
M9	Could Lose Employment
M10	Statutory Mitigation
M11	Assistance to Prosecution
M12	Mental Retardation
M13	Other

Description of AGGRAVATING FACTORS For Exceptional Sentences

Violent Felonies Only:

EXCESSIVE CRUELTY

a. Those facts surrounding the commission of a violent felony which demonstrate such a callousness and cruelty towards the victim as to shock the conscience of the Court.
b. Allowable Penalty: Up to the statutory maximum for the instant offense.

PRIOR VIOLENT CRIMINAL CONDUCT

a. Defendant has demonstrated, by his prior criminal history, a propensity for violent criminal conduct. (SEE POLICY NO. 4)
b. Recommended Penalties:
    1. With two or more prior, separate violent felonies --Up to the statutory maximum.
    2. With one prior violent felony -- up to 50% of the statutory maximum.

Summary: Standard Prior History Categories for Violent Felonies

Category	Factor	Fel A	Fel B	Fel C	Fel D	Fel E	Fel F	Fel G
A	One or less prior felonies	Presumptive Sentence						
B	While on release or pending trial/sentencing	Level V for up to the time shown below:						
		25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
C	Two or more prior felonies	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
D	One prior **violent** felony	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
E	Two or more prior **violent** felonies	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs
F	Excessive Cruelty	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs

If violent crime is a secondary offense, use up to the presumptive sentence.

Aggravated Prior History Sentences at Level V for Nonviolent Felonies								
H	Repetitive criminal history	NA	NA	24 months	Up this number of months:			
					24	15	9	6
J	Lack of amenability to lesser sanctions	NA	NA	24 months	Up to this number of months:			
					24	15	9	6

If nonviolent crime is a secondary offense, use the nonaggravated presumptive sentence.

Any Offense:

REPETITIVE CRIMINAL CONDUCT

Definition: Repetitive Criminal Conduct is conviction or adjudication for the same or similar offense on two or more previous, separate occasions. (SEE POLICY NO. 16)

NEED FOR CORRECTIONAL TREATMENT

The defendant is in need of correctional treatment which can be most effectively provided if he is placed in total confinement.

UNDUE DEPRECIATION OF OFFENSE

It would unduly depreciate the seriousness of the offense to impose a sentence of other than total confinement.

MAJOR ECONOMIC OFFENSE OR SERIES OF OFFENSES:

Identified by a consideration of any of the following factors:

a. The offense involved multiple victims or multiple incidents per victim;
b. The offense involved attempted or actual monetary loss substantially greater than typical for the offense;
c. The offense involved a high degree of sophistication or planning, or occurred over a lengthy period of time;
d. The defendant used his/her position of trust, confidence or fiduciary responsibility to facilitate the offense.

PRIOR ABUSE OF VICTIM:

On prior occasions, the defendant has harassed, threatened, or physically abused the victim of the current offense.

CUSTODY STATUS AT TIME OF OFFENSE:

The offender was on bail, early release from incarceration, or was serving a sentence in other than Level V at the time the offense was committed.

LACK OF REMORSE

The offender has demonstrated a total lack of remorse or acceptance of responsibility with regard to the offense.

BETRAYAL OF PUBLIC TRUST

The offender, in attempting to gain, or while holding, public office by appointment or election, betrayed the Public Trust by his or her unlawful conduct.

SUPERVISION TO MONITOR RESTITUTION

A long period of supervision is necessary to monitor the offender's restitution responsibilities. Penalty Note: Applicable to sentences involving less than Level V time only.

LACK OF AMENABILITY

The defendant has demonstrated a lack of amenability to lesser restrictive sanctions through violation of a prior period of probation, or a failure to meet the conditions of a prior or current period of probation.

VULNERABILITY OF VICTIM

The Defendant knew, or should have known, that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

STATUTORY AGGRAVATION

The current offense carries with it a statutory minimum mandatory period of incarceration which exceeds the sentencing guidelines.

STATUTORY HABITUAL OFFENDER

The Court, on motion, determined the defendant to be an habitual offender under the provisions of 11 Del.C., s4214, thus calling for a sentence of incarceration which exceeds the sentencing guidelines.

CHILD DOMESTIC VIOLENCE VICTIM

The person who is a victim in domestic violence is a child.

OFFENSE AGAINST A CHILD

The victim in the offense was a child under 16 years old.

CRIMES COMMITTED AGAINST PERSONS 62 YEARS OF AGE OR OLDER

An additional penalty of $100.00 shall be imposed on all crimes committed against persons 62 years of age or older. The penalty assessment shall be placed in a special fund called the Senior Trust Fund.

Description of MITIGATING FACTORS for Exceptional Sentences

VICTIM INVOLVEMENT:

To a significant degree, the victim was an initiator, willing participant, aggressor, or instigator of the incident.

VOLUNTARY REDRESS OR TREATMENT:

Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained, or, before detection, he voluntarily sought professional help for drug/alcohol treatment, or for any other recognized compulsive behavioral disorders related to the offense.

UNDER DURESS OR COMPULSION:

The defendant committed the crime under duress, coercion, emotional distress, threat or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

INDUCEMENT BY OTHERS:

The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

PHYSICAL/MENTAL IMPAIRMENT:

The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this circumstance.

CONCERN FOR VICTIM BY NON-PRINCIPAL:

The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

NO PRIOR CONVICTIONS

TREATMENT NEED EXCEEDS NEED FOR PUNISHMENT:

The offender is in greater need of an available treatment program than of punishment through incarceration.

COULD LOSE EMPLOYMENT:

The offender is gainfully employed and will more than likely lose his/her job if the sentencing standard is imposed.

STATUTORY MITIGATION

ASSISTANCE TO PROSECUTION:

Defendant rendered substantial assistance to Authorities in the investigation and/or prosecution of this or other crimes.

MENTAL RETARDATION

a. Defendant is "significantly sub average in general intellectual function" (usually interpreted as an IQ score of 70 or less); AND
b. "has deficits in adaptive behavior" (has insufficient life skills to get along without constant assistance from others); AND
c. "manifested the above handicaps during the developmental period". (usually interpreted as having experienced the onset of handicap at the age of 21 or younger).

QUALIFYING UNDERLYING OFFENSES FOR TITLE 11 SECTION 1105: Crime Against a Vulnerable Adult:

Title 11:

Section 601.	Offensive touching
Section 602(a)	Menacing
Section 602(b)	Aggravated Menacing
Section 603	Reckless endangering in the second degree
Section 604	Reckless endangering in the first degree
Section 605	Abuse of a pregnant female in the second degree
Section 606	Abuse of a pregnant female in the first degree
Section 611	Assault in the third degree
Section 612	Assault in the second degree
Section 621	Terroristic threatening
Section 622	Hoax device
Section 625	Unlawfully administering drugs
Section 626	Unlawfully administering controlled substance or narcotic drugs
Section 645	Promoting suicide
Section 763	Sexual harassment
Section 764	Indecent exposure in the second degree
Section 766	Incest
Section 767	Unlawful sexual contact in the third degree
Section 769	Unlawful sexual contact in the first degree
Section 770	Rape in the fourth degree
Section 776	Sexual extortion
Section 780	Female genital mutilation
Section 781	Unlawful imprisonment in the second degree
Section 782	Unlawful imprisonment in the first degree
Section 783	Kidnapping in the second degree
Section 791	Acts constituting coercion
Section 803	Criminal mischief
Section 825	Burglary in the second degree
Section 831	Robbery in the second degree
Section 835	Carjacking in the second degree
Section 841	Theft, except subsection (c)(3)b.
Section 841A	Theft of a motor vehicle
Section 842	Theft; lost or mislaid property
Section 843	Theft; false pretense
Section 844	Theft; false promise
Section 846	Extortion
Section 848	Misapplication of property
Section 853	Unauthorized use of a vehicle
Section 854	Identity theft
Section 861	Forgery
Section 903	Unlawful use of credit card
Section 909	Securing execution of documents by deception
Section 914	Use of consumer identification information
Section 916	Home improvement fraud
Section 917	New home construction fraud, except (d)(3)
Section 1001	Bigamy
Section 1311	Harassment

Section 1312	Stalking, except (d)(1) and (d)(2)
Section 1335	Violation of privacy
Section 1339	Adulteration
Section 1451	Theft of a firearm

Title 6:

Section 7322	Securities fraud

SUBSTANTIAL ASSISTANCE

Title 11 Section 4220. Modification, suspension or reduction of sentence for substantial assistance.

(a) The Attorney General may move the sentencing court to modify, reduce or suspend the sentence of any person who is convicted of any crime or offense specified in this Code, and who provides substantial assistance in the identification, arrest or prosecution of any other person for a crime or offense specified in this Code, in the laws of the United States, or any other state or territory of the United States.
(c) The provisions of Sections 4204(d) or 4217 of this Title, any court rule or any other provision of law to the contrary notwithstanding, a judge of the Court that is imposing or that has imposed a sentence, upon hearing a motion filed pursuant to subsection (a) of this section, may modify, reduce or suspend that sentence, including any minimum mandatory, or a portion thereof, if the Court finds that the person rendered such substantial assistance.

SERIOUS MEDICAL ILLNESS, INJURY, OR INFIRMITY

Title 11 Section 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.

EXCEPTIONAL SENTENCES

Special Categories:

Domestic Violence

The particular nature of criminal charges involving domestic violence may be considered as deserving of aggravated punishment, for example, those cases where there have been repeated incidences prior to the first formal charge in Court, and those cases where children are the witnesses or victims of domestic violence. If aggravating circumstances are present, the following recommendations are presented below. If the guidelines in this category are used, the sentencing order/worksheet must identify the charge as "Domestic Violence Involved".

Class A Misdemeanors

Statutory Range - 0 To 1 Years

11-603	Reckless Endangering 2nd Degree
11-611	Assault 3rd Degree
11-621	Terroristic Threatening
11-766	Incest
11-767	Unlawful Sexual Contact 3rd Degree
11-781	Unlawful Imprisonment 2nd Degree
11-785	Interference with Custody
11-791	Coercion
11-1102	Endangering Welfare of Child
11-1271A	Criminal Contempt: DV Protection Order
11-1311	Harassment

Presumptive Sentence	Level	Time
1st Offense	V	Up To 1 Month
2nd Offense w/in 2 years	V	Up to 2 Months
3rd Offense w/in 5 years	V	Up To 3 Months

Unclassified Misdemeanors

Statutory Range - 0 to 30 days

11-601	Offensive Touching
11-602	Menacing
11-763	Sexual Harassment
11-1301	Disorderly Conduct

Presumptive Sentence	Level	Time
Any offense	V	Up To 1 month

Enhanced Penalties applicable when:

Children are present during the crime OR are victims of the offense against a co-defendant if a conspirator was under the age of 14 and the codefendant was 4 or more years older than the child at the time of the crime. (Enhanced penalty for ANY crime)

Enhanced Presumptive Sentence:	**Level**	**Time**
Any Non-Violent Felony G	II	12 months or more
Misdemeanor Class A or B:		
1st Offense	V	1 to 2 months
2nd Offense in 2 years	V	2 to 3 months
3rd Offense in 5 years	V	3 or more months
Any Unclassified Misdemeanor	V	1 or more months

EXCEPTIONAL SENTENCES

Special Categories:

Escape

Due to the peculiar nature of escape charges, which may be considered as deserving aggravated punishment even though they are primarily non-violent in nature, the following recommendations are presented:

11-1251	**Escape 3rd Degree**	0 to 1 m @ Level V
11-1252	**Escape 2nd Degree**	0 to 3 m @ Level V
11-1253	**Escape After Conviction (Class D Felony Violent)**	0 to 2 yrs @ Level V
11-1253	**Escape After Conviction (Force/Threat/DW)(Class C Fel Violent)**	1 to 3 yrs @ Level V
11-1253	**Escape After Conviction (Injury)(Class B Felony Violent)**	2 to 5 yrs @ Level V

ESCAPE FROM LEVEL IV FACILITY
(Applies to all Half-Way House and Residential Treatment facilities)

1st offense	Level V for 30 days (Title 11, §4204(k))
2nd offense	Level V for 90 days (Title 11, §4204(k))
3rd & subsequent offense	Level V for 180 days (Title 11, §4204(k))

Presumptive penalty for a first escape from Home Confinement is a lateral assignment to a Half-way House facility.

Sentencing Orders and worksheets should reflect the status as a Level IV Escape.

Policy 31: Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge. Persons charged with such escapes should not be released on bond.

Juvenile Offenders Being Sentenced as Adults

A juvenile offender for purposes of SENTAC is a person who was under the age of 18 at the time of the commission of the offense and who is thereafter prosecuted and convicted as an adult in either Superior Court or the Court of Common Pleas.

Sentencing judges should consider each juvenile offender's chronological age and the existence or non-existence of the following factors. These factors may provide for a departure from the standard sentencing range.

Individualized Sentencing Factors for Juvenile Offenders:

Age and developmental attributes

The juvenile offender's chronological age and developmental attributes including immaturity, impetuosity, and failure to appreciate risks and consequences;

Family and home environment

The effects the juvenile offender's family and home environment have produced;

Familial or Peer Pressure

The juvenile offender committed the crime under, or was otherwise unable to extricate his- or herself from, the negative influence of familial or peer pressure;

Mental health and medical history

The juvenile offender's mental health and medical history including any diagnoses or treatments;

Academic history and learning capacity

The juvenile offender's academic history and learning capacity including any special education records, psychoeducational testing results and remedial services provided;

Circumstances of the offense / Juvenile's Participation

The circumstances of the offense, including the extent of the juvenile offender's participation, his or her behavior during the criminal episode, whether the juvenile offender was instrumental in planning the offense, and the sophistication of the offense;

Level of sophistication

The juvenile offender's sophistication, or lack of sophistication in dealing with the criminal justice system;

Rehabilitation

The juvenile offender's potential for rehabilitation;

Other factors

Any other factor related to the juvenile offender's chronological age, immaturity, impetuosity, ability to assess risk, or anything about the offense itself that could be relevant in determining the appropriate sentence.

Exceptional Sentences:

Habitual Criminal

§4214(a)- 3 Prior Felony Convictions

- If an offender has been convicted three times of a felony, other than those mentioned in subsection (b), and is thereafter convicted of a subsequent felony, that offender is declared to be an habitual criminal.
- The Court May, In Its Discretion, Sentence the Offender to any sentence up to life imprisonment.
- The Court Shall Sentence the Offender to a minimum sentence of the statutory maximum for the fourth or subsequent felony when it is a Title 11 Violent Felony as defined in §4201.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, Parole, Earned Good Time or any other reduction.
- A sentence for less than life under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, or Parole except the provisions contained within §§4205(h)[23], 4217,[24] 438[25] and 438[26] of this title.

§4214(b)- 2 Prior Specifically Enumerated Felony Convictions

- If an offender has been convicted two times of a specifically enumerated felony or its equivalent or an attempt of the same, and who shall be subsequently convicted of another of the enumerated felonies, that offender is declared to be an habitual criminal.
- The Court Shall Sentence the Offender to Life unless the sentence of Death has been imposed.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting without benefit of Probation, Parole, Earned Good Time or any other reduction.
- A life sentence under this section shall not be subject to the Probation or Parole provisions of Chapter 43 of this Title.

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[23] Title 11, §4205(h): D.O.C. may house inmates at a Level IV halfway house or work-release for the last 180d. of sentence.
[24] Title 11, §4217: D.O.C. may apply to Parole Board who may approve and thereafter apply to Court for modification based on good cause, i.e. exceptional rehabilitation, serious illness or overcrowding.
[25] Title 11, §4381: Earned good time.
[26] Title 11, §4382: Forfeiture of good time.

11-606	Abuse of a Pregnant Female 1st Degree
11-613	Assault 1st Degree
11-615	Assault by Abuse
11-632	Manslaughter
11-635	Murder 2nd Degree
11-636	Murder 1st Degree
11-1447A	Possession of a Firearm During the Commission of a Felony
11-763	Rape 2nd Degree
11-764	Rape 1st Degree
11-766	Sodomy 1st Degree
11-771	Rape 3rd Degree
11-772	Rape 2nd Degree
11-773	Rape 1st Degree
11-778(a)(b)(c)	Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree
11-783	Kidnapping 2nd Degree
11-783A	Kidnapping 1st Degree
11-803	Arson 1st Degree
11-825	Burglary 2nd Degree
11-826	Burglary 1st Degree
11-832	Robbery 1st Degree
11-836	Carjacking 1st Degree
16-4751	Manufacture/Deliver/PWID Narcotic
16-4752	Manufacture/Deliver/PWID Nonnarcotic Controlled Substance
16-4752A	Unlawful Delivery/Attempt Noncontrolled Substance
16-4753A	Trafficking in Marijuana, Cocaine, Illegal Drugs or Methamphetamine

- (c) A person who was convicted prior to July 1, 1973 of any of the hereinafter enumerated crimes shall be considered an habitual criminal as described in subsection (b) and shall be sentenced accordingly:

Arson 1st Degree	Kidnapping
Burglary 1st Degree	Abducting Child Under 12 y.o.a.
Burglary 2nd Degree	Kidnapping Child Under 15 y.o.a.
Murder 1st Degree	Maiming by Lying in Wait
Murder 2nd Degree	Rape
Manslaughter (except involuntary)	Assault w/Intent to Commit Rape
Manslaughter by Motor Vehicle	Robbery
Assault w/Intent to Murder	Assault w/Intent to Commit Robbery
Poisoning w/Intent to Murder	

VIOLATION OF PROBATION SENTENCING POLICY

When a violation of probation hearing is held and determination is made that the offender is guilty of the violation and probation is to be revoked, it is presumed that the offender may move up only one SENTAC level from his/her current level.

AGGRAVATING CIRCUMSTANCES

An offender may have his/her level of supervision raised more than one level if any of the following aggravating circumstances exists:

A. Conviction of a new offense which was a felony, a violent misdemeanor, or an offense requiring a mandatory sentence.

B. The violation is a violation of a special treatment condition , e.g., offender willfully refuses to attend the ordered program and, as a result of such refusal, poses a substantial threat to the community or himself. Confinement in this instance should be short-term and could consist of either a Level IV (quasi-incarceration) or a Level V (incarceration), situation until treatment is arranged.

C. The offender has demonstrated willful failure to make court-ordered payments, and no other alternatives are possible, or those alternatives would depreciate the seriousness of the offense.

D. The offender is found to be in possession of a weapon, leading to the violation, and the offender has a past history of violence, drug trafficking or weapons violations.

E. The behavior of the offender represents an immediate threat to the community or an identified victim.

F. The behavior of the offender is repetitive and flagrantly defies the authority of the court.

Length of Level V Sentences - SENTAC Standard

When a period of incarceration is determined to be the sanction of choice for a violation of probation, a Level V sanction should be in accordance with the current SENTAC standard presumptive sentence for the original crime for which the probation is being served. If the presumptive sentence is less than level V, the sentence for violation of probation should be UP TO 25% of the statutory maximum.

Effective June 30, 1990, all Violation of Probation sentences must be designated as to whether they are "Truth in Sentencing" or "Non TIS" sentences. A defendant who had an original non-TIS sentence and is violated may not be given a TIS sentence for the violation, unless he specifically agrees thereto, and the sentence is given in relation to TIS guidelines. Designation is imperative so that DOC can maintain proper records on the time to be served, goodtime credits, and parole eligibility.

1. Sentencing orders (and worksheet forms) should refer to all violations as "Violation of Level ___ ", where the blank contains the current level designation.

2. In addition to the above designation, all violation orders, regardless of specific format, should contain the following information:
    - Client name, Effective date of sentence, Original offense, Type of action: i.e. terminated, continued, modified, or revoked as defined above. New sentence Level(s) and time(s), TIS or NON-TIS status, Aggravating factor(s): if necessary due to a two- level (or more) increase, or a longer than standard sentence length at Level V.

Glossary of Violation of Probation Terms:

Continuation
An order may be entered continuing a probationer on probation where there has been a finding of a violation of probation or a finding that there has been no established violation of probation, and the same conditions remain in place after the finding is entered.

Discharge as Unimproved
An order may be entered discharging a probationer as unimproved upon recommendation of the probation officer or at the discretion of the Court, when the Court determines that continued supervision of the probationer is unlikely to have a beneficial effect, even though one or more terms of the probation order have not been fulfilled.

Modification
An order modifying probation may be ordered when the Court finds that a violation has occurred and the probationer should be should be kept at the same level or placed at a lower level with additional, more restrictive requirements or altered requirements to more realistically assist the management of the supervision of the probationer.

Probation
As referenced in this section, shall be any sentence of supervision at a level less than incarceration at Level V which is imposed in lieu of, or in addition to, any sentence to said Level V as a result of conviction for any criminal offense.

Repetitive Behavior
The offender persists, after notice, in actions which constitute a pattern of behavior which repeats a past record of non-amenability to community sanctions.

Revocation
An order revoking probation may be entered when it is the intention of the Court to raise the level of intensity of supervision after finding that probation has been violated.

Substantial Risk
The threat of repetitive violations or causing physical injury to self or others is high.

Willful Failure to Pay
A failure to pay a monetary obligation despite the availability of resources with which to pay the obligation, or the refusal to take steps to obtain the resources to pay the obligation.

THE MATERIALS IN THE FOLLOWING SECTIONS ARE NOT SENTAC POLICY BUT ARE PROVIDED FOR THE CONVENIENCE OF USERS

WORK RELEASE POLICY (Department of Correction/Bureau of Prisons)

A program permitting an inmate of proper custody status to work in the community at paid employment. The inmate is still assigned to a Halfway House/Work Release Center when not working or participating in extracurricular programs. Inmates meeting the following standards may be given consideration.

Inmates within 36 months to short-time release date and 9 months to parole eligibility. (Non- TIS offenders only.)

Inmates convicted of a violent crime against person(s) and served more than a year at Level V must have a mental evaluation prior to being considered for the program.

MDT must review and recommend placement.

Inmates with minor open charges can be approved and will be expected to clear the charges; i.e., motor vehicle offenses.

Inmates serving a sentence for a third DUI offense occurring within 5 years from a prior offense are not eligible for work release during the first 3 months of the sentence imposed.

Inmates serving a sentence for a fourth or subsequent offense occurring any time after 3 prior offenses are not eligible for work release during the first 6 months of the original sentence imposed.

Truth In Sentencing Inmates

1. Sentenced to one year or more under Truth in Sentencing if they are in the last 180 days of their sentence.

2. Truth in Sentencing inmates sentenced to less than 1 year provided, however, the first 5 days be served at Level V, may be classified to work release, unless the court states otherwise.

Inmates serving a Level V sentence with a Level IV sentence to follow.

Inmates must not have had any Class I or major conduct offenses within the last 6 months prior to consideration.

Inmates in the following categories **will not** be given consideration in this program due to either statutory or departmental/bureau policy.

1. Class A Felons, those committed as a Habitual Criminal or those previously convicted of two or more offenses listed herein on page 8 or 9 until within six months of the date of release from custody.

2. Any offender convicted of a sex offense, including but not limited to offenders convicted of any of the following offenses: Unlawful sexual contact in the First or Second Degree, Unlawful sexual penetration in the First, Second, or Third Degree, Unlawful sexual intercourse in the First, Second, or Third Degree, Sexual Extortion, Continuous sexual abuse of a child, Dangerous crimes against a child, Sexual exploitation of a child, Unlawfully dealing in material depicting a child in a prohibited sexual act, or Subsequent convictions of Sec. 1108 or Sec. 1109.

3. Inmates with detainer, unless the detaining authority has given specific written approval for work release.

4. Inmates serving a sentence under 4204K, unless the sentencing judge specifies that work release is allowed.

5. Inmates convicted of escape after conviction or escape 2nd and are never eligible for work release.

Inmates serving minimum mandatory sentences for trafficking are not eligible until the mandatory portion of their sentence is completed. Those serving minimum mandatory sentences for other offenses are eligible after serving 50%t of the minimum mandatory, unless minimum term is set by statute. (Non TIS offenders only.)

Conditions of Supervision

1. You must not commit a new criminal offense or moving motor vehicle offense during the supervision period.
2. You must report any new arrest, conviction, or police contact within 72 hours to your Supervising Officer.
3. You must report to your Supervising Officer at such times and places as directed, and permit the Probation/Parole Officer to enter your home and/or visit places of employment.
4. You must have authorization from your Supervising Officer to leave the State of Delaware or your approved state of residence.
5. You must report any changes of residence and/or employment within 72 hours to you Supervising Officer.
6. You must have written approval from your Supervising Officer to own, possess, or be in control of any firearm or deadly weapon. (NOTE: Del. Code Title 11, Section 1448 prohibits purchase, possession, ownership, or control of any deadly weapon by persons convicted of a felony, crime of violence, drug offense, or commitment for a mental disorder.)
7. You are not to possess or consume a controlled substance or other dangerous drugs unless prescribed lawfully. You are subject to random testing as directed by your Supervising Officer.
8. You must pay a supervision fee as required by State Law in accordance with a schedule as established by the Department of Correction.
9. You must comply with any Special Conditions imposed at any time by your Supervising Officer, the Court and/or the Board of Parole.
10. You must not quit a job, training program, or school without prior approval of your Supervising Officer.
11. You must be employed full-time or active in job training or school on a full-time basis. If not, you must attend a Job Search Program or perform Community Service on a schedule established by the Supervising Officer.
12. You must participate in 0-35 hours of community service each week as directed by your Supervising Officer.
13. You must abide by a curfew established by your Supervising Officer.

Sex Offender Additional Standard Conditions of Supervision

The following additional standard conditions of probation may be required by the Department of Correction in the supervision of defendants who have been convicted of a sex offense or those whose criminal record reflects a prior conviction of such offenses. The Commission expects the Department of Correction to review the needs of each individual defendant and impose only those additional conditions needed to appropriately supervise the defendant.

1. Participate in sex offender assessment, evaluation, and treatment as determined by the Department of Correction. The offenders will be financially responsible for all examinations and treatment unless the Department of Correction finds the offender is financially unable to pay.
2. Prohibit access or possession of sexually explicit and/or obscene material unless approved by the Probation Officer.
3. Comply with all statutory requirements imposed upon individuals convicted of a sex offense including but not limited to compliance with 11 Del. Code Section 8510 requiring the submission of photographs, fingerprints and identification, sex offender registration (11 Del. Code Section 4120), community notification (11 Del. Code Section 4121), and DNA collection (29 Del. Code Section 4713) and limitations regarding contact with school zones (11 Del. Code Section 1112).
4. Prohibit contact or residing with children under the age of 18 unless approved by the Probation Officer.
5. Prohibit access, possession or control over or use of a computer device, modem or network

interface device. Any device or storage medium of an offender whose use has been approved by the Department of Correction is subject to random examination by the Probation Officer to determine compliance with this requirement. Using a computer modem or network interface device for any purpose which might further sexual activity is strictly prohibited. If violation of this provision is found, the Department of Correction may seize the computer, related equipment and storage devices.

6. To require submission to polygraph testing to assist in the treatment and supervision of the offender. The failure of a polygraph test alone may not be a basis to violate the offender's probation.
7. Require no contact with the victim of the crime unless otherwise approved by the Probation Officer.

LEGISLATIVE UPDATE

Compilation of changes affecting the Benchbook from the 148th General Assembly listed by Title. The changes herein listed have also been included under the Classifications and Notations and take into account all House and Senate amendments and substitutions.

CHAPTER 173
FORMERLY
HOUSE BILL NO. 7

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO STRANGULATION.

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

Section 1. Amend § 4201(c), Title 11 of the Delaware Code as follows and redesignating accordingly:

(c) The following felonies shall be designated as violent felonies:

Title 11, Section	Crime
607	Strangulation

Approved September 03, 2015

CHAPTER 38
FORMERLY
HOUSE BILL NO. 39
AS AMENDED BY
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MARIJUANA.

WHEREAS, the General Assembly finds that it is in the best interest of the people of this State to provide an alternative to incarceration for marijuana possession for personal use;

NOW, THEREFORE:

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

Section 1. Amend Section 4701, Title 16 of the Delaware Code by redesignating accordingly:

§ 4701 Definitions.

(33) "Personal use quantity" shall mean one ounce or less of marijuana in the form of leaf marijuana. Leaf marijuana means the dried leaves and flowering tops of the plant cannabis sativa L.

Section 2. Amend Section 4764, Title 16 of the Delaware Code as follows:

§ 4764 Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation.

(a) Any person under the age of 18 who knowingly or intentionally possesses, uses, or consumes a controlled substance or a counterfeit controlled substance classified in §4714(d)(19) of this title, except as otherwise authorized by this chapter, and there is an aggravating factor, shall be guilty of a class B misdemeanor. Any person 18 years of age or older who knowingly or intentionally uses, consumes, or possesses other than a personal use quantity of a controlled substance or a counterfeit controlled substance classified in §4714(d)(19) of this title, except as otherwise authorized by this chapter, and there is an aggravating factor, shall be guilty of a class B misdemeanor.

(b) Any person under the age of 18 who knowingly or intentionally possesses, uses, or consumes a controlled substance or a counterfeit controlled substance classified in §4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than $100. Any person 18 years of age or older who knowingly or intentionally uses, consumes, or possesses other than a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than $575, imprisoned not more than 3 months, or both.

(c) Any person 21 years of age or older who knowingly or intentionally possesses a personal use quantity of a controlled substance or a counterfeit controlled substance classified in §4714(d)(19) of this title, except as otherwise authorized by this chapter, shall be assessed a civil penalty of $100.00 in addition to such routine assessments necessary for the administration of civil violations and the marijuana shall be forfeited. Private use or consumption by a person 21 years of age or older of a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title shall likewise be

punishable by a civil penalty under this subsection. Any person 18 years of age or older, but under 21 years of age, who commits any of the acts described in this subsection shall be assessed a civil penalty of $100 for the first offense and shall be guilty of an unclassified misdemeanor and fined $100 for a second or subsequent offense. Unpaid fines shall double if not paid within 90 days of final adjudication of the violation.

(d) Any person 18 years of age or older who knowingly or intentionally uses or consumes up to a personal use quantity of a controlled substance or a counterfeit controlled substance classified in § 4714(d)(19) of this title in an area accessible to the public or in a moving vehicle, except as otherwise authorized by this chapter, shall be guilty of an unclassified misdemeanor and be fined not more than $200, imprisoned not more than five days, or both. For purposes of this section "area accessible to the public" means any of the following:

(1) Sidewalks, streets, alleys, parking lots, parks, playgrounds, stores, restaurants, and any other areas to which the general public is invited.

(2) Any outdoor location within a distance of 10 feet from a sidewalk, street, alley, parking lot, park, playground, store, restaurant, or any other area to which the general public is invited.

(3) Any outdoor location within a distance of 10 feet from the entrances, exits, windows that open, or ventilation intakes of any public or private building.

(e) Information concerning a civil offense classified in §4764(c) of this title shall not appear on a person's certified criminal record.

(f) Nothing contained herein shall be construed to repeal or modify any law concerning the medical use of marijuana or tetrahydrocannabinol in any other form, such as Marinol, or the possession of more than one ounce of marijuana, or selling, manufacturing, or trafficking in marijuana.

(g) Nothing contained herein shall be construed to repeal or modify existing laws, ordinances or bylaws, regulations, personnel practices, or policies concerning the operation of motor vehicles or other actions taken while under the influence of marijuana.

(h) Nothing contained herein shall be construed to repeal or modify any law or procedure regarding search and seizure.

(i) Any person who was convicted of a single criminal offense under subsection (c) of this section and who was under the age of 21 at the time of the offense may, upon reaching the age of 21, apply for an expungement of the record of the conviction and any indicia of arrest to the court in which the person was convicted. For violations of subsection (c) of this section, an order granting such expungement shall issue upon proof that the person has reached the age of 21, unless the person has failed to comply with the sentencing order or the person has another charge under this section which remains outstanding. Upon issuance of the order of expungement, the records of the conviction and any indicia of arrest shall be dealt with in accordance with the procedures specified in §§4373(c), 4374 and 4375 of Title 11. Nothing in this section shall prohibit the Family Court from expunging a record of conviction as otherwise provided by law. The application for or granting of a pardon pursuant to §§ 4361 through 4363 of Title 11

shall not prohibit an expungement under this section. All sentencing orders for violations of this section by persons under the age of 21 at the time of the offense shall state that the record of the conviction may be expunged upon reaching the age of 21 and thereafter. The civil filing fee shall apply to applications for expungement plus a $100 fee payable to the State Bureau of Investigation for administrative costs.

Section 3. Amend Section 4771, Title 16 of the Delaware Code as follows:

§ 4771 Drug paraphernalia.

(a) It is unlawful for any person to use, or possess with intent to use, drug paraphernalia as defined in § 4701(17) of this title. Except that any person charged under § 4764 (a), (b), or (d), or assessed a civil penalty under § 4764(c), shall not also be charged with this offense if in possession of drug paraphernalia pertaining to the use of marijuana.

(b) It is unlawful for any person to deliver, possess with intent to deliver, convert, manufacture, convey, sell or offer for sale drug paraphernalia, as defined in § 4701(17) of this title, knowing or under circumstances where one should reasonably know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

Section 4. Amend Section 4774, Title 16 of the Delaware Code as follows and by redesignating accordingly: § 4774 Penalties.

(a) Possession. — Except as described in subsection (b) of this section, any person who uses or possesses with intent to use drug paraphernalia is guilty of a class B misdemeanor.

(b) Possession for personal use of marijuana. -- Any person who uses or possesses drug paraphernalia for the use or possession of a personal use quantity of marijuana shall be assessed a civil penalty of not more than $100.00, in addition to such routine assessments necessary for the administration of civil violations. Section 5. Amend Section 4795, Title 16 of the Delaware Code as follows:

§4795 Jurisdiction.

(a) The Superior Court shall have original and exclusive jurisdiction over any violation of this chapter by persons 18 years of age or older.

(b) The provisions of subsection (a) of this section or any other law to the contrary notwithstanding, the Court of Common Pleas shall have original jurisdiction over any violation of:

(1) Section 4764(a), (b), and (d) of this title;

(2) Section 4771 of this title, except where jurisdiction over the civil penalty resides in the Justice of the Peace Court pursuant to subsection (c) of this section; by persons 18 years of age or older.

(c) The Justice of the Peace Court shall have original jurisdiction over any violation of:

(1) Section 4764(c) of this title;

(2) Section 4774(b) of this title; by persons 18 years of age or older.

(c) The Family Court shall have original and exclusive jurisdiction over violations of this chapter by persons under age 18.

Section 6. This Act takes effect six months after its enactment into law and shall be applicable to all marijuana offenses, however courts shall retain the discretion to prohibit possession or use of marijuana as a condition of probation or pre-trial release.

Approved June 18, 2015

CHAPTER 28
FORMERLY
HOUSE BILL NO. 59
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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

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

Section 1. Amend § 4201, Title 11 of the Delaware Code as follows and by reorganizing accordingly: § 4201. Transition provisions.

(c) The following felonies shall be designated as violent felonies:

Title 11, Section	Crime
1112B	Promoting Sexual Solicitation of a Child
1253	Escape After Conviction, if convicted as a Class C Felony or a Class B Felony
1257(a)	Resisting Arrest with Force or Violence

Title 16, Section	Crime
4754(1)	Drug Dealing – Aggravated Possession; Class D Felony

(d) Any attempt to commit any felony designated in subsection (c) of this section as a violent felony shall also be designated as a violent felony.

Approved June 02, 2015

CHAPTER 147
FORMERLY
HOUSE BILL NO. 102
AS AMENDED BY
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CONFIDENTIAL INFORMATION.

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

Section 1. Amend § 941, Title 11 of the Delaware Code as follows:

(a) Any aggrieved person who has reason to believe that any other person has been engaged, is engaged or is about to engage in an alleged violation of any provision of §§ 932-938 or § 9616A of this title may bring an action against such person and may apply to the Court of Chancery for:

(1) An order temporarily or permanently restraining and enjoining the commencement or continuance of such act or acts;

(2) An order directing restitution; or

(3) An order directing the appointment of a receiver.

Subject to making due provisions for the rights of innocent persons, a receiver shall have the power to sue for, collect, receive and take into possession any property which belongs to the person who is alleged to have violated any provision of this subpart and which may have been derived by, been used in or aided in any manner such alleged violation. Such property shall include goods and chattels, rights and credits, moneys and effects, books, records, documents, papers, choses in action, bills, notes and property of every description including all computer system equipment and data, and including property with which such property has been commingled if it cannot be identified in kind because of such commingling. The receiver shall also have the power to sell, convey and assign all of the foregoing and hold and dispose of the proceeds thereof under the direction of the Court. Any person who has suffered damages as a result of an alleged violation of any provision of §§ 932-938 or § 9616A of this title, and submits proof to the satisfaction of the Court that the person has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent the person has sustained out-of-pocket losses. The Court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

(b) The Court may award the relief applied for or such other relief as it may deem appropriate in equity.

(c) Independent of or in conjunction with an action under subsection (a) of this section, any person who suffers any injury to person, business or property may bring an action for damages against a person who is alleged to have violated any provision of §§ 932-938 or § 9616A of this title. The aggrieved person shall recover actual damages and damages for unjust enrichment not taken into account in computing damages for actual loss and treble damages where there has been a showing of willful and malicious conduct.

(d) Proof of pecuniary loss is not required to establish actual damages in connection with an alleged violation of § 935 of this title arising from misuse of private personal data.

(e) In any civil action brought under this section, the Court shall award to any aggrieved person who prevails reasonable costs and reasonable attorney's fees.

(f) The filing of a criminal action against a person is not a prerequisite to the bringing of a civil action under this section against such person.

(g) No civil action under this section may be brought but within 3 years from the date the alleged violation of §§ 932-938 or § 9616A of this title is discovered or should have been discovered by the exercise of reasonable diligence.

Section 2. Amend § 9611, Title 11 of the Delaware Code as follows and by redesignating accordingly:

§ 9611. Definitions.

When used in this subchapter, the following words and phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

(2) "Image" includes, but is not limited to, any photograph, video, sketch, or computer-generated image that provides a means to visually identify the person depicted.

(3) "Internet" has the meaning used in § 931 of this title.

(4) "Post or display publicly" means to communicate, transmit, or otherwise make available to any other person.

Section 3. Amend Subchapter II of Chapter 96, Title 11 of the Delaware Code as follows:

§ 9616A. Publicly posting or displaying program participant's actual address, telephone number, or image on the Internet.

(a) No person shall post or display publicly on the Internet, or solicit, sell, or trade on the Internet, the actual address, telephone number, or image of a program participant with the intent to do either of the following:

(1) Incite another person to imminently use that information to commit a crime involving violence or a threat of violence against, or to cause bodily harm to, the program participant identified in the posting or display, or any member of the program participant's household; or

(2) Threaten the program participant identified in the posting or display, or any member of the program participant's household, in a manner that places the person or persons threatened in objectively reasonable fear for their personal safety.

(b) No person shall post or display publicly on the Internet the actual address or telephone number of a program participant if that program participant, a parent or guardian of that program participant if the program participant is a minor, or a person holding power of attorney for the program participant if the program participant is an incapacitated adult individual, has made a written demand of that person not to disclose the program participant's actual address or telephone number. A written demand made under this paragraph shall include a sworn statement declaring that the program participant is subject to the protection of this subchapter and describing a reasonable fear for the safety of that program participant or any member of the program participant's household, based on a

violation of subsection (a). A written demand made under this paragraph shall be effective for three years even if the program participant's certification is withdrawn or canceled, or the program participant's participation is otherwise terminated, before the end of the three-year period. This subsection shall not apply to a person defined in § 4320(4) of Title 10 of the Delaware Code.

(c) An interactive computer service or access software provider, as defined in § 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the interactive computer service or access software provider intends to abet or cause bodily harm that is likely to occur or threatens to cause bodily harm to a program participant or any person residing at or regularly present at the same actual address.

Section 4. Amend § 9619 of Subchapter II, Title 11 of the Delaware Code as follows:

§ 9619. Penalties.

(d) A person who violates subsection (a) of § 9616A of this subchapter is guilty of a class A misdemeanor, except that the violation is (i) a class G felony if the violation results in physical injury to the program participant or a member of the program participant's household, or (ii) a class D felony if the violation results in serious physical injury to the program participant or a member of the program participant's household.

(e) The remedies for aggrieved persons set forth in § 941 of this title are available to program participants for violations of § 9616A of this subchapter.

Section 5. This Act becomes effective 90 days after its enactment into law.
Approved August 07, 2015

CHAPTER 120
FORMERLY
HOUSE BILL NO. 172
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 21 OF THE DELAWARE CODE RELATING TO TRUTH IN SENTENCING.

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

Section 1. Amend §4177(d), Title 21 of the Delaware Code as follows:

(15) Notwithstanding any law to the contrary, the phrase "all crimes" as used in the Truth in Sentencing Act of 1989 shall include felonies under this section of the Delaware Code, and any amendments thereto.

Section 2. Amend §4354, Title 11 of the Delaware Code as follows:

§4354 Applicability to sentences pursuant to truth in sentencing.

No sentence imposed pursuant to the provisions of the Truth and Sentencing Act of 1989, including sentences imposed for felonies under §4177, Title 21 of this Code, shall be subject to parole under the provisions of this subchapter.

Approved July 27, 2015

CHAPTER 14
FORMERLY
SENATE BILL NO. 6

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO TERRORISTIC THREATENING.

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

Section 1. Amend § 621, Title 11 of the Delaware Code as follows:

§ 621 Terroristic threatening.

(a) A person is guilty of terroristic threatening when that person commits any of the following:

(1) The person threatens to commit any crime likely to result in death or in serious injury to person or property;

(2) The person makes a false statement or statements:

a. Knowing that the statement or statements are likely to cause evacuation of a building, place of assembly, or facility of public transportation;

b. Knowing that the statement or statements are likely to cause serious inconvenience; or

c. In reckless disregard of the risk of causing terror or serious inconvenience; or

(3) The person commits an act with intent of causing an individual to believe that the individual has been exposed to a substance that will cause the individual death or serious injury.

(b) Any violation of paragraph (a)(1) of this section shall be a class A misdemeanor except where the victim is a person 62 years of age or older, in which case any violation of paragraph (a)(1) of this section shall be a class G felony. Any violation of paragraph (a)(2)a. of this section shall be a class E felony. Any violation of paragraph (a)(2)b. or c. of this section shall be a class G felony unless the place at which the risk of serious inconvenience or terror is created is a place that has the purpose, in whole or in part, of acting as a daycare facility, nursery or preschool, kindergarten, elementary, secondary or vocational-technical school, or any long-term care facility in which elderly persons are housed, in which case it shall be a class F felony. Any violation of paragraph (a)(3) of this section shall be a class F felony. Notwithstanding any provision of this subsection to the contrary, a first offense of paragraph (a)(2) of this section by a person 17 years old or younger shall be a class A misdemeanor.

(c) In addition to the penalties otherwise authorized by law, any person convicted of an offense in violation of paragraph (a)(2) of this section shall:

(1) Pay a fine of not less than $1,000 nor more than $2,500, which fine cannot be suspended; and

(2) Be sentenced to perform a minimum of 100 hours of community service.

(d) In addition to the penalties otherwise authorized by law, any person convicted of an offense in violation of paragraph (a)(3) of this section shall pay a fine of not less than $2,000, which fine cannot be suspended."

Approved April 29, 2015

CHAPTER 75
FORMERLY
SENATE BILL NO. 102

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO PARTICIPATION IN A DRIVING UNDER THE INFLUENCE TREATMENT PROGRAM BY DUI OFFENDERS.

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

Section 1. Amend § 4177C, Title 21 of the Delaware Code as follows:

§ 4177C Ignition interlock licenses; reinstatement of license.

(g) Notwithstanding §§ 4177A and 4177B of this title, any person who has successfully completed and graduated from the Court of Common Pleas Driving Under the Influence Treatment Program, shall be permitted to apply for reinstatement of their driver's license and/or driving privilege under the following terms:

(1) Payment of all fees under the schedule adopted by the Secretary;

(2) Payment of all court fines, costs and fees; and

(3) At least 12 months have elapsed since the day the ignition interlock device was installed on the vehicle or vehicles and the ignition interlock license was issued or since the day driving privileges were revoked if no conditional license was sought.

Section 2. Amend § 4177, Title 21 of the Delaware Code as follows:

§ 4177 Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties.

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

(2) For a second offense occurring at any time within 10 years of a prior offense, be fined not less than $750 nor more than $2,500 and imprisoned not less than 60 days nor more than 18 months. The minimum sentence for a person sentenced under this paragraph may not be suspended. The sentencing Court may suspend the minimum sentence set forth in this subsection upon the condition that the offender shall successfully complete the Court of Common Pleas Driving Under the Influence Treatment Program in which the offender shall complete a minimum of 30 days of community service.

Approved June 30, 2015

CHAPTER 154
FORMERLY
SENATE BILL NO. 144
AS AMENDED BY
SENATE AMENDMENT NOS. 2 & 3

AN ACT TO AMEND TITLES 11, 16 AND 31 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS FOR CHILD-SERVING ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Title 31of the Delaware Code as follows and by redesignating accordingly:

§ 309. Background Checks for Child-Serving Entities.

(a) A background check for employees or volunteers of Child-Serving Entities shall consist of a fingerprinted Delaware and national background check completed by the State Bureau of Identification (SBI) and the FBI as well as a Child Protection Registry check completed by DSCYF.

(b) Definitions.

The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) “Administrator of Educator Preparation Program" means the individual identified by the Higher Education Institution as being responsible for overseeing the placement of candidates into Student Teaching Placements in a Delaware Public School.

(2) “Adult Who is Impaired” shall have the meaning as defined in § 3902 of this title.

(3) “Child Protection Registry" as used in this section, shall have the meaning as defined in § 921 of Title 16.

(4) "Child-Serving Entity” as used in this section shall mean:

a. The Department of Services for Children, Youth and Their Families (DSCYF); which includes any employee or volunteer of DSCYF or one of its contractors who have regular direct access to children and/or adolescents under the age of 18, but who do not provide child care services at a facility as referred to in subsection (4)(b) of this section;

b. Residential child care facilities in Delaware which are under contract with or operated directly by DSCYF;

c. Public and private schools, including employees of the Department of Education;

d. Child Care providers as defined in Title 31, Section 342(1); or

e. Youth camps or summer schools that are exempt from child care licensing requirements;

f. Facilities and individuals registered and eligible for Federal Child Care Development Block Grant funds through the Delaware Department of Health and Social Services

(5) "Contractor" means a person, not an employee, providing services within a Child-Serving Entity and who:

a. has regular direct access to children, or

b. provides services directly to a child or children.

(6) "Conviction" or "Convicted" shall have the same meaning as defined in § 902(6) of Title 16.

(7) “Direct Access” means the opportunity to have personal contact with persons receiving care or education during the course of one’s assigned duties.

(8) “Elderly Person” shall have the meaning as defined in § 222 of Title 11.

(9) “Employee” means any person seeking employment for compensation with a Child-Serving Entity, or any person who for any reason has regular direct access to children at a Child-Serving Entity. This definition shall also include applicants wishing to become adoptive, foster, or respite parents and their adult household members and any person seeking a Student Teaching Placement in a Public School.

(10) “Felony Convictions Involving Physical or Sexual Assault Crimes” shall include: §§604- 607, 612-613, 629-636, 645, 651, 768-780, 1100A-1102, 1103A-1103B, 1105, 1108-1112B of Title 11.

(11) "Higher Education Institution" means a Delaware college or university that has a teacher preparation program that places candidates into Student Teaching Placements in a Delaware Public School.

(12) “Misdemeanor Convictions Against Children” shall include: §§ 763, 764, 765, 766, 767, 781, 1102, 1103, 1106, 1107 of Title 11.

(13) “Public School” means any public school and includes any board of education, school district, reorganized school district, special school district, charter school or charter school board and any person acting as an agent thereof.

(14) “Private School” means a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised.

(15) "Student Teaching Placement" means a structured, supervised classroom teaching, internship, clinical or field experience in a teacher education program in which the Student Teacher practices the skills being learned in the teacher education program and gradually assumes increased responsibility for instruction, classroom management, and other related duties for a class of students in a local school district or charter school. These skills are practiced under the direct supervision of the certified teacher who has official responsibility for the class. Successful completion of a Student Teaching Placement may be used to meet the requirements for an initial license set forth in § 1210 of Title 14.

(16) "Student Teacher" means an individual participating in a Student Teaching Placement.

(17) “Volunteer” means a person providing volunteer services within a Child-Serving Entity and who has regular direct access to children.

(18) "Youth Camp" means a Child-Serving Entity having custody or control of one or more school-age children, unattended by parent or guardian, for the purpose of providing a program of recreational, athletic, educational and/or religious instruction or guidance and operates for up to 12 weeks for three or more hours per day, during the months of May through September or some portion thereof, or during holiday breaks in the course of a school year and is operated in a space or at a location other than a space or location subject to licensing pursuant to § 344 of Title 31.

(c) Except as provided in subsection (4), all Child-Serving Entities are required to obtain criminal and Child Protection Registry checks for prospective Employees, Volunteers and Contractors.

(1) The State Bureau of Identification (SBI) shall furnish information pertaining to the identification and criminal history record of prospective Employees, Volunteers and Contractors of Child-Serving Entities, except as otherwise allowed or required, provided that the prospective Employee, Volunteer or Contractor submits to a reasonable procedure established by standards set forth by the Superintendent of State Police to identify the person whose record is sought. Such procedure shall include the fingerprinting of the prospective employee, and the provision of such other information as may be necessary to obtain a report of the person's entire criminal history record from SBI and a report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation (FBI) appropriation of Title II of Public Law 92-544. Notwithstanding any provision to the contrary, the information to be furnished by SBI shall include child sex abuser information. The Division of State Police shall be the intermediary for purposes of this section.

(2) Any employer who is required to request a Child Protection Registry check under this section shall obtain a statement signed by the prospective Employee, Volunteer, or Contractor wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check. DSCYF will process a Child Protection Registry check of the individual upon receipt of the above-mentioned statement.

(3) Notwithstanding subsection (c)(1), Private Schools and Youth Camps may choose to perform a name-based Delaware criminal background check for prospective Employees, Volunteers and Contractors through the Delaware Justice Information System (DELJIS) and an out-of-state criminal record check using private, third party providers of such checks, provided that any out-of-state criminal record check shall include a social security trace search and county-based criminal record search in the counties in which the individual has resided within the past ten (10) years.

(4) Any Private School, including Youth Camps directly operated by a Private School, may choose not to perform the background checks and Child Protection Registry checks described in subsections (c)(1) and (c)(2) of this Section, provided that the private school or youth camp that is directly operated by the private school informs parents or guardians of the youth in attendance that the school or youth camp is not meeting minimum background check safety requirements for its staff members. The school or camp must obtain and retain for at least 1 year a signed acknowledgement of same from the parents or guardians.

(5) Costs associated with obtaining said criminal history information and Child Protection Registry information shall be borne by the applicant, except for those designated in subsection (b)(4)d, whose costs shall be borne by the state. Notwithstanding the foregoing, public schools may use funds other than state funds to pay for criminal background check costs and may enter into consortia of school districts to pay such costs for persons covered by this act who work in more than 1 school district during the course of a year.

(5) All Employees, Volunteers and Contractors shall inform their employer of any criminal conviction or entry on the Child Protection Registry which would lead to a prohibition pursuant to Subsection (d) of this Section.

(6) Child-Serving Entities may conditionally hire an Employee or Volunteer or place a child, pending the determination of suitability for employment. If the information obtained from the background checks indicates that the individual is prohibited from employment pursuant to subsection (d), the person may not continue in employment and is subject to termination.

(7) Any persons or organization whose primary concern is that of child welfare and care, which is not otherwise required to do so under the provisions of this section may voluntarily submit to the provisions of this subchapter at such person's or organization's expense pursuant to procedures established by the Superintendent of State Police.

(d) Prohibitions.

(1) The following criminal convictions or entries on the Child Protection Registry shall prohibit an individual from being an Employee, Volunteer, or Contractor for a Child-Serving Entity for the amount of time indicated:

a. Felony Convictions Involving Physical or Sexual Assault Crimes against a Child, an Adult who is Impaired, or Elderly Person. Such convictions shall require a lifetime prohibition.

b. Felony Convictions Involving Physical or Sexual Assault Crimes against another adult. Such prohibition shall last for 10 years following the date of conviction.

c. All other felony convictions shall prohibit the individual for 7 years following the date of conviction, unless the felony is included within the crimes that can lead to entry on the Child Protection Registry pursuant to Title 16, §923, in which case the length of time for the prohibition shall be as provided in the Child Protection Registry regulations.

d. Misdemeanor convictions against children. Such prohibitions shall last for 7 years following the date of conviction, unless the misdemeanor is included within the crimes that can lead to entry on the Child Protection Registry pursuant to Title 16, §923, in which case the length of time for the prohibition shall be as provided for in the Child Protection Registry regulations.

(2) If an individual has more than one prohibition, the higher level prohibition shall apply.

(3) For any other criminal conviction that does not prohibit employment according to subsection (1), the Child-Serving Entity may set forth job-related prohibitions for Employees, Contractors, and Volunteers considering number and types of offenses, their recency, the individual's criminal record since the offenses, and the

responsibilities of the position which the individual has obtained or is seeking to obtain, provided that such prohibitions are not otherwise prohibited by law.

(e) Upon completion of the criminal background and Child Protection Registry checks:

(1) Where the Child-Serving Entity is a Public or Private School:

a. SBI shall provide the criminal background information and DSCYF shall provide the Child Protection Registry check information to the individual and the employing school or district, which shall determine whether the individual is prohibited from being employed by the school or district, pursuant to subsection (d). If the individual is not prohibited from employment by subsection (d) but the individual has a criminal conviction or is or has been on the Child Protection Registry, the school or district shall make a determination regarding suitability for employment using the factors in (d)(3). Information obtained under this subsection is confidential and may only be disclosed to the chief school officer or Head of School and the chief personnel officer of the school and one person in each school who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential.

b. Upon making its determination of suitability, the public school shall forward the determination to the person seeking employment. If a determination is made to deny the person from employment based on the criminal history of the person, the person shall have an opportunity to appeal to the chief school officer and/or Head of School or designee for reconsideration.

c. In the case of a Student Teacher,

1. SBI shall provide the criminal background information and DSCYF shall provide the Child Protection Registry check information to the individual and to the Higher Education Institution identified by the individual, through the Administrator of Educator Preparation Program. The Higher Education Institution shall determine whether the individual is prohibited from being employed pursuant to subsection (d) and shall send a copy of the complete criminal background check and Child Protection Registry check information to the district superintendent or charter school director of the Delaware school district or charter school considering the person as a candidate for a student teaching position. If the individual is not prohibited from employment by subsection (d) but the individual has a criminal conviction or is or has been on the Child Protection Registry, the school or district shall make a determination regarding suitability for employment using the factors in (d)(3). Information obtained under this subsection is confidential and may only be disclosed to the chief school officer or Head of School and the chief personnel officer of the school, and one person in each school who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential.

2. Upon making its determination of suitability, the public school shall forward the determination to the Administrator of Educator Preparation Program of the designated Higher Education Institution.

(2) Where the Child-Serving Entity is DSCYF, a residential child care facility under contract

to or operated directly by DSCYF, or where the individual is applying to become an adoptive, foster or respite parent, SBI shall provide the criminal background information to DSCYF and DSCYF shall perform the Child Protection Registry check. DSCYF shall determine whether or not the individual is prohibited based on the results of the criminal background and Child Protection Registry checks. DSCYF may, by regulation, set forth criteria for unsuitability for its employees, contractors, volunteers, residential child care employees, individuals applying to become an adoptive, foster or respite parent. These criteria shall relate to criminal history information and other information in addition to that set forth above. Such criteria and information shall be reasonably related to the prevention of child abuse. Upon making its determination, the DSCYF shall forward the determination to the applicant and the employer. Any adverse judgment affecting the applicant may be reviewed subject to regulations promulgated by DSCYF. The State Bureau of Identification may release all subsequent criminal history to DSCYF.

(3) Where the Child-Serving Entity is a Child Care provider, facility receiving Federal Child Care Development Block Grant funds, or a Youth Camp, SBI shall provide the criminal background information to DSCYF, and DSCYF shall perform the Child Protection Registry check. DSCYF shall determine whether or not the individual is prohibited by subsection (d) based on the results of the criminal background and Child Protection Registry checks. If the applicant has a criminal conviction or is on the Child Protection Registry but is not prohibited from employment pursuant to subsection (d)(1), DSCYF will assess the background check information and make a determination of suitability based upon factors set forth by DSCYF regulation consistent with subsection (d)(3). If an applicant is determined unsuitable by DSCYF, the employer shall be informed. The employer shall make the final determination of whether or not to employ the individual. Notwithstanding the above, if the employer is a Family Child Care provider, DSCYF shall make the final decision based on the criteria established by regulations. If an applicant is determined unsuitable by DSCYF, the applicant and employer shall be informed. Any adverse judgment affecting the applicant shall be reviewed subject to regulations promulgated by the DSCYF. SBI may release all subsequent criminal history to DSCYF.

(4) Where the Child-Serving Entity is a Private School or Youth Camp that chooses to perform background checks using the method permitted in Subsection (c)(3), DELJIS shall perform a name-based criminal check based on the identifying information provided by the Private School or Youth Camp. If the individual is found to have a criminal background that would make them prohibited for employment, DELJIS shall so inform the employer. If the individual's background would not make them prohibited from employment, then DELJIS shall forward the information to DSCYF, which shall perform a check of the Child Protection Registry. DSCYF shall determine whether or not the individual is prohibited based on the results of the Child Protection Registry check.

(f) The DSCYF shall, in the manner provided by law, promulgate regulations necessary to implement this section.

(g) The State Department of Education shall, in the manner provided by law, promulgate regulations necessary to implement this section. These regulations shall include:

(1) Establishment, in conjunction with SBI, of a procedure for fingerprinting persons seeking employment with a public school and providing the reports and certificate obtained pursuant to subsection (c) of this section;

(2) Establishment of a procedure to provide confidentiality of information obtained pursuant to subsection (c) of this section.

(3) Establishment of a procedure for determining other job-related prohibitions for Employees, Volunteers and Contractors, pursuant to subsection (d)(3).

§ 310 Penalties

(a) Any Child-Serving Entity which fails to comply with the requirements of §309 of this title, shall be guilty of a class A misdemeanor and shall be punished according to Chapter 42 of Title 11. The Court of Common Pleas shall have exclusive jurisdiction for any offense under this subsection. Notwithstanding any provision of the law to the contrary, if the misdemeanor offense may be joined properly with a felony, such offense shall be within the jurisdiction of the Superior Court.

(b) Any Child-Serving Entity which fails to comply with the requirements of § 309 of this title shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 for each violation.

(c) Any person seeking employment with a Child-Serving Entity or any person seeking a license under Chapter 12 of Title 14 who knowingly provides false, incomplete or inaccurate criminal history information, Child Protection Registry information, or child sex abuser information or who otherwise knowingly violates § 309 of this title shall be guilty of a class G felony and shall be punished according to Chapter 42 of Title 11. The Superior Court shall have exclusive jurisdiction for any offense under this subsection.

(d) The failure of an individual to disclose any relevant criminal history or Child Protection Registry information shall be grounds for immediate termination or for removal of a placement.

(e)Sanctions shall be promulgated via DSCYF regulation for Employees, Volunteers, or Contractors who fail to inform their employer of any criminal conviction or entrance on the Child Protection Registry and for employers who willfully hire or retain individuals in violation of this section or in violation of the regulations promulgated hereunder.

Section 2. Amend Title 11 of the Delaware Code as follows:

§ 8560

Title 11 § 8563 Child Protection Registry check for health care.

(a) *Definitions.* —

(1) "Direct Access" means the opportunity to have personal contact with persons receiving care during the course of one's assigned duties.

(2) "Health Care Facility" means any custodial or residential facility where health,

nutritional or personal care is provided for persons, including nursing homes, hospitals, home health care facilities and adult day care facilities.

(3) "Person Seeking Employment" means any person applying for employment in a health care facility.

(b) No employer who operates a health care facility may hire any person seeking employment without requesting and receiving a Child Protection Registry check for the person. Notwithstanding any provision to the contrary, no person seeking employment with such an employer may be hired if the person seeking employment is currently on the Child Protection Registry at Child Protection Level III or IV as provided in subchapter II of Chapter 9 of Title 16, or has been convicted of any offense contained in Child Protection Level IV, or for 7 years after the conviction date if the person has been convicted of any Level III offense in which a child was the victim. A person who is employed in a health care facility has an affirmative duty to inform, and shall inform, that person's own employer of any criminal conviction or of any entry on the Child Protection Registry.

(c) Any employer who is required to request a Child Protection Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.

(d) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer to fill a position in order to maintain the required or desired level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested a Child Protection Registry check. The employment of the person pursuant to this subsection shall be conditional and contingent upon the receipt of the Child Protection Registry check by the employer. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that the person's own employment is conditional, and contingent upon receipt of the Child Protection Registry check.

(e) The Department of Services for Children, Youth and Their Families shall promulgate regulations giving guidance for a procedure to notify employers of any relevant matters indicated in the Child Protection Registry check.

(f) Costs associated with providing a Child Protection Registry check shall be borne by the Applicant.

(g) Any employer who hires a person seeking employment without requesting and receiving a Child Protection Registry check for such person shall be subject to a civil penalty or not less than $1,000 nor more than $5,000 for each violation.

Title 11 § 8570

Section 3. Amend Title 16 of the Delaware Code as follows:

§ 923 Child Protection Levels.

(a) A person who has been substantiated for abuse or neglect pursuant to this subchapter must be entered on the Child Protection Registry. The Division shall develop regulations that assess the

risk of future harm to children from acts of abuse or neglect and designate Child Protection Levels.

(b) The following paragraphs describe the 4 child protection levels:

(1) *Child Protection Level I.* — A person who is substantiated for abuse or neglect for any of the following must be designated to Child Protection Level I:

a. An incident of abuse or neglect, including emotional neglect, presenting a low risk of future harm to children; or

b. Conviction of a violation of compulsory school attendance requirements or truancy when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate pursuant to § 924 of this title.

A person who is substantiated for abuse or neglect at Child Protection Level I must not be reported in response to a Child Protection Registry check made pursuant to Chapter 3 of Title 31 or Chapter 85 of Title 11 for that incident or conviction. The person is eligible for employment in a Child-Serving Entity as defined in defined in § 309 of Title 31 or health-care facility as defined in § 8563 of Title 11.

(2) *Child Protection Level II.* — A person who is substantiated for abuse or neglect for any of the following must be designated to Child Protection Level II:

a. An incident of abuse or neglect, including severe emotional neglect, presenting a moderate risk of future harm to children; or

b. Conviction of interference with custody when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate pursuant to § 924 of this subchapter.

A person who is substantiated for abuse or neglect at Child Protection Level II must be reported for a period of 3 years as "substantiated for abuse" or "substantiated for neglect" in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. The person must remain on the Registry for a period of 3 years, but the person is eligible for employment in a Child-Serving Entity as defined in Chapter 3 of Title 31, or health-care facility as defined in Chapter 85 of Title 11, while the person is on the Registry at Child Protection Level II; and a prospective employer making a Child Protection Registry check must be so informed. If the person is not substantiated for abuse or neglect while on the Registry, the person on the Registry at Child Protection Level II is automatically removed from the Registry after 3 years and must not be reported in a Child Protection Registry check for that incident or conviction.

(3) *Child Protection Level III.* — A person who is substantiated for abuse or neglect for any of the following must be designated to Child Protection Level III:

a. An incident of abuse or neglect presenting a high risk of future harm to children, including but not limited to: physical injury, nonorganic failure to thrive, malnutrition, or abandonment of a child 13 to 17 years of age; or

b. Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate pursuant to § 924 of this title:

offensive touching, menacing, reckless endangering in the second degree, assault in the third degree, child abuse in the third degree, terroristic threatening, unlawful administration of drugs or controlled substances, indecent exposure in the first or second degree, sexual harassment, unlawful imprisonment in the second degree, abandonment of a child, or misdemeanor endangering the welfare of a child.

A person who is substantiated for abuse or neglect at Child Protection Level III must be reported for a period of 7 years as "substantiated for abuse" or "substantiated for neglect" in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. The person is ineligible for employment in a Child-Serving Entity as defined in Chapter 3 of Title 31, or health-care facility as defined in Chapter 85 of Title 11, while the person is on the Child Protection Registry at Child Protection Level III. If the person is not substantiated for a different incident of abuse or neglect while on the Registry, the person entered on the Registry at Child Protection Level III is automatically removed from the Registry after 7 years and is, thereafter, eligible for employment in a child care facility, health-care facility or public school, and must not be reported in a Child Protection Registry check for that incident or conviction.

(4) *Child Protection Level IV.* — A person who is substantiated for abuse or neglect for any of the following must be designated to Child Protection Level IV:

a. An incident of abuse or neglect presenting the highest risk of future harm to children, including but not limited to serious physical injury, sexual abuse, torture, criminally negligent treatment, or abandonment of a child 12 years of age or younger (but not including the voluntary surrender of a baby pursuant to the Safe Arms for Babies program as provided in § 907A of this title); or

b. Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate pursuant to § 924 of this title: vehicular assault, vehicular homicide, criminally negligent homicide, assault in the first degree, assault in the second degree, reckless endangering in the first degree, unlawful imprisonment in the first degree, child abuse in the first degree, child abuse in the second degree, murder, manslaughter, murder by abuse or neglect, incest, rape, unlawful sexual contact, sexual extortion, sexual solicitation of a child, felony sex offender unlawful sexual conduct against a child, felony sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree or second degree, trafficking of persons and involuntary servitude, bestiality, continuous sexual abuse of a child, possession of child pornography, unlawfully dealing in child pornography, felony endangering the welfare of a child, dangerous crime against a child, kidnapping, coercion, dealing in children, unlawful dealing with a child, sexual exploitation of a child, or promoting suicide.

A person who is substantiated for abuse or neglect at Child Protection Level IV must be reported as "substantiated for abuse" or "substantiated for neglect" in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. The person is ineligible for employment in a Child-Serving Entity as defined in Chapter 3 of Title 31 or health-care facility as defined in Chapter 85 of Title 11. In addition, the person may not be removed from the Registry and must be reported in a Registry check for the incident or conviction, except as provided in § 929(c) of this title.

(c) A person who is substantiated for an incident of abuse or neglect while on the Child Protection Registry is ineligible for automatic removal from the Registry, but may be removed from the Registry by order of the Family Court as provided in § 929 of this title. If a person is substantiated for abuse or neglect while on the Registry, the imposed conditions for each incident must be completed consecutively, with the conditions for the most restrictive Child Protection Level or Levels being completed before those for the less restrictive level or levels. A person who has partially completed a level when assigned to a more restrictive level is given credit for that partial completion when that person has completed the conditions for the more restrictive level or levels.

§ 924 Notice of Intent to Substantiate; process.

(a) In response to a report where abuse or neglect is alleged, the Division shall conduct an investigation into the facts and circumstances of the alleged abuse or neglect as required by § 906 of this title.

(1) If the Division determines from its investigation not to substantiate the person for abuse or neglect, the person may not be entered on the Child Protection Registry for that reported incident. The Division shall indicate in its internal information system that the incident is unsubstantiated, and so notify the person in writing. The Division shall develop regulations for classifying unsubstantiated cases in its internal information system.

(2) If the Division determines from its investigation that it intends to substantiate the person for abuse or neglect and enter an adult person on the Child Protection Registry, it shall give written notice to the person by certified mail, return receipt requested, at that person's last known address. The written notice must:

a. Briefly describe the alleged incident of abuse or neglect;

b. Advise the person that the Division intends to substantiate the allegations and enter the person on the Child Protection Registry for the incident of abuse or neglect at a designated Child Protection Level;

c. State the consequences of being entered on the Registry at the designated level, including whether the person will be reported as substantiated for abuse or neglect in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31;

d. Inform the person of that person's own right to request a hearing in the Family Court before the person is entered on the Child Protection Registry;

e. Further advise that the person will be entered on the Registry for the incident at the designated Child Protection Level unless, within 30 days of the date of mailing of the notice, the person responds to the Division in writing, requesting a hearing in the Family Court on the Division's intent to substantiate the person for abuse or neglect and enter the person on the Registry;

f. Contain a written form for the person to return to the Division to request a hearing.

(3) If the Division determines from its investigation that it intends to substantiate a child and enter the child on the Child Protection Registry, it shall give written notice to the child and the child's parent, guardian, and legal custodian by certified mail, return receipt requested, at the child's last known address. The written notice must:

a. Briefly describe the alleged incident of abuse or neglect;

b. Advise the child that the Division intends to substantiate the allegations and enter the child on the Child Protection Registry for the incident of abuse or neglect at a designated Child Protection Level;

c. State the consequences of being entered on the Registry at the designated level, including whether the child will be reported as substantiated for abuse or neglect in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31;

d. Inform the child that a hearing will be held in the Family Court before the child is entered on the Child Protection Registry.

e. Provide notice to the child's guardian ad litem or attorney if the child is in DSCYF custody.

(4) If the Division determines from its investigation that it intends to enter a person on the Child Protection Registry as a result of a conviction of an enumerated offense set forth in § 923 of this title, the Division shall send a Notice of Substantiation to the person informing them of the substantiation and notifying them of the right to file a Petition for Limited Purpose Hearing. The Petition for Limited Purpose Hearing shall be filed by the person in Family Court within 30 days of the Notice of Substantiation, shall include a copy of the Notice of Substantiation, and shall set forth why the person alleges the conviction does not meet the requirements set forth in § 922(1) of this title. A Limited Purpose Hearing shall be limited to determining whether the conviction meets the requirements of § 922(1) of this title. If a Petition for Limited Purpose Hearing is not filed within 30 days of the Notice of Substantiation, the person shall remain automatically placed on the registry pursuant to § 922(1) of this title.

(b) A person, other than a child, who fails to request a hearing as provided in subsection (a) of this section must, at the expiration of 30 days from the date of mailing of the notice of intent to substantiate the allegations of abuse or neglect and enter the person on the Registry, be entered on the Child Protection Registry at the Child Protection Level designated in the notice.

(c) The Division shall file a Petition for Substantiation before any child is entered on the Child Protection Registry, regardless of the written request of the child.

§ 928 Persons entered on the Registry between August 1, 1994, and February 1, 2003.

(a) The Division shall review each case substantiated for abuse or neglect that was placed on the Central Registry (also known as the Central Child Abuse Registry, the Child Abuse Registry and the Central Abuse Registry) between August 1, 1994, and the effective date of this subchapter and designate each case to a Child Protection Level in accordance with the regulations developed pursuant to § 923 of this title.

(b) A person who has been entered on the Child Protection Registry for the time prescribed in the designated Child Protection Level for the person's incident of abuse or neglect must be automatically removed from the Child Protection Registry, provided that the person has not been substantiated for an incident of abuse or neglect while on the Child Protection Registry. The Division shall

notify the person of the removal.

(c) The Division shall notify a person who does not qualify for automatic removal from the Child Protection Registry of the Child Protection Level to which the person has been designated and of the consequences of designation to that level, including whether the person will be reported as substantiated for abuse or neglect in a Child Protection Registry check pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31.

§ 929 Removal of name from the Child Protection Registry.

(a) A person who has been entered on the Child Protection Registry at Child Protection Level II or Level III will be automatically removed from the Registry under § 923 of this title, provided that the person has not been substantiated for an incident of abuse or neglect while on the Registry.

(b) A person who has been entered on the Child Protection Registry at Child Protection Level II or Level III may file a Petition for Removal in the Family Court prior to the expiration of the time designated for the level. The Family Court shall have the discretion to remove the person from the registry. In making this determination, the Court shall consider all relevant factors, including:

(1) The nature and circumstances of the original substantiated incident;

(2) Any substantiated incidents of abuse or neglect while on the Registry;

(3) The criminal history of the person, including whether the person's criminal record of arrest or conviction of the incident leading to placement on the Registry was expunged;

(4) Compliance with the terms of probation, if applicable;

(5) The risk, if any, the registrant poses to the victim, the community and to other potential victims;

(6) The impact of registration and employer notification on the victim, community and other potential victims;

(7) The rehabilitation, if any, of the person, or successful completion of a program of evaluation and treatment including any court-ordered or division-recommended case plan; and

(8) The adverse impact of registration on the person and the rehabilitative process, including the impact on employment opportunities.

(c) A person who was entered on the Child Protection Registry at any level as a child, may, at any time after his or her eighteenth birthday, file a Petition for Removal in the Family Court. The Family Court shall have the discretion to remove the person from the registry. In making this determination, the Court shall consider all relevant factors, including those in § 929(b) of this title.

(d) A Petition for Removal from the Registry must be filed in the Family Court in the county in which the substantiation occurred. A copy of the petition must be served on the Division, which may file an objection or answer to the petition within 30 days after being served. In every case, the Division shall inform the Court whether or not the person applying for removal has been substantiated for abuse or

neglect while on the Child Protection Registry. The Family Court may, in its discretion, dispose of a Petition for Removal without a hearing.

(e) Removal from the Child Protection Registry means only that the person's name has been removed from the Registry and may no longer be reported to employers pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. Notwithstanding removal from the Registry, the person's name and other case information remains in the Division's internal information system as substantiated for all other purposes, including, but not limited to, the Division's use of the information for historical, treatment and investigative purposes, child care licensing decisions, foster and adoptive parent decisions, reporting to law enforcement authorities, or any other purpose set forth in § 906(e) of this title.

Section 4. This legislation shall take effect 240 days after enacted into law.

Section 5. This bill shall be known as the "Joseph R. 'Beau' Biden III Child Protection Act."

Approved August 11, 2015

(a) SEX OFFENDER REGISTRATION PROVISIONS

Please review Title 11 Section 4121 for the complete Sex Offender information-

. (f)(1) Any person designated, as a sex offender pursuant to this section shall comply with the registration provisions of Section 4120 of this title as follows:

a. For life, if the sex offender is designated to Assessment Tier III, or if the person is designated to Assessment Tier I or II, and has previously been convicted of any of the offenses specified in subparagraphs (a)(4)a., c. or d. of this section; or

b. For 25 years following the sex offender's release from Level V custody, or for 25 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Risk Assessment Tier II, and is not otherwise required to register for life pursuant to this subsection, except that any time spent at any subsequent period of Level V custody shall not be counted against such 25 year period.

c. For 15 years following the sex offender's release from Level V custody, or for 15 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Assessment Tier I, and is not otherwise required to register for life pursuant to this subsection period of Level V custody shall not be counted against such 15 year period.

(2) Notwithstanding any provision in this section to the contrary:

a. Any sex offender designated to Assessment Tier III may petition to the Superior Court for redesignation to Assessment Tier II if 25 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State, and has not been convicted of any crime (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole, or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 25 years have elapsed from the date of the subsequent conviction or finding of a violation, during which time no additional convictions or findings of violation can have occurred. Notwithstanding any provision of this section or Section 4120 of this title to the contrary, any sex offender who is redesignated from Assessment Tier III to Assessment Tier II shall continue to comply with the registration and re-registration requirements imposed by Section 4120(g) upon Tier III offenders for life. Any re-designation from Assessment Tier III to Assessment Tier II shall not release the offender from the requirement of lifetime registration or address verification every 90 days pursuant to Section 4120 (g)(1)(a) of this title and subsection (f)(1) of this section.

b. Any sex offender designated to Assessment Tier II may petition the Superior Court for redesignation to Assessment Tier I if the victim was not a child under 18 years of age and 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 10 years have

elapsed from the date of the subsequent conviction or finding of violation, during which time no additional convictions or findings of violation can or have occurred.

c. Any sex offender designated to Assessment Tier I may petition the Superior Court for relief from designation as a sex offender, and from all obligations imposed pursuant to this section and Section 4120 of this title, if 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and if the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole, or conditional release to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 10 years have elapsed from the date of the subsequent conviction or finding of violation, during which time no additional convictions or findings of violation can or have occurred.

d. The Superior Court shall not grant a petition for redesignation or relief filed pursuant to this subsection unless:

    a. The sex offender establishes, by a preponderance of the evidence, that the public safety no longer requires preservation of the original designation; and

    b. The Court provides the Attorney General with notice of the petition and with reasonable period of time to be heard upon the matter.

When considering a petition for redesignation, the Court shall weigh all the relevant evidence, which bears upon the character and propensities of the offender, and the facts and circumstances of his or her prior offenses. The Court may in its discretion hold a hearing on the petition. If the Court grants the petition, it shall promptly enter the information concerning the redesignation into the DELJIS system.

Delaware State Police Bureau of Identification closest to your location.

A. The Delaware State Police shall provide sex offenders a written notice of when to return.

B. Listed below are the time limits for Sex Offender registration-

Tier Level 1 – Once a year in person

Tier Level 2 – Twice a year in person (every 6 months)

Tier Level 3 - Four times a year, quarterly, in person

Note: **Reporting times are based on the offender's date of initial registration.**

Homeless Sex Offender reporting Requirements

Tier Level 1 – Report in person every 90 days for verification

Tier Level 2 – Report in person every 30 days for verification

Tier Level 3 – Report in person every 7 days for verification

Reporting locations are as follows- Offenders must report to State Bureau of Identification Dover, or State Bureau of Identification Northern location which is Delaware State Police Troop # 2, or Sussex County, Thurman Adams State Service Center, 546 S. Bedford Street, Room 202, Georgetown DE.. Hours of operation for the Georgetown location are Monday-Thursday 8:30AM-3:30PM. No appointment necessary.

C. Once the court has found a person guilty of a Megan's Law felony offense, Title 11 Section 4120 of the Delaware Code, the offenders Driver's License must be relinquished to the applicable court. The court will issue a temporary operator's license, directing that person to report to the Division of Motor Vehicle for a replacement Driver's License with the code under restrictions: "Y" indicating sex offender. The person will pay $5.00 to the Division of Motor Vehicles for the replacement license. The Division of Motor Vehicles will receive an automated notification generated by CJIS advising that the offender will be appearing to have another photo taken and a new restriction coded operator's license issued. Note, upon a person being removed from the registration requirement, the Division of Motor Vehicle shall issue a license without the sex offender code printed at no charge. The sentencing court shall forward to the Division all licenses that it receives, along with a copy of the Sentencing Order.

Note: This section was passed to bring Delaware into compliance with Title 42 United States Code, Section 14071, The Jacob Wetterling Crimes Against Children and Sexually Violent Offender registration program by September 13, 1997 compliance deadline.

SEX OFFENDER TIER III ASSESSMENT

1. Automatic designation to Tier III

a. DE110773 Rape First Degree
DE110772 Rape Second Degree
DE110771 Rape Third (if involved a child under 12, or offense involved force or threat of Physical Violence)
DE110769 Unlawful Sexual Contact First Degree
DE110772 Unlawful Sexual Penetration First Degree (repealed in 1998)
DE110771 Unlawful Sexual Penetration Second Degree (repealed in 1998)
DE110775 Unlawful Sexual Intercourse Second Degree (repealed in 1998)
DE110774 Unlawful Sexual Intercourse First Degree (repealed in 1998)
DE110778 Continuous Sexual Abuse of a Child
DE111108 Sexual Exploitation of a Child

b. DE1107830004 Kidnapping First Degree*
DE110783A004 Kidnapping Second Degree*

***If the purpose of the crime was to facilitate the commission of any offense designated as a sexual offense where the defendant is not a parent, step parent or guardian of the victim.**

c. Any attempt to commit the previous offenses
DE110531

d. Any equivalent offense in any other state or US Territory.

e. **Upon motion of the State, any person convicted of a <u>felony</u>, if the victim had not yet reached his or her 16h birthday AND if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence which bears upon the particular facts and circumstances of the offense and the character and propensities of the offender, that public safety will be enhanced.**

DE110761 (currently definitions only) Sexual Assault 7/1/73-7/9/86
DE110762 (currently provisions applic. to sex offenses) Sexual Miscond. 7/1/73- 7/9/86
DE110764 Indecent Exposure Second Degree – If Second Conviction within 5yrs
DE110765 Indecent Exposure First Degree
DE110766 Incest
DE110767 Unlawful Sexual Contact Third Degree
DE110768 Unlawful Sexual Contact Second
DE110770 Rape Fourth Degree
DE110771 Rape Third Degree
DE110776 Sexual Extortion
DE110777 Bestiality
DE110779 Dangerous Crime Against a Child
DE111108 Sexual Exploitation of a Child
DE111109 Unlawfully Dealing in Child Pornography

DE111110 Subsequent Conviction of 1108 or 1109
DE111111 Possession of Child Pornography
DE111112A Sexual Solicitation of a Child

SEX OFFENDER TIER II ASSESSMENT

1. Automatic Designation to Tier II

a. DE110771 Rape Third Degree (if does NOT involve a child under 12, or offense involved force or threat of Physical Violence)
DE110770 Rape Fourth Degree
DE110770 Unlawful Sexual Penetration Third Degree (repealed in 1998)
DE110773 Unlawful Sexual Intercourse Third Degree (repealed in 1998)
DE110768 Unlawful Sexual Contact Second Degree
DE110776 Sexual Extortion
DE110777 Bestiality
DE110779 Dangerous Crime Against a Child
DE111109 Unlawfully Dealing in Child Pornography
DE111111 Possession of Child Pornography
DE111112A Sexual Solicitation of a Child
DE110762 (Currently Provisions applic. to sex offenses) Sexual Miscond. 7/1/73- 7/9/86
DE111361 Providing Obscene Materials to Minors

b. Any attempt to commit the previous offenses
DE110531

c. Any equivalent offense in any other state or U.S. Territory

d. **Upon motion of the State, a person convicted of any sexual offense, if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence, which bears upon the particular facts and circumstances or details of the commission of the offense and the character and propensities of the offender, that public safety will be enhanced.**

DE110761 (currently definitions only) Sexual Assault DE110762 (currently provisions applic. to sex offenses) Sexual Miscond. 7/1/73-7/9/86
DE110764 Indecent Exposure Second Degree – If Second Conviction within 5 yrs
DE110765 Indecent Exposure First Degree
DE110766 Incest
DE110767 Unlawful Sexual Contact Third Degree
DE111108 Sexual Exploitation of a Child
DE111110 Subsequent Conviction of 1108 or 1109
DE111111 Possession of Child Pornography
DE111321(5) Loitering in Public Place to Solicit
DE111352(2) Promotes/Profits from Prostitution of a Person under 18 years
DE111353(3) Promotes/Profits from Prostitution of a Person under 16 years

SEX OFFENDER TIER I ASSESSMENT

Any sex offender not otherwise designated to Assessment Tier II or III:

a. DE110764 Indecent Exposure Second Degree – If Second Conviction within 5 yrs
DE110765 Indecent Exposure First Degree
DE110766 Incest
DE110767 Unlawful Sexual Contact Third Degree
DE110780 Female Genital Mutilation
DE111100 Dealing in Children
DE111112 Sexual Offender who Resides or Loiters within 500 feet of school
DE111335(a)(6) or (7) Violation of Privacy

Conviction for a second Tier 3 or Tier 2 offense will be designated Tier 3.

Conviction for a subsequent Tier 1 offense occurs within 5 years of previous conviction, sex offender will be placed in Tier 2 when convicted again.

Also all sex offenders will be raised to Level Tier 3 once they are wanted persons. They will also be reduced back to their original Tier Level Assessment once the Warrant/Capias has been cleared.

- **The entire Sex Offender Training Manual can be found at:**

http://server.deljis.state.de.us

Click on the Training heading and scroll down to the DELJIS Sex Offender Training Manual

BAIL

THE BAIL GUIDELINES AND POLICY STATEMENTS ARE THOSE OF THE JUSTICE OF THE PEACE COURTS AND NOT THE SENTENCING ACCOUNTABILITY COMMISSION. THEY ARE PROVIDED HERE AS A CONVENIENCE FOR USERS.

Recognizing that the setting of bail is an important and delicate exercise of judicial discretion, but that such discretion is restrained by both constitutional and statutory limitations, a "totality of the circumstances test" is adopted as bail policy to assist Delaware judicial officers in making logical, appropriate, bail setting decisions. This policy has been adopted for the following reasons:

- Presumptive bail under Delaware law is to release upon a defendant's own recognizance or upon an unsecured appearance bond.

- Delaware law requires judicial officers to consider **all** legally relevant circumstances and criteria in reaching a bail decision.

- Delaware law requires the Court to employ an objective risk assessment instrument to gauge a person's risk of flight and re-arrest.

- Departure from presumptive release upon OR or unsecured bail is permissible **only** if a totality of the circumstances analysis determines that secured bail is necessary to (a) ensure the defendant's appearance to answer charges and/or (b) to ensure the safety of any victims or witnesses or the community.

- In considering and weighing legally relevant factors, the judicial officer must balance the rights of the defendant:
  to be presumed innocent,
  to be at liberty while awaiting trial,
  to develop a defense,
  to provide financial and other support for family, and
  to preclude pressure to resolve the case to escape confinement with the State's interests:
  to ensure the defendant appears to answer to criminal charges,
  to protect victims, witnesses, and the community, and
  to ensure the proper administration of justice.

- A totality of the circumstances analysis requires a judicial officer to focus on **all** the factors legally relevant to a bail decision, not on a single factor, such as nature of the charged offense.

- A totality of the circumstances analysis requires and permits a judicial officer to make, "…a balanced assessment of the relative weights" of all the various factors legally relevant to a bail decision.[27]

- A totality of the circumstances analysis gives a judicial officer broad, comprehensive discretion to fit bail to each case as the factors of each case warrant.

[27] *Illinois v. Gates*, 462 U.S. 213, 234 (1983).

THE BAIL DECISION – APPROPRIATE STEPS

1. REVIEW

Review the charging document and/or case file; criminal, traffic, capias and/or payment history information relating to the defendant and the offense; the Recommended Monetary Ranges; and any Special Case Procedures.

2. COMPLETE RISK ASSESSMENT INSTRUMENT IF APPLICABLE TO CHARGES

a. The Risk Assessment Instrument will be used for all initial charges for the following case types: Felony, Misdemeanor A, Title 16, DUI and any alcohol related charges and any domestic violence charges.
b. The Risk Assessment Instrument will also be completed in any case where the defendant is detained, regardless of the charge.
c. Complete the scoring of the Risk Assessment Instrument.

3. WEIGH AND ANALYZE FOR FINAL DECISION

a. Consider the score of the Risk Assessment Instrument, if applicable. There exists a presumption that defendant's falling into the "high risk" category will be detained and that defendant's falling into the "low risk" will not be detained. If these presumptions are overridden, this override must be recorded on the Risk Assessment Instrument.
b. Using the same approach, determine bail amount for each charge. Also consider that the total bail amount for the entire case should be reasonable under all the circumstances; and that bail amount for each charge should be within the Recommended Monetary Range for the offense classification **unless** exceptional, articulable factors exist. If the bail amount is outside the Range, record additional justification.

4. SELECT AND RECORD BAIL CONDITIONS

a. Bail conditions should be reasonably related to the instant offense or the underlying circumstances of the offense.
b. May be used as an alternative to secured bail, where appropriate.
c. Record all conditions.

THE BAIL DECISION – BASIC CONSIDERATIONS

- **PRESUMPTION:** Judges are required to release defendants on their own recognizance **OR** on unsecured bail **unless** factors to the contrary ("aggravating factors") exist. Judges **MUST** record the reasons for secured or cash bail.
    - **Exception:** Capital crimes. 11 *Del. C.* §§ 2101 and 2105(a). [28]
    - **When Using the Risk Assessment Instrument:** There exists a presumption that defendant's falling into the "high risk" category will be detained and that defendant's falling into "low risk" will not be detained. If these presumptions are overridden, this override must be recorded on the Risk Assessment Instrument.
- **BAIL TYPE:** Shall be based on a totality-of-the-circumstances analysis of all mitigating and aggravating factors.
    - **Bail type** should not be based solely on the nature of the charge(s).
    - **Secured Bail** may be considered reasonable only if aggravating factors exist. Establish and record all applicable factors.
    - **Cash Bail** is a more restrictive type of secured bail. Therefore, cash bail should be carefully considered and reserved for the most serious or unusual circumstances, the presence of which must be recorded.
    - **Mixed Bail Types**: Avoid setting secured and unsecured/OR bail on the same case. Bail for non-incarcerable offenses may be set at $1 secured each **IF** the overall case **bail type** is secured.
- **BAIL AMOUNT:** Shall be based on a totality-of-the-circumstances (TOTC) analysis of all aggravating and mitigating factors.
    - The accompanying monetary ranges are recommendations for bail amount based on the **nature** of the offense as indicated by the *Delaware Code* offense classification. "Nature of offense" is only one of many relevant bail factors and shall not be the sole basis for the bail decision. Use these ranges in conjunction with other relevant bail factors.
    - The vast majority of bail decisions should fall within the recommended monetary ranges. Reasons for departing from the ranges must be documented.
    - Bail **amounts** shall be set *by charge*. While bail is set by charge, the total amount for bail for the case must be reasonable under all the circumstances.

[28] At publication (06-30-2010), only Murder in the First Degree, 11 *Del. C.* § 636, is a capital offense in Delaware.

RECOMMENDED MONETARY RANGES

Offense Class	Bail Guideline	Penalty-Custody	Penalty-Fine	Notes
FELONIES				
Murder 1 11 *Del. C.* § 636	Hold Without Bail* (11 *Del. C.* § 2103)	Death or Natural Life	no cap	Capital Offense Non-Bailable
Felony Class A	$40,000 to $100,000	M/M 15 years to Life	no cap	
Felony Class B	$20,000 to $60,000	M/M 2 to 25 years	no cap	
Felony Class C	$5,000 to $20,000	0-15 years	no cap	
Felony Class D	$2,500 to $10,000	0-8 years	no cap	
Felony Class E	$1000 to $6,000	0-5 years	no cap	
Felony Class F	$500 to $3,000	0-3 years	no cap	
Felony Class G	$500 to $2,000	0-2 years	no cap	
MISDEMEANORS and VIOLATIONS				
Misdemeanor Class A	OR to $1,000	0-1 year	0-$2300	
Misdemeanor Class B	OR to $200	0-6 months	0-$1150	
Misdemeanor (unclassified)	OR to $100	0-30 days	0-$575	
Violation – 1st	OR to $50	0-1 year probation LI	0-$345	Subsequent violations are within a 5-year period.
Violation – 2nd	OR to $100	0-1 year probation LI	0-$690	
Violation – 3rd	OR to $200	0-1 year probation LI	0-$1150	

See special case procedures and considerations for issues related to special case types.

*Only Murder 1 under 11 *Del. C.* § 636(a)(1) through (6) is a capital offense as of this publication Murder 1 does not include Attempted Murder.

SPECIAL CASE PROCEDURES & CONSIDERATIONS

The following represents a concise, but not comprehensive, outline of circumstances and case types requiring consideration of factors that may not have been appropriate to consider at the time the case bail was set initially, or factors that, due to the nature of the case, may require exceptionally close examination.

Revocation of Bail Following a Violent Felony

- If a defendant is alleged to have committed a violent felony while released on recognizance or bond from a previous violent felony, the original recognizance or bond must be revoked (11 Del.C. 2116(c)).

Capiases/Warrants & Rule 9 Warrants

- Failure to Appear: Original case bail; bail recommendation of issuing court; known practices of issuing court (for instance, Superior Court FTA Trial Capias may contain a high cash bail recommendation based on that Court's rigorous trial-setting practices and notice to defendants); FTA capias history; history of escape or resisting arrest convictions.
- Failure to Pay: Amount owed; history of FTP capiases on the case; whether Work Referral or Wage Assignment has been ordered but not defendant failed to follow order; history of FTP capiases on all cases; amounts owed to all courts at time of arrest on FTP capias.
- Rule 9 Warrants: Treat similar to new charges with bail set for first time, absent any recommendation from Superior Court.

Domestic Violence - PFA Violations

- Intimate Partners: (Husband/Wife; Ex-Spouses; Boyfriend/Girlfriend and ex; Same-sex relationships) – Use DV Lethality Screening Tool to assess risk – Do not underestimate results; recent separation of parties increases risk dramatically—loss of control may trigger violence.
- Other Family Members: Threats of violence or suicide; prior incidents of violence and escalating violence; sexual assault; whether instant offense involves injury; access to weapons; substance abuse; mental health issues; employment issues.
- PFA Violations: History of violations and violation of no contact orders (breach of release).

Drugs

- Offense occurred in Protected Area or in an area used as a Base of Operations
- Force or high-speed flight via motor vehicle was used to escape apprehension
- History includes prior Title 16 convictions and/or violent offenses
- Instant Offense carries mandatory penalty and/or quantity of drug indicates serious drug dealing;
- Minors are involved in offense as accomplices or as targeted customer; or offense involves death or injury to user/customer

Fugitives

- Nature of offense alleged to have been committed in foreign jurisdiction & bail guideline for comparable Delaware offense
- Circumstances of defendant's apprehension

Motor Vehicle & DUI

- DUI: Classification of offense as felony or misdemeanor – based on defendant's conviction history; alleged BAC at time of offense; circumstances of defendant's apprehension (accident, risky driving, injury or death to others, property damage); history of defendant's compliance with substance abuse treatment and/or rehabilitation previously ordered by court; indications of long-term substance abuse – Use mandatory bail condition if required [11 *Del. C.* § 2108(c)].

- Motor Vehicle: Imperative to remember that secured bail may not be ordered as initial bail for non-jailable offenses.

Sexual Offenses

- Child Victim: Require that the defendant have no contact with children except upon good cause shown and as provided by the Court [mandatory bail condition as required by 11 *Del. C.* § 2108(b)].
- Registered Sex Offenders: Require the defendant to register if defendant is charged with failing to register as a sex offender [mandatory bail condition as required by 11 *Del. C.* § 4120(4)].

Truancy

Adult Offender:

- Original Truancy charge: Truancy charges are criminal offenses if adult offender and may be treated as such for bail purposes.
- FTA Capias/FTP Capias/Contempt of Court: Set unsecured or secured based on circumstances

Juvenile Offender:

- Original Truancy charge: Truancy charges are civil offenses if juvenile offender; all restrictions on incarcerating juveniles pursuant to 10 *Del. C.* § 1007 apply to such cases.
- FTA Capias: Secured bail may only be set if the conditions imposed by 10 *Del. C.* § 1007 are met.
- FTP Capias: A capias may not be issued for a juvenile for FTP. Such a capias may be issued for the juvenile's parent or other responsible who co-signed any payment agreement. Thus, if presented with a FTP capias issued on a juvenile, set unsecured bail.
- Contempt of Court: If based on the underlying truancy matter, bail may be secured or unsecured depending on the circumstances and only if the conditions imposed by 10 *Del. C.* § 1007 are met.

Violation of Probation – Contempt of Court – Breach of Release

- If returned to other than issuing court, give great deference to recommendation of issuing court.
- VOP: Consider any facts available showing VOP is substantive or for collection of monies owed only. Consult probation officer if available. Review underlying offense and original sentence imposed. Consider prior VOPs on same or other cases.
- COC (often issued for FTP matters): Consider amount of monies owed, defendant financial resources, age of case, payments made to date if any, and history of prior FTP capiases on instant case and other cases.
- Breach of Release: Consider type of breach involved – breach of no-contact order, and nature of alleged unlawful contact are generally the most serious, although bail conditions can be breached in other ways than violation of a no-contact order.

Weapons Charges

- Take special notice of any prior act of violence or weapons charge.
- Determine if the defendant has a history of mental illness or is otherwise a person prohibited.
- Consider the underlying circumstances surrounding the use, display or threat to use the weapon and the impact on public or victim's safety.
- Even if release is unlikely as a result of the bail decision, consider whether a condition of bond requiring relinquishment of weapons is an appropriate under the circumstances.