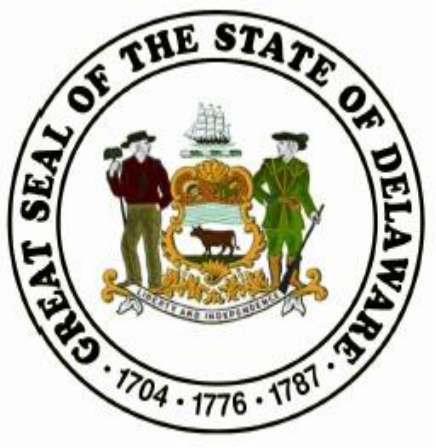
SENTAC



Delaware Sentencing Accountability Commission

Benchbook 2023*

***INCLUDES RELEVANT LEGISLATION OF THE 151st 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	30
Class B (Violent)	2 to 5 yrs (1st 2 yrs @ Level V)	2 to 25 yrs	34
Class B (Nonviolent)	2 to 4 yrs (1st 2 yrs @ Level V)	2 to 25 yrs	40
Class C (Violent)	Up to 30 m @ Level V	up to 15 yrs	41
Class C (Nonviolent)	Up to 1 yr @ Level V	up to 15 yrs	45
Class D (Violent)	Up to 2 yrs @ Level V	up to 8 yrs	47
Class D (Nonviolent)	Up to 12 m @ Level II or III	up to 8 yrs	49
Class E (Violent)	Up to 15 m @ Level V	up to 5 yrs	53
Class E (Nonviolent)	Up to 12 m @ Level II	up to 5 yrs	55
Class F (Violent)	Up to 9 m @ Level V	up to 3 yrs	59
Class F (Nonviolent)	Up to 12 m for Title 11; Up to 18 m for Title 16 @ Level II	up to 3 yrs	61
Class G (Violent)	Up to 6 m @ Level V Title 16, §§4767,4768: 3-9 m @ Level V	up to 2 yrs	65
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	73
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	78
Class A (Controlled substances)	1st offense 12m @Level II	up to 1 yr	82
Class B	Fine, Costs & Restitution	up to 6 m.	83
Unclassified	Fine, Costs & Restitution	up to 30 d	85
Violations	Fine, Costs & Restitution	$0 to $345	88
Habitual Criminal	Up to Life	Up to Life	117
Violation of Probation	1 Level Higher	1 Level Higher	130

SUMMARY OF ACCEPTANCE OF RESPONSIBILITY GUIDELINES

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Felonies			
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Class C (non-violent)	Up to 1 yr. @ Level V	Up to 9 mos. @ Level V	45
Class D (violent)	Up to 2 yrs. @ Level V	Up to 18 mos. @ Level V	47
Class D (non-violent)	Up to 12 mos. @ II or III	Up to 9 mos. @ II or III	49
Class E (violent)	Up to 15 mos. @ Level V	Up to 11 mos. @ Level V	53
Class E (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	55
Class F (violent)	Up to 9 mos. @ Level V	Up to 7 mos. @ Level V	59
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	61
Class G (violent)	Up to 6 mos. @ Level V	Up to 4 mos. at Level V	65
Class G (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	67
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Class A (violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	73
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
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Class A (con. sub.)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	82

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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, 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

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

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]

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.

[3] Title 11, §4204 (l)

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 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]

[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)
[10] Title 11, §4333 (c)

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

[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)
[20] Title 11, §4333 (j)

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.

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 <u>and</u> 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 5 (150th 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
606	Abuse of a pregnant female in the first degree
613	Assault in the First Degree
636	Murder in the first degree
635	Murder in the second 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
783A	Kidnapping in the first degree
1254	Assault in a detention facility
1447A	Possession of a firearm during the commission of a felony if the firearm was used, displayed, or discharged during the commission of a Title 11 or Tile 31 violent felony as set forth in sec. 4201(c) of this title.
632	Manslaughter where there are multiple victims (any sentence for each v shall be consec. to one another

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, Romie Griesmer, at (302) 577-8962 or Rosemarie.Griesmer@delaware.gov.

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 Ferris W. Wharton**
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 Kathleen Jennings**
The Public Defender or the Public Defender's designee;	**Honorable Kevin O'Connell**
The Commissioner of Corrections or the Commissioner of Corrections' designee;	**Honorable Monroe B. Hudson**
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	**Timothy G. Willard, 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	**Jeffrey Horvath**
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 Melissa Zebley**
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 (Vict.< 18 & Agg.Circ - see note)**
11-787(b)(2)	**Trafficking of Persons and Involuntary Servitude (Forced Labor, Vict.< 18 & Agg.Circ - see note)**
11 787(b)(3)	**Trafficking of Persons and Involuntary Servitude (Sexual Servitude, Vict.< 18 & Agg.Circ - see note)**
11-1304(c)(4)	**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 (presently ruled unconstitutional) 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). • 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 to life at Level V upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's Law) • 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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-778(1)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority, or supervision</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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
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(c)(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. • Superior Court has exclusive jurisdiction.

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
11-607	**Strangulation or Suffocation (see note)** • person used/att dangerous instrument or deadly weapon • person caused serious physical injury • person was subject to an existing court order prohibiting contact with v • pregnant female v • child v
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)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)** (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 (See note)**

11-777	**Dangerous Crime Against Child (see note)**
11-777A(e)(2), (e)(4), (e)(5)	**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)**
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 (Vict < 18 or Agg. Circ. - see note)**
11-787(b)(2)	**Forced labor (victim is a minor) (Vict < 18 or Agg. Circ. - see note)**
11-787(b)(3)	**Sexual servitude (Vict < 18 or Agg.Circ. - see note)**
11-826(a)	**Burglary 1st Degree (see note)** Occupied dwelling + (1) armed/ (2) causes injury to nonparticipant
11-826(b)	**Home Invasion Burglary 1st Degree (see note)** Burglary 1st + attempts/commits Robbery 1st/ 2nd, Assault 1st/ 2nd, Murder 1st/ 2nd, Manslaughter, Rape, or Kidnapping 1st/ 2nd
11-832	**Robbery 1st Degree (see note)** (a)(1)injury to nonparticip/ (2) DW or threat of/ (3)armed & use or threat/ (4)vt>65/ (5) threatens death upon another while committing Robbery 2nd. Deg.
11-1108	**Sexual Exploitation of Child (see note)**
11-1109	**Dealing in Child Pornography (see note)**
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(c)(3)	**Hate Crime (Underlying Offense: Class C Felony)(see note)**
11-1304(c)(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 or Possession** Manufactures/Delivers/Possesses with Intent to

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 (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
11-607	**Strangulation or Suffocation** If committed within 5 years of prior conviction, minimum sentence 1 year at Level V
11-613	**Assault 1st Degree.** Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement
11-632	**Manslaughter.** • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement where there are multiple victims. • Abortion was removed as a subsection by House Bill 31, approved September 17,2021.
11-771	**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 upon state application • Upon state application under 11-771(a)(2) Upon state application AG may invoke 5 additional years at level V if v < 7 (Jessica's law)
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 upon state application • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-776	**Continuous Sexual Abuse of a Child** • 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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica'sL)
11-777A	**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; • (e)(4) If the underlying sexual offense is a class C, D, E, F, or G felony and the victim is under eighteen years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child shall be a class B felony; • (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 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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-778(2)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority, or supervision</u>** • 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 upon state application • 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 • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
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 • **(a)(4)** upon state application AG may invoke minimum mandatory 10 years at level V if v < 7 (Jessica's law)
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(d)	**<u>Burglary 1st Degree</u>** (armed or physical injury) • (c) Minimum Mandatory Sentences: 1 yr at Level V (f) Sentencing provisions equally applicable to Attempt
11-826(b)	**<u>Burglary 1st Degree Home Invasion</u>** • (e) Minimum sentence of 6 years at Level V. • (f) Sentencing provisions apply equally to attempt. •
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 under (2)(b) if convicted or finished incarceration/confinement for Robbery 1st in last 2 years, or, under (2)(b) if armed with a firearm and convicted or finished incarceration/confinement for Robbery 1st in last 7 years. • (c) Sentencing provisions equally applicable to Attempt. • Original jurisdiction over juveniles charged with Robbery 1st shifted to Superior Court with reverse amenability available. 6 months mandatory commitment for Robbery 1st involving weapons or serious physical injury or for PFDCF in Family Court. •
11-1108 & 11-1109	**<u>Sexual Exploitation of Child/Dealing in Child Pornography</u>** Any person convicted of a 2nd or subseq. Viol. as a class B Felony 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(c)(3)	**<u>Hate Crime (Underlying Offense: Class C,D,E,F or G Felony)</u>** Superior Court has exclusive jurisdiction.

11-1304(c)(4)	**Hate Crime (Underlying Offense: Class B Felony)** • If the underlying offense is a Class B Felony, the minimum sentence of incarceration shall be doubled. • Superior Court has exclusive jurisdiction.
11-1447(d)	**Possession of Deadly Weapon during Commission of a Felony** • (d) Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available.
11-1447A	**Possession of Firearm during Commission of a Felony** • (b) Minimum Mandatory Sentence= 3 years at Level V • (c) If conviction represents 3rd felony conviction= minimum mandatory sentence= 5 years at Level V • (f) Juveniles > 16 (+ finding of proof positive/presumption great following a hearing in Superior Court that the accused used, displayed, or discharged firearm during a Title 11/31 violent felony) shall be tried as an adult. AG may elect to proceed in Family Court. • Per Title 11 Section 3901(d) No sentence of confinement may run concurrently with any other sentence of confinement if firearm used/displayed/discharged during violent felony under Title 11 or Title 31.
11-1448(e)(2)	**Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony** • 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	**Wearing Body armor during Commission of a Felony** • 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	**Racketeering** • 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	**Aggravated Act of Intimidation** 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.

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	2-4 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)**
11-916(d)(3)b	**Home Improvement Fraud** (loss > = $100,000)
11-917(d)(3)	**New Home Construction Fraud (Loss > = $100,000)**
11-1103B	**Child Abuse in the First Degree**
11-1309	**Deprivation of Civil Rights (serious physical injury/death or kidnapping/attempt or felony sex offense/attempt, or attempt to kill) (see note)**
11-1467	**Poss Large-Capacity Magazine during Commission of Felony**
16-4752B	**Drug Dealing (Resulting in Death)**
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	
Repetitive Criminal History	Up to 30 months @ Level V
Lack of amenability to lesser sanctions	Up to 30 months @ 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.
11-1309	**Deprivation of Civil Rights** Superior Court has exclusive jurisdiction
16-4752	**Drug dealing or possession** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 3 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 3 quantity;
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)	**Trafficking in Food Stamps (Firearms/Ammunition/Controlled Substances)** May be suspended from the Food Stamp Program for 18 months more than mandated by FFSA

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)(1), (e)(2), (e)(3)	**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 Agg. Circ. and victim is an adult) (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 Agg. Circ. and victim is an adult (see note)**
11-787(b)(4)	**Patronizing a victim of sexual servitude (see note)**
11-803	**Arson 1st Degree** 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
11-826	**Burglary 1st Degree (see note)** (a) Occupied dwelling
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(c)(3)	**Hate Crime (Underlying offense: Class D Felony) (see note)**
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	**Engaging in 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(a)(1)	**Drug dealing or possession** Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity
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)(1), (e)(2), (e)(3)	**Sex Offender Unlawful Sexual Conduct Against a Child** • (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. • (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 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. • 11-4205A: (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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-778(f)(4)	**<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision</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.
11-783(4)	**<u>Kidnapping 2nd Degree</u>** • upon state application AG can invoke 5 year min mand at level V if v < 7 (Jessica's law)
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>**
11-826	**<u>Burglary 1st Degree</u>** Minimum Mandatory Sentences: • (c) 1 yr at Level V • (e) For Home Invasion Burglary 1st Degree**:** 6 yrs @ Level V • (f) Sentencing provisions equally applicable to Attempt • Presumptive sentences:

11-1253	**<u>Escape After Conviction</u>** Any sentence imposed shall not run concurrently with any other sentence.
11-1304(c)(3)	**<u>Hate Crime</u>** Superior Court has exclusive jurisdiction
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

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
11-607A	**Aggravated Strangulation** caused serious physical injury or death
11-907B(b)	**Criminal Impersonation of a Police Officer w/Injury or Felonies (see note)**
11-1105	**Crime Against a Vulnerable Adult (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**
16-4757(c)(1)	**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 or subsection of 4757(a).
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)
11-1105	**Crime Against a Vulnerable Adult** 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.
21-4177(d)	**Drive Vehicle While Under the Influence (7th or any subsequent offense)(TIS)** • **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(b)(1)	**Strangulation or Suffocation (see note)**
11-612	**Assault 2nd Degree** (a)Intentionally: (1) Serious Injury/ (2)Injury w/DW/ (3) Injures LEO, FF, CO/ (4) Medical personnel/employee of health care provider (5)Physical injury to an operator of an ambulance, a rescue squad member, paramedic, licensed medical doctor, Licensed Practical Nurse or Registered Nurse while the nurse is performing a work related duty.(6) Vt>62/ (7)Assaults LEO w/spray/ (8)Uses spray commit crime/(9) Injures State Employee/ (10) Injures Pregnant Female/ (11)Person 18 yoa or older 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**
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) Dwelling/ (b) Bldg + DW or Injury to nonparticipant
11-835 (d)	**Robbery 2nd Degree** Motor Vehicle + (1) **Class A-D Felony**, (2) **DUI**, (3) **Drug Offense,** or (4)**Substantial risk of physical injury.**
11-846	**Extortion (Vt>62 y.o.a.)**
11-1108	**Sexual Exploitation of Child/**partial nudity only, def must be 18 yoa
11-1109	**Dealing in Child Pornography/**partial nudity only, def must be 18 yoa
11-1250(c)	**Assault 1st Degree on Law Enforcement Animal**

	Intentionally or Recklessly causes Death or Serious Injury
11-1253	**Escape After Conviction (Class B or C Felony)** (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(c)(3)	**Hate Crime (Underlying Offense: Class E Felony)(see note)**
11-1338	**Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive (see note)**
11-1442	**Carrying Concealed Deadly Weapon (Firearm) (see note)**
16-4754(1)	**Drug dealing or possession:** Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance
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 V
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	**Strangulation or Suffocation (see note)** If committed within 5 years of prior conviction, minimum sentence 1 year at Level V
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
11-769	**Unlawful Sexual Contact 1st Degree** • upon state application AG may invoke mand min 5 years if v < 7 (Jessica's law)
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. • 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 upon state application. • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-778(f)(5)	**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 (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.
11-778A(1)	**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 (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.
11-825	**Burglary 2nd Degree**
11-1253	**Escape After Conviction** Any sentence imposed shall not run concurrently with any other sentence.
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
11-1304(c)(3)	**Hate Crime (Underlying Offense: Class E Felony)** Superior Court has exclusive jurisdiction.
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

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:

11-607A	**Aggravated Strangulation** (not involving serious physical injury or death)
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
11-916(d)(3)a	**Home Improvement Fraud** ($100K > loss >= $50K)
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**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1223	**Perjury 1st Degree** Material, False Testimony
11-1309	**Deprivation of Civil Rights (physical injury or use/attempt/threat use of dangerous instrument/explosives/fire) (see note)**
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)
11-1459	**Possession of a Firearm with Altered Serial Number**
11-1459A	**Possession of a Firearm with No Serial Number [Effective January 18, 2022]**
11-1462	**Covert or Undetectable Firearm – Mfr/Transport/Sell**
11-1463	**Untraceable Firearm – Mfr/Assemble/Transport/Sell an Untraceable Firearm or Mfr/Distribute Firearm using a 3-D Printer**
11-1466(d)	**Poss/Manuf/Sell/Transp/Transf/Purch/Rec Assault Weapon**

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.

11-1105	**<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.
11-1309	Deprivation of Civil Rights Superior Court has exclusive jurisdiction
11-1448(a)(5)	**<u>Poss/Purchase Firearm/Ammunition by Prohibited Person</u>** • 1448(a)(5)e: After June 20, 2023: Poss/Purchase under 21 prohibited; until 6/20/23: (purchase under 21 yoa; possn under 18 yoa prohibited) • (f)(1) Any p 15 y.o.a or older but not yet 18 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, p 14 yoa or older but not yet 18, 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) & (4)	**<u>Poss. Weapon in Safe School/Recreation Zone</u>** (j)(3) underlying offense is a class d or e felony the crime shall be a class d felony (j)(4) Underlying offense is a class d felony (j)(5) An elementary or secondary school student shall be expelled for 180d.
11-1457(j)(4) & (5)	**<u>Poss/Manuf/Sell/Transp/Transf/Purch/Sell/Rec Assault Weapon in Safe School Zone</u>** (j)(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)(TIS)</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
11-774	**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
11-846	**Extortion**
11-1304(c)(3)	**Hate Crime (Underlying Offense: Class F Felony) (see note)**
11-1339	**Adulteration (Injury/Illness)**
11-1444	**Possess Destructive Weapon (see note)**
11-1445(a)(5)	**Unlawful Dealing with Dangerous Weapon** Enabling Felony/Class A Misdemeanor/Drug Crime
11-1455	**Engaging In Firearm Transaction on Behalf of Another (1st Offense)**
16-4774(d)	**Delivery Drug Paraphernalia to Minor**
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 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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7 (Jessica's law)
11-1304	**<u>Hate Crime (Underlying Offense: Class F Felony)</u>** Superior Court has exclusive jurisdiction
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. • (a)(6) if possession only and first offense, then Class B Misdemeanor

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**
11-1105	**Crime Against a Vulnerable Adult (see note)**
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/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)**
11-1462	**Covert or Undetectable Firearms – Poss.**
11-1463	**Untraceable Firearms – Poss.**
11-1469	**Poss/Manuf/Purch/Rec/Transf Large-Capacity Magazine** For possession only: must be 3rd or subsequent offense
16-4753 (a)(2)	**Drug Dealing or Possession** Possession
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	**<u>Terroristic Threat</u>** 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)	**<u>Theft: Organized Retail Crime; class A misdemeanor; class E felony</u>** 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**	**<u>Unauthorized Computer Access</u>** **<u>Theft Computer Services</u>** **<u>Interruption Computer Services</u>** **<u>Misuse Computer System Information</u>** **<u>Destruction Computer Equipment</u>** **<u>Unauthorized Electronic Mail</u>** **<u>Fail to Cease Electronic Communication</u>** **<u>Computer Offense Penalties</u>** • (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.
11-1105	**<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.
11-1326(a)	**<u>Animals: Fighting/Baiting</u>** • 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	**<u>Providing Obscenity to Minor</u>** • 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)	**<u>Poss. Weapon in Safe School/Recreation Zone)</u>** (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)(TIS)</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)	**Driving Vehicle While Under the Influence (5th Offense)(TIS)** • **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)	**Transfer/Alter/Possess Food Stamps ($500>)** 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**	**Benefit by False Representation** **Falsify Reimbursement Report** **Misrepresentation to Qualify as Provider** **Misrepresentation as to Operation of Provider/Facility** **Kickback Schemes** **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 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**
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)**
11-1256	**Promoting Prison Contraband** where the contraband is a deadly weapon, cellular phone, prohibited electronic device, illegal narcotic or look-a-like, prescription medication, or item that could be used to facilitate escape, or where an unmanned aircraft system is used/attempt to deliver contraband
11-1302	**Riot**
11-1304(c)(3)	**Hate Crime (Underlying Offense: Class G Felony)(see note)**
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)	**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)	**<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 to life upon state application • Upon state application AG may invoke additional 5 years at level 5 if v < 7 (Jessica's law)
11-778A(d)(2)	**<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 (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.
11-1304	**<u>Hate Crime (Underlying Offense: Class G Felony)</u>** Superior Court has exclusive jurisdiction.
11-1312	**<u>Stalking</u>** • (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**
11-780A	**Sexual Intercourse w/Person in Custody**
11-824	**Burglary 3rd Degree** 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+ and V= 62+ y.o.a./Impaired/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
11-916(d)(2)	**Home Improvement Fraud** (v >= 62/impaired/disabled & $50K > loss > = $1500)
11-922(c)	**Improper Labeling (PriorConv 100>) (see note)**
11-1101	**Abandonment of Child (14 yrs of age or older)**
11-1105	**Crime Against a Vulnerable Adult (see note)**
11-1111	**Possession of Child Pornography**

11-1112(a)(2)	**Sex Offender (Loiter w/in 500 ft School)**
11-1112C	**Enticement for Purposes of Sexual Contact**
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)**
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(a)(5) & (f)(1)	**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**
11-1457(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)**
16-4757(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	**<u>Criminal Solicitation 2nd Degree</u>** 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	**<u>Terroristic Threat</u>** • (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)	**<u>Terroristic Threat</u>** (d) Mandatory fine: $2,000 which shall not be suspended
11-841(c)(2)	**<u>Theft</u>** Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-850(b)(2)	**<u>Unlawful Telecommunication Device</u>** • (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	**<u>Forgery 1st Degree</u>** (c) Restitution for resultant losses to all parties.
11-1105	**<u>Crime Against a Vulnerable Adult</u>** 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.
11-922(c)	**<u>Improper Labeling (PriorConv 100 >)</u>** 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>Animals: Fighting/Baiting</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**
11-777A(e)(1)	**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
11-1257(a)	**Resisting Arrest with Force or Violence**
11-1304(c)(2)	**Hate Crime (Underlying Offense: Class A, B or C Misdemeanor)**
11-1312(a)	**Stalking (see note)**
11-1445(a)(4)	**Unlawfully Dealing with a Dangerous Weapon**
16-1136(a)	**Abuse/Neglect of Patient: Sexual Contact**
16-1136(b)	**Exploit Patient's Resources ($1000+)**
11-1442	**Carry Concealed Deadly Weapon (see note)**
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	**Abuse of Sports Official (Prior Conv)** Mandatory Penalty: fine=>$1,000/<$2,350 & prohibition from participation/attending an organized sporting event for >3 m./<12 m.
11-777A(e)(1)	**Sex Offender Unlawful Sexual Conduct Against a Child** • (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. • 11-4205A: (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 upon state application • Upon state application AG may invoke additional 5 years at level V if v < 7
11-778A(d)(3)	**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 (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	**Crime Against a Vulnerable Adult** 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.
11-1304	**Hate Crime (Underlying Offense: Class A, B or C Misdemeanor)** Superior Court has exclusive jurisdiction.
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.
11-1442	**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.

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**
11-780B	**Unlawful Sexual Contact with Person in Custody**
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+, or V= 62+ y.o.a./Impaired/Disabled**
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) & (b)(4)b	**Forgery 2nd Degree (see note)** Deed/Will/Commercial Instrument/Public Record/Tokens/Prescriptions Proof of Vax except under 861(b)(4)a
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(d)(1)	**Home Improvement Fraud** ($50k >= loss > $1500 or, v >= 62/impaired/disabled & loss < $1500)
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)**
11-926(d)(2)	**Trademark Counterfeiting (PriorConv/100-999/$2,000–$9,999)**
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**
11-1105	**Crime Against a Vulnerable Adult (see note)**
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)**
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**
11-1260	**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**
11-1326(b)	**Animals: fighting & bating** Knowledge and Presence during Preparation **(see note)**
11-1326(c)	**Animals: fighting & bating** Gambling

11-1335(a)(6)-(7)-(9)(c)& (9)(d)	**Violation of Privacy** Prurient Recording w/out Consent
11-1339	**Adulteration (not causing injury or death)**
11-1361	**Obscenity (see note)**
11-1446A	**Undetectable Knives (Mfr/Import/Sell/Possess)**
11-1448A(g)	**Firearm Sale Violation: makes/furnishes/exhibits False statement/false information likely to deceive**
11-1448A(h)	**Firearm Sale/Delivery Violation (Second Offense)**
11-1448B(e)	**Sale/Transfer without Background Check (Subsequent offense)** Superior Court has exclusive jurisdiction
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)**
16-4756	**Drug Possession** possesses a controlled substance in a Tier 1 quantity
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
16-4762(d)	**Hypodermic syringe or needle; delivering or possessing; disposal**
16-4774(c)	**Manufacture and sale paraphernalia**
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**

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) & 11-861(b)(4)b	**Forgery 2nd Degree** (b)(4)b not a first offense by individual involving single written instrument (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
11-1326	**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.
11-2109(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)	**Driving While Under the Influence (3rd offense)(TIS)** • **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 Threatening** 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
11-1103	**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(c)(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))

11-1105	**Crime Against a Vulnerable Adult** 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	**Criminal Contempt of a Domestic Violence Protection Order** 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
11-1304	**Hate Crime (Underlying Offense: Violation or Unclassified Misdemeanor)** Superior Court has exclusive jurisdiction.

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)**
11-1306	**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 and v<62, not Impaired/Disabled) (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) & 11-861(b)(4)a	**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(d)(1)	**Home Improvement Fraud** (loss < $1500, v < 62/not impaired/not disabled)
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), (b)(4)	**Forgery 3rd Degree** (b)(4)proof of vax when first offense by individual involving single written instrument (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**	**<u>False Statement to Obtain Benefits</u>** **<u>False Benefit Reimbursement Statement</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 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
11-765	**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**
11-907C	**Criminal Impersonation of a member or veteran of U.S. Armed Forces (See note)**
11-909	**Execution of Document by Deception**
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)**
11-1246	**Compound a Crime**
11-1249	**Abetting Violation of Driver's License**
11-1256	**Promoting 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: Funeral/Memorial Service**
11-1309	**Deprivation of Civil Rights (no physical injury, no use/att/threat dangerous instrument/explosives/fire)** **(see note)**
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
11-1301	**Desecration**
11-1332	**Abusing a Corpse**
11-1334	**Unlawful Use of an Unmanned Aircraft System** Physical injury to person and/or damage to property
11-1335(a)(1–5, 8)	**Violation of Privacy**

	(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
11-1305	**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(f)	**Improper Request/Dissemination Criminal History Check** Superior Court has exclusive jurisdiction
11-1448A(h)	**Unlawfully Sell/Deliver Firearm (1st Offense)** Superior Court has exclusive jurisdiction
11-1448B(e)	**Sale/Tranfer Firearm without Background Check (1st offense)** Superior Court has exclusive jurisdiction
11-1456	**Unsafe Storage of Firearm** unauth p commits/attempts crime, uses to inflict serious physical injury/death, or transfers/attempts to another unauth p
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
11-907(C)	**Criminal Impersonation of a member or veteran of the U.S. Armed Forces** • Minimum fine of not less than $1,000.00 which shall not be suspended
11-1113(a)	**Aggravated Criminal Non-support (Prior Conviction)** • 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** 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	**Cruelty to Animals** (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	**Trade in Dog/Cat By-Products** (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.
11-1305	**Desecration of Burial Place** Mandatory Minimum Fine= >$1,000 up to $10,000.
11-1309	**Deprivation of Civil Rights** Superior Court has exclusive jurisdiction
11-1457	**Possession Weapon in Safe School/Recreation Zone** (Underlying Offense: Class B Misdemeanor). (j)(4) An elementary or secondary school student shall be expelled for 180d.
31-610(a)(2)	**Transfer/Alter/Possess Food Stamps (<$500)** • 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**
16-4759(b)	**Registrant Crimes** Violates (a)(3)

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
11-812(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**
11-1334	**Unlawful Use of Unmanned Aircraft System** (second or subsequent offense)
11-1341	**Lewdness**
11-1342	**Prostitution**
11-1355	**Permitting Prostitution**
11-1444(a)(6)	**Possession of Destructive Weapon** (if possession only of bump stock/trigger crank/rapid fire and 1st offense)
11-1452	**Unlawful Dealing with Knuckles-Combination Knife (see note)**
11-1453	**Unlawful Dealing with Martial Arts Throwing Star (see note)**
11-1456	**Unsafe Storage of Firearm** (not enhanced)
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	**Possession of Controlled Substances or Counterfeit Controlled Substances**
16-4764(a)	**Possession of Marijuana** aggravating factor (school zone or interference with police) other than a personal use quantity
11-1469	**Poss. Large-Capacity Magazine** (Second Offense)
16-4770(b)(1)	**Unlawful Possession of Drug Masking Product**
16-4774(a)	**Drug Paraphernalia**

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**
11-1334	**Unlawful Use of Unmanned Aircraft System** 1st Offense without physical injury to person/damage to property
11-1343	**Patronizing a Prostitute (see note)**
11-1404	**Providing Premises for Gambling**
11-1445(a)(1-3, 6)	**Unlawful Dealing with Dangerous Weapon** (1) Possess/Sell BB/Paintball/Air gun that discharges/projects pellet/slug larger than .177 caliber shot, or ammunition for same/ (2)non-guardian transfers to u/16 w/out permission of guardian a BB/Air gun/ (3)Parent permits u/16 to have FA, BB/ Air/ Spear gun not supervised by p 21 yoa or older/ (6) Parent permits child under 18 to possess firearm not under direct supervision of p 21 yoa or older **(see note)**
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 of Noncontrolled Prescription Drugs**
16-4764(b)	**Possession of Marijuana** • Quantity other than personal use 16-4714(d)(19); • Fine not more than $575 and imprisonment not more than 3 months or both
16-4764(c)(3)	**Possession of Marijuana** • less than 21 years of age • Possess/Private use/consumption • a personal use quantity third or subsequent offense
16-4764 (d)	• **Possession of Marijuana** • Personal use/consumption in a personal use quantity of controlled/counterfeit 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(e)	**Advertisement and Promotion of Drug Paraphernalia**
16-6611(b)	**Violation of Fire Regulations (see note)**
29-4810	**Underage Gambling (see note)**

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
11-1445(a)(1-3, 6)	**Unlawfully Dealing with Dangerous Weapon** • Superior Court has exclusive jurisdiction over (a)(3) & (a)(6) • (a)(6) expires 6/30/2025
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
29-4810(a)	**Underage Gambling** • JP Court has jurisdiction for adults; Family Court has jurisdiction <18; • 5 hours of counseling must be completed

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/21 (see note)**
11-1117	**Tobacco Sale Violations: Fail to Post Notice to u/21 (see note)**
11-1118	**Tobacco Sale Violations: Dist Samples/Coupons to u/21 (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, 111811120 (penalties §11-1121)	• Tobacco Sale Violations to p < 21 yoap > 18 civil penalty, p < 18 violation • 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

21-2742	**Driving In Violation of Conditional License**
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)**
21-4176	**Careless or Inattentive Driving (See Note)**
21-4176A	**Operation of Vehicle Causing Death (See Note)**
21-4176E	**Operation of Vehicle Causing Serious Physical Injury to Vulnerable User**
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)**

Supplemental Notations for Title 21 & 23 Offenses:

21-2742	**Driving In Violation of Conditional License** Unclassified Misdemeanor. Fine $28.75- $230.
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
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
21-4176E	**<u>Operation of Vehicle Causing Serious Injury to Vulnerable User</u>** • Violation • Fine $550, Suspension up to 1 year, Traffic Safety Course, 10-100 hours community service • Court may impose, but suspend up to $500 of the fine and the imposition of the suspension on the condition that the person complete the requirements the remaining conditions; and the Court set a hearing date within one year from the date of sentencing. At that Hearing, the court shall: A. If the person has successfully completed the remaining requirements, dismiss the additional penalties suspended. B. If the person has not successfully completed the remaining requirements, either i. grant the person an extension based on good cause shown, or ii. impose the penalties suspended.
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</u>** • **1st Offense:** (1) up to 12m @ Level V; (2) Fine= $500-$1,500;(3) Completion of alcohol evaluation and program 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; • **If BAC > .14:** p may not operate mv without ignition interlock device (4177C) • **P < 17 yoa** for first offense additional fine $500 - $1,500 and a min 40 hours of community service in a program benefiting children; for each subsequent like offense, additional fine $750 - $2,500 and a min 80 hours of community service in a program benefiting children. 4177(d)(10)

21-4177L	Driving by persons under the age of 21 after consumption of alcohol; penalties (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.
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 - 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 or possession** (1) Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 3 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 3 quantity;

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(a)(1)	**Drug dealing or Possession** Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance in a Tier 2 quantity

Summary of Drug Offenses - Felonies

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.

Crimes in Category:

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**

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** Manufactures, delivers, or possesses with intent to manufacture or deliver a controlled substance

Summary of Drug Offenses - 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**

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:

16-4753(a)(2)	**Possession** in a Tier 2 quantity
16-4758	**Unlawfully dealing in a counterfeit or purported controlled substance**
16-4770(b)(2)	**Drug Masking Product (PWID)**

Summary of Drug Offenses - Felonies

Class F Felony (Violent)

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

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.

Summary of Drug Offenses - Felonies

Class F Felony (Nonviolent) Continued

Crimes in Category:

16-4757(b)	**Miscellaneous Drug Crimes** (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.
16-4759(b)(1,2,4)	**Registrant Crimes** Violates (a)(1), (a)(2), or (a)(4)
16-4760	**Maintaining a Drug Property**

Summary of Drug Offenses - 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

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:

16-4756	**Drug Possession** A person who possesses a controlled substance in a Tier 1 quantity
16-4762(d)	**Hypodermic syringe or needle; delivering or possessing; disposal**
16-4774(c)	**Drug paraphernalia** Manufacture and sale

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)

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)
16-4770(b)(1)	**Possession of Drug Masking Product**
16-4774(a)	**Drug Paraphernalia**

Summary of Drug Offenses- Misdemeanors:

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 [Repealed]** (b) possess/use/consume more than personal use quantity – up to $575, 3 months Level V, or both (c) 18-21 possess or private use/consumption a personal use quantity, third or subsequent offense –$100 fine (d) personal use quantity, use or consume in area accessible to public or moving vehicle – up to $200 fine, 5 days 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**
16-4774(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

Controlled Substances Act

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. **Possession offenses by quantity tier;**
4. **Marijuana possession;**
5. **Drug dealing and manufacturing offenses by quantity tier;**
6. **Title 16 offenses by section number;**
7. **Applicable penalties by offense classification.**

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

SUBSTANCE	TIER 1:	TIER 2:	TIER 3:
Cocaine	≥5g	≥10g	≥ 25g
Morphine / Opium / Heroin	≥1g	≥2g	≥ 5g
Marijuana	≥175g	≥1,500g	≥ 5,000g
Methamphetamine	≥5g	≥10g	≥ 25g
Amphetamine	≥5g	≥10g	≥ 25g
PCP	≥5g	≥10g	≥ 25g
LSD	≥2.5 ml or ≥25 doses	≥5 ml or ≥50 doses	≥ 50ml or ≥ 500 doses
Designer Drug	≥2.5 ml or ≥2.5g or ≥12.5 doses	≥5 ml or ≥5g or ≥25 doses	≥ 12.5ml or ≥ 12.5g or ≥62.5 doses
Ecstasy (MDMA)	≥2.5 ml or ≥2.5g or ≥12.5 doses	≥5 ml or ≥5g or ≥25 doses	≥ 12.5ml or ≥ 12.5g or ≥62.5 doses
Prescription Drug: Narcotic Schedule II or III	≥3g or ≥30 doses	≥ 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
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 ○ Cannot use and charge with Resisting Arrest

POSSESSION OFFENSES BY QUANTITY TIER

QUANTITY (TIER):	CONTROLLED SUBSTANCE:	NO PRIOR CONVICTIONS:
No Tier Quantity Alleged	All Substances EXCEPT Marijuana (for marijuana see next chart)	Class B Misd. § 4763(b)
Tier 1	All Substances	Class G Felony § 4756
Tier 2	All Substances	Class E Felony § 4753(a)(2)
Tier 3	All Substances	Class B Felony §4752(a)(2)

PWI OFFENSES BY QUANTITY TIER

QUANTITY (TIER):	NO PRIOR CONVICTIONS:
Tier 1	Class D Felony § 4754(a)
Tier 2	Class C Felony 4753(a)(1)
Tier 3	Class B Felony§ 4752(a)(1)
Tier 2 + aggravating factor	Class B Felony § 4752(a)(3)

MARIJUANA POSSESSION OFFENSES

QUANTITY	ACTION	CONDITION	STATUTORY REFERENCE AND PENALTY
Personal Use	Use or Consume	Private	Civ. Penalty up to $100 (4764(c)(1), (2))[21]
Personal Use	Use or consume	Area Accessible to Public[22] or Moving Vehicle	Uncl. Misd. (4764(d)) (up to $200, 5 days or both)
More than personal use	Possess, use or consume		Uncl. Misd. (4764(b)) (up to $575, 3 mos, or both)
More than personal use	Possess, use or consume	Aggravating factor	B Misd. (4764(a))

[21] If < 21 yoa, 2d violation $200-$500 fine, 3d violation unclassified M and $100 fine.

[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).

TITLE 16 OFFENSES BY SECTION NO.

16 DEL. C. §:	**OFFENSE:**	**NO PRIOR CONVICTION:**
4752	(a)(1): Del/ Mfg./PWI Tier 3	Class B Felony
	(a)(2): Poss. Tier 3	Class B Felony
	(a)(3): Del/Mfg./PWI Tier 2 +Aggravator	Class B Felony
4753	(a)(1): Del./Mfg./PWI Tier 2 (a)(2): Poss. Tier 2	Class C Felony Class E Felony
4754	(a): Del./Mfg./PWI Tier 1	Class D Felony
4756	Possession Tier 1	Class G Felony
4761(d)	Del./PWI of Non-Ctl. Prescription Drug + Aggravating Factor	Class F Felony
4763	(b): Poss./ Consume Ctrl. Substance Not Marijuana	Class B Misdemeanor
4774	(a): Use / Possession with / Intent to Use Drug Paraphernalia other than with marijuana	Class B Misdemeanor
	(b): Use / Possession with / Intent to Use Drug Paraphernalia for Personal Use Quantity Marijuana	$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. 14)

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 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

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 Habitual criminal; life sentence

(a) Any person who has been 2 times convicted of a Title 11 violent felony, or attempt to commit such a violent felony, as defined in § 4201(c) of this title under the laws of this State, and/or any comparable violent felony as defined by another state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent Title 11 violent felony, or attempt to commit such a violent felony, as defined in § 4201(c) of this title, or any person who has been 3 times convicted of any felony under the laws of this State, and/or any other state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent felony is declared to be an habitual criminal. The court, upon the State's petition, shall impose the applicable minimum sentence pursuant to (b), (c) or (d) of this section and may, in its discretion, impose a sentence of up to life imprisonment, unless the felony conviction allows and results in the imposition of capital punishment. Under no circumstances may the sentence imposed pursuant to this section be less than the minimum sentence provided for by the felony prompting the person's designation as a habitual offender.

(b) Any person who has been 3 times convicted of a felony under the laws of this State, and/or any other state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent felony, which is the person's first Title 11 violent felony, or attempt to commit such a violent felony, as defined in § 4201(c) of this title, shall receive a minimum sentence of one-half of the statutory maximum penalty provided elsewhere in this title, unless the maximum statutory penalty is life in which case the minimum sentence shall be 30 years, for the subsequent felony which forms the basis of the States petition to have the person declared to be an habitual criminal, up to life imprisonment, unless the felony conviction allows and results in the imposition of capital punishment.

(c) Any person who has been 2 times convicted of a felony under the laws of this State, and/or any other state, United States or any territory of the United States, and 1 time convicted of a Title 11 violent felony, or attempt to commit such a violent felony, as defined in § 4201(c) of this title

under the laws of this State, and/or any comparable violent felony as defined by another state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent Title 11 violent felony, or attempt to commit such a violent felony, as defined by § 4201(c) of this title, shall receive a minimum sentence of the statutory maximum penalty provided elsewhere in this title for the 4th or subsequent felony which forms the basis of the State's petition to have the person declared to be an habitual criminal, up to life imprisonment, unless the felony conviction allows and results in the imposition of capital punishment.

(d) Any person who has been 2 times convicted of a Title 11 violent felony, or attempt to commit such a violent felony, as defined in § 4201(c) of this title under the laws of this State, and/or any comparable violent felony as defined by another state, United States or any territory of the United States, and who shall thereafter be convicted of a 3rd or subsequent felony which is a Title 11 violent felony, or an attempt to commit such a violent felony, as defined in § 4201(c), shall receive a minimum sentence of the statutory maximum statutory penalty provided elsewhere in this title for the 3rd or subsequent Title 11 violent felony which forms the basis of the State's petition to have the person declared to be an habitual criminal, up to life imprisonment, unless the felony conviction allows and results in the imposition of capital punishment.

(e) Notwithstanding any provision of this title to the contrary, any minimum sentence required to be imposed pursuant to (b), (c), or (d) of this section shall not be subject to suspension by the court, and shall be served in its entirety at full custodial Level V institutional setting without the benefit of probation or parole, except that any such sentence shall be subject to the provisions of §§ 4205(h), 4381 and 4382 of this title. For purposes of the computation of good time under § 4381 of this title, a life sentence imposed pursuant only to § 4214 of this title shall equate to a sentence of 45 years.

(f) Notwithstanding any statute, court rule or regulation to the contrary, beginning January 1, 2017, any person sentenced as an habitual criminal to a minimum sentence of not less than the statutory maximum penalty for a violent felony pursuant to subsection (a) of this section, or a life sentence pursuant to subsection (b) of this section prior to July 19, 2016, shall be eligible to petition the Superior Court for sentence modification after the person has served a sentence of incarceration equal to any applicable mandatory sentence otherwise required by this section or the statutes

describing said offense or offenses, whichever is greater. Absent extraordinary circumstances, the petitioner may only file 1 application for sentence modification under this section. A Superior Court Judge upon consideration of a petition filed pursuant to this subsection may modify, reduce or suspend such petitioner's sentence, excepting any minimum or mandatory sentence required by this section or the statutes describing said offense or offenses. If a Superior Court Judge modifies such petitioner's sentence, the Judge may impose a suspended sentence that includes a probationary term. Nothing in this section, however, shall require the Court to grant such a petitioner a sentence modification pursuant to this section. For the purposes of this subsection, the "applicable mandatory sentence" shall be calculated by reference to the penalties prescribed for the relevant offense or offenses by this Code as of July 19, 2016, unless said offense has been repealed, in which case the penalties prescribed by this Code at the time of the act repealing said offense shall be controlling. The Superior Court shall establish rules to implement this subsection which are consistent with the statute, and those rules shall also provide that all petitions filed pursuant to this subsection where the felony establishing an inmate as a habitual offender was a Title 16 offense are heard first, followed by all petitions filed pursuant to this subsection where the felony establishing an inmate as a habitual offender was a crime against property, followed by all other petitions. Nothing in the rules or this subsection shall prohibit the Superior Court from hearing any petition without regard to this preferred sequence when the Department of Justice, through the personal authorization of the Attorney General, Chief Deputy Attorney General, State Prosecutor, or the Chief Prosecutor of a particular county, in response to a request authorized by the Chief Defender, Chief Deputy Defender, or Chief Conflicts Counsel, or private counsel if a petitioner is not represented by the Office of Defense Services, consents to the hearing of that petition and the Superior Court determines it is in the interest of justice to do so. The rules shall also provide for an initial review, including review of a formal response by the Department of Justice after consulting with the victim or victims, of sentence modification petitions involving crimes against persons or property, for the purpose of ensuring that victims are not inconvenienced by petitions that should be denied based upon the documents submitted; in cases not denied in this manner, all victims shall be given an opportunity to be heard. The Superior Court's review of any petitions filed pursuant to this subsection shall include a review of the applicant's prior criminal history, including arrests and

convictions, a review of the applicant's conduct while incarcerated, and available evidence as to the likelihood that the applicant will reoffend if released, including a formal, recent risk assessment. The Superior Court shall articulate on the record the results of its review and its rationale for granting or denying a petition. In all cases where sentence modifications are granted, modified sentences should provide for step-down provisions to ensure successful reintegration of persons into the community. By January 1, 2017, the Department of Correction shall notify any criminal defendant whose Level V sentence was imposed under a statutory sentencing regimen which was subsequently changed in a manner that reduced the sentence applicable to the defendant's convictions, including any criminal defendant who received a minimum mandatory sentence that no longer exists by virtue of the enactment of 80 Del. Laws, c. 28. The Department of Correction shall similarly notify the attorney of record, and if the attorney of record is unavailable to receive notice, the Office of Defense Services.

SUPERIOR COURT OF DELAWARE
SPECIAL RULE OF PROCEDURE 2017-1
FOR REVIEW OF
A REQUEST TO MODIFY A HABITUAL OFFENDER SENTENCE

(a) Scope of rule.

(1) *Nature of proceeding.* This rule governs the procedure on a petition by a person in custody and serving the Level V term of a sentence of this court imposed under 11 *Del. C.* § 4214 prior to July 19, 2016, when the petition seeks exercise of the court's jurisdiction to modify that sentence pursuant to 11 *Del. C.* § 4214(f) as enacted by 80 Del. Laws ch. 321 (2016) and clarified by 81 Del. Laws ch. 6 (2017).

(2) *Exclusiveness of remedy.* A petition under this rule shall be limited to a request for modification of a sentence pursuant to 11 *Del. C.* § 4214(f) when that sentence was imposed under the provisions of 11 *Del. C.* § 4214 extant prior to July 19, 2016, and when that sentence comprised a minimum sentence of not less than the statutory maximum penalty for a violent felony imposed under then-extant 11 *Del. C.* § 4214(a) or a life sentence under then-extant 11 *Del. C.* § 4214(b). The remedy afforded by this rule may not be sought by a motion for post-conviction relief or in any manner other than as provided herein. The availability of relief under this rule, however, shall not be construed to limit the court's ability to modify a sentence pursuant to Superior

Court Criminal Rule 35 or 11 *Del. C.* § 4217 where the requirements thereof are met.

(b) Appointment of counsel.

The Office of Defense Services shall represent the petitioner in proceedings under this rule unless the petitioner privately retains an attorney. It shall be the duty of the assigned or retained attorney to prepare and present a petition and other filings that comply with the provisions of this rule and 11 *Del. C.* § 4214(f). Upon entry of a final order, the assigned or retained attorney's continuing duty shall be as provided in Supreme Court Rule 26.

(c) Initial Review and Certificate of Eligibility.

(1) *Certificate of Eligibility required.* Unless a judge of this court issues a certificate of eligibility, a petition seeking exercise of the court's jurisdiction to modify a sentence pursuant to 11 *Del. C.* § 4214(f), as enacted by 80 Del. Laws ch. 321 (2016) and clarified by 81 Del. Laws ch. 6 (2017), shall not be filed with the court.

(2) *Request for certificate of eligibility to be filed by attorney of record.* A request for a certificate of eligibility to file a petition to modify a sentence pursuant to 11 *Del. C.* § 4214(f) may only be filed under these rules by the petitioner's attorney of record, who has been privately retained by the petitioner or assigned by the Office of Defense Services. The court will not consider a pro se request for a certificate of eligibility or any other pro se filing under this rule unless the petitioner has been granted permission to proceed pro se.

(3) *Content of request for certificate of eligibility.* The request for certificate of eligibility shall:

(i) specify the date on which the petitioner will meet or has met the time-served eligibility requirements set forth in 11 *Del. C.* § 4214(f) and all grounds for the belief that the petitioner will meet or has met the time-served eligibility requirements on that date; and

(ii) include as an attachment thereto any notification of time-served eligibility from the Department of Correction provided for by 11 *Del. C.* § 4214(f) that has been received by the petitioner or the attorney; and

(iii) be supported by specific averments that the attorney has conducted a diligent review of the petitioner's sentencing history and that there is a good faith basis to believe that:

a. the petitioner is serving a sentence imposed under the provisions of 11 *Del. C.* § 4214 extant prior to July 19, 2016, and that sentence consists of a minimum sentence of not less than the statutory maximum penalty for a violent felony imposed under previous 11 *Del. C.* § 4214(a) or a life sentence under previous 11 *Del. C.* § 4214(b); and

b. the petitioner meets the time-served eligibility requirements set forth in 11 *Del. C.* § 4214(f); and

c. a petition may be heard because the felony establishing the petitioner as a habitual offender is one for which review is then-permitted as provided for in 11 *Del. C.* § 4214(f) and subdivision (d)(11) of this rule.

(4) *Place and time of filing request for certificate of eligibility*. A request for a certificate of eligibility shall be filed in the office of the Prothonotary in the county in which the judgment of sentence was entered and shall be served upon the office of the Attorney General in the county of application. A request for a certificate of eligibility shall be filed no earlier than 120 days prior to the date on which the petitioner meets the time-served eligibility requirements set forth in 11 *Del. C.* § 4214(f).

(5) *Response to request for certificate of eligibility.* The Attorney General shall file a written response to the request for certificate of eligibility within 30 days of the filing of the request. The response to the request for a certificate of eligibility shall be supported by specific averments that the Attorney General has conducted a diligent review of the petitioner's sentencing history and that there is a good faith basis to believe that:

(i) the petitioner either is or is not serving a sentence imposed under the provisions of 11 *Del. C.* § 4214 extant prior to July 19, 2016, that consists of a minimum sentence of not less than the statutory maximum penalty for a violent felony imposed under previous 11 *Del. C.* § 4214(a) or a life sentence under previous 11 *Del. C.* §

4214(b); and

(ii) the petitioner either does meet or does not meet the time-served eligibility requirements set forth in 11 *Del. C.* § 4214(f); and

(iii) a petition may or may not be heard because the felony establishing the petitioner as a habitual offender is one for which review is then-permitted as provided for in 11 *Del. C.* § 4214(f) and subdivision (d)(11) of this rule.

(6) *Disposition of request for certificate of eligibility.* A request for a certificate of eligibility may be considered without presentation, hearing, or argument unless otherwise ordered by the court. The court shall set forth on the record the reasons for granting or denying the request for a certificate of eligibility.

(7) *Provision of materials to petitioner upon the grant of a certificate of eligibility.* If, but only if, the court grants a certificate of eligibility to file a petition to modify a sentence pursuant to 11 *Del. C.* § 4214(f), the Department of Correction and the Department of Justice shall, consistent with a memorandum of understanding entered for the express purpose of facilitating the lawful and efficient transfer of materials and information required for consideration of a petition under 11 *Del. C.* § 4214(f) and this rule, provide to the petitioner's attorney of record, who has been privately retained by the petitioner or assigned by the Office of Defense Services, access to such materials and information.

(d) Petition for modification of sentence imposed under provisions of 11 *Del. C.* § 4214 extant prior to July 19, 2016.

(1) *Form of petition.* An application under this rule shall be made by a petition for sentence modification.

(2) *Filing of petition.* Consistent with the provisions of 11 *Del. C.* § 4214(f), no petition shall be filed under these rules except by the petitioner's attorney of record, who has been privately retained by the petitioner or assigned by the Office of Defense Services. The court will not consider a pro se petition or any other pro se filing under this rule unless the petitioner has been granted permission to proceed pro se.

(3) *Content of petition.* The petition shall:

(i)specify all grounds for sentence modification that are available

to the petitioner under 11 *Del. C.* § 4214(f);

(ii) set forth in summary form the facts supporting each of the grounds thus specified;

(iii) set forth a complete accounting of the petitioner's prior criminal history, including all arrests and convictions;

(iv) set forth a complete history of the petitioner's conduct while incarcerated as derived from the materials and information provided by the Department of Correction under subdivision (c)(7) of this rule;

(v) provide all available evidence as to the likelihood that the petitioner will not reoffend if released;

(vi) provide the results of a formal risk assessment conducted by the Department of Correction no more than three years prior to the filing of the petition; and

(vii) provide any other facts or circumstances that should be considered by the court when determining whether sentence modification is appropriate.

(4) *Multiple judgments of sentence.* If judgments of sentence under the prior provisions of 11 *Del. C.* § 4214 were entered on more than one offense at the same time because of joinder of offenses in one indictment, in one plea of guilt, or in one trial, the petitioner may seek modification of each such judgment of sentence in the petition. If other judgments of sentence were entered on one or more offenses at the same time and in the same sentencing order as a judgment of sentence under the prior provisions of 11 *Del. C.* § 4214 because of joinder of offenses in one indictment, in one plea of guilt, or in one trial, the Court may, notwithstanding any contrary provision of Superior Court Criminal Rule 35 or 11 *Del. C.* § 4217, consider modification of each such judgment of sentence to which 11 *Del. C.* § 4214 was not applied. Judgments entered at different times shall not be challenged in one petition but only by separate petitions.

(5) *Time of filing.* No petition shall be filed prior to January 1, 2017. A petition may not be filed until a judge of this court issues a certificate of eligibility under subdivision (c) of this rule. The court will consider a repetitive petition under this rule only in extraordinary circumstances.

(6) *Place of filing.* A petition shall be filed in the office of the Prothonotary in the county in which the judgment of sentence was entered and shall be served upon the office of the Attorney General in the county of application.

(7) *Response to the petition.* The Attorney General shall file a written response to the petition at a time specified by the court. That written response shall:

(i) specify all grounds for the Attorney General's support of or opposition to the petition;

(ii) set forth in summary form the facts supporting or basis for objecting to each of the grounds thus specified;

(iii) verify, and supplement when necessary, the petitioner's prior criminal history, including all arrests and convictions;

(iv) verify the history of the petitioner's conduct while incarcerated;

(v) provide all available evidence as to the likelihood that the petitioner will reoffend if released;

(vi) provide the Attorney General's position regarding the results of the formal risk assessment conducted and filed with the petition; and

(vii) be supported by specific averments that the Attorney General has conducted a diligent review of the matter and that, if the petition involves a crime against a person or property the Attorney General has consulted with the victim as provided for in 11 *Del. C.* § 4214(f).

The court shall not act upon the petition without first providing the Attorney General with an opportunity to be heard on the matter. A petition for modification of sentence under this rule may be considered without presentation, hearing, or argument unless otherwise ordered by the court. In no case, however, shall the petition be considered in a manner inconsistent with the provisions of 11 *Del. C.* § 4214(f) and this rule. In any case in which presentation, hearing or

argument is had on the petition, a victim shall be given an opportunity to provide a victim impact statement in a manner consistent with the provisions of 11 *Del. C.* §§ 4331(d), (e), and (f).

(8) *Summary dismissal.* If it plainly appears from the petition and the record of prior proceedings in the case that the petitioner is not entitled to relief or that the requirements of this rule have not been met, the court may enter an order for the petition's summary dismissal and cause the petitioner's attorney and the petitioner to be notified.

(9) *Disposition of petition.* The court may in its sole discretion grant or deny the petition for modification of sentence. Notwithstanding the provisions of 11 *Del. C.* § 4214 or § 4217, any court rule or any other provision of law to the contrary, the court upon consideration of a petition properly filed pursuant to this rule may modify, reduce, or suspend the petitioner's sentence imposed. In no instance, however, may the court modify, reduce, or suspend any portion of any applicable mandatory sentence as defined by 11 *Del. C.* § 4214(f). If the court modifies, reduces or suspends the petitioner's sentence, the court shall include a transition period of custodial supervision at either Level IV, III or II as provided for by 11 *Del. C.* § 4204(l). Nothing in this rule or in 11 *Del. C.* § 4214 shall require the court to grant sentence modification to a petitioner.

(10) *Record of disposition*. Whenever the court disposes of a petition, the

court shall set forth on the record the results of its review and its reasons for granting or denying the petition.

(11) *Sequence of consideration of petitions.* To the extent possible, consistent with the provisions of 11 *Del. C.* § 4214(f), all petitions filed under this rule where the felony establishing an inmate as a habitual offender was a Title 16 offense shall be heard first, followed by all petitions filed where the felony establishing an inmate as a habitual offender was a crime against property, followed by all other petitions.

Effective November 8, 2017 (To be cited as "Del. Super. Ct. Spec. R. 2017-1_" and must be applied to all 11 *Del. C.* § 4217(f) sentence modification requests pending or filed on or after November 8, 2017.)

§ 4218 Probation before judgment.

(a) Subject to the limitations set forth in this section, for a violation or misdemeanor offense under Title 4, 7, or 11, or for any violation or misdemeanor offense under Title 21 which is designated as a motor vehicle offense subject to voluntary assessment by § 709 of Title 21, or a violation of § 2702 of Title 14, or for violations of § 4166(d) of Title 21, or for violations of § 4172 of Title 21, or for a violation of a county or municipal code, or for a misdemeanor offense under § 4764, § 4771 or § 4774 of Title 16, a court exercising criminal jurisdiction after accepting a guilty plea or nolo contendere plea may, with the consent of the defendant and the State, stay the entry of judgment, defer further proceedings, and place the defendant on "probation before judgment" subject to such reasonable terms and conditions as may be appropriate. The terms and conditions of any probation before judgment shall include the following requirements: (i) the defendant shall provide the court with that defendant's current address; (ii) the defendant shall promptly provide the court with written notice of any change of address; and (iii) the defendant shall appear if summoned at any hearing convened for the purpose of determining whether the defendant has violated or fulfilled the terms and conditions of probation before judgment. The terms and conditions may include any or all of the following:

(1) Ordering the defendant to pay a pecuniary penalty;

(2) Ordering the defendant to pay court costs to the State;

(3) Ordering the defendant to pay restitution;

(4) Ordering the defendant to perform community service;

(5) Ordering the defendant to refrain from contact with certain persons; and

(6) Ordering the defendant to conduct themselves in a specified manner. The length of the period of probation before judgment shall be fixed by the court, but in no event shall the total period of probation before judgment exceed the maximum term of commitment provided by law for the offense or 1 year, whichever is greater.

(b) This section may not be substituted for:

(1) Section 1024 of Title 10. First offenders domestic violence diversion program;

(2) Section 900A of this title. Conditional discharge for issuing a bad check as first offense; or

(3) Section 4177B of Title 21. First offenders; election in lieu of trial.

(c) (1) Notwithstanding any provision of this section to the contrary, no person shall be admitted to probation before judgment if: a. The person is currently serving a sentence of incarceration, probation, parole or early release of any type imposed for another offense; b. The person is charged with any offense set forth in this title, and has previously been convicted of any violent felony; c. The person is charged with any offense set forth in this title, and has previously been convicted of any nonviolent felony within 10 years of the date of the commission of the alleged offense; d. The person is charged with any offense set forth in this title, and has previously been convicted of any misdemeanor offense within 5 years of the date of the commission of the alleged offense; e. The person is charged with any offense set forth in Title 4 or 7, and has been previously convicted of any offense set forth in Title 4 or 7 within 5 years of the date of the commission of the alleged offense; f. The person is currently charged with any offense set forth in § 709 of Title 21, and has been previously convicted of any offense set forth in Title 21 within 5 years of the date of the commission of the alleged offense; g. The person is currently charged with a violation of § 2702 of Title 14 and has been previously convicted of a violation of 2702 of Title 14 within 5 years of the date of the alleged offense; or Title 11 - Crimes and Criminal Procedure Page 255 h. The person is charged with a violation of a county or municipal code provision and has previously been convicted of a violation of another county or municipal code provision within 5 years of the date of the commission of the alleged offense. i. The person is charged with an offense involving a motor vehicle and holds a commercial driver license (CDL).

(2) For the purposes of this subsection, the following shall also constitute a previous conviction: a. A conviction under the laws of another state, the United States, or any territory of the United States of any offense which is the same as, or equivalent to, any offense specified in paragraph (c)(1) of this section; or b. Any adjudication, resolution, disposition or program set forth in § 4177B(e)(1) of Title 21.

(d) This section shall not be available to any person who has previously been admitted to probation before judgment for any offense involving the same title within 5 years of the current offense.

(e) Nothing in this section shall be construed to permit probation before judgment for a violation of a county or municipal code that would not be permitted for the corresponding state code offense.

(f) Upon a violation of a term or condition of the Court's order of probation before judgment, the Court may enter judgment and proceed with disposition of the person as if the person had not been placed on probation before judgment.

(g) Upon fulfillment of the terms and conditions of probation before judgment, the Court shall enter an order discharging the person from probation. The burden shall be upon the defendant to demonstrate that the terms and conditions of probation have been fulfilled. The discharge is the final disposition of the matter. Discharge of a person under this section shall be without judgment of conviction and is not a conviction for purposes of any disqualification or disability imposed by law because of conviction of a crime.

(h) Notwithstanding any provision of this section to the contrary, the court shall not admit a defendant to probation before judgment nor otherwise apply any provision of this section unless the defendant first gives written consent to the court permitting any hearing or proceeding pursuant to this section to occur in the defendant's absence if:

(1) Timely notice of the hearing or proceeding is sent or delivered to the address provided by the defendant pursuant to subsection (a) of this section; and

(2) The defendant fails to appear at said proceeding. In the event that a defendant fails to appear at any hearing or proceeding pursuant to this section, the court may proceed in the defendant's absence if it first finds that timely notice of the hearing or proceeding was sent or delivered to the address provided by the defendant pursuant to subsection (a) of this section. Nothing in this subsection shall limit the power of the Court to hold a hearing to determine whether a defendant is in violation of the terms of that defendant's probation. (i) Notwithstanding the provisions of subsection (a) of this section to the contrary, in any case in which the Delaware Department of Justice does not intend to enter its appearance, the consent of the State shall not be required prior to placing a defendant on "probation before judgment." <u>In such cases, the defendant may be placed on probation before judgment only for charges arising from a single arrest.</u> Notwithstanding the foregoing, except for the offenses under Title 21 to which this section applies, the Attorney General or other prosecuting authority may advise the court of aggravating circumstances in opposition to placing a defendant on "probation before judgment."

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.

(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:

- Except for certain specified offenses,[23] the court should presume the defendant will released upon a defendant's own recognizance or upon an unsecured appearance bond when the court is satisfied from all the circumstances and criteria set forth in 11 Del. C. § 2105(b) that it is reasonably likely that the defendant will appear as required before or after conviction of the crime charged and there is no substantial risk to the safety of the community in permitting such unsecured release.

- Delaware law requires judicial officers to consider **all** legally relevant circumstances and criteria in reaching a bail decision. [24]

- Delaware law requires the Court to employ an objective risk assessment instrument to gauge a person's risk of flight and re-arrest.[25]

- Departure from presumptive release or unsecured bail should be driven by an analysis of the aggravating and mitigating factors presented within the specific framework of 11 Del. C. § 2105, including but not limited to (a) ensuring the defendant's appearance and/or (b) ensuring the safety of the community, victims, or witnesses.

- 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.[26]

- 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.

[23] 11 Del. C. § 2107(c) effective July 30, 2021.
[24] 11 Del. C. § 2105(b). In determining whether the defendant is likely to appear as required and that there will be no substantial risk to the safety of the community the court shall, on the basis of available information, take into consideration the nature and circumstances of the crime charged, whether a firearm was used or possessed, the possibility of statutory mandatory imprisonment, whether the crime was committed against a victim with intent to hinder prosecution, the family ties of the defendant, the defendant's employment, financial resources, character and mental condition, the length of residence in the community, record of convictions, habitual offender eligibility, custody status at time of offense, history of amenability to lesser sanctions, history of breach of release, record of appearances at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.
[25] See 11 Del. C. § 2104(e)(1).
[26] *Illinois v. Gates*, 462 U.S. 213, 234 (1983).

THE BAIL DECISION – APPROPRIATE STEPS

1. REVIEW

Review the charging document and/or case file; the Delaware Pretrial Assessment Tool (DELPAT); criminal, traffic, capias and/or payment history information relating to the defendant and the offense; the Recommended Monetary Ranges; and any Special Case Procedures.[27]

2. The DELPAT IF APPLICABLE TO CHARGES

a. The DELPAT 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. However, the DELPAT is advisory inly in DUI and domestic violence cases.

b. The DELPAT will also be completed in any case where the defendant is detained, regardless of the charge.

3. WEIGH AND ANALYZE FOR FINAL DECISION

a. Consider the score of the DELPAT, if applicable. There exists a beginning presumption that all defendants will be released on OR bail, on unsecured bail, or on unsecured bail with an order for Pretrial Supervision, along with any statutorily mandated bail conditions, no contact orders, and/or other applicable conditions of release. 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.

[27] For a more comprehensive understanding of the bail procedures, *See Justice of the Peace Court Legal Memorandum 11-294* (November 18, 2011), *Justice of the Peace Court Policy Directive 11-242* (3rd Supplement, December 27, 2018), and *Justice of the Peace Court Policy Directive 11-242* (4th Supplement, July 22, 2021).

THE BAIL DECISION – BASIC CONSIDERATIONS

- **PRESUMPTION:** Judges should begin their bail analysis by presuming defendants will be released on their own recognizance or unsecured bail. After reviewing the factors set forth in 11 Del. C. § 2105(b), and any other relevant factors, a judge may depart from the presumption. Judges must record the reasons for their departure from presumptive release.
    - **Exception:** Capital crimes. 11 *Del. C.* §§ 2101, 2103, and 2105(a).[28]
    - **When Using the DELPAT:** There exists a beginning presumption that all defendants will be released on OR bail, on unsecured bail, or on unsecured bail with an order for Pretrial Supervision, along with any statutorily mandated bail conditions, no contact orders, and/or other applicable conditions of release.

- **BAIL TYPE:** Shall be based on, among other things, the factors listed in 11 Del. C. § 2105(b), all mitigating and aggravating factors, and any other facts and circumstances regarding the defendant's likelihood of pretrial success and protection of the victim, witnesses, and any other person.
    - **Secured Bail** May be imposed if the judge concludes release of the defendant poses a danger to the community <u>or to a specific victim,</u> or if there is a risk of flight. <u>The judge must record all applicable factors.</u>
    - **Cash Bail** A more restrictive type of secured bail. Therefore, cash bail should be carefully considered and reserved for cases where the defendant poses a risk to the community, victims, or witnesses, or a risk of flight. There is a statutory presumption for cash only bail on charges listed in 11 Del. C. § 2107(c).
    - **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.
    - Most 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 (January 2022), Delaware does not have any capital offenses, therefore, all defendants are entitled to bail. *Rauf v. State*, 145 A.3d 430 (August 2, 2016).

RECOMMENDED MONETARY RANGES

Offense Class	Bail Guideline	Penalty-Custody	Penalty-Fine	Notes
FELONIES				
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	

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.

Capiases/Warrants & Rule 9 Warrants cont'd

- 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 like 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 heightened scrutiny to assess risk. Do not underestimate risk; recent separation of parties increases risk dramatically—loss of control may trigger violence.
- Consider 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).
- Order a firearms relinquishment.

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)].

Sexual Offenses cont'd

- Registered Sex Offenders: Require the defendant to register if defendant is charged with failing to register as a sex offender.

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 circumstance

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 an 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.

LEGISLATIVE UPDATE

Compilation of changes affecting the Benchbook from the 151st General Assembly listed by Title. The changes herein listed have also been included under the Classifications and Notations and consider all House and Senate amendments and substitutions.

VOLUME 83
CHAPTER 328
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 450 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE DELAWARE CODE RELATING TO DEADLY WEAPONS.

WHEREAS, on May 24 an 18-year-old gunman entered Robb Elementary School in Uvalde, Texas and murdered 19 children and 2 teachers with an AR-15-style semi-automatic rifle; and

WHEREAS, this tragedy came just 10 days after a shooting in Buffalo, New York where a gunman with an AR-15-style semi-automatic rifle murdered 10 people in a grocery store; and

WHEREAS, there have been dozens more mass shootings during the last decade, including in 2019 at a Walmart in El Paso, Texas, where a gunman using a WASR-10 semi-automatic rifle murdered 23 people and wounded 23 others; and

WHEREAS, in 2018 at Stoneman Douglas High School in Parkland, Florida, a gunman with an AR-15-style semi-automatic rifle murdered 14 students and 3 adults and injured 17 more people; and

WHEREAS, in 2017, a gunman barricaded himself in a Las Vegas hotel room and used multiple AR-15 and AR-10-type rifles to murder 60 people and injure hundreds more at an outdoor music festival; and

WHEREAS, in 2012, a shooter walked into Sandy Hook Elementary School in Newtown, Connecticut armed with a Bushmaster semi-automatic rifle with 30-round magazines enabling him to fire 154 rounds in less than 5 minutes, murdering 20 first-grade children and 6 adults; and

WHEREAS, assault-style weapons have been used disproportionately to their ownership in mass shootings; and

WHEREAS, in 1994, Congress adopted the Violent Crime Control and Law Enforcement Act of 1994, which prohibited the possession and sale of assault-style weapons and large capacity ammunition magazines which limited magazines to 10 rounds; and

WHEREAS, between 1994 and 2004 when the Act was in effect, there were fewer than 20 mass shootings during that decade, substantially lower than the decades since, and since the law expired in 2004 there has been a proliferation of assault-style weapons in the United States; and

WHEREAS, since 2009, there have been 274 mass shootings in the United States resulting in 1,536 people shot and killed and 983 people shot and wounded, including 362 children and teens and 21 law enforcement officers;

and

WHEREAS, between 2009 and 2020, there were at least 30 mass shootings that involved the use of an assault-style weapon, resulting in 347 deaths and 719 injuries, with mass shootings that involved an assault-style weapon accounting for 25 percent of all mass shooting deaths and 76 percent of injuries; and

WHEREAS, assault-style weapons have immense killing power which amplifies the deadly will of a person seeking to kill others and the use of an assault weapon has led to six times as many people shot per mass shooting; and

WHEREAS, the AR-15, AK-47 and other similar firearm profiles now recognized as assault-style weapons were originally designed solely for military use, and these weapons, which have been modified over time to be marketed and sold to civilians, were not intended for sport or self-defense; and

WHEREAS, the Delaware General Assembly has a compelling interest to ensure the safety of Delawareans and finds that assault-style weapons are exceptionally lethal weapons of war that have no place in civilian life.

NOW, THEREFORE:

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

Section 1. Amend Subchapter VII, Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§§ 1464–1469. [Reserved.]~~

§ 1464. Legislative findings.

The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in § 1465 of this title based upon finding that each firearm has such a high rate of fire and capacity for firepower that its potential function as a sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the possession and use of assault weapons. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

§ 1465. Definitions related to assault weapons.

For purposes of this section and § 1466 and § 1467 of this title:

(1) "Ammunition feeding device" means any magazine, belt, drum, feed strip, or similar device that holds ammunition for a firearm.

(2) "Assault long gun" means any of the following or a copy, regardless of the producer or manufacturer:

a. American Arms Spectre da Semiautomatic carbine.

b. Avtomat Kalashnikov semiautomatic rifle in any format, including the AK-47 in all forms.

c. Algimec AGM-1 type semi-auto.

d. AR 100 type semi-auto.

e. AR 180 type semi-auto.

f. Argentine L.S.R. semi-auto.

g. Australian Automatic Arms SAR type semi-auto.

h. Auto-Ordnance Thompson M1 and 1927 semi-automatics.

i. Barrett light .50 cal. semi-auto.

j. Beretta AR70 type semi-auto.

k. Bushmaster semi-auto rifle.

l. Calico models M-100 and M-900.

m. CIS SR 88 type semi-auto.

n. Claridge HI TEC C-9 carbines.

o. Colt AR-15, CAR-15, and all imitations except Colt AR-15 Sporter H-BAR rifle.

p. Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and K-2.

q. Dragunov Chinese made semi-auto.

r. Famas semi-auto (.223 caliber).

s. Feather AT-9 semi-auto.

t. FN LAR and FN FAL assault rifle.

u. FNC semi-auto type carbine.

v. F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun.

w. Steyr-AUG-SA semi-auto.

x. Galil models AR and ARM semi-auto.

y. Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3.

z. Holmes model 88 shotgun.

aa. Manchester Arms "Commando" MK-45, MK-9.

bb. Mandell TAC-1 semi-auto carbine.

cc. Mossberg model 500 Bullpup assault shotgun.

dd. Sterling Mark 6.

ee. P.A.W.S. carbine.

ff. Ruger mini-14 folding stock model (.223 caliber).

gg. SIG 550/551 assault rifle (.223 caliber).

hh. SKS with detachable magazine.

ii. AP-74 Commando type semi-auto.

jj. Springfield Armory BM-59, SAR-48, G3, SAR-3, M-21 sniper rifle, and M1A, excluding the M1 Garand.

kk. Street sweeper assault type shotgun.

ll. Striker 12 assault shotgun in all formats.

mm. Unique F11 semi-auto type.

nn. Daewoo USAS 12 semi-auto shotgun.

oo. UZI 9mm carbine or rifle.

pp. Valmet M-76 and M-78 semi-auto.

qq. Weaver Arms "Nighthawk" semi-auto carbine.

rr. Wilkinson Arms 9mm semi-auto "Terry".

(2) "Assault pistol" means any of the following or a copy, regardless of the producer or manufacturer:

a. AA Arms AP-9 pistol.

b. Beretta 93R pistol.

c. Bushmaster pistol.

d. Claridge HI-TEC pistol.

e. D Max Industries pistol.

f. EKO Cobra pistol.

g. Encom MK-IV, MP-9, or MP-45 pistol.

h. Heckler and Koch MP5K, MP7, SP-89, or VP70 pistol.

i. Holmes MP-83 pistol.

j. Ingram MAC 10/11 pistol and variations, including the Partisan Avenger and the SWD Cobray.

k. Intratec TEC-9/DC-9 pistol in any centerfire variation.

l. P.A.W.S. type pistol.

m. Skorpion pistol.

n. Spectre double action pistol (Sile, F.I.E., Mitchell).

o. Stechkin automatic pistol.

p. Steyer tactical pistol.

q. UZI pistol.

r. Weaver Arms Nighthawk pistol.

s. Wilkinson "Linda" pistol.

(3) "Assault weapon" means any of the following:

a. An assault long gun.

b. An assault pistol.

c. A copycat weapon.

(4) "Completed a purchase" means that the purchaser completed an application, passed a background check, and has a receipt or purchase order for the assault weapon, without regard to whether the purchaser has actual physical possession of the assault weapon. If receipt of the assault weapon will not occur until more than 1 year after [the effective date of this Act], it is not a completed purchase.

(5) "Copycat weapon" means any of the following:

a. A semiautomatic, centerfire rifle that can accept a detachable magazine and has at least 1 of the following:

1. A folding or telescoping stock.

2.Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.

3. A forward pistol grip.

4. A flash suppressor.

5. A grenade launcher or flare launcher.

b.A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

c.A semiautomatic pistol that can accept a detachable magazine and has at least 1 of the following:

1. An ability to accept a detachable ammunition magazine that attaches at some location outside of the pistol grip.

2. A threaded barrel capable of accepting a flash suppressor, forward pistol grip or silencer.

3. A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to fire the firearm without being burned, except a slide that encloses the barrel.

4. A second hand grip.

d.A semiautomatic shotgun that has both of the following:

1. A folding or telescoping stock.

2. Any grip of the weapon, including a pistol grip, a thumbhole stock, or any other stock, the use of which would allow an individual to grip the weapon, resulting in any finger on the trigger hand in addition to the trigger finger being directly below any portion of the action of the weapon when firing.

e.A semiautomatic shotgun that has the ability to accept a detachable magazine.

f. A shotgun with a revolving cylinder.

g. A semiautomatic pistol with a fixed magazine that can accept more than 17 rounds.

h. A semiautomatic, centerfire rifle that has a fixed magazine that can accept more than 17 rounds. (6)

(6) "Detachable magazine" means an ammunition feeding device that can be removed readily from afirearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.

(7) "Family" means as defined in § 901 of Title 10.

(8) "Flash suppressor" means a device that functions, or is intended to function, to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

(9) "Qualified retired law-enforcement officer" means as defined in § 1441B(c) of this title.

(10) "Shooting range" means any land or structure used and operated in accordance with all applicable laws and ordinances for the shooting of targets for training, education, practice, recreation, or competition.

(11) "Grenade launcher" means a device designed to fire, launch, or propel a grenade.

(12) "Secure storage" means a firearm that is stored in a locked container or equipped with a tamper resistant mechanical lock or other safety device that is properly engaged so as to render the firearm inoperable by a person other than the owner or other lawfully authorized user.

§ 1466. Manufacture, sale, transport, transfer, purchase, receipt, and possession of assault weapons; class E or F felony.

(a) Prohibitions. - Except as provided in subsection (b) or (c) of this section, it is unlawful for a person to do any of the following:

(1) Transport an assault weapon into this State.

(2) Manufacture, sell, offer to sell, transfer, purchase, receive, or possess an assault weapon.

(b) Applicability - This section does not apply to any of the following:

(1) The following individuals, if acting within the scope of official business:

a. Personnel of the United States government or a unit of that government.

b. Members of the armed forces of the United States or of the National Guard.

c. A law-enforcement officer.

(2) An assault weapon modified to render it permanently inoperative.

(3) Possession, importation, manufacture, receipt for manufacture, shipment for manufacture, storage, purchases, sales, and transport to or by a licensed firearms dealer or manufacturer who does any of the following:

a. Provides or services an assault weapon for a law-enforcement agency of this State or for personnel exempted under paragraph (b)(1) of this section.

b. Acts to sell or transfer an assault weapon to a licensed firearm dealer in another state or to an individual purchaser in another state through a licensed firearms dealer.

c. Acts to return to a customer in another state an assault weapon transferred to the licensed firearms dealer or manufacturer under the terms of a warranty or for repair.

(4) Organizations that are required or authorized by federal law governing their specific business or activity to maintain assault weapons.

(5) The receipt of an assault weapon by inheritance, and possession of the inherited assault weapon, if the decedent lawfully possessed the assault weapon and the person inheriting the assault weapon is not otherwise a

person prohibited under § 1448 of this title.

(6) The receipt of an assault weapon by a personal representative of an estate for purposes of exercising the powers and duties of a personal representative of an estate, including transferring the assault weapon according to will or probate proceedings.

(7) Possession by a qualified retired law-enforcement officer who is not otherwise prohibited from receiving an assault weapon if either of the following applies:

a. The assault weapon is sold or transferred to the qualified retired law-enforcement officer by the law-enforcement agency on retirement.

b. The assault weapon was purchased or obtained by the qualified retired law-enforcement officer for official use with the law-enforcement agency before retirement.

(8) Possession or transport by an armored car guard, as defined in § 1302 of Title 24, if the armored car guard is acting within the scope of employment with an armored car agency, as defined under § 1302 of Title 24, and is licensed under Chapter 13 of Title 24.

(9) Possession, receipt, and testing by, or shipping to or from any of the following:

a. An ISO 17025 accredited, National Institute of Justice-approved ballistics testing laboratory.

b. A facility or entity that manufactures or provides research and development testing, analysis, or engineering for personal protective equipment or vehicle protection systems.

(c) Exceptions. -

(1) A licensed firearms dealer may continue to do all of the following with an assault weapon that the licensed firearms dealer lawfully possessed on or before [the effective date of this Act]:

a. Possess the assault weapon.

b. Sell the assault weapon or offer the assault weapon for sale. But, the licensed firearms dealer may only sell the assault weapon or offer the assault weapon for sale as permitted under paragraph (b)(3)b. of this section.

c. Transfer the assault weapon. But, the licensed firearms dealer may only transfer the assault weapon as permitted by paragraph (b)(3)b. or (b)(3)c. of this section.

(2)a. A licensed firearms dealer may take possession of an assault weapon from a person who lawfully possessed the assault weapon before [the effective date of this Act] for the purposes of servicing or repairing the assault weapon.

b. A licensed firearms dealer may transfer possession of an assault weapon received under paragraph (c)(2)a. of this section for purposes of accomplishing service or repair of the assault weapon.

(3) A person who lawfully possessed, or completed a purchase of an assault weapon prior to [the effective date of this Act], may possess and transport the assault weapon on or after [the effective date of this Act] only under the following circumstances:

a. At that person's residence, place of business, or other property owned by that person, or on

property owned by another person with the owner's express permission.

b. While on the premises of a shooting range.

c. While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law-enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

d. While transporting the assault weapon between any of the places set forth in this this paragraph (c)(3) of this section, or to any licensed firearms dealer for servicing or repair under paragraph (c)(2) of this section, if the person places the assault weapon in secure storage.

(4) A person may transport an assault weapon to or from any of the following if the person places the assault weapon in secure storage:

a. An ISO 17025 accredited, National Institute of Justice-approved ballistics testing laboratory.

b. A facility or entity that manufactures or provides research and development testing, analysis, or engineering for personal protective equipment or vehicle protection systems.

(5) Ownership of an assault weapon may be transferred from the person owning the assault weapon to a member of that person's family, and it is lawful for the family member to possess the transferred assault weapon under paragraph (c)(3) of this section, if the transferor lawfully possessed the assault weapon and the family member to whom the assault weapon is transferred is otherwise lawfully permitted to possess it.

(d) Penalty. – A violation of this section is a class D felony.

(e) Disposal. - A law-enforcement agency in possession of a person's assault weapon as a result of an arrest under this section shall dispose of the assault weapon under the process established for deadly weapons and ammunition under § 2311 of this title following the person's adjudication of delinquency or conviction under this section or by the person's agreement to forfeit the assault weapon under an agreement to plead delinquent or guilty to another offense.

§ 1467. Voluntary certificate of possession.

(a) A person who is exempt from § 1466(a) of this title under § 1466(c)(3) of this title may, no later than 1 year from the [effective date of this Act], apply to the Secretary of the Department of Safety and Homeland Security for a certificate of possession.

(b) In a prosecution under § 1466 of this title, it is an affirmative defense that the defendant was lawfully in possession or had completed a purchase of the assault weapon prior to [the effective date of this Act]. A certificate of possession is conclusive evidence that a person lawfully possessed or had completed a purchase of an assault weapon before [the effective date of this Act] and is entitled to continue to possess and transport the assault weapon on or after [the effective date of this Act] under § 1466(c)(3) of this title.

(c) The Secretary of the Department of Safety and Homeland Security shall establish procedures with respect to the application for and issuance of certificates of possession for assault weapons that are lawfully owned and possessed before [the effective date of this Act]. Rules and procedures under this subsection must include all of the

following:

(1) That the application contain proof that the person lawfully possessed or had completed a purchase of an assault weapon before [the effective date of this Act].

(2) That the certificate of possession must contain a description of the assault weapon, including the make, model, and serial number. For an assault weapon manufactured before 1968, identifying marks may be substituted for the serial number.

(3) That the certificate of possession must contain the full name, address, date of birth, and thumbprint of the person who owns the assault weapon, and any other information the Secretary deems appropriate.

(4) That the Department will not retain copies of the certificate or other identifying information relating to any individual who applies for a voluntary certificate of possession.

(d) A person who inherits or receives a weapon from a family member that is lawfully possessed under § 1466(c)(3) of this title and lawfully transferred may apply for a certificate of possession within 60 days of taking possession of the weapon. To receive a certificate, the person must show that the transferor was lawfully in possession and that he/she is the lawful recipient of the transfer.

§§ 1468 – 1469. [Reserved.]

Section 2. Amend § 1457, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F felony; class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. — Carrying a concealed deadly weapon; class G felony; class D felony.

(2) Section 1444. — Possessing a destructive weapon; class E felony.

(3) Section 1446. — Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) Section 1448. — Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) Section 1452. — Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) Section 1453. — Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(7) Section 14XX. – Manufacture, sale, transport, transfer, purchase, receipt, or possession of assault weapons; class E or F felony.

Section 3. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application.

Section 4. This Act is to be known as the “Delaware Lethal Firearms Safety Act of 2022.”

Approved June 30, 2022

CHAPTER 329
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 451 AS AMENDED BY
HOUSE AMENDMENT NO. 3 AND
HOUSE AMENDMENT NO. 6 AND
HOUSE AMENDMENT NO. 8 AND
SENATE AMENDMENT NO. 2

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

WHEREAS, in 1968, federal law established that a buyer must be at least 21 years old for all handgun purchases; and

WHEREAS, the federal government recognized over 50 years ago that it was reasonable to place a restriction on young people purchasing firearms for their safety and the safety of our communities; and

WHEREAS, there is conclusive scientific research that shows the human brain is still developing in young adults aged 18 to 21 which impacts their decision making, self-control, aggressive impulses, and risk-taking behaviors; and

WHEREAS, the Statistical Analysis Center's Delaware Shootings reports for the previous 3 years shows that the most common age for shooters was between 18 to 21 which represents 33% of all shooters in 2020, 29% in 2019, and 32% in 2018; and

WHEREAS, the age to purchase any alcohol and tobacco products in Delaware is 21 years old.

NOW, THEREFORE:

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1445 Unlawfully dealing with a dangerous weapon; unclassified misdemeanor; Class E or G felony.

(a) A person is guilty of unlawfully dealing with a dangerous weapon when:

(1) The person, who is not a qualified law-enforcement officer, possesses, ~~sells or~~ sells, or in any manner has control of any of the following:

a. A weapon which by compressed air or by spring discharges or projects a pellet, slug or bullet, except a BB gun, paintball gun, or air gun which does not discharge or project a pellet or slug larger than a ~~BB shot; or~~ .177 caliber shot.

b. A pellet, slug or bullet, intending that it be used in any weapon prohibited by paragraph (a)(1)a. of this ~~section; or~~ section.

(2) The person sells, gives or otherwise transfers to a child under 16 years of age a BB or air gun or spear gun or BB shot, unless the person is that child's parent or guardian, or unless the person first receives the permission of said parent or ~~guardian; or~~ guardian.

(3) Being a parent, the person permits the person's child under 16 years of age to have possession of a ~~firearm or a~~ BB or air gun or spear gun unless under the direct supervision of ~~an adult;~~ a person 21 years of age or older. ~~or~~

(4) The person sells, gives or otherwise transfers to a c~~hild under 18~~ person under 21 years of age a firearm or ammunition for a firearm, unless ~~the person is that child's parent or guardian, or unless the person first receives the permission of said parent or guardian; or~~ permitted by § 1448 of this title.

(5) The person sells, gives or otherwise transfers a firearm to any person knowing that said person intends to commit any felony, class A misdemeanor or drug related criminal offense while in possession of said firearm.

(6) Being a parent, the person permits the person's child under 18 years of age to have possession of a firearm unless under the direct supervision of a person 21 years of age or older.

(b) As used in this section, "qualified law-enforcement officer" means as defined in § 1441A of this title.

(c) Unlawfully dealing with a firearm or dangerous weapon is an unclassified misdemeanor, unless the person is convicted under paragraph (a)(4) of this section, in which case it is a class G felony, or unless the person is convicted under paragraph (a)(5) of this section, in which case it is a class E felony.

(d) The Superior Court has exclusive jurisdiction over a violation of paragraphs (a)(3) and (a)(6) of this section.

§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties.

(a) Except as otherwise provided in this section, the following persons are prohibited from purchasing, owning, possessing, or controlling a deadly weapon or ammunition for a firearm within the State:

(5) Any ~~juvenile,~~ person under the age of 21. ~~if the deadly weapon is a handgun, unless the juvenile possesses the handgun for the purpose of engaging in lawful hunting, instruction, sporting or recreational activity while under the direct or indirect supervision of an adult. For the purpose of this subsection, a "handgun" shall be defined as any pistol, revolver or other firearm designed to be readily capable of being fired when held in 1 hand.~~ a. Paragraph (a)(5) of this section shall not apply to the purchase, owning, possession, or control of the following deadly weapons:

1. A shotgun as defined in § 1444(c) of this title or ammunition for a shotgun.

2. A muzzle-loading rifle as defined in § 704(f) of Title 7.

3. Deadly weapons other than firearms if the person is 18 years of age or older.

b. Paragraph (a)(5) of this section shall not apply to any of the following persons 18 years of age or older:

1. An active member of the Armed Forces of the United States or the National Guard.

2. A qualified law-enforcement officer as defined in § 1441A of this title.

3. A person who has license to carry a concealed deadly weapon pursuant to § 1441 of this title.

c. Paragraph (a)(5) of this section shall not apply to any person under the age of 21 who does any of the following:

1. Possesses or controls a firearm for the purpose of engaging in lawful hunting, instruction, sporting, or recreational activity while under the direct supervision of a person

21 years of age or older.

2. Possesses or controls a firearm for the purpose of engaging in lawful hunting and is in compliance with § 704(g) of Title 7.

3. Possesses or controls a firearm for the purpose of transporting the firearm to the location of a lawful hunting, instruction, sporting, or recreational activity, for which the person is authorized to possess or control the firearm under paragraph (a)(5)c.1. of this section.

d. It is not a violation of paragraph (a)(5) of this section if a person under the age of 21 possesses or uses a firearm during the use of force upon or towards another person if such use of force is justifiable pursuant to § 464, § 465, § 466, or § 469 of Title 11.

e. Paragraph (a)(5) of this section does not apply to the possession or control of a firearm by a person 18 years of age or older.

(f)(1) Upon conviction, any person who is a prohibited person as described in paragraph (a)(5) of this section and who is 15 ye~~ars of~~ age or older older, but not yet 18 years of age, is declared a child in need of mandated institutional treatment and shall, for a first offense, receive a minimum sentence of 6 months of Level V incarceration or institutional confinement, and shall receive a minimum sentence of 1 year of Level V incarceration or institutional confinement for a second and each subsequent offense, which shall not be subject to suspension. Any sentence imposed pursuant to this subsection shall not be subject to §§ 4205(b) and 4215 of this title.

(2) The penalties prescribed by this subsection and subsection (g) of this section shall be imposed regardless of whether or not the juvenile is determined to be amenable to the rehabilitative process of the Family Court pursuant to § 1010(c) of Title 10 or any successor statute.

(g) In addition to the penalties set forth in subsection (f) of this section herein, section, a person who is a prohibited person as described in paragraph (a)(5) of this section and who is 14 years of age or ~~older~~ older, but not yet 18 years of age, shall, upon conviction of a first offense, be required to view a film ~~and/or~~ or slide presentation depicting the damage and destruction inflicted upon the human body by a projectile fired from a gun, and shall be required to meet with, separately or as part of a group, a victim of a violent crime, or with the family of a deceased victim of a violent crime. The Division of Youth Rehabilitative Service, with the cooperation of the Division of Forensic Science and the ~~Violent Crimes Compensation Board,~~ Victims' Compensation Assistance Program, shall be responsible for the implementation of this subsection.

Section 2. If a provision of this Act, or the application of this Act to a person or circumstance, is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act, or applications of this Act, that can be given effect without the invalid provision or invalid application of this Act.

Section 3. Sections 1445(a)(6) and 1448(a)(5)e. of Title 11, as contained in this Act, expire 3 years after the date of enactment of this Act.

Approved June 30, 2022

CHAPTER 330
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 423 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 11, 16, 24, AND 29 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS FOR FIREARMS SALE, TRANSFER, OR CONCEALED CARRY PERMIT.

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

Section 1. Amend Chapter 85, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter VI. Firearm Transaction Approval Program (FTAP). ~~Criminal Background Check for Public School Related Employment [Repealed].~~

§ 8570. Purpose and intent. ~~Definitions [Repealed].~~

The purpose and intent of this subchapter is to establish the Delaware Firearm Transaction Approval Program that is compliant with the federal Brady Act, P.L. 103-159, 107 Stat. 1536, 18 U.S.C. § 921 et seq., and to make this State a federally-compliant point of contact state in conjunction with the federal National Instant Criminal Background Check System.

§ 8571. Definitions. ~~Screening procedure required [Repealed].~~

As used in this subchapter:

(1) "FBI" means the Federal Bureau of Investigation.

(2) "Federal firearms licensee" or "FFL" means a person licensed by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives as a manufacturer, importer, or dealer of firearms.

(3) "Firearm" means as defined under 18 U.S.C. § 921(a)(3).

(4) "Licensed dealer" means as defined under 27 C.F.R. § 178.11.

(5) "Licensed importer" means as defined under 27 C.F.R. § 178.11.

(6) "Licensed manufacturer" means as defined under 27 C.F.R. § 178.11.

(7) "National Crime Information Center" or "NCIC" means the nationwide computerized federal information system of criminal justice data established by the FBI as a service to local, state, and federal criminal justice agencies.

(8) "NICS" means the National Instant Criminal Background Check System.

(9) "NICS POC" means as point of contact is defined under this section.

(10) "NICS POC Guidelines" means the guidelines established and published by the federal government for the operation and implementation of the NICS program by a POC agency.

(11) "Point of contact" or "POC" means a state or local law enforcement agency serving as an intermediary between an FFL and the federal databases checked by NICS.

(12) "SBI" means the State Bureau of Identification of the Delaware State Police.

§ 8572. SBI as point of contact for NICS, entity to conduct required background checks. ~~Penalties [Repealed].~~

(a)(1) The SBI shall serve as the NICS POC for this State.

(2) Except as provided by other laws of this State, SBI's NICS POC operations are governed by and shall strictly adhere to 28 C.F.R. Part 25 and the NICS POC Guidelines.

(b) The SBI shall conduct background checks required for the lawful sale, transfer, or delivery of firearms under federal law and the law of this State, including under §§ 1448A and 1448B of this title, that occur within this State.

(c)(1) The SBI shall establish a toll-free telephone number that must be operational between the hours of 9:00 a.m. and 9:00 p.m. local time, Monday through Saturday, and 9:00 a.m. and 5:00 p.m. local time, Sunday, to respond to inquiries from FFLs for background checks required under subsection (b) of this section. The SBI may establish another electronic means to respond to inquiries from FFLs for background checks required under subsection (b) of this section in addition to a toll-free telephone number.

(2) Notwithstanding paragraph (c)(1) of this section, the telephone number may, but need not be, operational on Thanksgiving Day, Christmas Day, Good Friday, or on Easter Sunday.

(3) The SBI shall employ and maintain personnel as necessary to effectively and efficiently administer this subchapter and to otherwise effectively serve as this State's federal NICS POC.

(d) On receipt of a request for a background check required under paragraph (c)(1) of this section, SBI shall do all of the following:

(1) Transmit a request for a background check to the Federal Bureau of Investigation, NICS Section, and search other available databases to determine if the potential buyer or transferee is prohibited from receipt or possession of a firearm under § 1448 of this title or federal law.

(2) After receipt of a response from the Federal Bureau of Investigation, NICS Section, and the completion of its search of other available databases, inform the FFL making the inquiry or the of 1 of the following:

a. That the potential buyer or transferee is prohibited from receipt or possession of a firearm under § 1448 of this title or federal law.

b. That the FFL may proceed with the sale, transfer, or delivery of the firearm may proceed with the process for issuing a license to carry concealed deadly weapons. SBI shall provide the FFL with a unique approval number.

(e) If electronic failure or similar emergency beyond the control of the SBI occurs, the SBI shall immediately notify a requesting FFL of the reason for, and estimated length of, the delay. After a notification under this subsection, the SBI shall inform the FFL making the inquiry of 1 of the following no later than the end of the third business day following a request for a background check by the FFL:

(1) That the potential buyer or transferee is prohibited from receipt or possession of a firearm under § 1448 of this title or federal law.

(2) That the FFL may proceed with the sale, transfer, or delivery of the firearm. SBI shall provide the

FFL with a unique approval number.

(f) The SBI may promulgate regulations necessary to administer and enforce this section.

§ 8573. Confidentiality of NICS check and POC records.

(a) The SBI is responsible for maintaining the security, integrity, and confidentiality of all information and records pertaining to the Firearm Transaction Approval Program. The SBI may share such information and records with another state or federal law enforcement agency or the Judicial Information Center in order to carry out its functions under §§ 8572 and 8574 of this title.

(b) As this State's designated NICS POC, the SBI shall strictly adhere to the federal regulations pertaining to the confidentiality and security of NICS information including 28 C.F.R. § 25.6, § 25.7, § 25.8, § 25.9, and § 25.11.

(c)(1)The SBI may promulgate regulations consistent with 28 C.F.R. Part 25 to ensure the security, integrity, and confidentiality of all information and records coming into its custody under the Firearm Transaction Approval Program.

(2) Regulations under this section may protect the privacy and confidentiality of this State's citizens to a greater extent than federal law.

(d) Nothing in this subchapter may be construed to allow the State to maintain records containing the names of FFLs who receive unique approval numbers or to maintain records of firearm transactions, including the names or other identification of FFLs and potential buyers or transferees, involving individuals who are not prohibited by § 1448 of this title or federal law from the receipt or possession of firearms for longer than 6 months. However, the SBI may retain whatever information it receives including the identifying information of a potential buyer or transferee if the SBI has reasonable cause to believe the potential buyer or transferee is committing a crime. Nothing in this paragraph may be construed to be a waiver of sovereign immunity.

(e) The Superior Court has exclusive jurisdiction over a violation of subsection (d) of this section.

§ 8574. Procedure and remedies upon denial.

(a) An individual who is denied the right to receive or purchase a firearm under this subchapter may do 1 or more of the following:

(1) Request from the SBI a written explanation for the denial.

(2) Petition the SBI to amend erroneous information in a record pertaining to the individual.

(b) SBI shall respond to a request for a written explanation for the denial under paragraph (a)(1) within 30 days of receipt of the request.

(c) On receipt of a petition under paragraph (a)(2) of this section, the SBI shall do all of the following:

(1) Perform a thorough review of the records that prompted the denial.

(2) Render, within 30 days of receipt of the petition, a final decision regarding the denial. If exceptional circumstances exist, SBI may extend the deadline to file a final decision for an additional 30 days with notice to the petitioner providing the exceptional circumstances.

(d) If the SBI reverses its denial, the SBI shall immediately do all of the following:

(1) Request that an entity that provided it with information that prompted its denial amend its records to reflect accurate information.

(2) Amend its records to reflect accurate information.

(3) Destroy records it maintains which contain erroneous information derived from a background check conducted under this subchapter.

(e) If the SBI upholds it denial, the individual may appeal the decision to the Superior Court on the record.

(f)(1) If the SBI fails to issue a decision on a petition under paragraph (a)(2) of this section within the time requirements in paragraph (c)(2) of this section, the individual may petition the Superior Court for a writ of mandamus to compel the issuance of the decision.

(2) If the SBI fails to amend its records to reflect accurate information under paragraph (d) of this section,

the individual may petition the Superior Court for a writ of mandamus to require the SBI to correct its records.

(3) If the Superior Court determines that the SBI wilfully refused to issue its decision or amend the record, the Court may award the petitioner costs and reasonable attorneys' fees.

Section 2. Amend § 1448A, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448A. ~~Criminal history record~~ Background checks for sales of firearms.

(a) ~~No~~ A licensed importer, licensed ~~manufacturer~~ manufacturer, or licensed dealer ~~shall~~ may not sell, ~~transfer~~ transfer, or deliver from inventory any firearm, as defined in ~~§ 222~~ § 8571 of this title, to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, without conducting a ~~criminal history background check in accordance with regulations promulgated by the United States Department of Justice pursuant to the National Instant Criminal Background Check System ("NICS"), 28 C.F.R. §§ 25.1-25.11, as the same may be amended from time to time,~~ background check by the State Bureau of Identification, through the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title, to determine whether the transfer of a firearm to any person who is not licensed under 18 U.S.C. § 923 would be in violation of federal or state law.

(b) ~~No~~ A licensed importer, licensed ~~manufacturer~~ manufacturer, or licensed dealer ~~shall~~ may not sell, ~~transfer~~ transfer, or deliver from inventory any firearm, as defined in ~~§ 222~~ § 8571 of this title, to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, unless and until being informed that it may "proceed" with the sale, ~~transfer~~ transfer, or delivery from inventory of a firearm by ~~the Federal Bureau of Investigation (FBI), NICS Section pursuant to the request for a criminal history record check required by~~ the State Bureau of Identification, through the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title, following a request for a background check under subsection (a) of this section or 25 days have elapsed from the date of the request for a background check and a denial has not occurred.

(c) ~~Any person who is denied the right to receive or purchase a firearm in connection with subsection (a) of this section or § 1448B(a) of this title may request from the Federal Bureau of Investigation a written~~

~~explanation for such denial; an appeal of the denial based on the accuracy of the record upon which the denial is based; and/or that erroneous information on the NICS system be corrected and that the person's rights to possess a firearm be restored. All requests pursuant to this subsection (c) shall be made in accordance with applicable federal laws and regulations, including without limitation 28 C.F.R. § 25.10. In connection herewith, at the request of a denied person, the Federal Firearms Licensed (FFL) dealer and SBI shall provide to the denied person such information as may be required by federal law or regulation in order for such person to appeal or seek additional information hereunder.~~ [Repealed.]

(d) Compliance with ~~the provisions of~~ this section ~~shall be~~ is a complete defense to any claim or cause of action under the laws of this State for liability for damages arising from the importation or manufacture of any firearm which has been shipped or transported in interstate or foreign commerce. In addition, compliance with the provisions of this section or § 1448B of this title, as the case may be, ~~shall be~~ is a complete defense to any claim or cause of action under the laws of this State for liability for damages allegedly arising from the actions of the transferee subsequent to the date of ~~said~~ the compliance wherein the claim for damages is factually connected to ~~said~~ the compliant transfer.

(e) ~~The provisions of this section shall~~ This section does not apply ~~to:~~ to any of the following:

(1) Any ~~firearm (including~~ firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition ~~system)~~ system manufactured in or before ~~1898;~~ 1898.

(2) Any replica of any firearm described in paragraph (e)(1) of this section if ~~such replica:~~ the replica meets 1 of the following:

a. Is not designed or redesigned to use rimfire or conventional centerfire fixed ~~ammunition; or~~ ammunition.

b. Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial ~~trade;~~ trade.

(3) Any shotgun, which is defined as a firearm designed or intended to be fired from the shoulder and designed or made to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the ~~trigger;~~ trigger.

(4) The return, by a licensed pawnbroker, of a firearm to the person from whom it was ~~received;~~ received.

(5) Transactions in which the potential buyer or transferee holds a valid concealed deadly weapons license ~~pursuant to~~ under §§ 1441, ~~1441A~~ 1441A, and 1441B of this ~~title; and~~ title.

(6) Transactions involving a "law-enforcement officer" as defined by § 222 of this title.

(f) Any licensed dealer, licensed manufacturer, licensed ~~importer~~ importer, or employee thereof who wilfully and intentionally requests a ~~criminal history record check from the Federal Bureau of Investigation, NICS~~ background check from the State Bureau of Identification, through the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title, for any purpose other than compliance with subsection (a) of this ~~section~~ section, or § 1441(a)(1) or § 1448B(a) of this title, or wilfully and intentionally disseminates any ~~criminal history record~~ information from the background check to any person other than the subject of such information or discloses to any person the unique identification number ~~shall be~~ is guilty of a class A misdemeanor. The Superior

Court ~~shall have~~ has exclusive jurisdiction for all offenses under this subsection.

(g) Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a firearm pursuant to subsection (a) of this section or § 1448B(a) of this title, wilfully and intentionally makes any materially false oral or written statement or wilfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee ~~shall be~~ is guilty of a class G felony.

(h) Any licensed dealer, licensed manufacturer, licensed importer or employee thereof who wilfully and intentionally sells or delivers a firearm in violation of this section ~~shall be~~ is guilty of a class A misdemeanor.

~~Second~~ A second or subsequent ~~offenses~~ offense by an individual ~~shall be~~ is a class G felony. The Superior Court has exclusive jurisdiction for all offenses under this subsection.

(i) The SBI shall provide to the judiciary committees of the Senate and House of Representatives an annual report including the number of inquiries made ~~pursuant to~~ under this section and § 1448B of this title for the prior calendar year.

~~Such report shall include, but not be limited to,~~ The report must include the number of inquiries received from licensees, the number of inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a firearm ~~pursuant to §§ 1448 and 1448B~~ under § 1448 of this title or federal ~~law.~~ law, and the estimated costs of administering the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title.

(j) Notwithstanding Chapter 89 of this title, Chapter 10 of Title 29, and other ~~Delaware laws,~~ laws of this State, the SBI ~~is authorized and directed to~~ shall release records and data required by this section and by § 1448B of this title. The SBI ~~shall~~ may not release or disclose criminal records or data except as specified in this section and in § 1448B of this title.

(k) ~~No records,~~ Records, data, ~~information~~ information, or reports containing the name, address, date of ~~birth~~ birth, or other identifying data of either the transferor or transferee or which contain the make, model, caliber, serial ~~number~~ number, or other identifying data of any firearm which are required, ~~authorized~~ authorized, or maintained ~~pursuant to~~ under this section, § 1448B of this ~~title~~ title, or by Chapter 9 of Title 24, ~~shall be~~ are not subject to disclosure or release ~~pursuant to~~ under the Freedom of Information Act, Chapter 100 of Title 29.

(l) Relief from Disabilities Program. — A person who is subject to the disabilities of 18 U.S.C. § 922(d)(4) and (g)(4) or of § 1448(a)(2) of this title, except a person subject to an order for relinquishment under § 1448C(d)(1) of this title, because of an adjudication or commitment under the laws of this State may petition for relief from a firearms prohibition from the Relief from Disabilities Board. The Relief from Disabilities Board shall be comprised of 3 members, with the chairperson appointed by and serving at the pleasure of the Secretary of Safety and Homeland Security, and 2 members appointed by and serving at the pleasure of the Secretary of the Department of Health and Social Services, 1 of whom shall be a licensed psychiatrist.

(1) The Board shall consider the petition for relief in accordance with all of the following:

a. The Board shall give the petitioner the opportunity to present evidence to the Board in a closed and confidential hearing on the ~~record; and~~ record.

b. ~~A~~ The Board shall maintain a record of the hearing ~~shall be maintained by the Board~~ for purposes of appellate review.

(2) In determining whether to grant relief, the Board shall consider evidence regarding all of the following:

a. The circumstances regarding the firearms disabilities pursuant to § 1448(a)(2) of this title and 18212 U.S.C. § 922(d)(4) and ~~(g)(4);~~ (g)(4).

b. The petitioner's record, which must include, at a minimum, the petitioner's mental health record, including a certificate of a medical doctor or psychiatrist licensed in this State that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly

~~weapons;~~ weapons.

c. Criminal history ~~records; and~~ records.

d. The petitioner's reputation as evidenced through character witness statements, testimony, or other character evidence.

(3) The Board shall have the authority to require that the petitioner undergo a clinical evaluation and risk assessment, which it may also consider as evidence in determining whether to approve or deny the petition for relief.

(4) After a hearing on the record, the Board shall grant relief if it finds, by a preponderance of the evidence, ~~that:~~ all of the following apply:

a. The petitioner will not be likely to act in a manner dangerous to public ~~safety; and~~ safety.

b. Granting the relief will not be contrary to the public interest.

(5) The Board shall issue its decision in writing explaining the reasons for a denial or grant of relief.

(6) Any person whose petition for relief has been denied by the Relief from Disabilities Board ~~shall have~~ has a right to a de novo judicial review in the Superior Court. The Superior Court shall consider the record of the Board hearing on the petition for relief, the decision of the Board, and, at the Court's discretion, any additional evidence it deems necessary to conduct its review.

(7) ~~Upon~~ On notice that a petition for relief has been granted, the Department of Safety and Homeland Security shall, as soon as ~~practicable:~~ practicable, do both of the following:

a. Cause the petitioner's record to be updated, corrected, modified, or removed from any database maintained and made available to NICS and SBI to reflect that the petitioner is no longer subject to a firearms prohibition as it relates to § 1448(a)(2) of this title and 18 U.S.C. § 922(d)(4) and ~~(g)(4); and~~ (g)(4).

b. Notify the Attorney General of the United States and the Attorney General of this State that the petitioner is no longer subject to a firearms prohibition ~~pursuant to~~ under § 1448(a)(2) of this title and 18 U.S.C. § 922(d)(4) and (g)(4).

(m) ~~The Department of Safety and Homeland Security~~ The SBI shall adopt ~~regulations~~ regulations, consistent with federal law, relating to compliance with NICS, including ~~without limitation~~ issues relating to the transmission of data, the transfer of existing data in the existing state criminal background check ~~database~~ database, and the relief from disabilities process ~~set forth in subsection (k)~~ under subsection (*l*) of this section. In preparing such regulations, ~~the Department~~ the SBI shall consult with the Department of Health and Social Services, the courts, the Department of Children, Youth and Their Families, the Department of ~~State~~ State, and such other entities as may be necessary or advisable. ~~Such regulations shall~~ Regulations adopted under this section must include provisions to ensure the identity, ~~confidentiality~~ confidentiality, and security of all records and data provided ~~pursuant to~~ under this section.

Section 3. Amend § 1448B, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448B. ~~Criminal history record~~ Background checks for sales of firearms — Unlicensed persons.

(a) ~~No~~ An unlicensed person ~~shall~~ may not sell or transfer any ~~firearm, as defined in § 222 of this title,~~ firearm to any other unlicensed person without having conducted a ~~criminal history~~ background check through a licensed firearms dealer in accordance with § 1448A of this title and § 904A of ~~Title 24, as the same may be amended from time to time,~~ Title 24 to determine whether the sale or transfer would be in violation of federal or state law, and until the licensed firearms dealer has been informed that the sale or transfer of the firearm may "proceed" by ~~the Federal Bureau of Investigation, NICS Section~~ the State Bureau of Identification, through the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title or 25 days have elapsed from the date of the request for a background check and a denial has not occurred.

(b) For purposes of this section:

(1) "Licensed dealer" means any person licensed as a deadly weapons dealer ~~pursuant to~~ under Chapter 9 of Title 24 and 18 U.S.C. § 921 et seq.

(2) "Firearm" means as defined under § 8571 of Title 11.

(3) "Prospective buyer" includes a prospective transferee.

(4) "Prospective seller" includes a prospective transferor.

~~(2)~~ (5) "Transfer" means assigning, pledging, leasing, loaning, giving away, or otherwise disposing of, but does not ~~include:~~ include any of the following:

a. The loan of a firearm for any lawful purpose, for a period of 14 days or less, by the owner of ~~said~~ the firearm to a person known personally to ~~him or her;~~ the owner.

b. A temporary transfer for any lawful purpose that occurs while in the continuous presence of the owner of the firearm, ~~provided that such~~ if the temporary transfer ~~shall~~ does not exceed 24 hours in ~~duration;~~ duration.

c. The transfer of a firearm for repair, ~~service~~ service, or modification to a licensed gunsmith or other person lawfully engaged in such activities as a regular course of trade or ~~business; or~~ business.

d. A transfer that occurs by operation of law or because of the death of a person for whom the

prospective transferor is an executor or administrator of an estate or a trustee of a trust created in a will.

(6) "Unlicensed person" means any person who is not a licensed importer, licensed manufacturer or licensed dealer.

(c) ~~The provisions of this~~ This section ~~shall~~ does not apply ~~to:~~ to any of the following:

(1) Transactions in which the ~~potential purchaser or transferee~~ prospective buyer is a parent, mother-in-law, father-in-law, stepparent, legal guardian, grandparent, child, daughter-in-law, son-in-law, stepchild, grandchild, sibling, sister-in-law, brother-in-law, spouse, or civil union partner of the seller or ~~transferor;~~ transferor.

(2)Any ~~firearm (including~~ firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition ~~system)~~ system, manufactured in or before ~~1898;~~ 1898.

(3)Any replica of any firearm described in paragraph (c)(2) of this section if ~~such replica:~~ the replica meets 1 of the following:

a. Is not designed or redesigned to use rimfire or conventional centerfire fixed ~~ammunition; or~~ ammunition.

b. Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial ~~trade;~~ trade.

(4)Any muzzle-loading firearm designed for hunting or competitive shooting not requiring a criminal background check ~~pursuant to federal law;~~ under federal law.

(5) Transactions in which the ~~potential purchaser or transferee~~ prospective buyer is a qualified law- enforcement officer, as defined in § 1441A of this title, or a qualified retired law-enforcement officer, as defined in § 1441B of this ~~title;~~ title.

(6) Transactions in which the ~~potential purchaser or transferee~~ prospective buyer holds a current and valid concealed carry permit issued by the Superior Court ~~of the State of Delaware pursuant to~~ under § 1441 of this title.

(7) Transactions in which the prospective buyer ~~or transferee~~ is a bona fide member or adherent of an organized church or religious group, the tenets of which prohibit photographic ~~identification; provided, however, that no unlicensed person shall~~ identification. Notwithstanding this paragraph (c)(7), an unlicensed person may not sell or transfer any firearm to ~~any such person~~ the prospective buyer without having ~~conducted~~ a ~~criminal history~~ background check ~~in accordance with~~ conducted under subsection (f) of this section ~~hereunder~~ to determine whether the sale or transfer would be in violation of federal or state ~~law;~~ law.

(8) Transactions involving the sale or transfer of a curio or relic to a licensed collector, as such terms are defined in 27 C.F.R. ~~478.11, as the same may be amended from time to time;~~ § 478.11.

(9) Transactions involving the sale or transfer of a firearm to an authorized representative of the

State or any subdivision thereof as part of an authorized voluntary gun buyback program.

(d) Notwithstanding anything to the contrary herein, no fee for a criminal history in this section, a fee for a background check may not be charged for the return of a firearm to its owner that has been repaired, serviced serviced, or modified by a licensed gunsmith or other person lawfully engaged in such activities as a regular course of trade or business.

(e) Any person who knowingly sells or transfers a firearm in violation of this section shall be is guilty of a class A misdemeanor. Any subsequent offense shall be is a class G felony. The Superior Court shall have has exclusive jurisdiction for all offenses under this section.

(f) The State Bureau of Investigation Identification (the "Bureau") shall facilitate the sale or transfer of any firearm in which the prospective buyer is a bona fide member or adherent of an organized church or religious group, the tenets of which prohibit photographic identification, pursuant to the following procedure. For purposes of this subsection, the terms "prospective buyer" and "prospective seller" shall include prospective transferors and prospective transferees, respectively. under the following procedure:

(1) The prospective buyer and prospective seller shall jointly appear at the State Bureau of Investigation Bureau during regular hours of business, and shall inform the Bureau of their desire to avail themselves of the procedure set forth herein. this section. The actual cost of the criminal history background check shall must be paid by either the prospective buyer or prospective seller.

(2) The prospective buyer shall be required to submit fingerprints and other necessary information in order to obtain a report of the individual's entire criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). to complete a background check under the Firearm Transaction Approval Program under Subchapter VI of Chapter 85 of this title. In addition, the prospective buyer shall submit to the Bureau a signed affidavit stating that photographic identification conflicts with the tenets of an organized church or religious group of which the prospective buyer is a bona fide member.

(3) In the event that said background check If the background check under paragraph (f)(2) of this section reveals that the prospective buyer is prohibited from possessing, purchasing purchasing, or owning a firearm, the Bureau shall so inform both parties the prospective buyer and prospective seller of that fact and the transfer shall may not take place.

(4) The Bureau shall maintain a record of all background checks conducted under this section to the same extent as is required of licensed dealers pursuant to under Chapter 9 of Title 24.

(5) The Bureau is hereby authorized to may promulgate such reasonable forms and regulations regulations consistent with federal law, as may be necessary or desirable to effectuate the provisions of administer and enforce this subsection.

Section 4. Amend § 1455, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1455. Engaging in a firearms transaction on behalf of another; class E felony; class C felony.

(a) A person is guilty of engaging in a firearms transaction on behalf of another when the person purchases or obtains a firearm on behalf of a person not qualified to legally purchase, own or possess a firearm in this State or

for the purpose of selling, giving or otherwise transferring a firearm to a person not legally qualified to purchase, own or possess a firearm in this State.

(b) Engaging in a firearms transaction on behalf of another is a class E felony for the first offense, and a class C felony for each subsequent like offense.

(c)(1) A federal firearms licensee who suspects a person engaged in a firearms transaction may be violating this section may alert SBI through the same hotline established under § 8572 of this title for background checks.

(2) Upon receiving notice of a possible transaction in violation of this section, SBI shall forward information relating to the transaction to the appropriate law enforcement agency for further investigation.

Section 5. Amend § 5161, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5161. Rights of patients in mental health hospitals or residential centers.

(b) Any hospital or residential center that admits persons pursuant to Chapter 50, 51, or 55 of this title shall prominently post in English and Spanish the list of patient rights set forth in this subsection. In addition to the posting, the Department shall distribute a copy of the list to each patient and to other persons, as provided in Department regulations.

Each patient shall have the rights listed below, which shall be liberally construed to fulfill their beneficial purposes.

Furthermore, in defining the scope or extent of any duty imposed by this section, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments as well as certification standards of accrediting agencies may be considered.

(14) The Delaware Psychiatric Center and any other hospital as defined in § 5001(9) of this title shall, ~~pursuant to~~ under § 1448A of Title 11, cause to be submitted to ~~the Federal Bureau of Investigation, National Instant Criminal Background Check System such~~ the State Bureau of Identification (SBI) information as may be required to comply with federal laws and regulations relating to background checks for the purchase or transfer of firearms. ~~Such information shall~~ The information must include only names and other nonclinical identifying information of persons so committed. The SBI shall transmit the information, as may be required by law, to the FBI for use in its National Instant Criminal Background Check System (NICS).

Section 6. Amend § 904A, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 904A. ~~Criminal history~~ Background checks for sales between unlicensed persons.

(a) For purposes of this ~~section,~~ section:

(1) ~~"licensed firearm dealer"~~ "Dealer" means any person licensed as a deadly weapons dealer ~~pursuant to Chapter 9 of Title 24~~ under this chapter and 18 U.S.C. § 921 et seq.

(2) "Firearm" means as defined under § 8571 of Title 11.

(3) "Prospective buyer" includes a prospective transferee.

(4) "Prospective seller" includes a prospective transferor.

(5) "Transfer" means as defined under § 1448B of Title 11.

(6) "Unlicensed person" means as defined under § 1448B of Title 11.

(b) As a condition of its license, any dealer holding a license ~~pursuant to~~ under this chapter shall facilitate the transfer of a ~~firearm, as that term is defined in § 222 of Title 11,~~ firearm from any unlicensed person ~~as that term is defined in § 1448B of Title 11, upon~~ on the request of ~~said~~ the unlicensed person, ~~pursuant to~~ through the following procedure:

(1) The prospective buyer and prospective seller shall jointly appear at the place of business of the dealer, during ~~said~~ the dealer's regular hours of business, and shall inform the dealer of their desire to avail themselves of ~~the advantages of the procedure set forth herein.~~ this subsection.

(2) The dealer shall ~~then~~ subject the prospective buyer to a ~~criminal history background check pursuant to the terms of~~ background check under § 1448A of Title 11.

(3) ~~In the event that said record check~~ If the background check under paragraph (b)(2) of this section reveals that the prospective buyer is prohibited from possessing, ~~purchasing~~ purchasing, or owning a firearm ~~pursuant to~~ under § 1448 of Title 11, the dealer shall ~~so~~ inform ~~both parties~~ the prospective buyer and prospective seller of that fact and the transfer ~~shall~~ may not take place.

(4) The dealer shall maintain a record of all ~~criminal history~~ background checks conducted under this section in accordance with § 904 of this title.

(5) Any dealer who is asked to facilitate the transfer of a firearm ~~pursuant to the terms of~~ under this section, may charge a reasonable fee for ~~said~~ the service, ~~said fee~~ which may not ~~to~~ exceed $30 per ~~criminal history~~ background check performed ~~pursuant to this procedure.~~ under this section. Notwithstanding the foregoing, ~~no~~ a fee may not be charged for the return of a firearm to its owner ~~in the event that~~ if the proposed transaction may not be immediately and legally completed as the result, or lack thereof, of a ~~criminal history~~ background check ~~hereunder.~~ under this subsection.

(6) Failure or refusal on the part of the dealer to facilitate the transfer of a firearm ~~pursuant to the procedures set forth herein shall be~~ under this subsection is adequate cause to suspend the license of ~~said~~ the dealer for a period not to exceed 30 days per occurrence.

(7) Subject to subchapter IV of Chapter 101 of Title 29, ~~no~~ a dealer's license ~~shall~~ may not be restricted, ~~suspended~~ suspended, or revoked until ~~a license holder~~ the dealer has been given ~~notice,~~ notice and

an opportunity to be heard in accordance with the Administrative Procedures Act (Chapter 101 of Title 29).

(c) Nothing in this section, or any other section of the Code, ~~shall authorize or permit~~ authorizes or permits the State or any agency, ~~department~~ department, or instrumentality thereof to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited from receiving a firearm ~~as set forth in~~ under Chapter 5 of Title 11. Any such system of registration is expressly prohibited.

Section 7. Amend § 9017, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9017. Confidential Information.

(c)The Department shall cause to be submitted to ~~the Federal Bureau of Investigation, National Instant~~ Background Check System such the State Bureau of Identification (SBI) information as may be required to comply with federal laws and regulations relating to background checks for the purchase and transfer of firearms. ~~Such information shall~~ The information must include only names and other nonclinical identifying information. The SBI shall transmit the information, as may be required by law, to the FBI for use in its National Instant Criminal Background Check System (NICS).

Section 8. This Act is effective upon enactment and is to be implemented the earlier of the following:

(1) One year from the date of the Act's enactment.

(2) On notice by the Secretary of the Department of Safety and Homeland Security published in the Register of Regulations that the State Bureau of Identification has notified all licensed importers, licensed manufacturers, and licensed dealers in this State in writing that any final regulations deemed necessary by the Secretary to implement this Act have been promulgated and the toll-free number required under § 8572 of Title 11 of the Delaware Code is operational.

Approved June 30, 2022

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CHAPTER 331
151st GENERAL ASSEMBLY FORMERLY
SENATE SUBSTITUTE NO. 1 FOR
SENATE BILL NO. 6 AS AMENDED BY
SENATE AMENDMENT NO. 1, HOUSE AMENDMENT NO. 1,
AND HOUSE AMENDMENT NO. 2
AS AMENDED BY HOUSE AMENDMENT NO. 3.

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

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

Section 1. Amend Subchapter VII, Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§§ 1464-1469. [Reserved.]~~

§ 1465. Definitions related to large-capacity magazines.

For purposes of this section and §§ 1466 and 1467 of this title:

(1) "Ammunition feeding device" means any magazine, belt, drum, feed strip, or similar device that holds ammunition for a firearm.

(2)a. "Large-capacity magazine" means any ammunition feeding device capable of accepting, or that can readily be converted to hold, more than 17 rounds of ammunition.

b. "Large-capacity magazine" does not include an attached tubular device designed to accept, and only capable of operating with, .22 caliber rimfire ammunition.

c. For purposes of this subsection, the presence of a removable floor plate in an ammunition feeding device that is not capable of accepting more than 17 rounds of ammunition shall not, without more, be sufficient evidence that the ammunition feeding device can readily be converted to hold more than 17 rounds of ammunition.

(3) "Licensed firearms dealer" means a person licensed under Chapter 9 of Title 24 or 18 U.S.C. § 921 et seq.

(4) "Qualified retired law-enforcement officer" means as defined under § 1441B(c) of this title.

§ 1466. Large-capacity magazines prohibited; class E felony; class B misdemeanor; or civil violation.

(a) Except as otherwise provided in subsections (c) and (d) of this section, it is unlawful for a person to manufacture, sell, offer for sale, purchase, receive, transfer, or possess a large-capacity magazine.

(b)(1) A violation of this section which is a first offense which only involves possession of a large capacity magazine is a civil penalty of $100.

(2) A second violation of this section which only involves possession of a large capacity magazine is a class B misdemeanor.

(3) All other violations of this section, including a subsequent offense involving only possession of a large capacity magazine are a class E felony.

(4) A large-capacity magazine is subject to forfeiture for a violation of this section.

(5) The Superior Court has exclusive jurisdiction over violations under subsections (b)(2) and (b)(3) of this section.

(c) This section does not apply to any of the following:

(1) Personnel of the United States government or a unit of that government who are acting within the scope of official business.

(2) Members of the armed forces of the United States or of the National Guard who are acting within the scope of official business.

(3) A law-enforcement officer.

(4) A qualified retired law-enforcement officer.

(5) An individual who holds a valid concealed carry permit issued by the Superior Court under § 1441 of this title.

(6) A licensed firearms dealer that sells a large-capacity magazine to another licensed firearms dealer or to an individual exempt under paragraphs (c)(1) through (5) of this section.

(7) A large-capacity magazine that a person has rendered permanently inoperable or has permanently modified to accept 17 rounds of ammunition or less.

(d)(1) The Secretary of the Department of Safety and Homeland Security ("Secretary") shall establish and administer a compensation program for residents of this State to allow a resident in possession of a large-capacity magazine on [the effective date of this Act] to relinquish the large-capacity magazine to the Department of Safety and Homeland Security ("Department") or a participating local law-enforcement agency in exchange for a monetary payment established under this subsection.

(2) The Secretary shall adopt rules to implement the compensation program, including the following:

a. That the compensation program be implemented between [the effective date of this Act] and June30, 2023, at locations throughout this State. The Department shall coordinate with local law-enforcement agencies in implementing the program.

b. That the compensation program allows a resident to relinquish a large-capacity magazine to the Department, or a local law-enforcement agency participating in the program, in exchange for a compensation in the amount of the market rate for each large-capacity magazine.

c. That establishes the method for providing the monetary payment and reimbursing a participating law-enforcement agency for payments made to residents under the compensation program.

d. That the compensation program is subject to the availability of funds appropriated for this specific purpose by the General Assembly. This subsection does not create a right or entitlement in a resident to receive a monetary payment under the compensation program.

(3) The Secretary shall submit a report to the General Assembly by December 29, 2023, providing the results of the compensation program, including the number of large-capacity magazines relinquished to law- enforcement agencies, by county, and the total amount expended under the program.

§ 1467. Possession of a large-capacity magazine during the commission of a felony; class B felony.

(a) It is unlawful for a person to possess a large-capacity magazine during the commission of a felony.

(b) Possession of a large-capacity magazine during the commission of a felony is a class B felony.

(c) A person may be found guilty of violating this section notwithstanding that the felony for which the person is convicted and during which the person possessed the large-capacity magazine is a lesser included felony of the one originally charged.

§§ 1468-1469. [RESERVED].

Section 2. The sum of $45,000 is appropriated from the General Fund in Fiscal Year 2023 for the purpose of providing compensation for the purchase of large-capacity magazines by the Department of Safety and Homeland Security under Section 1 of this Act.

Section 3. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application.

Section 4. This Act is to be known as the "Delaware Large-Capacity Magazine Prohibition Act of 2022."

Section 5. This Act takes effect 60 days after its enactment into law.

Section 6. Section § 1466(d) of Title 11, as contained in Section 1 of this Act, expires on January 1, 2024.

Approved June 30, 2022

CHAPTER 392
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 440 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES AGAINST THE PERSON. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 607. Strangulation or suffocation; penalty; affirmative defense.

(a)(1) A person commits the offense of strangulation if the person knowingly or intentionally impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person.

(2) A person commits the offense of suffocation if the person knowingly or intentionally prevents another per from breathing by blocking or obstructing the nose or mouth of the other person.

(b)(1) Except as provided in paragraph ~~(a)(3)~~ (b)(2) of this section, strangulation or suffocation is a class ~~E~~ D felony.

(2) ~~(3)~~ Strangulation or suffocation is a class ~~D~~ B felony if:

a. The person used or attempted to use a dangerous instrument or a deadly weapon while committing the offense; or

b. The person caused serious physical injury to the other person while committing the offense; or

~~c. The person has been previously convicted of strangulation.~~ [Repealed]

d. The person was subject to an existing court order prohibiting contact with the victim at the time of the offense; or

e. The person committed the offense against a pregnant female; or

f. The person committed the offense against a child.

(c) Notwithstanding any provisions of this Code to the contrary, any person who commits an offense under subsection(a) of this section within 5 years of a prior conviction under either subsection (a) or (b) of this section or a substantially similar section of another state, shall receive a minimum sentence of 1 year at Level 5.

(d) The absence of visible bodily injury shall not preclude a conviction under this section.

~~(b)~~ (e) It is an affirmative defense that an act constituting strangulation was the result of a legitimate medical procedure.

Approved August 4, 2022

CHAPTER 409
151st GENERAL ASSEMBLY FORMERLY
SENATE BILL NO. 307 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section 1112C and by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1112C. Enticement for Purposes of Sexual Contact

(a) A person is guilty of enticement if the person, being 18 years of age or older and at least 4 years older than a child, knowingly engages in a course of conduct to persuade, induce, entice, or coerce that involves or results in the person gaining access to and time alone with that child, with the intent of building trust with that child for the purpose of ultimately engaging in sexual contact or penetration with that child.

(b) For purposes of this section, "child" means any individual who is younger than 18 years of age.

(c) For purposes of this section, "a course of conduct" means three or more separate incidents that a reasonable person would find inappropriate, in isolation or collectively, given the nature and circumstances of the relationship between the person and the child, including:

(1) Showing, offering, or sending the child sexually explicit materials, including images, videos, audio recordings, or any other depiction of sexual activity;

(2) Exposing the child to sexually explicit language or jokes;

(3) Making comments to the child about his or her sexual or physical development;

(4) Bathing the child;

(5) Walking in on the child changing his or her clothes or using the toilet, or watching the child do either;

(6) Asking the child to watch an adult change clothes or use the toilet;

(7) Taking pictures of or videorecording the child while the child is nude or wearing only underwear;

(8) Wrestling the child in underwear or while nude;

(9) Tickling the child;

(10) Playing games with the child that involve touching genitalia;

(12) Buying the child gifts that are not in celebration of a holiday or birthday;

(13) Giving special privileges to the child, such as car rides to or from school or practices; or

(14) Committing any sexual offense, as defined in Chapter 5, Subchapter II, Part D of this Title, or any attempt or solicitation to commit any such sexual offense, against the child;

(d) A conviction is not required for any predicate act relied upon to establish a course of conduct. A conviction for any predicate act relied upon to establish a course of conduct does not preclude prosecution under this section. Nothing in this section

shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

(e) For the purposes of this section, it is not a defense to prosecution that no sexual contact or penetration actually occurred.

(f) Enticement for purposes of sexual contact is a class F felony.

Approved August 19, 2022

CHAPTER 410
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 428 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES RELATING TO CHILDREN. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 1100. Definitions relating to children. When used in this subchapter:

(7) "Prohibited sexual act" shall include:

a. Sexual intercourse;

b. Anal intercourse;

c. Masturbation;

d. Bestiality;

e. Sadism;

f. Masochism;

g. Fellatio;

h. Cunnilingus;

i. Nudity, if such nudity is to be depicted for the purpose of the sexual stimulation or the sexual gratification of any individual who may view such depiction;

j. Partial nudity, if the child in the image depicted is all of the following:

1. Scantily clothed.

2. Posed provocatively, or otherwise posed in a fashion obviously intended to arouse even though genitalia is not blatantly displayed.

3. Is intended for the purpose of the sexual stimulation or the sexual gratification of any individual who may view such depiction.

~~j.~~ k. Sexual contact;

~~k.~~ l. Lascivious exhibition of the genitals or pubic area of any child;

~~l.~~ m. Any other act which is intended to be a depiction or simulation of any act described in this paragraph.

§ 1108. Sexual exploitation of a child; class D and B felony. A person is guilty of sexual exploitation of a child when:

(1) The person knowingly, photographs or films a child engaging in a prohibited sexual act or in the simulation of such an act, or otherwise knowingly creates a visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(2) The person knowingly, finances or produces any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(3) The person knowingly publishes or makes available for public distribution or sale by any means, including but not limited to computer, any book, magazine, periodical, pamphlet, photograph, Internet site or web page which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly publishes or makes available for public distribution or sale by any means, including computer, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act; or

(4) The person permits, causes, promotes, facilitates, finances, produces or otherwise advances an exhibition, display or performances of a child engaging in a prohibited sexual act or the simulation of such an act.

Sexual exploitation of a child is a class B felony unless the prohibited sex act is partial nudity as defined in §1100 of this title, then it is a class D felony.

§ 1109. Dealing in child pornography; class B felony.

A person is guilty of dealing in child pornography when:

(1) The person knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any book, magazine, periodical, pamphlet, video or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly ships, transmits, mails or transports by any means, including by computer or any other electronic or digital method, any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;

(2) The person knowingly receives for the purpose of selling or sells any magazine, photograph or film which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, or knowingly receives for the purpose of selling or sells any other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act;

(3) The person knowingly distributes or disseminates, by means of computer or any other electronic or

digital method, or by shows or viewings, any motion picture, video or other visual depiction of a child engaging in a prohibited sexual act or the simulation of such an act. The possession or showing of such motion pictures shall create a rebuttable presumption of ownership thereof for the purposes of distribution or dissemination;

(4) The person, intentionally compiles, enters, accesses, transmits, receives, exchanges, disseminates, stores, makes, prints, reproduces or otherwise possesses any photograph, image, file, data or other visual depiction of a child engaging in a prohibited sexual act or in the simulation of such an act. For the purposes of this subsection, conduct occurring outside the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if such photograph, image, file or data was compiled, entered, accessed, transmitted, received, exchanged, disseminated, stored, made, printed, reproduced or otherwise possessed by, through or with any computer located within Delaware and the person was aware of circumstances which rendered the presence of such computer within Delaware a reasonable possibility; or

(5) The person knowingly advertises, promotes, presents, describes, transmits or distributes any visual depiction, exhibition, display or performance with intent to create or convey the impression that such visual depiction, exhibition, display or performance is or contains a depiction of a child engaging in a prohibited sexual act or in the simulation of such an act.

Unlawfully dealing in child pornography is a class B felony unless the prohibited sex act is partial nudity as defined in § 1100 of this title, then it is a class D felony.

§ 1110. Subsequent convictions of § 1108 or § 1109 of this title.

Any person convicted of a class B felony under § 1109 of this title who is convicted of a second or subsequent violation of that section shall, upon such second or subsequent conviction, be guilty of a class B felony. Any person convicted of a class B felony under § 1108 of this title who is convicted of a second or subsequent violation of that section shall, upon such second or subsequent conviction, be sentenced to life imprisonment.

§ 1110A. Exclusion for § 1108 and § 1109.

Where the underlying prohibited sexual act is partial nudity as defined in § 1100 of this title, a person can only be guilty of sexual exploitation of a child under § 1108 of this title or dealing in child pornography under § 1109 of this title if the person is 18 years of age or older.

Approved August 19, 2022

CHAPTER 477
151st GENERAL ASSEMBLY FORMERLY
SENATE BILL NO. 144 AS AMENDED BY
SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES AGAINST PUBLIC HEALTH, ORDER, AND DECENCY.

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

Section 1. Amend § 1304, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1304. Hate crimes; class A misdemeanor, class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony.

(a) Any person who commits, or attempts to commit, any crime as defined by the laws of this State, and who ~~intentionally:~~intentionally does any of the following is guilty of a hate crime:

(1) Commits ~~said~~ the crime for the purpose of interfering with the victim's free exercise or enjoyment of any right, ~~privilege~~ privilege, or immunity protected by the First Amendment to the United States Constitution, or commits ~~said~~ the crime because the victim has exercised or enjoyed ~~said rights; or~~a First Amendment right, privilege, or immunity .

(2) ~~Selects the victim because of the victim's~~Commits the crime and is motivated in whole or in part by a belief or perception regarding the race, religion, color, disability, sexual orientation, sex, age, gender identity, national ~~origin or ancestry, shall be guilty of a hate crime. For purposes of this section:~~ origin, or ancestry of a person or group, regardless of whether the belief or perception is accurate.

(b) For purposes of this section:

a. "Gender identity" means a gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth.

b. "Group" includes an organization or association of persons, whether formal or informal.

~~b.~~c. "Protective hairstyle" includes braids, locks, and twists.

~~c.~~d. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

~~d.~~e. "Sexual orientation" means heterosexuality, bisexuality, or homosexuality.

~~(b)~~(c)~~Hate crimes shall be~~ A hate crime is punished as follows:

(1) If the underlying offense is a violation or unclassified misdemeanor, the hate crime ~~shall be~~ is a class A misdemeanor;

(2) If the underlying offense is a class A, B, or C misdemeanor, the hate crime ~~shall be~~ is a class G felony;

(3) If the underlying offense is a class C, D, E, F, or G felony, the hate crime ~~shall be~~ is 1 grade higher than the underlying offense;

(4) If the underlying offense is a class A or B felony, the hate crime ~~shall be~~ is the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense ~~shall~~ must be doubled.

(d) The Superior Court has exclusive jurisdiction over a violation of this section.

Section 2. Amend Subchapter VII, Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1305. Desecration; class A misdemeanor.

(a) A person is guilty of desecration if the person attempts or does intentionally deface, damage, pollute or otherwise physically mistreat any of the following:

(1) A burial place.

(2) A public monument or structure.

(3) A place of worship or place primarily used for religious purposes.

(4) A school, educational institution, or community center.

(b)(1) Any person who commits desecration of a burial place is guilty of a class A misdemeanor and upon conviction the court may impose a fine of up to $2,300.

(2) Any person who commits desecration under paragraph (a)(2) through (a)(4) of this section is guilty of a class A misdemeanor.

(3) The penalty for a violation of this section may include restitution and 250 hours of community service.

(c) The Superior Court has exclusive jurisdiction over a violation of this section.

§ 1306. Cross or religious symbol burning; class A misdemeanor.

(a) A person is guilty of cross or religious symbol burning when the person attempts or does burn, or causes to be burned, any cross or other religious symbol, on any private or public property with the intent to intimidate an individual or a group of individuals.

(b) A person is guilty of cross or religious symbol burning when the person burns, or causes to be burned, any cross or other religious symbol, on any private or public property without all of the following:

a. The express written consent of the owner of the property.

b. A minimum of 48 hours advanced notification of the proposed burning to the fire board or call board of the county in which the burning is to take place.

(c) A violation of this section is a class A misdemeanor.

(d) The Superior Court has exclusive jurisdiction over a violation of this section.

§ 1307. Civil remedies for violations of hate crimes and related offenses.

(a) A person incurring injury to self, including emotional distress, or damage or loss to property, as a result of conduct committed in violation of § 1304, § 1305, or § 1306 of this title has a civil cause of action to secure an injunction, damages, or other appropriate relief in law or in equity.

(b) In an action under subsection (a) of this section, whether a violation of § 1304, § 1305, or § 1306 of this title has occurred is to be determined according to the burden of proof used in other civil actions for similar relief.

(c)(1) The Attorney General may initiate a cause of action against a person or group who violates § 1304, § 1305, or §1306 of this title on behalf of any person or group that has sustained injury to person or property.

(2) For purposes of this subsection, "group" means as defined under § 1304(b) of this title,

(d)(1) In an action to enforce this section, the court may award the prevailing party or the Attorney General a reasonable attorney's fee. In awarding attorney's fees under this subsection, the court may include reasonable expert fees as part of the attorney's fee.

(2) On prevailing in an action under subsection (a) of this section, the plaintiff may recover both special and general damages, including damages for emotional distress and punitive damages.

(e) Notwithstanding any other provision of the law to the contrary, a parent or legal guardian of an unemancipated minor is liable for a judgment rendered against the minor under this section if the parent or legal guardian knew of the propensity of the minor to commit a violation of § 1304, § 1305, or § 1306 of this title.

§ 1308. Hate crime reporting requirement.

(a) Police agencies shall report the number of violations, or investigations into a violation, of § 1304 of this title to the Division of Civil Rights and Public Trust, established under § 2553 of Title 29, at the request of the Division.

(b) The Division of Civil Rights and Public Trust may request a police agency to provide any additional information deemed necessary to effectuate the Division's mission.

(c) The Division of Civil Rights and Public Trust shall post on the Division's website annually the number and nature of violations of § 1304 of this title.

Section 3. Amend § 805, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions

as shown by underline as follows:

§ 805. Cross or religious symbol burning; class A misdemeanor.

~~A person is guilty of cross or religious symbol burning when the person burns, or causes to be burned, any cross or other religious symbol, upon any private or public property without the express written consent of the owner of such property and without a minimum of 48 hours advanced notification of the proposed burning to the fire board or call board of the county in which the burning is to take place.~~

~~Cross or religious symbol burning is a class A misdemeanor.~~ [Repealed.]

Section 4. Amend § 1331, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1331. Desecration; class A misdemeanor.

~~A person is guilty of desecration if the person intentionally defaces, damages, pollutes or otherwise physically mistreats any public monument or structure, any place of worship, the national flag or any other object of veneration by the public or a substantial segment thereof, in a public place and in a way in which the actor knows will outrage the sensibilities of persons likely to observe or discover the actions.~~

~~Desecration is a class A misdemeanor.~~[Repealed.]

Section 5. Amend § 1340, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1340. Desecration of burial place.

~~A person is guilty of desecration of a burial place if the person intentionally defaces, damages, pollutes or otherwise physically mistreats any such burial place. Any person who desecrates a burial place is guilty of a class A misdemeanor and upon conviction shall be fined not less than $1,000 nor more than $10,000.~~ [Repealed.]

Approved October 21, 2022

CHAPTER 498
151st GENERAL ASSEMBLY FORMERLY
HOUSE SUBSTITUTE NO. 1 FOR
HOUSE BILL NO. 302 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO FORGERY OF PROOF OF VACCINATION.

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 § 861, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 861. Forgery; class F felony; class G felony; class A misdemeanor; restitution required.

(b) Forgery is classified and punished as follows:

(2) Forgery is forgery in the second degree if the written instrument is or purports to ~~be:~~ be any of the following:

a. A deed, will, codicil, contract, release, assignment, commercial instrument, ~~check~~ check, or other instrument which does or may evidence, create, transfer, ~~terminate~~ terminate, or otherwise affect a legal right, interest, ~~obligation or status; or~~ obligation, or status.

b. A public record, or an instrument filed or required to be filed in or with a public office or public ~~servant; or~~ servant.

c. A written instrument officially issued or created by a public office, public ~~servant or governmental instrumentality; or~~ servant, or governmental instrumentality.

d. Part of an issue of tokens, tickets, public transportation transfers, ~~certificates~~ certificates, or other articles manufactured and designed for use as symbols of value usable in place of money for the purchase of property or ~~services; or~~ services.

e. A prescription of a duly licensed physician or other person authorized to issue the same for any drug or any instrument or device for which a prescription is required by law.

Forgery in the second degree is a class G felony.

(4) If the written instrument is or purports to be provided to an individual by a vaccine provider documenting that an individual has been vaccinated, which bears a government logo or other indication that the written instrument is created by a governmental instrumentality and includes information such as the date an individual received a vaccination and the type of vaccine and lot number, forgery is classified and punished as follows:

a. A first offense by an individual involving a single written instrument under paragraph (b)(4) of this section is forgery in the third degree, a class A misdemeanor.

b. All other forgery under paragraph (b)(4) of this section is forgery in the second degree, a class G felony.

Approved October 21, 2022

CHAPTER 502
151st GENERAL ASSEMBLY FORMERLY
HOUSE BILL NO. 255 AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CIVIL RIGHTS. BE IT

ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 5, Title 11 of the Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1309 Deprivation of Civil Rights.

(a) Whoever, under color of any law, statute, ordinance, regulation, or custom, knowingly subjects any person or group to the deprivation of any rights, privileges, or immunities secured or protected by the United States Constitution, the Delaware Constitution, or the laws of the State of Delaware, shall be guilty of a Class A Misdemeanor.

(b) If physical injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous instrument, explosives, or fire, the defendant shall be guilty of a Class D Felony.

(c) If serious physical injury or death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, a felony sex offense or an attempt to commit a felony sex offense, or an attempt to kill, the defendant shall be guilty of a Class B Felony.

(d) The Superior Court shall have exclusive jurisdiction over violations of this section.

Section 2. Amend Chapter 5, Title 11 of the Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1502 Definitions.

(9) "Racketeering" shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce or intimidate another person to engage in:

a. Any activity defined as "racketeering activity" under 18 U.S.C. § 1961(1)(A), (1)(B), (1)(C) or (1)(D); or

b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under the following provisions of the Delaware Code:

1. Chapter 53 of Title 30 relating to evasion of payment of cigarette taxes;
2. Chapter 73 of Title 6 relating to the sale of securities;
3. Chapter 5 of Title 11 relating to prostitution;
4. Chapter 5 of Title 11 and Title 6 relating to forgery and counterfeiting;
5. Chapter 5 of Title 11 relating to perjury;
6. Chapter 5 of Title 11 and Title 28 relating to bribery and misuse of public office and improper influence;
7. Chapter 5 of Title 11 relating to obscenity;

8. Chapter 5 of Title 11 and Title 28 relating to gambling;

9. Title 11 and Title 16 relating to drug abuse, prevention and control;

10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and witnesses;

11. Chapter 51 of Title 30 relating to motor fuel tax offenses;

12. Chapter 5 of Title 11 relating to human trafficking; ~~or~~

13. Chapter 5 of Title 11 relating to animal fighting and baiting; or 14. Chapter 5 of Title 11 relating to hate crimes or civil rights.

Approved October 26, 2022