

# Jennings, Office of Defense Services, and Legislative Leaders Announce Comprehensive Criminal Justice Reform Package

DOVER – Lawmakers, prosecutors, defense attorneys and criminal justice reform advocates stood together Thursday to propose Delaware’s most comprehensive criminal justice reform effort in decades.

The ambitious package of 19 bills aim to rebalance Delaware’s justice system by reducing the state’s high rate of recidivism, removing barriers to opportunity for inmates returning to society, and right-sizing criminal sentencing. Initiatives in the package range from measures to restore judges’ discretion to craft appropriate sentences, to juvenile justice reforms that emphasize effective rehabilitation, to revisions that reduce so-called “charge-stacking” in key areas of the criminal code.

“We owe it to Delawareans to have a system that is fair and equitable. That’s why we are proposing this bold, comprehensive criminal justice reform package,” said **House Majority Leader Valerie Longhurst**, who is sponsoring several of the initiatives.

“This will be a difficult process, but it’s a necessary one. We cannot lock people away and offer them nothing without hope that one day they will be able to return to their communities with the tools to become successful and not fall again into the traps that led them to our prison system in the first place. We have an obligation to Delawareans, and a real

opportunity to make significant, meaningful change to our criminal justice system.”

The bills announced Thursday are the work of a collaborative effort between the Delaware General Assembly, Department of Justice, Office of Defense Services, and other stakeholder groups.

“If enacted, these bills would represent the boldest package of criminal justice reforms in modern Delaware history,” said **Attorney General Kathy Jennings**. “People across the state understand that punishments ought to match individual offenses, that people returning to our communities should be able to find the opportunity for an honest and dignified life, and that smart reform can achieve progress without compromising public safety. These bills – including measures to increase judicial discretion in sentencing – bring us closer to the criminal justice system that we want and deserve, and I am grateful for the legislators and advocates helping fight for them.”

The majority of the bills are currently being circulated for sponsors and are expected to be introduced in the next two weeks.

A significant piece of the package is House Bill 4, sponsored by Rep. Longhurst and **Senate Majority Leader Nicole Poore**. The James Johnson Sentencing Reform Act is named after the former state representative who dedicated his legislative career to criminal justice reform. HB 4 would:

- Remove all Title 16 drug offenses from being designated as “violent felonies,” so they would no longer be subject to the enhanced charging and sentencing provisions as violent crimes.
- Expand the ability to modify sentences for conditional release based on the rehabilitation of the offender, serious medical illness or infirmity, or prison

overcrowding.

- Establish the Sentencing Accountability and Guidelines Commission, which would replace SENTAC as it is currently constituted.

“Today, by partnering with our friends in the House and our new attorney general, my Senate colleagues and I are committing ourselves to update and improve a wide array of criminal justice statutes,” Sen. Poore said. “By making these commonsense changes, we can reduce recidivism, heal communities, and level the playing field for all Delawareans. I look forward to fulfilling those expectations this year and to building a stronger, fairer Delaware for many years to come.”

The Office of Defense Services represents approximately 85 percent of criminal defendants charged with a crime carrying potential incarceration. For years, the office has supported smart criminal justice reform that creates a fairer and more just system for Delawareans, regardless of income level.

“These bills are the next step to reversing the inequities that have persisted throughout our state’s criminal justice system for decades,” said **Lisa Minutola, Chief of Legal Services for the Office of Defense Services**. “True reform needs resources and leadership to make them a reality. We’re hopeful that the passage and implementation of these bills will bring balance to the scales of justice and result in a fairer system for all.”

**ALCU of Delaware staff attorney Karen Lantz** noted that mass incarceration has been the result of choices that society has made during the course of several decades, and it is time to re-examine those choices.

“Instead of focusing solely on punishment and incarceration, our criminal justice system should be keeping communities safe, treating people fairly and using our fiscal resources

wisely. This package of reform bills announced by the General Assembly today will help Delaware make important progress towards that goal," Ms. Lantz said.

"The ACLU applauds our legislative leaders and the Attorney General for putting careful thought and effort into confronting inequities and reevaluating our approach to crime, punishment, rehabilitation, and second chances. In conjunction with the members of the Coalition for Smart Justice, we look forward to working with our elected officials – in both parties – to advance these bills and move Delaware towards a more fair, equitable and smart criminal justice system."

**Dubard McGriff, ACLU of Delaware organizer for the Campaign for Smart Justice**, said Delaware needs to address the inequities in the criminal justice system.

"The goal of the Campaign for Smart Justice to reduce Delaware's prison population in half and challenge racial bias in the system is major, but absolutely necessary. When someone goes to prison, the individual, the entire family and the whole community are impacted," Mr. McGriff said.

"Nationally, 1 out of every 28 children of all races has a parent in prison, but 1 out of every 9 black children are missing a father or mother due to incarceration. This must change and the steps being taken here today by legislative leaders and the attorney general will help us begin to move in a more positive direction."

There are 11 other criminal justice reform bills addressing adult offenders that were announced Thursday:

- House Bill 5, sponsored by Rep. Longhurst and Sen. Poore, would reform concurrent and consecutive sentencing by providing sentencing judges with the discretion to sentence prison time concurrently when appropriate. It would mandate consecutive sentences when there are multiple victims for the most serious crimes

and require consecutive sentences for assault in a detention facility.

- House Bill 6, sponsored by **Ed Osienski** and **Sen. Jack Walsh**, would modify the impact of criminal history on an applicant's eligibility for licensure by the Board of Plumbing, Heating, Ventilation, Air Conditioning and Refrigeration Examiners.
- House Bill 7, sponsored by **Melissa Minor-Brown** and Sen. Walsh, would modify the impact of criminal history on an applicant's eligibility for licensure by the Board of Massage and Bodywork.
- Senate Bill 43, sponsored by Sen. Walsh and Rep. Osienski, would modify the impact of criminal history on an applicant's eligibility for licensure by the Board of Electrical Examiners.
- House Bill 8, sponsored by **Sean Matthews** and **Sen. Elizabeth Lockman**, would establish the Ex-Offender Employment Opportunity Tax Credit that offers a tax credit to employers for hiring qualified ex-offenders in an amount equal to 10% of that individual's wages, with a maximum credit of \$1,500.
- House Bill 9, sponsored by **House Majority Whip Larry Mitchell** and **Bruce Ennis**, would mandate two hours of wellness and resiliency training for police officers each year to mitigate the damaging effects of the trauma that our state's law enforcement officers face as a result of their jobs.
- Senate Bill 37, sponsored by **Darius Brown** and **Rep. Sean Lynn**, would expand the availability of expungement for adult criminal records of arrest and conviction.
- Senate Bill 47, sponsored by Sen. Lockman and Rep. Lynn, would simplify Delaware's drug code with a goal of providing more fairness in its application. It would remove geographic-based enhancements that disproportionately impact those living in urban areas as opposed to suburban and rural areas. The bill reduces the number of weight tiers from five to three with

adjustments to accompanying sentences while retaining higher felony levels for weights that indicate drug dealing.

- Senate Bill 39, sponsored by Sen. Brown and **Krista Griffith**, would prohibit a court from suspending a driver's license for nonpayment of a fine, fee, cost, assessment, or restitution. It also would prohibit a court from imposing an additional fee on a defendant for payments that are made at designated periodic intervals or late, or when probation is ordered to supervise a defendant's payment.
- House Bill 77, sponsored by **Stephanie T. Bolden**, would simplify the burglary code to eliminate duplication by combining the burglary and home invasion sections and to align minimum mandatory sentences. The bill would make it the crime of burglarizing an occupied home during the day as serious as if done at night. It also would remove provisions for minimum mandatory time for prior convictions to recognize that enhanced penalties based on a person's criminal history takes place at sentencing.
- House Bill 78, sponsored by Rep. Bolden, would simplify the robbery code to eliminate duplication. It combines the robbery and carjacking sections while preserving enhancements recognizing the seriousness of carjacking.

Additionally, lawmakers and officials unveiled seven bills that would address juvenile justice reform:

- House Bill 10, sponsored by **Nnamdi Chukwuocha** and Sen. Lockman, would prohibit the prosecution of any child under the age of 12 and bar transferring a juvenile prosecution to the Superior Court unless the child is aged 16 or older, with the exception of first and second degree murder and rape.
- House Bill 75, sponsored by Rep. Bolden and Sen. Lockman, would mandate that any child under 18 years old

who is adjudicated in Superior Court will serve the initial portion of their incarceration until age 18 in the custody of the Department of Services for Children, Youth and their Families.

- Senate Bill 41, sponsored by Sen. Brown and **Gerald Brady**, would establish that the age of offense, not the age of arrest, determines jurisdiction for a young person facing charges.
- House Bill 76, sponsored by **Debra Heffernan** and **Sen. Bryan Townsend**, would require the Department of Services for Children, Youth and Their Families to have exclusive jurisdiction over all aspects of a child's care, custody and control when a child is convicted of a Superior Court offense.
- Senate Bill 44, sponsored by **Laura Sturgeon** and Rep. Minor-Brown, would make clear that possession or consumption of alcohol by an individual under 21 years of age is a civil offense. It also would prohibit including information concerning a civil violation of the underage possession or consumption law on an individual's certified criminal record.
- Senate Bill 45, sponsored by **Trey Paradee** and **Rep. Franklin Cooke**, would make the possession, use, or consumption of a personal use quantity of marijuana a civil violation for juveniles.
- A measure to be sponsored by Rep. Lynn would raise the age in which a juvenile's information, such as their name and mug shot, may be released by the state. It also would address issues related to the release of such information on state-maintained social media pages and web sites.

*NOTE: This is a joint release from Delaware's General Assembly, Office of Defense Services, and Department of Justice.*