

Governor Carney Signs Criminal Justice Reform Bills into Law

WILMINGTON, Del. – Governor John Carney on Monday signed into law eight pieces of legislation designed to restore public trust in Delaware’s criminal justice system, protect minors from facing lifelong consequences for their juvenile mistakes, and expand second chance opportunities for adults who have turned their lives around.

The bill signed today will expand the mandatory **reviews of police use-of-force incidents** mandate the **recording of custodial interrogations**, prohibit the publication of **juvenile mugshots**, **end the prosecution of children under 12**, and **expand Delaware’s adult expungement law**.

*“I’ve said before that talk is cheap, and it’s on us to make progress,” said **Governor Carney**. “This has been an incredibly productive session for the General Assembly on making meaningful change to criminal justice reforms. Thank you to the members of the Delaware Legislative Black Caucus for leading the Justice for All Agenda, to the members of the General Assembly, and to the many advocates who worked on these important pieces of legislation.”*

[House Bill 115](#), sponsored by **Rep. Nnamdi Chukwuocha**, ends the prosecution of children under 12, except for the most serious charges, and bars transferring juveniles under 16 to Superior Court.

Scientific research has determined that youths’ brains are still developing well into adulthood, and HB 115 would take that into account by setting a minimum age of prosecution. Children in Delaware have minimum ages set for many things:

getting a driver's license, enlisting in the military, applying for a loan or opening a credit card, using a tanning bed, drinking alcohol, and buying tickets to an R-rated movie.

"Adolescents' brains aren't fully developed until they're in their mid-20s, so charging 10-year-olds with crimes only damages the child's future. Too many lives have been sent down a dark path because of a youthful mistake," said **Rep. Chukwuocha, D-Wilmington North**. "There are better ways to hold young children accountable for minor incidents without causing lifelong problems by putting them into the criminal justice system at such a young age."

Under HB 115, juveniles under 12 could only be criminally charged with serious offenses such as murder, first- or second-degree rape or using a firearm. Juveniles under 12 who otherwise would be charged with less serious offenses would be referred to the Juvenile Offender Civil Citation Program.

[House Bill 215](#), sponsored by **Rep. Melissa Minor-Brown**, requires law enforcement to electronically record custodial interrogations when they relate to a crime allegedly committed by an adult or a delinquent act allegedly committed by a child. The recording may include audio or video and audio, depending on the equipment available at the time of the interrogation.

"Interrogations are a critical component of the law enforcement process, but too often, there are questions about what actually was said or what happened in that room," said **Rep. Minor-Brown, D-New Castle South**. "Much like body cameras, taping interrogations will provide an accurate record of what happened. It will increase transparency and accountability, but it will also provide protection for both the person being questioned and the officers conducting the interrogation. It will reduce false accusations and help restore trust in the process."

Under HB 215, law enforcement officers would be required to record audio and video in most circumstances, including through the use of body-worn cameras. Interrogation subjects could refuse to participate in recordings at any time and such refusals would have to be recorded in writing or on video. The bill also directs the Council on Police Training to adopt standards and rules regarding the use of recording devices and the chain of custody that must be followed. HB 215 goes into effect nine months from signature.

[House Bill 162](#), also sponsored by Rep. Minor-Brown, establishes a new fund for competitive grants for the targeted provision of services that have been proven effective in helping juveniles avoid contact with the criminal justice system. The new law also allocates \$500,000 to the fund for cognitive behavioral therapy services and vocational training services.

“More than 80% of Delaware’s young offenders who pass through the criminal justice system reoffend within an 18-month period,” said **Rep. Minor-Brown**. “To address this head on, HB 162 creates competitive grants through the Kids Department supporting effective services to help reduce the recidivism rate among juveniles by keeping youth out of the criminal justice system in the first place.”

[House Bill 243](#), sponsored by **Rep. Franklin Cooke**, ends the practice of disseminating mugshots of juveniles charged with minor crimes. The new law prohibits law enforcement agencies from releasing or publishing any image depicting a juvenile, including displaying an image on any publicly maintained social media page or website. The bill includes an exception for situations where a juvenile is charged with a violent felony, and release or publication of the photograph is necessary to protect the public’s safety.

Last year, Governor John Carney issued an [executive order](#) prohibiting executive branch law enforcement agencies,

including the Delaware State Police and Capitol Police, from releasing juvenile mugshots, but there is no universal policy among Delaware's 40-plus police agencies regarding publication of mugshots of minors.

"As we know, information that is posted on the internet lives on forever and can follow a person around for years. In that way, a mistake someone made as a teenager can come back to haunt them in adulthood, hurting their job prospects, even if they have managed to put their life on the right track," said **Rep. Cooke, D-New Castle North**. "Worse, posting a mugshot of a juvenile online when they are simply charged with or sought in connection with a crime associates them with that offense, even if the charges are dropped, or if they're found not responsible. Ending this practice will reduce the problems that follow people around for the rest of their lives."

[Senate Bill 148](#), sponsored by **Senator Marie Pinkney**, expands the power of the Delaware Department of Justice's Division of Civil Rights and Public Trust to review police use-of force incidents that result in serious physical injury in addition to the office's existing mandate to review all deadly-force incidents.

To help Delaware better track whether force is applied differently when it comes to race, SB 148 also would require the division to report the race of individuals involved in use-of-force cases and specify whether race played a factor in how force was applied.

"Senate Bill 148 is a companion bill to legislation I sponsored, and Governor Carney signed on June 30, to create the first objective use-of-force standard in Delaware," said **Senator Pinkney, D- New Castle**. "Taken together, these measures will allow us to finally hold police officers accountable in a court of law when excessive force is used on a member of the public, and allow us to better track who is being physically injured by the men and women sworn to protect

us.”

Governor Carney on Monday also signed three restorative justice bills sponsored by **Senator Darius Brown** that will further expand second-chance opportunities for Delawareans who have paid their debt to society.

[Senate Bill 111](#), also known as the [Clean Slate Act](#), will automate Delaware’s existing expungement process for thousands of adults and juveniles by eliminating the need for them to first file a petition with the State Bureau of Identification. Initial estimates indicate more than 290,000 adults could benefit immediately from the Clean Slate Act once it is fully implemented.

[Senate Bill 112](#) will expand eligibility for mandatory expungements, while Senate [Substitute 1 for Senate Bill 38](#) includes a number of technical revisions to the original Adult Expungement Reform Act passed by Senator Brown in 2019.

“Delawareans with a criminal record for even the lowest level crimes face barriers to employment, housing and an education – a lasting punishment that can haunt them long after their sentence is complete,” said **Senator Brown, D-Wilmington**. “We created a path to redemption for many of our formerly justice-involved neighbors two years ago, but only a fraction of people eligible for an expungement have obtained this important relief because the petition-based system currently in place can be expensive and time-consuming for the very people who need it the most. The Clean Slate Act represents a major step forward in our advancement of restorative justice that will ensure these hurdles never again stand in the way of another Delawarean obtaining a second chance at life.”

“The bills signed by Governor Carney today reflect what stakeholders have always known: our legal system works best when it is transparent, fair, and recognizes that one-sized-fits all justice is not justice at all,” said **Lisa Minutola**,

Chief of Legal Services for the Office of Defense Services. “With these bills, Delaware is sending a message that it will make every effort to divert young children from the legal system and provide second chances so that all Delaware citizens can lead productive lives.”

“We are thrilled that Governor Carney has signed these important pieces of legislation. We remain committed to giving people a second chance,” said **Tom Horne, Market Leader for JPMorgan Chase in Delaware.** “With a local workforce of more than 11,000 in Delaware, JPMorgan Chase will continue to support policies that will broaden access to job opportunities and drive inclusive economic growth and to make our community a better place to live.”

Several of these bills are part of the Delaware Legislative Black Caucus’ Justice for All Agenda, a series of legislative priorities to address systemic racial injustice and police brutality unveiled in June 2020 in the wake of the murder of George Floyd and other prominent deaths involving Black Americans. Lawmakers pledged to support a wide array of reforms, including the establishment of two task forces to address law enforcement accountability and systemic issues affecting Black residents.

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