



## Delaware House of Representatives House Majority Caucus

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### **BILL WOULD CLOSE LOOPHOLE IN FELONY RESISTING ARREST STATUTE**

*HB 322 would make law apply to “peace officers” instead of only police officers*

DOVER – In the wake of the Delaware Supreme Court last month overturning a criminal conviction for a man who assaulted two Probation and Parole officers, Rep. John C. Atkins has introduced legislation to close a loophole in the state’s felony resisting arrest statute.

In May 2008, two Probation and Parole officers were injured while trying to arrest a man for violating his probation. He was charged with and later convicted of second-degree assault on a law enforcement officer and felony resisting arrest. While considering the defendant’s appeal ([Watson v. State](#)), the state Supreme Court reviewed the statute for felony resisting arrest and discovered that the law only applied to “police officers,” which does not include Probation and Parole officers.

The high court reversed the conviction in January 2010 and the charge was dropped to misdemeanor resisting arrest.

“Probation and Parole officers might not technically be police officers, but they are out there every day in dangerous, potentially deadly situations,” said Rep. Atkins, D-Millsboro. “They deal with offenders, many of whom have committed serious crimes, on a daily basis. They should not be treated any differently than police officers in the eyes of the law. Assaulting any officer charged with keeping the peace should be punished accordingly.”

The General Assembly amended the statute in 2006 and used the term “police officers” for the offense of felony resisting arrest. Under House Bill 322, introduced on Thursday, that term would be changed to “peace officer,” which would cover any officer – including Probation and Parole officers, corrections officers, fire police, fire marshals and constables – attempting to make an arrest and close this loophole.

HB 322, which has 13 House co-sponsors, has been assigned to the House Judiciary Committee.

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