

MELANIE L. GEORGE
STATE REPRESENTATIVE
Fifth District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Judiciary, Chair
Appropriations
Joint Finance
Public Safety & Homeland
Security
Veterans Affairs

Judiciary Committee
Meeting Minutes
April 21, 2010

Chairwoman George called the meeting to order at 1:08pm. Members present included Representatives J. Johnson, Lee, Wilson, Bennett, Carson, Kovach and Mitchell. For a list of guests, please see attached.

After calling the meeting to order, Chairwoman George brought up **SB 197 AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES AGAINST THE PERSON**, and recognized Rep. Bennett, the bill's sponsor. Rep. Bennett explained that this bill would add strangulation as a crime in the criminal code, effectively making strangulation a felony. Rep. Bennett stressed the fact that it is extremely important to protect the public and this bill would do just that.

Chairwoman George questioned if the bill would affect attempted strangulation. Chairwoman George then recognized Patricia Dailey Lewis of the Attorney General's Office. Mrs. Dailey Lewis explained that this bill would provide an additional protection for pregnant women in cases of strangulation, which is the leading cause of miscarriage. In addition, Mrs. Dailey Lewis explained that this bill would affect attempted strangulation. Chairwoman George commented about the possibility of a higher charge for strangulation of pregnant women, but Mrs. Dailey Lewis explained that additional charges can be levied in these cases resulting in a harsher punishment.

Rep. Lee motioned to release the bill from committee; Rep. Wilson seconded the motion. The bill was released from committee on a vote of 7-0-0.

Next, Chairwoman George brought up **HB 346 AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RALTING TO CRIMES AND CRIMINAL PROCEDURE**. Chairwoman George explained that this bill prohibits the production and viewing of animal cruelty that are already illegal in the state of Delaware. Chairwoman George also explained that due to the recent Supreme Court decision with regard to this issue, the bill should be tabled so that sufficient amendments can be made to keep the bill constitutional. Chairwoman George also explained that an amendment with regard to hunting pictures will be forthcoming to exempt these pictures and movies from the legislation.

Chairwoman George then opened the floor to discussion and comments from Representatives and the public. Rep. Kovach commented that it would be beneficial to hear concerns from the public with regard to this bill. Chairwoman George then recognized John Thompson of the Delaware State Sportsman Association. Mr. Thompson explained that this bill could have an enormous impact upon hunting videos and magazines, but explained that he looks forward to working with the sponsor to find a solution. Mr. Thompson also cited a number of examples with regard to hunting including bear hunting in other states or attending an African safari and how these actions would be effected by this bill. Mr. Thompson also stated that the proposed amendment would alleviate concerns with regard to hunting pictures and videos.

Rep. J. Johnson also brought up concerns with regard to videos displaying bullfighting and dog fighting, which is legal in some parts of the world but not Delaware.

Chairwoman George then recognized Drew Fennell of the ACLU of Delaware. Ms. Fennell explained that the Supreme Court has struck down similar legislation and explained that it is remarkably difficult to limit the First Amendment by way of statute. For this reason, Ms. Fennell explained that the sponsor should take extreme care in crafting this bill moving forward.

Chairwoman George explained that having an animal suffer for a video to be made is completely unacceptable.

Rep. Kovach motioned to table the bill; Rep. J. Johnson seconded the motion. The bill was tabled on a vote of 8-0-0.

Next, Chairwoman George brought up **SB 217 AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE TIMING OF AN INITIAL HEARING BEFORE A JUDGE OF A PERSON WHO IS TEMPORARILTY INCAPACITATED**, and recognized Rep. Mitchell, the bill's sponsor. Rep. Mitchell explained that this bill allows police officers to transfer custody of individuals under the influence of drugs or alcohol or injured to the Department of Correction prior to their court hearing. Rep. Mitchell explained that this bill extends the current 24 hour period in which individuals must appear before a judge to 72 hours for those whose custody has been transferred.

Chairwoman George then opened the floor to discussion and comments from Representatives. Rep. Kovach offered a question about the extension of the time period. Chairwoman George then recognized Judge Jim Tull of the Justice of Peace Court to answer the question. Judge Tull explained that this bill's intent is to release the police to go back to the street. Judge Tull also explained that individuals must appear before a judge within the 72 hour period. Rep. Kovach commented about the language in the bill explaining the 36 hour period of appearing before a judge. Judge Tull explained that this bill allows individuals to come off the influence of alcohol or drugs or recover from minor injuries to appear before a judge in a timely manner.

Chairwoman George then opened the floor to discussion and comments from the public and recognized Drew Fennell of the ACLU of Delaware. Ms. Fennell explained that this bill could pose a problem with regard to the Eighth Amendment standard of care for injured individuals. Judge Tull responded that the Department of Correction merely takes custody of the individuals and doesn't assume healthcare responsibilities, hence alleviating any problems with regard to the Eight Amendment standard of care in these cases.

Rep. Mitchell mentioned in closing the bill would free up additional police resources to allow better protection of the public.

Rep. Bennett motioned to release the bill from committee; Rep. J. Johnson seconded the motion. The bill was released from committee on a vote of 8-0-0.

Chairwoman George adjourned the meeting at 1:46pm.

Respectfully submitted,

Christopher Lang