



## Delaware House of Representatives House Majority Caucus

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### **HOUSE PANEL CLEARS BILLS REVAMPING DRUG SENTENCING, PROTECTING ELDERLY**

*Attorney General Biden's office instrumental in drafting public safety legislation*

DOVER – Legislation revamping Delaware's mandatory minimum sentencing laws for drug offenses and protecting the elderly and infirm from abuse cleared a key House committee on Wednesday and are on their way to the chamber floor.

The House Judiciary Committee voted to release the two bills. Both are pieces of legislation that the Attorney General's Office has helped draft and has endorsed.

Sponsored by Rep. Melanie L. George, D-Bear, House Bill 443 is the result of months of discussions and compromise between the Department of Justice, Public Defender's Office and police agencies. Rep. George said the sentencing overhaul is long overdue.

"This has been a long time coming," said Rep. George, who chairs the Judiciary Committee. "This legislation represents the hard work of the parties in our criminal justice system – both law enforcement and defense. It increases the penalties on the offenders committing the more serious drug crimes to keep them off the streets while giving nonviolent addicts the opportunity to get treatment, retain their jobs and continue to pay taxes and child support. This is a compromise. That will benefit the taxpayers of Delaware, who can be proud of the work everyone has done on this legislation."

Specifically, the legislation:

- Emphasizes that the punitive aspects of drug laws are aimed at drug dealers
- Allows greater judicial discretion for drug crimes involving extraordinary circumstances and eliminates convoluted and special sentencing provisions for drug crimes
- Simplifies and streamlines charging decisions for police agencies to a single charge for many drug felonies
- Increases penalties for those dealing in substantial quantities of narcotic prescription drugs and for drug dealers who resist arrest with force or violence

Retains minimum prison sentences for drug felonies involving certain amounts of drugs or aggravating factors such as prior offenses and eliminates minimum sentences for some first-time offenders who would face such sentences under current law

- Protects children by increasing the penalty a drug dealer faces for committing a drug crime near a school or park
- Creates a new crime for those who knowingly provide a dwelling used for drug deliveries and for those who possess drugs and a handgun or semi-automatic weapon at the same time

This legislation reflects a consensus after months of talks among a full spectrum of stakeholders. The Attorney General's Office brought all sides together, including police agencies, criminal justice reform advocates, the Public Defender's office, the Department of Correction, and others.

The Judiciary Committee also passed House Substitute 1 for House Bill 348, which would create enhanced penalties for those who commit crimes against a vulnerable or infirm adult. The measure would increase the penalties for more than 50 offenses if those crimes are committed against someone determined to be a vulnerable or infirm adult.

In most cases, the charges would be increased by one class, such as a class A misdemeanor becoming a class G felony, a class G felony becoming a class F felony, and so on. Class A and B felonies would remain the same grade, but the minimum sentence of imprisonment required by law for the offense would be doubled.

“People who have physical or mental limitations or disabilities face a much greater risk of someone taking advantage of them,” said House Majority Whip Rep. Valerie J. Longhurst, D-Bear. “No one should have to live in fear of being targeted because of their personal situation. Those who commit these crimes are just preying on the vulnerable, and they should face tougher punishment.

“It's my hope that these new penalties serve as a warning to people that we aren't going to tolerate this and that the enhanced penalties protect our vulnerable and elderly populations.”

HS 1 for HB 348 creates a new criminal offense, crime against the vulnerable or infirm, which imposes enhanced penalties for more than 50 offenses, including reckless endangering, assault, abuse of a pregnant female, terroristic threatening, unlawful sexual contact, fraud, rape, robbery, burglary, identity theft and forgery.

The proposal initially was unveiled in March with the support of the Attorney General's Office.

“Attorney General Beau Biden made these steps top priorities this session because he believes they are critical to helping government fulfill its core mission – protecting the public,” said Chief Deputy Attorney General Charles Butler. “The sentencing reform bill is a bold step forward in creatively fighting crime, and HS 1 for HB 348 gives more protection to vulnerable adults whose voices too often go unheard. The Attorney General's Office appreciates legislators moving these pieces of legislation forward and we thank them for their work to make Delawareans safer.”

Susan Del Pesco, director the state Division of Long Term Care Residents Protection, helped craft the legislation. A retired Superior Court judge, she said vulnerable adults are individuals who, because of intimidation, fear or dependency, become prey to others.

“Vulnerable adults are provided extra protection by increasing the criminal penalty when they are the victims of a wide range of crimes,” Judge Del Pesco said. “Our criminal code currently provides increased penalties for a number of crimes, such as felony theft and first-degree burglary, but Rep. Longhurst recognized that there are many other crimes for which an increased penalty is not available. This statute represents a comprehensive review of the criminal code in order to provide stronger penalties across the board when vulnerable adults are the victims of crime.”

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