

CENTER FOR COMMUNITY RESEARCH & SERVICE



POLICY & ADMINISTRATION

SEPTEMBER 2022

KIDS COUNT in Delaware Legislative Wrap-up

In Delaware, year two of the 151st General Assembly continued to be impacted by COVID-19 operating restrictions: while operating in a more in-person basis than last year, the FY22 legislative session maintained hybrid access to floor debates and committee meetings that were a public health response measure begun earlier in the pandemic. Find more information on Delaware's legislative process at https:// legis.delaware.gov

All legislation introduced during the two-year session of General Assembly 151 can be found at http://legis.delaware.gov/AllLegislation

The FY23 State Budget bill, Bond bill and Grantsin-aid bill can be found at http:// legis.delaware.gov/Offices/ControllerGeneral/ AppropriationBills

KIDS COUNT in Delaware

would like to thank the many Delawareans involved in our state's political process. From advocates and lobbyists to staff members and legislators—it takes everybody working together to make positive change for Delaware's kids! This annual legislative wrap-up historically highlights legislation passed in the previous session which *impact children and their families*. In response to the continuing COVID-19 pandemic and recovery efforts, the content of this publication also includes legislation passed related to the *state's governance and operations* due to the virus' impact on the very structures on which our children and families rely including parents' ability to work to support their families. Ensuring stability within the state's infrastructure will mitigate negative impact on those who already face the most challenges including our children.

Disproportionate COVID-19 illness and death among persons of color underscored equity issues across our communities and several high profile events led to a concurrent racial justice movement. Systemic change that eliminates barriers to success based on race and ethnicity is one step toward reducing child outcome disparities. Legislation passed related to dismantling systemic racism as a step toward *ensuring equity* is listed within the respective category—health, education, child welfare/safety, or economic well-being.

This annual legislative wrap-up highlights legislation passed in the previous General Assembly session which affect *children and their families*. Legislation is grouped by domain: health, education, child welfare/safety, and economic well-being.

HEALTH

Mental health: requires coverage of an annual behavioral health well check; creates advisory committee of health professionals tasked with creating recommendations for implementation; clarifies that the well visit should include use of a "group of developmentally appropriate mental health screening tools;" clarifies that copays, network requirements, and other provisions of an insurance policy will apply.

HB 303 w/ HA 2

Mental health supports: establishes a mental health services unit for Delaware middle schools to be phased in over 3 years to arrive at a final ratio of 250 full-time equivalent students grades 6 -8 for a full-time school counselor, school social worker, or licensed clinical social worker; a unit ratio of 700 full time equivalent students for grades 6-8 for employment of a full-time school psychologist.

HB 300 w/ HA 1

Behavioral health workforce: recognizes the need for more behavioral health professionals in Delaware and requests the Department of Education to develop recommendations that would improve the current educational opportunities in Delaware for students interested in behavioral health careers.

HCR 54

Behavioral health workforce: an interstate compact (the Multistate Professional Counselor Licensure Compact) facilitates the interstate practice of licensed professional counseling; allows a counselor who is licensed in their home state and has not had any encumbrance on their license within the last 2 years to obtain the ability to practice counseling in other states participating in the Compact.

SB 257

Health care spending: improves transparency of health care spending and quality, as well as provides attainable goals needed to achieve better health care, lower costs, and healthier communities; modifies definition of an "insurer," "market," and "public programs" to include Children Health Insurance Plans; clarifies entities that shall report to the Delaware Health Care Commission annually on performance relative to the spending and quality benchmarks.

HB 442 w/ HA 1

Child and maternal mortality: changes name from "Child Death Review Commission" to "Child and Maternal Death Review Commission" to reflect intended dual focus; updates definition of "maternal death" to include death during pregnancy or within a year from the end of pregnancy, and related to, or aggravated by, the pregnancy or birth, including death by suicide; updates membership of Commission, directs Governor to consider the racial diversity of commission membership; requires Commission to hold at least one annual meeting jointly with Delaware Perinatal Quality Collaborative to discuss findings, recommendations, and initiatives of that body.

HB 340 w/ HA 1

Postpartum Medicaid Coverage: extends Medicaid postpartum coverage to 12 months via the state plan amendment option created by the American Rescue Plan Act of 2021.

HB 234 w/HA 1

Medicaid coverage for doula services: requires that the Division of Medicaid and Medical Assistance present a plan to the General Assembly for coverage of doula services by Medicaid providers.

HB 343 w/ HA 1

Telehealth: permits health care providers who are licensed in a state other than Delaware to deliver health care services by telehealth and telemedicine if a health care provider-patient relationship has been established.

HB 334 w/HA 2 + SA 1

Feminine hygiene product access in schools: expands availability of free feminine hygiene products at all public and charter schools.

SB 205

Diaper changing table access: ensures equal access to diaper changing tables in restrooms in public buildings regardless of the gender for which the restroom is designed.

SB 322 w/SA 1

Treatment of pregnant and post-partum prisoners: Delaware law already prohibits the use of restraints on women who are giving birth or in labor except in limited circumstances; expands that protection to include women in the second or third trimester of pregnancy and those in the 13week immediate post-partum period.

HB 342 w/ HA 1, HA 2

Treatment of pregnant and post-partum

prisoners: ensures pregnant women and women who have given birth within the past six weeks who are subject to the custody of the Department of Corrections (DOC) at Level IV or V have access to midwifery and doula services by requiring DOC to make reasonable accommodations for provision of available midwifery or doula services.

Reproductive health care: multiple legislative actions occurred this session related to strengthening reproductive health care including: protections to physician assistants and advance practice registered nurses to prescribe medication for the termination of pregnancy; and protections from laws in other states for physicians, physician assistants, and nurses who perform, recommend, or provide reproductive health services.

HB 320 HB 455

COVID-19 and health, vaccination record:

clarifies that the creation or possession of an altered or fake vaccination document is forgery in the second degree.

HS 1 for HB 302 w/ HA 1 $\,$

COVID-19 and health, testing and treatment: authorizes pharmacists to order and perform tests authorized by the FDA and Clinical Laboratory Improvement Amendments of 1988 (CLIA)-waived and provide treatment for such health conditions.

HB 300 w/ SA 1

COVID-19 and health, rapid certification:

commits discretion over the length of certified nursing assistant training and orientation programs to the Secretary of the Department of Health and Human Services (DHSS) to facilitate the rapid certification of National Guard members as certified nursing assistants (CNAs) by allowing DHSS to establish the total required classroom and clinical training and mandatory facility-specific orientation hours. Eligible guard members will participate in rapid certification programs through DelTech and be deployed to provide temporary staffing in long term care facilities experiencing staffing shortages under MOUs entered with the facilities.

HB 280

Ensuring equity, cultural competency within

healthcare: places responsibility for development of bias and cultural competency training for healthcare employees in a subcommittee of the Delaware Perinatal Quality Collaborative.

HS 2 for HB 344 $\,$

EDUCATION

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Early care and education workforce study:

requires that the Department of Education conduct an annual workforce study of early childhood professionals to support the development of a plan and implementation of a system of supports to grow and deepen the early childhood workforce.

HS 1 for HB 377

Mental health education programs: increases student awareness of mental health by requiring the Department of Education, with the approval of the State Board of Education, to establish and implement statewide mental health educational programs for each grade, kindergarten through grade 12, in each school district and charter school in this state.

HB 301 w/ HA 1

Media literacy: adds the Delaware State Librarian and certified school librarians as people the Department of Education may consult for expertise regarding media literacy standards.

SB 195 w/ SA 1

Literacy screening: requires all public school students in grades kindergarten through grade 3 participate in a universal reading screening 3 times each year to identify potential reading deficiencies and allow for early intervention. HB 304 w/ HA 1

Reading curriculum: requires the Department of Education to maintain and publish a list of evidence-based, reading instruction curricula for grades kindergarten through grade 3. Each curriculum on this list must align with the essential components of literacy and use high-quality instructional materials.

SS1 for SB 4 w/ HA 1, HA 2

Civics curriculum: requires students successfully complete the assessment of civic knowledge to graduate high school; adds an exception for students with an individualized education plan. SB 232 w/ SA 1

LGBTQ+ curriculum: encourages Department of Education, in consultation with key stakeholders, to identify age-appropriate lessons for students in grades 7-12 related to LGBTQ+ history by the start of the 2024-25 school year.

HCR 90

Support of social emotional learning: encourages the General Assembly to prioritize funding for Social Emotional Learning (SEL) in schools, and to work collaboratively with the Delaware Department of Education and other stakeholders to promote the use of SEL in school districts and charter schools.

HCR 88

Special education: revises Code to be consistent with federal law: The Individuals with Disabilities in Education Act (IDEA) requires states to make a free appropriate public education available to all children with disabilities "between the ages of 3 and 21, inclusive." Term "inclusive" requires states to extend eligibility until a student's 22nd birthday. HB 454

Charter schools: changes the date that the moratorium on granting new charters or modifications of existing charters for schools in New Castle County so that the moratorium will not affect pending applications.

HB 353 w/ HA 1

School safety: authorizes the application of funds from the Delaware School Safety and Security Fund, which is subject to available appropriations, for the retention of constables to be utilized by the LEAs; replaces the term "Active shooter training" with the phrase "Lock down drills"; allows funds from the Delaware Safety and Security Fund to be used for "comprehensive school threat assessments and for prevention training and programs that teach how to prevent school violence, shootings, and other harmful actions"; allows for the application of funds for the retention of law enforcement personnel, not only constables.

HB 388 w/HA 1 & HA 2

Public education facilities related to land

development: addresses the relation between land development and school capacity and facilitates greater coordination between counties and local school districts with regard to planning. SB 327

Building safety and air quality control within public education facilities: establishes an evaluation and assessment system created by the Department of Education to determine whether a school facility is in good repair to assure that school facilities are clean, safe, and functional for staff and students; requires the Division of Public Health (DPH) to create a routine indoor air quality monitoring program that includes temperature and humidity standards that is published on the Department of Health and Social Services website. It further requires DPH to create a contractor certification program for indoor air quality services that will allow schools to contract with properly trained and certified contractors when indoor air quality remediation is necessary and provides procedures for districts to make procedures clear for receiving and reporting indoor air quality complaints in schools.

SS 1 for SB 270

Ensuring equity, school tax: allows a school district that loses revenue due to a general reassessment to increase its rate of taxation by up to 10% in order to reach an overall revenue neutral position.

HB 389 w/ HA 1

Public education compensation: establishes a Public Education Compensation Committee for the purpose of reviewing Delaware's educator compensation structure and its ability to compete with regional school districts, Delaware's private business sector, and other governmental agencies and to develop recommendations to establish a new compensation structure for educators in Delaware.

SB 100 w/ SA 1

Educator licensure and certification: provides an alternative means for an educator to demonstrate competency and achieve a standard certificate beyond simply passing a content exam.

HB 441

Educator performance appraisal: allows evidence collected during the observation and feedback cycle to be used as a part of the evaluation cycle, to assign a summative rate and to place educators in improvement plans, if needed.

HS 1 for HB 291

Education workforce: creates a statewide "Grow Your Own Educator Program" to improve recruitment, retention, and diversity of educators in Delaware public schools.

HB 430

Permanent substitutes: provides unit funding for full time employees to provide permanent substitute teaching support in DE schools; provides professional development requirements for those hired into these positions and creates a pathway to teaching to those individuals who meet the requirements for an emergency certificate.

HB 315 w/ HA 2

COVID-19 and education, deadlines: extends dates in which the recommendation and plan of the Redding Consortium for Educational Equity must be reviewed and acted upon by the State Board of Education.

HB 436

Ensuring equity, higher education: creates a "Ban the Box" policy for postsecondary institutions in DE; promotes diversity by prohibiting academic institutions from inquiring into applicant's criminal conviction history, with limited exceptions. SB 13 w/ SA 1, + HA 1 **Higher education:** increases consumer protections for students enrolled in private post-secondary institutions as it relates to student loans, distance education, and predatory practices; clarifies the current functions of the Delaware Higher Education Office relating to student support for transitions into postsecondary education and execution of state financial aid programs through the elimination of functions that are no longer under the purview of the Delaware Higher Education Office; establishes responsibilities for certain postsecondary institutions, private schools, and trade schools prior to ceasing operation.

Financial assistance for higher education:

clarifies the Delaware Higher Education Office's role in administering programs: professional incentive scholarship loan programs will generally be replaced with the career-based scholarship program and the educator support scholarship and mental health services scholarship programs will be established; a loan repayment program is created for speech-language professionals in Delaware schools; career-based and educator support scholarships will be made to Delaware students who intend to pursue careers in specific fields identified as areas of need in Delaware; academic scholarships will be awarded to Delaware student in memory of elected officials and other distinguished citizens; need-based scholarships will be awarded to Delaware students so that they will not be denied the opportunity of an education because of financial need.

HB 480

CHILD WELFARE/SAFETY

Aging out of foster care: updates references to the transitional and independent living services program to mirror name change which better reflects comprehensive nature of services offered to youth; grants the Division of Family Services authority to continue providing transitional and independent living services for youth until age 23. HB 271

Psychiatric treatment for foster youth: allows the Department of Services for Children, Youth & Their Families, Division of Family Services Director or Deputy Director to sign the request for voluntary admission to a psychiatric treatment facility for a youth in foster care. In the case of a youth in foster care whose parent or guardian's legal parental rights have not been terminated, the Division of Family Services works collaboratively with the youth's parent to get consent on medical treatment and decisions. This bill would enable youth experiencing foster care to access psychiatric treatment voluntarily when their parent or legal guardian is not available to consent to the treatment on their behalf.

SB 255

Motor vehicle insurance for foster youth:

provides clarity on motor vehicle insurance coverage for foster children and liability to foster parents.

SS 1 for SB 151 w/ HA 2 $\,$

Child custody: clarifies that a law enforcement officer has the authority to enter private property to enforce a Family Court custody order and specifies that in private (non-DFS) custody cases, law enforcement has the authority to enter private property to take custody of a child when the Family Court custody order requests the assistance of law enforcement.

HB 417

Family Law Commission: fulfills the Joint Legislative Oversight and Sunset Committee's conclusion after a thorough review that Family Law Commission is no longer serving a public need and should be terminated.

HB 381

Drug testing kids department applicants:

amends Department of Services for Children, Youth & Their Families (DSCYF) drug testing statute to gain parity in pre-employment drug testing procedures across state agencies that provide services for children and secure care for children or adults by allowing DSCYF to conditionally hire an applicant and begin training the person after proof that they have submitted to required testing. SB 204 **Background checks:** removes exemption for private schools and youth camps that allowed them to use a name, rather than fingerprint, based background check or to choose not to do background checks at all for employees, contractors, or volunteers.

HS1 for HB 204

Human trafficking council: renames Human Trafficking Interagency Coordinating Council as the Delaware Anti-Trafficking Action Council (Council); transfers Council from under authority of the Department of Health and Social Service to the Criminal Justice Council; requires Council to appoint an Executive Director and hire staff as budget allows, to support Council in carrying out statutory duties; broadens several existing statutory duties of Council to ensure flexibility necessary to perform work and pursue work that may broaden opportunity to obtain grant funding; clarifies Council membership and reporting obligations.

Human trafficking protections: adds victims of human trafficking to the Address Confidentiality Act so as to protect the participant's actual address from public disclosure.

HB 359

Sexual exploitation: adds "partial nudity" to definition of "prohibited sexual act" which criminalizes photographing or filming of a partially nude child as well as production, publication, transmission, selling, distribution, and dissemination of photographs or images of partially nude children if child in such image or photograph is scantily clothed, posed provocatively, or otherwise posed, and such image is intended for sexual stimulation or gratification of any individual who may view image or photograph.

HB 428 w/ HA 1

Child sexual abuse in schools: ensures victims of child sexual abuse by public school employees will have the same legal rights as victims of abuse by private institutions and their employees; changes the standard of culpability for public schools from "gross negligence" to "negligence" in civil claims. HB 277 w/ HA 1

Appropriate relationships with students: requires each school district and charter school to adopt a policy regarding appropriate relationships between school employees, contractors, coaches, and volunteers and students.

SB 291

Sexual misconduct in school: requires education on inappropriate relationships between adults and children, such as grooming in pre-kindergarten to arade 12; requires training for school employees on prevention of inappropriate sexual conduct, establishment of appropriate adult and student interactions, and warning signs on suspected adult sexual misconduct, with an emphasis on sexual grooming; expands information available to parents and students, methods for discussing adult sexual misconduct with students, resources for reporting suspected abuse, and counseling available; requires education for school administrators, nurses, and counselors on inappropriate sexual relationships and obligations under school policies; clarifies that "adult sexual misconduct" applies to certain activity regardless of setting.

SB 290 w/ SA 1

Sexual misconduct: requires proof a person has engaged in three or more specific instances of misconduct. Each of these predicate acts would not otherwise be considered criminal conduct, so the bill requires proof of a pattern of conduct aimed at a specific outcomes. By outlawing "grooming," the state will be empowered to stop a predator who engages in certain conduct with the intent to entice, persuade, induce, or coerce a child into participating in a sexual act with the perpetrator.

SB 307 w/ HA 1

Child abuse: permits multidisciplinary team members to share information freely amongst themselves to better protect welfare of abused children in the State of Delaware; establishes a framework for parties in Family Court civil proceedings to have access to records created and maintained by a child advocacy center related to forensic interviews it conducts such that the Family Court can utilize those records to avoid retraumatizing children by having to interview them again as part of court proceedings. HB 462 w/ HA 1 **Domestic Violence Coordinating Council:** adds Chief Magistrate of the Justice of the Peace Court to the Domestic Violence Coordinating Council (DVCC), removes limitations on use of voting by proxy by members of the Council, and adds the Fatal Incident Review Team of the DVCC to the list of entities that are entitled to receive protected health information without informed consent.

HB 316

Custodial interrogations: prohibits the knowing use of false statements about evidence, or false or misleading promises of leniency during custodial interrogations of persons under the age of 18. HB 419 w/ HA 1

Expungement: removes obligation of Civil Citations Coordinator to notify courts of juvenile civil citation record expungement; clarifies records kept in DELJIS are not to be expunged.

HB 379 w/ HA 1

Expungement: requires cases or charges more than 7 years old be treated as "resolved in favor of" child or adult if there is no disposition available for the case and no outstanding warrants. HB 447 w/ HA 2

Mandatory sentences for juveniles: clarifies when a 6-month or 12-month mandatory commitment to Level 5 incarceration for a juvenile applies.

HB 314

Acknowledgement of paternity: prohibits minor parents from executing a voluntary acknowledgement of paternity.

HB 432

Weapons: multiple legislative actions occurred this session related to gun safety and violence prevention including: background checks for purchasing weapons; lawful possession of assault weapons; prohibitions to persons under the age of 21 from purchasing, owning, possessing, or controlling weapons; data reporting related to "Red Flag Laws;" victim relief via courts; largecapacity magazine prohibitions; and rapid fire device prohibitions.

> HB 423 w/ HA 1 HB 450 w/ HA 1 HB 451 w/ HA 3, HA 6, HA 8 + SA 2 HR 26 SB 302 SS1 for SB 6 w/ HA 3 SB 8 w/ SA 1 + HA 1

ECONOMIC WELL-BEING

Family and medical leave: creates a statewide paid family and medical leave insurance program. Delaware employees can access up to 12 weeks of paid family and medical leave through the state's paid leave trust fund for a qualifying event, including: (1) to address a worker's own serious health condition. (2) to care for a family member with a serious health condition. (3) to bond and care for a new child. (4) to address the impact of a family member's military deployment.

SS 2 for SB 1 w/ HA 1

Rental assistance: seeks to increase the supply of homes available to rent for low-income individuals and families by providing incentives to landlords who participate in a government-sponsored rental assistance program.

SS1 for SB 167 w/ HA 1

Worker's compensation: clarifies and modernizes the Worker's Compensation Act to streamline the process so that injured workers will experience fewer interruptions or delays in the payment of benefits than under current law; includes protections for the Worker's Compensation Fund to ensure that there are not overpayments.

Delaware rebate relief: creates a "relief rebate" which is a one-time direct payment of \$300 per Delaware resident taxpayer intended to help Delawareans grappling with significant inflation at the grocery store and gas pump.

HB 360 w/ HA 1

COVID-19 and economic well-being, unemployment benefits: provides COVID-19 related relief to both claimants receiving unemployment benefits and employers who are assessed unemployment taxes; extends end date of Secretary of Labor's COVID-19 related rulemaking authority. Includes exemption of unemployment compensation benefits received in 2021 from the calculation of Delaware adjusted gross income so that unemployment claimants will not have to pay state taxes on benefits received during the continuation of the pandemic into 2021. HB 285 In addition to legislation passed in the previous session which affect children and their families, this year's wrap-up also includes legislation passed related to the state's **governance and operations** because COVID-19 has impacted the very structures on which our children rely including parents' ability to work to support their families. Ensuring stability within the state's infrastructure will mitigate negative impact on those who already face the most challenges including our children.

STATE GOVERNANCE

Vote by mail: establishes voting by mail; requires that an elector provide their State-issued driver's license number or State-issued nondriver identification card number or the last 4 digits of their social security number on the application to vote by mail ballot and on the ballot envelope. SB 320 w/SA 2 & SA 27

Voting age: first leg of a constitutional amendment that would update the minimum voting age in the Delaware Constitution from twenty-one years to eighteen years.

SB 294

COVID-19 and governance, remote notarization:

adopts the Uniform Law Commission's (ULC) Revised Uniform Law on Notarial Acts (Revised Uniform Law) which permits notarial acts to be performed for a remotely located individual, an individual who is not in the physical presence of the individual performing the notarial act; provides the authority to notarize electronic documents on par with notarization of tangible documents, including authority for the Secretary of State to regulate notarization of electronic documents, requires a notary public to maintain a journal of all notarial acts the notary public performs, adopts new licensing procedures for notaries public, including minimum requirements for commissioning and grounds to deny, suspend, or revoke commissions, prohibits a notary public from acting in a deceptive or fraudulent manner. SB 262 w/ SA 2

Redistricting: amends the maps of the district boundaries for the House of Representative and Senate Districts in the Delaware General Assembly in response to the 2020 U.S. Decennial Census. This Act also includes provisions to effectuate changes in Delaware law necessitated by the 2020 U.S. Decennial Census. Districts are designated by census blocks. A map of Delaware by census block is located on the U.S. Census website: https://www2.census.gov/geo/maps/DC2020/ PL20/st10_de/censusblock_maps/. The final House of Representatives Maps (October 28, 2021) and data are located on the General Assembly website: https://legis.delaware.gov/ redistricting/2022finalhousedistricts. The final Senate Maps (October 25, 2021) and the Census Block Breakdown by Senate District with the related census tracts and census blocks descriptions and data are located on the General Assembly website: https://legis.delaware.gov/ Redistricting/2022FinalSenateDistricts.

SB 199

HB 335

Redistricting: makes changes to the Senate and House of Representatives districts so as to minimize the need for new election districts and increase the efficiency of election administration; the final House and Senate Maps (March 2022) reflecting the changes to the districts as set forth in this Act can be found on the General Assembly website.

DELAWARE'S LEGISLATIVE KIDS CAUCUS

The Delaware Legislative Kids Caucus enjoys bipartisan support with members from both the Senate and House of Representatives. The Kids Caucus believe that all children deserve:

- to be free from hunger and preventable disease and to receive regular health care,
- a safe and nurturing start in the first three years of life, including access to quality early child care,
- an education that prepares them to meet the future and inspires them to achieve their potential,
- to grow up free from abuse, violence and the devastation of alcohol and other drugs,
- a secure future and to grow up in an economically stable family and
- to live in a community that provides a clean, safe environment with economic opportunity for all.

KIDS COUNT in Delaware Project Team

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KIDS COUNT is a national and state-by-state effort of the Annie E. Casey Foundation to track the wellbeing of children in the United States. KIDS COUNT in Delaware, a project of the University of Delaware Center for Community Research & Service, is a collaborative effort of over forty organizations to enrich local and state discussion concerning ways to secure better lives for all children by providing policy makers and citizens with benchmarks of child well-being.

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