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KIDS COUNT in Delaware Legislative Wrap-up 2023

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In Delaware, year one of the 152nd General Assembly operated in a fashion similar to pre-COVID-19 pandemic operating restrictions, with many activities conducted in-person. Access to the FY23 legislative sessions, committee hearings, and other general assembly related meetings were enhanced beyond pre-pandemic operations via electronic access to proceedings such as floor debates and committee meetings. This electronic portion of a hybrid model of operation was originally a public health response measure. Begun during the pandemic, electronic access to legislative proceedings continued to be offered in FY23, providing citizens an alternate way access to proceedings beyond in-person attendance.

*This annual legislative wrap-up historically highlights legislation passed in the previous session which **impact children and their families**. These legislative highlights are grouped into the categories: health, education, child welfare/safety, and economic well-being.*

*In addition, since 2020, this wrap-up has highlighted legislation passed in response to lessons learned throughout the COVID-19 pandemic and recovery. Specifically, the content of this publication includes legislation passed related to **public health precautions** including changes to state governance and operations. The goal of these operational changes is to proactively address deficiencies in the system in advance of future waves of COVID or another yet unknown pandemic virus drawing on lessons learned with respect to a 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.*

FOR MORE INFORMATION
 on Delaware's legislative process:

<https://legis.delaware.gov>

All legislation introduced during the first year of the General Assembly 152nd session can be found at:

<http://legis.delaware.gov/AllLegislation>

The FY24 State Budget bill, Bond bill and Grant-in-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!

Select Legislation Approved in FY2023

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



HEALTH

Childhood lead poisoning prevention: makes various amendments to the Childhood Lead Poisoning Prevention Act to improve compliance with testing and reporting requirements: requires physicians to take a training program every 2 years, requires the Division of Public Health to develop electronic forms to be used at a child's 12 and 24 month well visit that record lead screening results and are shared with the Division, clarifies that laboratories and health care professionals involved in blood lead level analysis must report results to the the Division of Public Health, requires the Division of Public Health to share data with school nurses relating to whether an enrolled student has been screened for lead poisoning.

HB 227 w/ HA 2

Childhood lead poisoning prevention: creates a system to eliminate lead-based paint from residences where children are exposed to lead: (1) Creates a system by which all properties where a child who is found to have high blood lead levels live are promptly screened for lead-based paint and, where that paint is found, treated to abate or remediate the lead-based paint. (2) Prohibits landlords of properties where the State has paid for lead-based paint abatement from raising rents on those properties for a period of 3 years. (3) Takes steps to ensure that neither landlords nor local governments present unreasonable delays to the abatement of lead-based paint. (4) Creates a dedicated fund for abatement and remediation of lead-based paint hazards so that all levels of state government can be held accountable for funding lead-based paint abatement efforts. (5) Expands the duties of the Childhood Lead Poisoning Prevention Advisory Committee to include a plan for prompt inspection and, where necessary, abatement or remediation of lead-based paint in all pre-1978 rental properties.

SB 9 w/ SA 1 + HA 1

Developmental screening: clarifies that screening will not be conducted if a parent declines developmental screening or notifies the licensee that the child is already receiving early intervention services or special education and related services. It further clarifies that the child care provider will conduct the screening where the parent or guardian fails to do so only upon receipt of parental consent.

HB 45

Doula services: requires that doula services be covered by Medicaid in Delaware by January 1, 2024.

HB 80

Smoking restrictions: adds smoking restrictions within vehicles if a person under the age of eighteen (18) is in the vehicle; also makes clear that a police officer will not stop or detain a car solely on suspicion of having violated this Statute.

HB 118 w/ HA 1, HA 2 + SA 1

Family and medical leave: revises the appeal process when the Department denies an application so that the hearing is conducted by the Secretary of the Department instead of the Family and Medical Leave Insurance Appeal Board.

SB 178

Suicide hotline infrastructure: provides the framework to maximize the benefits of 988 and provide crucial support to Delawareans in need through the implementation of a practical, modern, and comprehensive, integrated crisis care system. (1) Created the Behavioral Health Crisis Services Board ("Board") to provide oversight and input on the development of an integrated behavioral health crisis care system in this State. (2) Imposes a behavioral health crisis intervention services surcharge on business and residential telephone services, wireless telephone services, and prepaid wireless telephone services which will create a dedicated funding source for behavioral health crisis services.

HS 2 for HB 160

Select Legislation Approved in FY2023

Oral health screening: requires every public school and charter school to provide students enrolled in kindergarten with an oral health screening by the last student attendance day of each school year contingent on the Delaware Smile Check Program remaining in effect or a comparable program to provide free oral health screenings to all enrolled kindergarten students; notification to the parent or guardian must be done and a copy of the oral health screening results sent home; takes effect for the 2024-2025 school year.

HS 1 for HB 83

Marijuana: multiple legislative actions occurred this session related to legalization of adult personal use quantity of marijuana. Provisions impose penalties for individuals under the age of 21 using false identification to purchase marijuana, and for businesses that fail to verify the age of marijuana consumers. Regulations require that products containing marijuana be in opaque, child-resistant packaging and contain a warning label explaining evidence-based harms from consuming marijuana, including the impact on developing brains.

HB 1

HB 2 w/ HA 1, HA 2



Early childhood: directs the Department of Health and Social Services to prepare reports on the Purchase of Care Program and directs the Department of Education to prepare reports on child care capacity.

SR 16

Student ID cards: corrects the Delaware crisis text number and the National Suicide Prevention call or text line printed on pupil ID for all public schools serving grades 7 to 12 and public institutions of higher learning in Delaware.

HB 137

Mental and behavioral health supports: requires a referral to a school-based mental or behavioral health specialist for any student after their second unduplicated disciplinary violations in a semester resulting in out-of-school suspension.

HS 1 for HB 174

Mental and behavioral health supports: provides for excused absences for the mental or behavior health of a student and requires that any student taking more than 2 such excused absences will be referred to a behavioral health specialist and provides a supplemental tool to identify students struggling with mental and behavioral health issues and legitimizes these struggles faced by many students.

HB 3 w/ HA 1

“Nolan’s Law”: charges the Department of Education with developing guidance, best practices, and written resources for schools dealing with a school-connected traumatic event (the death of any student, educator, administrator, or other building employee of a public school); requires the Department to cover the costs of grief counseling offered to students for up to thirty days after a school-connected traumatic event. In an effort to create a more standardized approach for the occurrence of a school-connected traumatic event, this bill charges each school district and charter school to establish a detailed crisis response policy that must meet a minimum number of required policies and procedures.

HB 4 w/ HA 2

Educator trainings: requests the Department of Education conduct a review of mandatory trainings for educators and report back to the General Assembly their findings and recommendations.

SCR 13 w/ HA 1

Virtual learning: directs the Department of Education to issue a report assessing the advantages and disadvantages of virtual learning for kindergarten through grade 12 students in a post-COVID learning environment, to include a review of all current virtual learning options in the State.

HCR 16

Special education: adds visual impairments including blindness to the list of programs to be conducted on a 12-month schedule.

SB 32 w/ SA 1

Equity: codifies the Equity Ombudsman program, the purpose of which is to provide students and families encountering inequity in the school system with non-lawyer advocates to assist them.

HB 188 w/ HA 1

Select Legislation Approved in FY2023

Redding Consortium: requires that the State Board of Education act on any plan submitted by the Redding Consortium within 3 months; allows for the Redding Consortium to submit an interim plan prior to the completion of its full plan; provides that the Consortium's final report may include recommendations for policies and practices for systematic reform to address the negative impacts of the Neighborhood Schools Act.

HB 229

Educator workforce: provides clarity on the type of certification and the accepted certifying agencies for increases over the basic salary schedule.

HB 231

Educator workforce: authorizes the Department of Education to issue an initial or continuing license to a Junior Reserve Officer Training Core (JROTC) Instructor who has been certified by the United States Department of Defense (USDOD).

HB 163

Educator workforce: establishes a Delaware Educator Apprenticeship Program. The Department of Education will work with the Department of Labor to create a program that places aspiring teachers in paid positions in schools, while the teacher candidates complete the training and schooling necessary to become a Delaware credentialed teacher. This program will complement the Grow Your Own Educator Program and teacher residency programs to create a low-cost pathway for aspiring teachers to earn their teaching credentials and will address the educator shortage in Delaware.

HB 138

School employee leave: makes changes to the school employee absence policies to allow 1 day of leave provided for the funeral of a near relative on the day before or the day after the funeral; increase number of days of sick leave for personal reasons from 3 to 5; provides that a chief school officer may not ask a school employee the reason for absence request and can only deny the request because of operational requirements; school employees will receive the same bereavement leave as state employees after a pregnancy loss.

SB 61 w/ HA 2

School employee leave: provides teachers and other school employees with the same protection to be absent without a loss of pay as State merit employees for all of the following reasons: (1) To appear under subpoena to testify in a matter, other than a matter in which they are a party or which arises from other employment or activities of the employee. (2) To report to serve on a jury.

SB 60

Educator salary schedule: provides teachers who previously worked as paraprofessionals in the schools to receive partial credit towards their experience on the teacher salary scale for their time working within the schools as paraprofessionals.

SB 156

School construction: requires the Secretary of Education to publish and deliver to the General Assembly a report detailing requests for certificates of necessity* that are not included in the proposed capital budget and the reasons for the rejection and a ranking of the rejected projects by need.

HB 169

*Note: a Certificate of Necessity is the legal document that allows a requested district to go to referendum for a major capital project, once approved by the Department of Education.

School construction: enables Sussex County to use the Voluntary School Assessment (VSA) to address the impact of residential development on school capacity.

SB 186

Education funding: increases funding for preschool children with disabilities who are not counted in either "intensive" or "complex" special education units by revising the current ratio of 12.8 students per unit to 8.4 students per unit for preschool children included in the basic unit count.

HS 1 for HB 33

Electric school buses: establishes targets for annual purchase of electric school buses through FY2030, and requires the Department of Education to submit an annual implementation report through 2029 as well as a comprehensive report in 2030 detailing future recommendations for electric vehicle purchases and other measures to reduce the carbon and environmental impact of the State's school transportation fleet.

HB 10

Select Legislation Approved in FY2023

School student transportation: makes clear that a school district may deny a request from a charter school to have the school district where the charter school is located to transport students residing in that district. If the school district denies the request, the charter school is to receive the payment provided by the State under existing law.

HB 81

School board candidacy: requires that the Commissioner of Elections must determine that an individual does not have any disqualifying convictions before the individual can be a candidate for election to a school board; clarifies that an individual who meets the filing deadline for candidates for a school board election are provisional candidates until the Commissioner determines if the individual is eligible to be a candidate and requires the Commissioner to disclose the names of provisional candidates.

HB 88

School board proceedings: requires school boards, including charter schools, to permit public comment on each agenda item presented for a vote at a school board meeting; the public comment period must take place before the school board vote on an agenda item; the school board may reasonably restrict the time, place, and manner of the public comment period.

HS 1 for HB 34



Background checks: allows the State Bureau of Identification to release subsequent arrest notifications to the Department of Education for its employees and contractors.

HB 181

Child abuse and neglect reporting: clarifies when reports of child abuse or neglect, including suspected human trafficking of a child, are required to be made orally to the Department's report line and when they may be made via the Department's online reporting portal; clarifies that licensed professionals who make reports may not remain anonymous.

SB 124

Child abuse: revises the State's existing child abuse laws by designating acts into specific charges and felony types and by creating new designations with associated felony types for child abuse in the first degree, child torture, and continuous child abuse.

HB 182

Endangering the welfare of a child: revises the existing crime of endangering the welfare of a child by providing or permitting a child to consume or inhale unprescribed controlled substances by prohibiting a person from intentionally, knowingly, or recklessly making controlled substances or prescription drugs available to a child through exposure, consumption, or inhalation and creating new penalties for endangering the welfare of a child through exposure, consumption, or inhalation of drugs.

HB 183 w/ HA 1

Guardianship: amends statute relating to guardianship and permanent guardianship of a child; embeds the requirement for assessments of non-relative guardianship petitioners; revises the definition of relative; expands eligibility for relative permanent guardianship petitioners; clarifies that when a parent consents to guardianship, a reason for establishing the guardianship is still required; creates separate grounds for granting guardianship when parental rights have been terminated and are vested in DSCYF or a licensed agency; requires parental consent or a Court order for a guardian or permanent guardian to relocate a child if it will materially affect a parent's visitation; adds an individual with whom a child in DSCYF custody is placed as a person eligible to serve as a permanent guardian; clarifies that either a termination of parental rights grounding or a parent's consent is required to grant a permanent guardianship; clarifies that a permanent guardianship petitioner must have the child placed with them for 6 months immediately preceding the filing of the petition; provides judicial discretion, where extraordinary circumstances are found, to grant permanent guardianship to a foster parent or individual with whom a child in DSCYF custody is placed when none of the other exceptions apply.

SB 119

Select Legislation Approved in FY2023

Caseload standards: adopts a key recommendation of the Child Protection Accountability Commission Caseloads and Workloads final report approved on November 20, 2019, that Division of Family Services (DFS) caseload standards be reduced from 18 to 12 families per worker. Due to the volume of work generated by a caseload of 18 families, workers are significantly restricted in the time they can spend on critical case activities such as family engagement, assessment of safety, and face-to-face contact with children and families.

SB 33

Foster care: directs the Department of Services for Children, Youth & Their Families to explore participating in the federal title IV-E Guardianship Assistance Program to increase support to relative guardians and facilitate permanency solutions for Delaware youth in foster care.

SJR 1 w/ SA 1

Motor vehicle insurance for foster youth: clarifies that during the initial 6 months of a Learner's Permit, a foster parent is liable for the negligent driving of the foster child up to the limits of the foster parent's applicable insurance coverage.

SS 1 for SB 95

Child safety seat requirements: revises Delaware's child safety seat requirements so that children under 2 years and under 30 pounds must be seated in a rear-facing seat with a 5-point harness; children under 4 years and under 40 pounds must be seated in either a forward facing or rear-facing seat with a 5-point harness; children between the ages of 4 and 16 must be seated in a booster based upon the manufacturer's guidelines or a seatbelt; removes the existing fine for the first offense and requests law enforcement to provide a referral to the Office of Highway Safety car seat fitting station for guidance and education regarding proper use of a child restraint; requires the Department of Safety and Homeland Security to implement an awareness campaign.

SB 68

Concussion prevention: clarifies the requirements of the Concussion Protection in Youth Athletic Activities Act; adds the requirement for non-scholastic athletic activity organizations to develop policies

and procedures for advising athletes, coaches, officials, parents, and guardians of the signs and symptoms of concussion and explains the risk of continuing to practice or compete in athletic events or activities after sustaining a concussion, as well as providing information about returning to academic and athletic events or activities after sustaining a concussion.

HS 1 for HB 193

Weapons: multiple legislative actions occurred this session related to gun safety violence prevention including: establishing a firearm definition task force, making unsafe storage of a firearm in a vehicle a class A misdemeanor under specific conditions; limiting individuals who may possess a firearm at polling places on election day; and enabling a police officer to act immediately when the officer sees or suspects that a person possesses a firearm in a Safe School and Recreation Zone.

HB 155 w/ HA 3, HA 1 to HA 3 + SA 1

HB 201 w/ HA 3 + SA 3

HB 202 w/ HA 1

SCR 102



Training and certification: repeals the sunset of the Focus on Alternative Skills Training Program, which provides tuition for an eligible individual to attend an approved nondegree credit certificate program that provides industry-accepted skill training and certification.

SB 154 w/ SA 1

Child support: expands the Video Lottery Intercept Program by requiring an operator of a video lottery facility to submit an individual's winnings from sports betting and table games to the Division of Child Support Services to satisfy delinquent child support obligations.

HB 187

Select Legislation Approved in FY2023

*In addition to the legislation passed in the previous session which affect children and their families, this year's wrap-up includes legislation passed in response to lessons learned throughout the COVID-19 pandemic and recovery. Specifically, this publication includes legislation passed related to **public health precautions** including changes to state governance and operations. The goal of these operational changes are to proactively address deficiencies in the system in advance of future waves of COVID or another yet unknown pandemic virus drawing on lessons learned with respect to a 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.*

PUBLIC HEALTH PRECAUTIONS

Public health emergency planning commission: adds the Senate & House Minority Leaders as members of the Public Health Emergency Planning Commission; requires Commission to meet within 30 days of the initiation a state of emergency due to a public health emergency for the purposes of discussing and evaluating, in an advisory capacity to the Governor, the response to the public health emergency; requires the Commission to continue meeting at least every 30 days until the termination of the state of emergency due to a public health emergency; adds Commission governance procedures, including length of terms, filling vacancies, and defining quorum.

SB 66 w/ SA 1 + HA 1

Disaster relief payment: establishes that a relief rebate issued under the 2022 Delaware Relief Rebate Program during the period that the federal major disaster declaration exists for the State of Delaware is intended to be a qualified disaster relief payment.

HB 25

Temporary unemployment tax relief measures for employers: continues for calendar year 2024 the temporary relief provided in calendar year

2023 to employers who pay unemployment tax assessments; continues the temporary simplification of the tax rate schedules that are used to calculate unemployment assessments paid by employers. The Governor's agreement to use federal pandemic funds to restore the pandemic-depleted Unemployment Trust Fund made the Unemployment Trust Fund sufficiently solvent and is allowing the Department to implement unemployment tax relief measures to Delaware employers for an additional one-year period for calendar year 2024.

HB 236

"No Patient Left Alone Act": strikes a balance between the need to protect hospital staff, hospital patients, and the public from harm during a State of Emergency, pandemic, or infectious disease outbreak with the expectation that patients should be able to receive support from their family and spiritual counselors during a time of personal crisis by migrating decision-making authority on visitation policies from elected and unelected state officials to the medical personnel operating Delaware's hospitals – the trained professionals best positioned to make these difficult decisions during an especially challenging time. While it is the intention of this act to facilitate limited in-person patient visitation, its gives hospitals and designated medical professionals broad authority and discretion to safeguard the welfare of all involved parties.

HS 1 for HB 242

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Crafting Effective Policy Solutions for Children

Intensive work goes into crafting effective policy solutions for Delaware's children. An important component in this process is the creation and use of a structured body to analyze and recommend potential actions. To this effect:

- HJR 1 w/ HA 1 creates a bi-partisan School Mentoring and Literacy Task Force, designed to expand volunteer mentoring and literacy education in Delaware schools.
- SCR 19 and SCR 63 establish the Delaware Interscholastic Athletic Association (DIAA) Task Force and authorize the Task Force to create subcommittees, allows for the appointment of 1 Task Force member by the Co-Chairs, and changes the dates of the Task Forces' first meeting and the submission of its report.
- SB 135 relates to the Joint Legislative Oversight and Sunset Committee's review of the Provider Advisory Board. As part of that review, the Committee approved a recommendation to consolidate the functions of the Board into the functions of the Delaware Early Childhood Council (DECC). The Board's review is held over to 2024, and Committee staff will monitor and report back to the Committee in 2024 on the implementation of the recommendation to consolidate these functions. To ensure that the functions consolidated into the DECC remain accurate, this Act reflects the changes to the Board's functions under § 3007A, Title 14 that do not take effect until July 1, 2024.

DELAWARE'S LEGISLATIVE KIDS CAUCUS

The Delaware Legislative Kids Caucus enjoys bi-partisan 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.

This report was produced by KIDS COUNT in Delaware, a project of the University of Delaware's Center for Community Research and Service and 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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