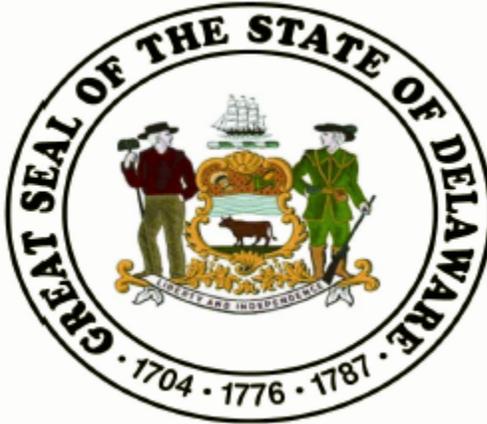


SENTAC



Delaware Sentencing Accountability Commission Benchmark 2011*

***INCLUDES RELEVANT LEGISLATION OF
THE 145th GENERAL ASSEMBLY**

SUMMARY OF PRESUMPTIVE SENTENCES

Crime Classification	Presumptive Sentence	Statutory	Page Ref.
Felonies			
Class A (Other than Murder)	15 yrs @ Level V	15 yrs. to Life	28
Class B	2 to 5 yrs (1 st 2 yrs @ Level V)	2 to 25 yrs	31
Class C (Violent)	Up to 30 m @ Level V	up to 15 yrs	37
Class C (Nonviolent)	Up to 1 yr @ Level V	up to 15 yrs	41
Class D (Violent)	Up to 2 yrs @ Level V	up to 8 yrs	43
Class D (Nonviolent)	Up to 12 m @ Level II or III	up to 8 yrs	47
Class E (Violent)	Up to 15 m @ Level V	up to 5 yrs	49
Class E (Nonviolent)	Up to 12 m @ Level II	up to 5 yrs	53
Class F (Violent)	Up to 9 m @ Level V	up to 3 yrs	57
Class F (Nonviolent)	Up to 12 m for Title 11; Up to 18 m for Title 16 @ Level II	up to 3 yrs	60
Class G (Violent)	Up to 6 m @ Level V Title 16, §§4767,4768: 3-9 m @ Level V	up to 2 yrs	64
Class G (Nonviolent)	Up to 12 m @ Level II	up to 2 yrs	67
Misdemeanors			
Class A (Violent) MA1	Up to 12 m @ Level II	up to 1 yr	72
Class A (Escape) MA2	Up to 3 m @ Level IV	up to 1 yr	74
Class A (Property) MA3	Up to 12 m @ Level I	up to 1 yr	75
Class A (Order/Decency) MA4	Up to 12 m @ Level I	up to 1 yr	77
Class A (Controlled Substance)	16-4764: FOP Minimum 12 m @ Level I (7/12/05) 1 st Offense 12m @ Level II	up to 1 yr	80
Class B	Fine, Costs & Restitution	up to 6 m.	81
Unclassified	Fine, Costs & Restitution	up to 30 d	83
Violations	Fine, Costs & Restitution	\$0 to \$345	85
Habitual Criminal	Up to Life	Up to Life	119
Violation of Probation	1 Level Higher	1 Level Higher	121

SUMMARY OF ACCEPTANCE OF RESPONSIBILITY GUIDELINES

Crime Classification	Presumptive Sentence	Acceptance of Responsibility Guideline	Page
Felonies			
Class C (violent)	Up to 30 mos. @ Level V	Up to 22 mos. @ Level V	37
Class C (non-violent)	Up to 1 yr. @ Level V	Up to 9 mos. @ Level V	41
Class D (violent)	Up to 2 yrs. @ Level V	Up to 18 mos. @ Level V	43
Class D (non-violent)	Up to 12 mos. @ II or III	Up to 9 mos. @ II or III	47
Class E (violent)	Up to 15 mos. @ Level V	Up to 11 mos. @ Level V	49
Class E (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	53
Class F (violent)	Up to 9 mos. @ Level V	Up to 7 mos. @ Level V	57
Class F (non-violent)	Up to 12 mos. @ L II for T 11 Up to 18 mos. @ L II T 16	Up to 9 mos. @ L II for T 11 Up to 14 mos. @ L II for T 16	60
Class G (violent)	Up to 6 mos. @ Level V	Up to 4 mos. at Level V	64
Class G (non-violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	67
Misdemeanors			
Class A (violent)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	72
Class A (escape)	Up to 3 mos. @ Level IV	Up to 2 mos. @ Level IV	74
Class A (property)	Up to 12 mos. @ Level I	Up to 9 mos. @ Level I	75
Class A (order/decency)	Up to 12 mos. @ Level I	Up to 9 mos. @ Level I	77
Class A (con. sub.)	Up to 12 mos. @ Level II	Up to 9 mos. @ Level II	80

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<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
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<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
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Computer Offense: Penalties (>\$500)	Fel G	11-939	67
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Conversion of Benefits (\$10,000>)	Fel C	31-1006	40
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Credit Card, Unlawful use of (<\$1,000)	Misd A (prop)	11-903	74
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Criminal Mischief (>\$1,000<\$5,000)	Misd A (prop)	11-811(b)(2)	74
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<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
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Exploit Infirm Adult (\$50,000>)	Fel C Violent	31-3913(b)	37
Exploit Infirm Adult (\$10,000-\$49,999)	Fel D Violent	31-3913(b)	43
Exploit Infirm Adult (\$5,000-\$9,999)	Fel E Violent	31-3913(b)	48
Exploit Infirm Adult (\$500-\$4,999)	Fel G Violent	31-3913(b)	63
Exploit Infirm Adult (<\$500)	Misd A (prop)	31-3913(b)	75
Exploit Patient's Resources (>\$1,000)	Fel G Violent	16-1136(b)	63
Exploit Patient's Resources (<\$1,000)	Misd A (viol)	16-1136(b)	71
Extortion (Victim>62 y.o.a.)	Fel D Violent	11-846	42
Extortion	Fel E Violent	11-846	48
Explosive Device, Possession	Fel D Violent	11-1338	43
Fail to Answer Summons	Unclass Misd	11-1907(c)	82
Fail to Cease Electronic Communication (\$10,000>)	Fel D	11-938	47
Fail to Cease Electronic Communication (\$5,000-\$9,999)	Fel E	11-938	52
Fail to Cease Electronic Communication (\$1,000-\$4,999)	Fel F	11-938	60
Fail to Cease Electronic Communication (\$500-\$999)	Fel G	11-938	67
Fail to Cease Electronic Communication (<\$500)	Misd A (prop)	11-938	74
Fail to Comply with Sex Offender Mandates	Fel G	11-4121(t)	68
Fail to Correct/Report Patient Abuse	Misd A (o&d)	16-1136(c)	78
Fail to Obtain Child Abuser Info	Misd A (o&d)	11-8562(a)	78
Failure of Sex Offender to Register	Fel G	11-4121(t)	68
False Benefit Reimbursement Statement (\$10,000>)	Fel C	31-1004(2)	40
False Benefit Reimbursement Statement (\$500-\$9,999)	Fel E	31-1004(2)	53
False Benefit Reimbursement Statement (<\$500)	Misd A (prop)	31-1004(2)	74
False Report of Incident or Child Abduction (Prior Conv)	Fel G	11-1245	67
False Report of Incident or Child Abduction	Misd A (o&d)	11-1245	77
False Statement: Benefits (\$10,000>)	Fel C	31-1003	40
False Statement: Benefits (\$500-\$9,999)	Fel E	31-1003	53
False Statement: Benefits (<\$500)	Misd A (prop)	31-1003	75
False Statement: Weapon Purchase	Fel G	11-1448(l)	68
False Written Statement	Misd A (o&d)	11-1233	77
Falsify Business Records	Misd A (o&d)	11-871	76
Falsify Document re: Prolong Life	Fel C	16-2513(b)	40
Falsify Instrument for Filing	Misd A (o&d)	11-877	76
Falsify Records for Benefits	Fel E	31-1003	53
Falsify Reimbursement Report (\$10,000>)	Fel C	31-1004(2)	40

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Falsify Reimbursement Report (\$500-\$9,999)	Fel E	31-1004(2)	53
Falsify Reimbursement Report (<\$500)	Misd A (prop)	31-1004(2)	74
Female Genital Mutilation	Fel E	11-780	52
Fighting/Baiting Animals (Own/Possess)	Fel F	11-1326(a)	60
Fighting/Baiting Animals (Presence)	Fel G	11-1326(b)	67
Firearm, Possession of (Altered Serial Number)	Fel D	11-1459	43
Firearm Purchase for Another (Prior Conv)	Fel C Violent	11-1455	37
Firearm Purchase for Another	Fel F	11-1455	60
Firearm, Removal from LEO	Fel C	11-1458	40
Firearm Sale Violation (False Statement/Information)	Fel G	11-1448A(l)	68
Firearm Sale Violation (Prior Conv)	Fel G	11-1448A(m)	68
Firearm Sale Violation (Improper Criminal History Use)	Misd A (o&d)	11-1448A(k)	77
Firearm Sale Violation (Dealer: Improper Sale/Delivery)	Misd A (o&d)	11-1448A(m)	77
Firearm Transaction on Behalf of Another (Prior Conv)	Fel C Violent	11-1455	37
Firearm Transaction on Behalf of Another	Fel F	11-1455	60
Flee or Attempt to Elude	Title 21	21-4103(b)	85
Food Stamps, Transfer/Alter/Possess (F/A, Ammo)	Fel B	31-610(a)(3)	31
Food Stamps, Transfer/Alter/Possess (\$500>)	Fel E	31-610(a)(1)	53
Food Stamps, Transfer/Alter/Possess (<\$500)	Misd A (o&d)	31-610(a)(2)	78
Forgery 1 st Degree (Money/Stamps/Stocks/Bonds)	Fel F	11-861(b)(1)	59
Forgery 2 nd Degree (Deed/Will/Public Record/Rx)	Fel G	11-861(b)(2)	66
Forgery 3 rd Degree	Misd A (prop)	11-861(b)(3)	74
Forgery Devices, Possession of	Fel G	11-862	66
Foreign Lotteries, Engaging in	Misd A (o&d)	11-1402	77
Fraud in Insolvency	Misd A (prop)	11-892	74
Fraudulent Conveyance, Public Land	Fel G	11-911	67
Fraudulent Receipt, Public Land	Fel G	11-912	67
Furnishing Contraband	Unclass Misd	11-6562A	82
Gambling, Advancing	Misd A (o&d)	11-1401	77
Gambling Device, Interest in Keeping	Misd A (o&d)	11-1406	77
Gambling Device, Possession	Misd A (o&d)	11-1405	77
Gambling Information, Dissemination	Misd A (o&d)	11-1411	77
Gambling, Provide Premises (Prior Conv <5 yr)	Misd A (o&d)	11-1404	77
Gambling, Provide Premises	Unclass Misd	11-1404	82
Gang Participation (see underlying offense classification)			
Give Firearm to Person Prohibited	Fel F	11-1454	60
Graffiti and Graffiti Implements, Possession of	Fel G	11-812	66
Graffiti and Graffiti Implements, Possession of	Misd. A	11-812	74
Graffiti and Graffiti Implements, Possession of	Misd. B	11-812	80
Grand Jury Disclosure	Misd B	11-1273	80
Gratuities, Giving Unlawful	Misd A (o&d)	11-1205	77
Gratuities, Receiving Unlawful	Fel G	11-1206	67
Gratuities, Receiving Unlawful	Misd A (o&d)	11-1206	77
Habitual Criminal Status		11-4214	
Harassment	Misd A	11-1311	77
Harassment, Aggravated	Fel G	11-1312	67
Harassment of LE Animal	Unclass Misd	11-1250(a)	82
Hate Crime- If Underlying Offense is:		11-1304	
Class A Felony	Fel A Violent	11-1304(b)(4)	27
Class B Felony	Fel B Violent	11-1304(b)(4)	31
Class C Felony	Fel B Violent	11-1304(b)(3)	31
Class D Felony	Fel C Violent	11-1304(b)(3)	37
Class E Felony	Fel D Violent	11-1304(b)(3)	42
Class F Felony	Fel E Violent	11-1304(b)(3)	48
Class G Felony	Fel F Violent	11-1304(b)(3)	56
Class A, B or C Misdemeanor	Fel G Violent	11-1304(b)(2)	63
Unclassified Misdemeanor/Violation	Misd A (viol)	11-1304(b)(1)	71

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Health Care Fraud (\$100,000>/Provider)	Fel C	11-913A	40
Health Care Fraud (>\$50,000<\$100,000)	Fel E	11-913A	52
Health Care Fraud (<\$50,000)	Fel G	11-913A	67
Heroin			
Mfr/Del/PWI Narcotics Sch. I,II	Fel C Violent	16-4751(a)	37
Mfr/Del/PWI Narcotics (Death)	Fel B Violent	16-4751(c)	31
Trafficking in Heroin	Fel B Violent	16-4753A(a)(3)	31
Distribution Narcotic to U/21	Fel C Violent	16-4761(a)(1)	37
Purchase Narcotic from U/18	Fel C	16-4761A(a)(1)	40
Purchase Narcotic from U/16	Fel C	16-4761A(a)(3)	40
Dist/Del/Poss Narcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(1)	63
Dist/Del/Poss Controlled Substance w/in 300 ft part	Fel G Violent	16-4768	63
Hinder Prosecution (Fel)	Fel G	11-1244(b)	67
Hinder Prosecution (Misd)	Misd A (o&d)	11-1244	77
Hire Minor to Violate Drug Provisions	Fel G Violent	16-4761(c)	63
Hoax Device	Fel F	11-622	59
Home Improvement Fraud (> \$1,500/vt>62/Prior Conv)	Fel G	11-916	67
Home Improvement Fraud (< \$1,500)	Misd A (prop)	11-916	74
Hypodermic Needles/Syringes, Unlawful Delivery	Fel G	16-4757(d)	68
Hypodermic Needles/Syringe, Unlawful Possession	Unclass Misd	16-4757(c)	82
Identity Theft	Fel D	11-854	46
Import Undetectable Knives	Fel G	11-1446A	68
Imprisonment, Unlawful 1 st Degree	Fel G Violent	11-782	63
Imprisonment, Unlawful 2 nd Degree	Misd A (o&d)	11-781	76
Improper Influence	Misd A (o&d)	11-1207	77
Improper Labeling (PriorConv 100>)	Fel F	11-922(c)	59
Improper Labeling (1st offense 100>)	Fel G	11-922(b)	67
Improper Labeling (<100)	Unclass Misd	11-922(b)	82
Improper Request/Dissemination Criminal History	Misd A (o&d)	11-1448A(k)	77
Incest	Misd A (viol)	11-766	71
Indecent Exposure 1 st Degree	Misd A (o&d)	11-765	76
Indecent Exposure 2 nd Degree	Unclass Misd	11-764	82
Insurance Fraud	Fel G	11-913	67
Interest in Keep Gambling Device	Misd A (o&d)	11-1406	77
Interfere w/Child Witness (Fail to Produce)	Fel E	11-1263A(a)(3)(B)	53
Interfere w/Child Witness (Threaten, fail to produce)	Fel E	11-1263A(a) (4)(B)	53
Interfere w/Child Witness(Complainant:Remove fr Jur)	Fel F	11-1263A	60
Interfere w/Child Witness (Remove from Jur)	Fel G	11-1263A	67
Interfere w/Custody (Removal from State)	Fel G	11-785	66
Interfere w/Custody	Misd A (o&d)	11-785	76
Interfere w/Emergency Communication	Misd B	11-1313	80
Interfere w/ Levied Property	Misd A (o&d)	11-893	76
Interruption Computer Services (\$10,000>)	Fel D	11-934	46
Interruption Computer Services (\$5,000-\$9,999)	Fel E	11-934	52
Interruption Computer Services (\$1,000-\$4,999)	Fel F	11-934	59
Interruption Computer Services (\$500-\$999)	Fel G	11-934	67
Interruption Computer Services (<\$500)	Misd A (prop)	11-934	74
Intimidation, Aggravated (Witness/Victim)	Fel D Violent	11-3533	43
Intimidation (Witness/Victim)	Fel E	11-3532	53
Issue Abortion Articles	Misd B	11-653	80
Issue Bad Check (\$1,500>)	Fel G	11-900	66
Issue Bad Check (<\$1,500)	Misd A (prop)	11-900	74
Issue False Certificate	Fel G	11-878	66
Juror Misconduct	Misd A (o&d)	11-1267	77
Keep Drugs in Original Container	Misd A (cs)	16-4758	79
Kidnapping 1 st Degree	Fel B Violent	11-783A	31
Kidnapping 2 nd Degree	Fel C Violent	11-783	36

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Kickback Schemes	Fel E	31-1005	53
Larceny of Livestock	Fel G	11-859	66
Leaving Accident Scene	Title 21	21-4201	85
Leaving Accident Scene (Injury/Death)	Title 21	21-4202	85
Lewdness	Misd B	11-1341	80
Loitering	Violation	11-1321	84
Loitering on State-Supported School Property	Violation	11-1320	84
Lottery Gaming Prohibited Acts	Fel G	11-1471 (a)(b)(d)(e)(i)	68
Lottery Gaming Prohibited Acts	Misd A	11-1471 (a)(b)(d)(e)(i)	82
Lottery Sales to Persons Prohibited	Misd. Uncl.	29-4810	82
LSD (Lysergic Acid Diethylamide)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	48
Trafficking in LSD	Fel B Violent	16-4753A(a)(7)	31
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	48
Purchase Nonnarcotic from U/18	Fel C	16-4761A(a)(2)	40
Purchase Nonnarcotic from U/16	Fel C	16-4761A(a)(4)	40
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	63
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	63
Maintain Structure/Conveyance for Illegal Drug Use	Fel F	16-4755(a)(5)	60
Maintain Fire Hazard	Unclass Misd	16-6611(b)	82
Maintain an Obstruction (Prior Conv < 2 yrs)	Misd A (o&d)	11-1428	77
Maintain an Obstruction	Violation	11-1428	84
Maintain Structure/Conveyance for Illegal Use/Delivery	Fel F	16-4755(a)(5)	60
Make False Written Statement	Misd A (o&d)	11-1233	77
Malicious Interference w/Emergency Communication	Misd B	11-1313	80
Manslaughter	Fel B Violent	11-632	30
Manufacture/Del/PWI Drug Paraphernalia	Fel G	16-4771(b)	68
Manufacture/Del/PWI Narcotics (Death)	Fel B Violent	16-4751(c)	31
Manufacture/Del/PWI Narcotics Sch. I, II	Fel C Violent	16-4751(a)	37
Manufacture/Del/PWI Narcotics	Fel E Violent	16-4751(b)	48
Manufacture/Del/PWI Nonnarcotics	Fel E Violent	16-4752(a)	48
Manufacture/Dist Unauthorized Controlled Substance	Fel F	16-4755(a)(2)	60
Manufacture/Use/Poss Explosive/Incendiary Device	Fel D Violent	11-1338	43
Manufacture Undetectable Knives	Fel G	11-1446A	68
Marijuana			
Trafficking in Marijuana	Fel B Violent	16-4753A(a)(1)	31
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	48
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	53
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	53
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	63
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	63
MDMA (Methylenedioxymethamphetamine)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	48
Trafficking in MDMA	Fel B Violent	16-4753A(a)(9)	31
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	48
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	53
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	53
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	63
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	63
Menacing	Unclass Misd	11-602	82
Methamphetamines			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	48
Trafficking in Methamphetamine	Fel B Violent	16-4753A(a)(4)	31
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	48
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	53

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Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	53
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	63
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	63
Misapply Property (>\$1,500>)	Fel G	11-848	66
Misapply Property (<\$1,500)	Misd A (prop)	11-848	74
Misconduct by Juror	Misd A (o&d)	11-1267	77
Misrepresentation to Qualify as Provider	Fel E	31-1004(3)	53
Misrepresentation as to Operation of Facility	Fel E	31-1004(4)	53
Misuse Computer System Info (\$10,000>)	Fel D	11-935	46
Misuse Computer System Info (\$5,000-\$9,999)	Fel E	11-935	52
Misuse Computer System Info (\$1,000-\$4,999/risk serious inj)	Fel F	11-935	59
Misuse Computer System Info (\$500-\$999)	Fel G	11-935	67
Misuse Computer System Info (<\$500)	Misd A (prop)	11-935	74
Misuse Prisoner Mail (Prior Conv)	Fel G	11-1260	67
Misuse Prisoner Mail	Misd A (o&d)	11-1260	77
Money Laundering	Fel D	11-951	46
Money Laundering	Fel G	11-951(f)	67
Murder 1 st Degree	Fel A Violent	11-636	27
Murder 2 nd Degree	Fel A Violent	11-635	27
Murder (Child) by Abuse/Neglect 1 st Degree	Fel A Violent	11-634	27
Murder (Child) by Abuse/Neglect 2 nd Degree	Fel B Violent	11-633	30
New Home Construction Fraud (\$100,000>)	Fel C	11-917(d)(3)	40
New Home Construction Fraud (\$50,000-\$100,000)	Fel F	11-917(d)(2)	59
New Home Construction Fraud (\$1,000-\$50,000)	Fel G	11-917(d)(1)	67
New Home Construction Fraud (<\$1,500)	Misd A (prop)	11-917(d)	74
Obscenity, Provide to Minor	Fel E	11-1361	53
Obscenity	Fel G	11-1361	68
Obscene Literature Harmful to Minors	Misd A (o&d)	11-1365	77
Obstruct Control of Rabies	Misd B	11-1248	80
Obstruct Firefighting	Misd A (o&d)	11-1243	77
Obstruct Public Passageway	Violation	11-1323	84
Obstruct Ingress/Egress Public Building	Unclass Misd	11-1324	82
Obstruct Emergency Phone Call	Misd B	11-1313	80
Obstruct Rabies Control	Misd B	11-1248	80
Obstruct Rabies Control During Emergency	Fel E	11-1248	52
Obtain Controlled Substance By Fraud/Theft	Fel F	16-4756	60
Offensive Touch (vt=emergency/health care employee)	Misd A (o&d)	11-601(a)(1)	76
Offensive Touch (Bodily Emissions)	Misd A (o&d)	11-601(a)(2)	76
Offensive Touch	Unclass Misd	11-601	82
Offer False Instrument for Filing	Misd A (o&d)	11-877	76
Official Misconduct	Misd A (o&d)	11-1211	77
Operation of a Vehicle Causing Death	Title 21	21-4176A	85
Operation of Vehicles on Approach of Authorized Emergency Vehicles	Title 21(Fel F)	21-4134(d)	60
Operation of a Vessel or Boat While Under the Influence	Title 23	23-2302	85
Organized Crime/Racketeering	Fel B Violent	11-1503	31
Out-of-State Liquor Agent Registration Violation	Violation	11-1316	84
Patronizing Prostitute	Unclass Misd	11-1343	82
PCP (Phencyclidine)			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	48
Trafficking in PCP	Fel B Violent	16-4753A(a)(6)	31
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	48
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	53
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	53
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	63
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	63
Penalties for Wagering by Excluded Persons	Misd A	29-4836(a)(b)	78
Perjury 1 st Degree	Fel D	11-1223	46

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Perjury 2 nd Degree	Fel F	11-1222	60
Perjury 3 rd Degree	Misd A (o&d)	11-1221	77
Permit Access by Minor to Firearm	Misd A (o&d)	11-1456	78
Permitting Prostitution	Misd B	11-1355	80
Possession Burglary Tools	Fel F	11-828	59
Possession Child Pornography	Fel F	11-1111	60
Possession Deadly Weapon During Felony	Fel B Violent	11-1447	31
Possession Destructive Weapon	Fel E Violent	11-1444	48
Possession/Dist/Del. Drugs w/in 300 ft. Park/Worship	Fel G Violent	16-4768	63
Possession/Dist/Del. Drugs w/in 1,000 ft. School	Fel G Violent	16-4767	63
Possession Drug Paraphernalia	Misd A (cs)	16-4771(a)-4774(a)	79
Possession Firearm During Felony	Fel B Violent	11-1447A	31
Possession Forgery Devices	Fel G	11-862	66
Possession Gambling Devices	Misd A (o&d)	11-1405	77
Possession Hypodermic Needle/Syringe	Unclass Misd	16-4757(c)	82
Poss/Mfr/Use Bomb/Explosive/Incendiary Device	Fel D Violent	11-1338	43
Poss/Purch DW(Not Firearm/DestDevice/Ammo) Person Prohibit	Fel F	11-1448	60
Poss/Purch Firearm/Ammo By Person Prohibited	Fel D	11-1448	46
Poss/Purch Firearm/DestDevice Person Prohibited (Prior Viol Fel)	Fel D Violent	11-1448(e)	43
Poss/Purch Firearm with Altered Serial Number	Fel D Violent	11-1459	43
Possess Shoplift Tools	Fel F	11-860	59
Possess Telecommunication Devices (50+/2 Priors)	Fel D	11-850(b)(3)	46
Possess Telecommunication Devices (10-50/Prior Conv)	Fel F	11-850(b)(2)	59
Possess Telecommunication Devices	Unclass Misd	11-850(b)(1)	82
Possess/Transfer/Alter Food Stamps (FA/Ammo/CS)	Fel B	31-610(a)(3)	31
Possess/Transfer/Alter Food Stamps (\$500>)	Fel E	31-610(a)(1)	53
Possess/Transfer/Alter Food Stamps (<\$500)	Misd A (o&d)	31-610(a)(2)	78
Possess Undetectable Knife	Fel G	11-1446A	68
Possess/Use Narcotics w/out Prescription	Misd A (cs)	16-4753	79
Possess/Use Noncontrolled Substance/Rx	Misd B	16-4754A(b)	80
Possess/Use Nonnarcotic CS w/out Prescription	Misd B	16-4754	80
Possess Vital Record Unlawfully	Fel G	16-3111(a)	68
Possess Vital Record Unlawfully	Unclass Misd	16-3111(b)	82
Possess Weapon Safe Zone-If Underlying Offense is:			
Class E Felony	Fel D	11-1457(j)(3)	46
Class F Felony	Fel E	11-1457(j)(3)	53
Class G Felony	Fel F	11-1457(j)(3)	60
Class B Misdemeanor	Misd A (o&d)	11-1457(j)(1)	78
Unclassified Misdemeanor	Misd B	11-1457(j)(2)	80
Pseudoephedrine/Ephedrine, Sale of	Misd A (cs)	16-4740	79
PWI/Mfr/Del Drug Paraphernalia	Fel G	16-4771(b)	68
PWI/Mfr/Del Narcotics CS (Death)	Fel B Violent	16-4751(c)	31
PWI/Mfr/Del Narcotics Sch. I, II	Fel C Violent	16-4751(a)	37
PWI/Mfr/Del Narcotics	Fel E Violent	16-4751(b)	48
PWI/Mfr/Del Nonnarcotics	Fel E Violent	16-4752(a)	48
Printing Credit Card Receipt, Unlawful	Unclass Misd	11-915A	82
Probation, Violation of (Sentencing Policy)			
Profiteering	Misd A (o&d)	11-1212	77
Prohibition on employment of persons or service companies w/o a license	Misd A (o&d)	29-4831	78
Promote Prison Contraband (Deadly Weapon, cellphone etc)	Fel F Violent	11-1256	56
Promoting Prison Contraband	Misd A (o&d)	11-1256	77
Promoting Prostitution 1 st Degree	Fel C Violent	11-1353	37
Promoting Prostitution 2 nd Degree	Fel E	11-1352	53
Promoting Prostitution 3 rd Degree	Fel F	11-1351	60
Promoting Suicide	Fel F Violent	11-645	56
Prostitution	Misd B	11-1342	80
Provide False Child Abuser Info	Fel G	11-8562(b)	68

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Provide Obscenity to Minor	Fel E	11-1361	53
Provide Premises for Gambling (Prior Conv < 5 yrs)	Misd A (o&d)	11-1404	77
Provide Premises for Gambling	Unclass Misd	11-1404	82
Public Intoxication (2 Priors <1 yr)	Unclass Misd	11-1315	82
Public Intoxication	Violation	11-1315	85
Purchase Controlled Substance/ Narcotic from U/18	Fel C	16-4761A(a)(1)	41
Purchase Controlled Substance/ Narcotic from U/16	Fel C	16-4761A(a)(3)	41
Purchase Controlled Substance/Nonnarcotic from U/18	Fel E	16-4761A(a)(2)	54
Purchase Controlled Substance/Nonnarcotic from U/16	Fel E	16-4761A(a)(4)	54
Racketeering	Fel B Violent	11-1503/1504	32
Rape 1 st Degree	Fel A Violent	11-773	28
Rape 2 nd Degree	Fel B Violent	11-772	31
Rape 3 rd Degree	Fel B Violent	11-771	31
Rape 4 th Degree	Fel C Violent	11-770	37
Receiving Bribe (Public Servant)	Fel E	11-1203	53
Receiving Bribe (Witness)	Fel E	11-1262	53
Receiving Bribe (Juror)	Fel E	11-1265	54
Receiving Bribe	Misd A (o&d)	11-882	77
Receiving Stolen Firearm	Fel F	11-1450	61
Receiving Stolen Property (>\$1,500/2 Priors)	Fel G	11-851	67
Receiving Stolen Property (<\$1,500)	Misd A (prop)	11-851	75
Receiving Unlawful Gratuity	Misd A (o&d)	11-1206	78
Receiving Unlawful Gratuity (>\$1,000)	Fel G	11-1206	68
Reckless Burning (\$1,500+)	Fel G	11-804	67
Reckless Burning (< \$1,500)	Misd A (prop)	11-804	75
Reckless Driving	Title 21	21-4175	86
Reckless Endangering 1 st Degree	Fel E Violent	11-604	49
Reckless Endangering 2 nd Degree	Misd A (viol)	11-603	72
Recording Device, Unlawful Operation (Motion Picture)	Misd A (prop)	11-858(a)(2)	75
Recording Device, Unlawful Operation (Still Photograph)	Misd B	11-858(a)(1)	81
Refuse Aid to Police Officer	Misd B	11-1241	81
Refuse to Allow Inspection	Fel F	16-4755(a)(4)	61
Refuse/Fail Keep Proper Record: Controlled Substance	Misd A (cs)	16-4755(a)(3)	80
Refuse Photo/Fingerprints	Misd A (o&d)	11-8522	79
Refuse/Neglect/Hinder Report	Misd A (o&d)	11-8523(a)	79
Registration, Out-of-State Liquor Agents	Violation	11-1316	85
Registration, Sex Offenders	Fel G	11-4120(k)	69
Religious Symbol/Cross Burning	Misd A (prop)	11-805	75
Removing Firearm from LEO	Fel C	11-1458	41
Resist Arrest	Misd A (o&d)	11-1257(b)	78
Resist Arrest with Violence	Fel G	11-1257(a)	68
Riot	Fel F Violent	11-1302	57
Robbery 1 st Degree	Fel B Violent	11-832	32
Robbery 2 nd Degree	Fel E Violent	11-831	49
Sale of Traffic Control Signal Preemption Device	Title 21	21-4112A(c)	86
Sale of Transferred Recorded Sound	Misd A (o&d)	11-921	77
Salvia Divinorum			
Mfr/Del/PWI Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4752(a)	49
Distribution Nonnarcotic Controlled Substance	Fel E	16-4761(a)(2)	54
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	54
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	54
Dist/Del/Poss Nonnarcotic w/in 1,000ft school	Fel G Violent	16-4767(a)(2)	64
Dist/Del/Poss Controlled Substance w/in 300 ft park	Fel G Violent	16-4768	64
Secure Execution of Document By Deception	Misd A (o&d)	11-909	77
Self Abortion	Misd A (o&d)	11-652	77
Sell or Offer to Sell Undetectable Knives	Fel G	11-1446A	69
Sell Stolen Property	Fel G	11-852A	67

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Sell Stolen Property	Misd A	11-852A	75
Sex Offender Fail to Register	Fel G	11-4120(k)	69
Sex Offender Fail to Comply w/Registration Mandates	Fel G	11-4121(t)	69
Sex Offender Loitering/School	Fel F	11-1112(a)(2)	61
Sex Offender Residing w/in 500 ft. School	Fel G	11-1112(a)(1)	68
Sex Offender Unlawful Sexual Conduct Against a Child	Fel A violent	11-777A(e)(3)	28
Sex Offender Unlawful Sexual Conduct Against a Child	Fel B violent	11-777A(e)(2),(e)(3)	31
Sex Offender Unlawful Sexual Conduct Against a Child	Fel C violent	11-777A(e)(2)	37
Sex Offender Unlawful Sexual Conduct Against a Child	Fel D violent	11-777A(e)(2)	43
Sex Offender Unlawful Sexual Conduct Against a Child	Fel E violent	11-777A(e)(2)	49
Sex Offender Unlawful Sexual Conduct Against a Child	Fel F violent	11-777A(e)(2)	57
Sex Offender Unlawful Sexual Conduct Against a Child	Fel G violent	11-777A(e)(2)	64
Sex Offender Unlawful Sexual Conduct Against a Child	Misd. A (viol)	11-777A(e)(1)	72
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree	Fel A violent	11-778(f)(1)	28
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree	Fel B violent	11-778(f)(2)	31
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree	Fel B violent	11-778(f)(3)	32
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree	Fel C violent	11-778(f)(3)	37
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree	Fel D violent	11-778(f)(5)	43
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the second degree	Fel D violent	11-778A(d)(1)	43
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the second degree	Fel F violent	11-778A(d)(2)	57
Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the second degree	Fel G violent	11-778A(d)(3)	64
Sexual Abuse of Child, Continuous	Fel B Violent	11-778	31
Sexual Contact, Unlawful 1 st Degree	Fel D Violent	11-769	43
Sexual Contact, Unlawful 2 nd Degree	Fel F Violent	11-768	57
Sexual Contact, Unlawful 3 rd Degree	Misd A (viol)	11-767	72
Sexual Exploitation of Child	Fel B Violent	11-1108	32
Sexual Extortion	Fel E Violent	11-774	49
Sexual Harassment	Unclass Misd	11-763	83
Sexual Relations, Detention Facility	Fel G	11-1259	68
Sexual Solicitation of a Child	Fel C Violent	11-1112A	37
Shoplifting (\$1,500>)	Fel G	11-840	67
Shoplifting (<\$1,500)	Misd A (prop)	11-840	75
Smoking on Bus/Trolley	Violation	11-1330	85
Stalking w/ Deadly Weapon (Possess weapon or cause serious injury)	Fel C Violent	11-1312	38
Stalking (Def>21Vt<14,Def viol n.c. ord., vt>62, thrt of death or ser. phys. inj. to vt. or other person, or phys. inj. to vt.	Fel F Violent	11-1312	57
Stalking	Fel G Violent	11-1312	64
Standards of Licensing	Misd A (o&d)	29-4830(f)(1)(f)(2)	79
Steroids			
Mfr/Del/PWI Nonnarcotic Controlled Substance	Fel E Violent	16-4752(a)	49
Distribution Nonnarcotic Controlled Substance U/21	Fel E Violent	16-4761(a)(2)	49
Purchase Nonnarcotics from U/18	Fel E	16-4761A(a)(2)	54
Purchase Nonnarcotics from U/16	Fel E	16-4761A(a)(4)	54
Dist/Del/Poss Nonnarcotic w/in 1,000 ft school	Fel G Violent	16-4767(a)(2)	64
Dist/Del/Poss Nonnarcotic w/in 300 ft park	Fel G Violent	16-4768	64
Strangulation	Fel D Violent	11-607(3)	43
Strangulation	Fel E Violent	11-607(1)	49
Substances Releasing Fumes/Vapors	Unclass Misd	11-627	83
Tampering with Juror	Misd A (o&d)	11-1266	78

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Tampering w/ Physical Evidence	Fel G	11-1269	68
Tampering w/ Public Records 1 st Degree	Fel E	11-876	53
Tampering w/ Public Records 2 nd Degree	Misd A (o&d)	11-873	77
Tampering w/ Witness	Fel E	11-1263	53
Telecommunication Device, Unlawful (>50/2 Priors)	Fel D	11-850(b)(3)	47
Telecommunication Device, Unlawful (10-50/Prior)	Fel F	11-850(b)(2)	60
Telecommunication Device, Unlawful	Unclass Misd	11-850(b)(1)	83
Terroristic Threat (Evacuathn/SeriousInconv/Reckless)	Fel G	11-621(a)(2)	67
Terroristic Threat (Exposure: Death/Serious Injury)	Fel F	11-621(a)(3)	59
Terroristic Threat (vt>62)	Fel G	11-621(a)(1)	67
Terroristic Threat (School)	Fel F	11-621(a)(2)	59
Terrorist Threat (Public Officials/Servants)	Fel G	11-1240	67
Terroristic Threat	Misd A (viol)	11-621(a)(1)	71
Theft of Firearm	Fel F	11-1451	60
Theft (\$100,000>)	Fel C	11-841	40
Theft (\$50,000-\$99,999)	Fel E	11-841	52
Theft (<\$1,000 & vt >62)	Fel G	11-841	66
Theft (vt> 62/infirm)	Fel F	11-841	59
Theft (\$1,500>)	Fel G	11-841	66
Theft (<\$1,500)	Misd A (prop)	11-841	74
Theft of Computer Services (\$10,000>)	Fel D	11-933	46
Theft of Computer Services (\$5,000-\$9,999)	Fel E	11-933	52
Theft of Computer Services (\$1,000-\$4,999)	Fel F	11-933	59
Theft of Computer Services (\$500-\$999)	Fel G	11-933	67
Theft of Computer Services <\$500)	Misd A (prop)	11-933	74
Theft of Motor Vehicle	Fel G	11-841A	66
Theft: Organized Retail Crime	Misd A (prop)	11-841B	74
Theft: Organized Retail Crime	Fel E	11-841B(c)	52
Theft: Theft of a blank prescription form or pad	Fel F	11-841C(b)	59
Theft: Possession of a blank prescription form or pad	Fel G	11-841C(a)	66
Theft of Rental Property (\$1,500>)	Fel G	11-849	66
Theft of Rental Property (<\$1,500)	Misd A (prop)	11-849	74
Threat/Coerce/Intimidate to W/D Medical Treatment	Unclass Misd	16-2513(a)	83
Threat to Public Officials	Fel G	11-1240	67
Ticket Scalping	Misd B	11-918	80
Ticket Scalping (Prior Conv)	Misd A (prop)	11-918	74
Tobacco Sales Violation: Sell/Dist to U/18	Violation	11-1116	84
Tobacco Sales Violation: Fail to Post Notice to U/18	Violation	11-1117	84
Tobacco Sales Violation: Dist. Samples/Coupons to U/18	Violation	11-1118	84
Tobacco Sales Violation: Dist. By Vending Machine	Violation	11-1119	84
Tobacco Sales Violation: Sell from Unlawful Package	Violation	11-1120	84
Tobacco Sale Violations: Penalties	Violation	11-1121	84
Tongue Splitting (Prior Conv)	Fel G	11-1114A(c)	67
Tongue Splitting 1 st Degree	Misd A (o&d)	11-1114A(a)	77
Tongue Splitting 2 nd Degree	Misd B	11-1114A(b)	80
Trade in Dog/Cat By-Products (Flesh)	Misd A (o&d)	11-1325A(b)	77
Trade in Dog/Cat By-Products (Fur/Hair)	Misd B	11-1325A(a)	80
Trade in Human Remains/Funerary Objects	Misd B	11-1333	80
Trademark Counterfeiting (No priors/<100 items/<\$2,000)	Misd A (prop)	11-926(d)(1)	74
Trademark Counterfeiting (PriorConv/100-999/\$2,000-\$9,999)	Fel G	11-926(d)(2)	67
Trademark Counterfeiting (2+Conv/Mfr/1,000>/>\$10,000>)	Fel E	11-926(d)(3)	52
Traffic Control Signal Preemption Device, Sale of	Title 21	21-4112A(c)	85
Trafficking in Controlled Substances	Fel B Violent	16-4753A	31
Trafficking in Food Stamps (FA/Ammo/CS)	Fel B	31-610(a)(3)	31

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Traffick/Pers & Invol Servit (for use of body pts for sale/benef) Sex Serv Minor <14 overt force	Fel A	11-787	27
Traffick/Pers & Invol Servit (caus or thrt phys harm or restraint) Sex Serv/Minor <14 no overt force, Traff for forced labor	Fel B	11-787	31
Traffick/Pers & Invol Servit (abuse or thrt/abuse law/leg. proc.) Sex Serv/Minor 14-18 yrs no overt force	Fel C	11-787	40
Traffick/Pers & Invol Servit (dst/conc/rem/confis/pp/imm/ doc/gov doc)	Fel E	11-787	52
Traffick/Pers & Invol Servit (blackm/cause/threat/fin/harm/ cont/ pers)	Fel F	11-787	59
Transfer/Alter/Possess Food Stamps (FA/Ammo/CS)	Fel B	31-610(a)(3)	31
Transfer/Alter/Possess Food Stamps (\$500>)	Fel E	31-610(a)(1)	53
Transfer/Alter/Possess Food Stamps (<\$500)	Misd A (o&d)	31-610(a)(2)	78
Transfer BB Gun to U/16	Unclass Misd	11-1445(2)	82
Transfer Firearm Enabling Crime	Fel E Violent	11-1445(5)	48
Transfer Firearm to U/18	Fel G Violent	11-1445(4)	63
Transfer Recorded Sounds	Fel G	11-920	67
Trespass, Intent to Peep	Misd B	11-820	80
Unauthorized Computer Access (\$10,000>)	Fel D	11-932	46
Unauthorized Computer Access (\$5,000-\$9,999)	Fel E	11-932	52
Unauthorized Computer Access (\$1,000-\$4,999)	Fel F	11-932	59
Unauthorized Computer Access (\$500-\$999)	Fel G	11-932	67
Unauthorized Computer Access (<\$500)	Misd A (prop)	11-932	74
Unauthorized Electronic Mail (\$10,000>)	Fel D	11-937	46
Unauthorized Electronic Mail (\$5,000-\$9,999)	Fel E	11-937	52
Unauthorized Electronic Mail (\$1,000-\$4,999)	Fel F	11-937	60
Unauthorized Electronic Mail (\$500-\$999)	Fel G	11-937	67
Unauthorized Electronic Mail (<\$500)	Misd A (prop)	11-937	74
Unauthorized Use of Vehicle	Misd A (prop)	11-853	74
Undetectable Knives (Mfr/Import/Sell/Possess)	Fel G	11-1446A	67
Unlawful Administration Controlled Substance.	Fel G	11-626	66
Unlawful Administration Drugs	Misd A (o&d)	11-625	76
Unlawful Alteration of Vital Records	Fel G	16-3111(a)(2)	68
Unlawful Concealing Will	Fel G	11-908	67
Unlawful Conversion Benefits (\$10,000>)	Fel C	31-1006	40
Unlawful Conversion Benefits (\$500-\$9,999)	Fel E	31-1006	53
Unlawful Conversion Benefits (<\$500)	Misd A (prop)	31-1006	75
Unlawful Dealing Child Pornography (PriorConv\$1109)	Fel B	11-1110	31
Unlawful Dealing Dangerous Weapon (know enable fel or Mis A)	Fel E	11-1445(5)	48
Unlawful Dealing Dangerous Weapon (to juvenile)	Fel G	11-1445(4)	63
Unlawful Dealing Dangerous Weapon	Unclass Misd	11-1445	82
Unlawful Dealing Switchblade	Unclass Misd	11-1446	82
Unlawful Dealing Knuckles/Combination Knife	Misd B	11-1452	80
Unlawful Dealing Martial Arts Throwing Star	Misd B	11-1453	80
Unlawful Dealing With Child	Misd B	11-1106	80
Unlawful Delivery Hypodermic Needles	Fel G	16-4757(d)	68
Unlawful Delivery Noncontrolled Substance	Fel D Violent	16-4752A	43
Unlawful Dissemination Gambling Info.	Misd A (o&d)	11-1411	77
Unlawful Distribution Unauth. Controlled Substance	Fel F	16-4755(a)(1)	60
Unlawful Firearm Transaction Behalf of Another	Fel F	11-1455	60
Unlawful Firearm Transaction Behalf of Another (Prior)	Fel C Violent	11-1455	37
Unlawful Grand Jury Disclosure	Misd B	11-1273	80
Unlawful Imprisonment 1 st Degree	Fel G Violent	11-782	63
Unlawful Imprisonment 2 nd Degree	Misd A (o&d)	11-781	76
Unlawful/Improper Influence	Misd A (o&d)	11-1207	77
Unlawful Operation Recording Device (Motion Picture)	Misd A (prop)	11-858(a)(2)	74
Unlawful Operation Recording Device (Still Photograph)	Misd B	11-858(a)(1)	80
Unlawful Possession Hypodermic Syringe	Unclass Misd	16-4757(c)	82
Unlawful Printing Credit Card Receipt	Unclass Misd	11-915A	82

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Unlawful Sale Traffic Control Device	Title 21	21-4112A(c)	85
Unlawful Sexual Contact 1 st Degree	Fel D Violent	11-769	42
Unlawful Sexual Contact 2 nd Degree	Fel F Violent	11-768	56
Unlawful Sexual Contact 3 rd Degree	Misd A (viol)	11-767	71
Unlawful Use Consumer Identification Info	Unclass Misd	11-914	82
Unlawful Use Credit Card (\$1,000> /vt>62)	Fel F	11-903	59
Unlawful Use Credit Card (<\$1,500)	Misd A (prop)	11-903	74
Unlawful Use Credit Card Info.	Unclass Misd	11-915	82
Unlawful Use of Criminal History	Misd A (o&d)	11-8523(d)	78
Unlawful Telecommunication Device (>50/2 Priors)	Fel D	11-850(b)(3)	46
Unlawful Telecommunication. Devices (10-50/Prior)	Fel F	11-850(b)(2)	59
Unlawful Telecommunication Device	Unclass Misd	11-850(b)(1)	82
Unlawful Transfer of Firearm to Child	Fel G	11-1445(4)	63
Unlawful Transfer of Firearm (Enabling Crime)	Fel E Violent	11-1445(5)	48
Use Consumer Identification Information	Unclass Misd	11-914	82
Unlawful Use Credit Card (>\$1,500 /vt>62)	Fel F	11-903	59
Unlawful Use Credit Card (>\$1,500)	Fel G	11-903	66
Use Credit Card (<\$1,500)	Misd A (prop)	11-903	74
Use Credit Card Info	Unclass Misd	11-915	82
Use of Criminal History	Misd A (o&d)	11-8523(d)	78
Use Illegitimate Sales Receipt/UPC Code	Misd A (prop)	11-840A	74
Use Illegitimate Sales Receipt/UPC Code(>15/>\$1,000)	Fel F	11-840A	59
Vehicle, Maintain for Illegal Use	Fel F	16-4755(a)(5)	60
Vehicular Assault 1 st Degree	Fel F Violent	11-629	56
Vehicular Assault 2 nd Degree	Misd B	11-628	80
Vehicular Homicide 1 st Degree	Fel E Violent	11-630A	48
Vehicular Homicide 2 nd Degree	Fel F Violent	11-630	56
Video Privacy Protection	Unclass Misd	11-925	82
Video Lottery Cheat Device (First Offense)	Misd A (prop)	11-1471/1472	78
Video Lottery Cheat Device (Prior < 3 yrs)	Fel G	11-1471/1472	68
Video Lottery Cheat Device (< \$1500)	Misd A	11-1471(a)(b)(d)(e)(i) 1472	78
Video Lottery Cheat Device (>\$1500<\$50,000)	Fel G	11-1471(c)(f)(g)(h)(i)(j)	68
Video Lottery Cheat Device (>\$50,000<\$100,000)	Fel E	11-1471(c)(f)(g)(h)(i)(j)	53
Video Lottery Cheat Device (>\$99,999.99)	Fel C	11-1471(c)(f)(g)(h)(i)(j)	40
Violation of Privacy	Misd A (o&d)	11-1335(a)(1-5, 8)	77
Violation of Privacy (Prurient Recording)	Fel G	11-1335(a)(6,7)	68
Violation of Probation, Sentencing Policy			
Vital Records, Crimes Involving (Fel)	Fel G	16-3111(a)	68
Vital Records, Crimes Involving (Misd)	Unclass Misd	16-3111(b)	82
Wearing Body Armor During Felony	Fel B Violent	11-1449	31
Wearing Disguise During Felony	Fel E	11-1239	52
Within 1,000 ft. school, Del. Distr. Cont. Subs. Amphet.	Fel G	16-4767(a)(2)	63
Within 300 ft. park worship, Del./Distr. Cont. subs. Amphet.	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Cont. Subs. Cocaine	Fel G	16-4767(a)(1)	63
Within 300 ft. park worship Del./Distr. Cont. Subs. Cocaine	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Cont. Subs.	Fel G	16-4767	63
Within 300 ft. park worship Del. Distr. Nonnarcotic	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Nonnarcotic	Fel G	16-4767	63
Within 300 ft. park, worship, Del. Distr. Cont. Subs.	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Narc. Heroin	Fel G	16-4767(a)(1)	63
Within 300 ft. park, worship, Del. Distr. Poss. Cont. Subs. Heroin	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Nonnarc. LSD	Fel G	16-4767(a)(2)	63
Within 300 ft. park, worship, Del. Distr. Poss. Nonnarc. LSD	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Nonnarc. Marij.	Fel G	16-4767(a)(2)	63

<i>CRIME</i>	<i>CLASS</i>	<i>STATUTE</i>	<i>PG</i>
Within 300 ft. park, worship, Del. Distr. Poss. Nonnarc. Marij.	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Nonnarc. MDMA	Fel G	16-4767(a)(2)	63
Within 300 ft. park, worship, Del. Distr. Poss. Nonnarc. MDMA	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Nonnarc. Meth.	Fel G	16-4767(a)(2)	63
Within 300 ft. park, worship, Del. Distr. Poss. Nonnarc. Meth	Fel G	16-4768	63
Within 1,000 ft. school, Del. Distr. Poss. Nonnarc. PCP	Fel G.	16-4767(a)(2)	63
Within 300 ft. park, worship, Del. Distr. Poss. Nonnarc. PCP	Fel G	16-4768	63
Within 1,000 ft. school, Poss. Dist. Del Drugs	Fel G	16-4767	63
Within 300 ft. park, worship, Poss. Del. Distr. Drugs	Fel G	16-4768	63
Within 1,000 ft. school, Poss. Dist. Del. Non. Narc. Salvia Divinorum	Fel G	16-4767(a)(2)	63
Within 300 ft. park, worship, Poss. Del. Distr. Nonnarc. Sal. Divin.	Fel G	16-4768	63
Within 1,000 ft. school, Poss. Dist. Del. Poss. Nonnarc. Steroids	Fel G	16-4767(a)(2)	63
Within 300 ft. park, worship, Poss. Del. Distr. Nonnarc. Steroids	Fel G	16-4768	63
Within 500 ft. school, Sex Offender Residing	Fel G	11-1112(a)(1)	67

INTRODUCTION

The Delaware Sentencing Accountability Commission (hereinafter referred to as "SENTAC") was created under Title 11, §6580 of the Delaware Code. The overall purpose of the creation of the Commission was to establish a system that emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public. In fulfillment of that purpose, the Commission created the sentencing guidelines embodied in this Benchbook. Said guidelines were approved of and implemented by Administrative Directive Seventy-Six of the Supreme Court of Delaware.¹ The guidelines are designed to ensure certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost. However, it should be noted that Delaware's sentencing guidelines are voluntary, non-binding, and as such, in the absence of constitutional violations, are not generally subject to appeal.²

This Benchbook is designed to assist sentencing judges, prosecutors and defense attorneys in the formulation of sentences that are consistent with the goals of sentencing reform promulgated by SENTAC. Contained within are recommended sentencing ranges and statutory mandates for each offense. The overall sentencing philosophy of the General Assembly and SENTAC is that offenders should be sentenced to the least restrictive and most cost-effective sanction possible given the severity of the offense, the criminal history of the offender and the focus, which is, above all, to protect the public's safety. Other goals in order of priority include: (1) Incapacitation of the violence-prone offender; (2) restoration of the victim as nearly as possible to the victim's pre-offense status, and (3) rehabilitation of the offender. (64 Del. Laws, c. 402 § 1)

This Benchbook is revised annually to reflect legislative changes since the passage of the Truth in Sentencing Act of 1989.

How to Use This Book

The Table of Contents appears in the front of the book and will serve to guide you to the basic categories within this book. Appearing directly after the Table of Contents is an alphabetical listing of the offenses, their classifications and the corresponding page numbers. Prior to the actual specific categories is a summary of the broad offense categories and their general respective presumptive sentences. Following that you will find the recommended sentences and sentencing mandates for each particular crime in the offense category itself. The general offense categories have been listed in the Table of Contents.

¹ Sept. 15th, 1987

² *Siple v State*, 701 A.2d 79, 82-83 (Del. 1997)

In general, presumptive sentences are based on the classification of the offense, and whether it is violent or non-violent in nature. The majority of crimes have been divided into violent and non-violent categories based upon legislative determination (Title 11, §4201(c)). The recommended penalties for violent crimes are more severe than those prescribed for non-violent crimes in the same class. All Class A Felonies have been designated as violent. All other felony classifications have been separated into violent and non-violent offenses. Whenever appropriate, sentences should reflect the objective of rehabilitation by including specific conditions of probation designed to aid in the treatment and/or vocational training of the offender.

Class A Misdemeanors have been divided into five general categories by SENTAC: Violent MA1, Escape MA2, Property MA3, Order & Decency MA4, and Controlled Substances MA5. The presumptive sentencing pages for misdemeanors share the same format as the felony offenses. Please note that some sentences require a period of time at one level to be followed by a period of time at another level. (For example: the presumptive sentence for the second conviction of a class A violent misdemeanor is up to 6 months at Level III AND up to 6 months at Level II.) The maximum fine is also included for misdemeanor offenses.

The recommended sentencing range for a particular crime classification, when aggravating or mitigating factors are not present, can be found at the beginning of the crime category. Crimes are listed in order of statute number with respect to title and section numbers, appearing as they would in the Delaware Code. When a particular offense requires specific treatment as mandated by the legislature a notation will be attached to said offense and supplementary notations will follow at the end of a given category. The presumptive sentencing range for a first conviction generally represents 25% of the statutory maximum; while serious aggravating factors may increase the penalty up to 100% of the statutory maximum. However, examples of common aggravated sentences as a result of prior criminal history, excessive cruelty or commission of the offense while under the control of the Department of Correction are contained in the box following the listing of statutes included within the offense category.

Within the Table of Contents you will find a Summary of Drug Offenses that gathers all of the drug offenses in one section of the book for ease of reference. The drug offenses are also listed in their respective offense level classifications. In addition, there is a listing of Aggravating and Mitigating Factors. You will also find the topic "Exceptional Sentences" and under that category are considerations that would take a sentence out of the normal range. Those topics include: (A) Special categories of (1) Domestic Violence and (2) Escape and (B) Habitual Criminal sentences.

Aggravating and mitigating factors are to be used to explain a sentence imposed either above or below the presumptive sentence. Other factors, which do not appear on this list, may be utilized at the discretion of the sentencing judge. Although the increased or decreased penalties for most aggravating/mitigating circumstances are not specified, the "up to 25%" increase/decrease guide should be utilized whenever suitable.

When an offender is sentenced on multiple charges, only the primary charge should carry an enhanced penalty based on prior criminal history. All other charges should receive penalties consistent with or lower than the presumptive sentence for the offense, unless aggravated by some factor specific to the individual charge. In this way, judges can impose serious penalties when necessary and construct meaningful probation sentences to follow incarceration. It should be noted that all sentences that impose a period of incarceration of one or more years at Level V, require that the court must include as part of its sentence a six-month "Reintegration Period" at Custodial Supervision Level IV (quasi-incarceration), III, or II.³

Following the Exceptional Sentences category are recommendations on the sentences appropriate for Violations of Probation. The reporting of these proceedings, along with aggravating factors, should follow the same procedures as for new offenses.

³ Title 11, §4204 (l)

General Sentencing Information:

Levels of Supervision:

There are five levels of supervision in the Delaware criminal justice system as defined according to Title 11, §4204 and SENTAC policy.⁴ They are as follows:

Level I	<i>Unsupervised:</i> Fine or Administrative Supervision, i.e. criminal record checks, checks to determine compliance with program completion, certification of payment of financial obligations, etc.
Level II	<i>Field supervision:</i> 1 to 50 hours of supervision per month. This may be accomplished by office visits or field visits and/or the imposition of special conditions such as payment of a fine.
Level III	<i>Intensive supervision:</i> 1 hr./day and no more than 56 hrs./wk. Level is supervised by officers carrying limited caseloads to allow sufficient time for full follow up. It may include sentencing options such as community service, payment of a fine, day reporting, curfews, etc.
Level IV	<i>Quasi-Incarceration or Partial Confinement:</i> Offender is placed under house arrest with electronic monitoring, a halfway house, a restitution center, a residential treatment facility, &/or a reentry program. As a result, supervision should amount to approximately 9 or more hours daily.
Level V	<i>Incarceration or Full Confinement:</i> Commitment to the Department of Correction for a period of incarceration with or without the imposition of a fine as provided by law.

Probationary Sentences:

A.) Maximum Probationary Sentences:

1. The period of probation for violent felonies⁵ is limited to 24 months.⁶
2. The period of probation for Title 16 felonies⁷ is limited to 18 months.⁸
1. The period of probation for all other offenses is limited to 1 year.⁹

B.) Multiple Sentences:

In most cases, if an offender is serving more than one sentence as a result of convictions in more than one case, the offender shall not serve a consecutive period of probation or suspension in excess of the above time limitations. Instead, such probation shall be deemed to run concurrently with the previously imposed sentence of probation. However, the limitations of this section shall not apply to a sentence imposed for a conviction involving an offense committed while the offender was on probation or suspension of sentence.¹⁰

⁴ *Master Plan for Effective Sentencing Reform in Delaware*, SENTAC (May 1, 1986).

⁵ Title 11, §4201(c)

⁶ Title 11, §4333 (b)(1)

⁷ Title 16 (Health and Safety)

⁸ Title 11, §4333 (b)(2)

⁹ Title 11, §4333 (b)(3)

¹⁰ Title 11, §4333 (c)

C.) Exceptions to the General Rules

- 1.) The above limits do not apply to sex offenses¹¹ if the sentencing court determines on the record that a longer period of probation will reduce the likelihood of re-offending.¹²
- 2.) The above limits shall not apply to Title 11 violent felonies¹³ if the sentencing court determines on the record that public safety will be enhanced as a result.¹⁴
- 3.) Limits may be exceeded if additional time is necessary in order to collect restitution, but must be served at Accountability Level I.¹⁵
- 4.) Limits may be exceeded by up to 90 days if more substance abuse treatment time is needed.¹⁶
- 5.) Total probation time cannot exceed maximum commitment time, or one year, whichever is greater.¹⁷
- 6.) Limits do not apply to the Title 11, §4204(l) sentences which provide for a six-month transition period from Level V incarceration to a lower level of supervision. The six-month transition period may be in excess of the maximum statutory sentence of imprisonment.¹⁸
- 7.) Portions of a sentence designated to be served at Accountability Level IV (quasi-incarceration) are not considered a "period of probation or suspension of sentence" as used in this section.¹⁹
- 8.) Ex Post Facto Considerations. The above sections, A, B and C (1-4), are inapplicable to sentences imposed prior to June 1, 2003 unless an application has been made to the Court by the Department of Correction for sentence modification based upon good cause and an order is entered to that effect.²⁰

A Word of Caution:

Please remember that under the Truth in Sentencing Act, there is no parole, and all Level V sentences will be served with only very limited good time possibilities. This means that instead of serving from 25% to 50% of the sentence, a minimum of 75% will be served prior to release.

It should be noted that, absent extraordinary reasons, any Level IV (quasi-incarceration) sentence should only be imposed as an alternative to incarceration. Any person sentenced to Level IV (quasi-incarceration) should be held at Level V until space is available. If an individual can be held at Level III while awaiting Level IV (quasi-incarceration), please consider whether a Level III sentence might not be more appropriate.

¹¹ Title 11, §761: 763 Sexual harassment, 764 Indecent Exposure 2d°, 765 Indecent Exposure 1st°, 766 Incest, 767 Unlawful Sexual Contact 3rd°, 768 Unlawful Sexual Contact 2d°, 769 Unlawful Sexual Contact 1st°, 770-773 Rape, 776 Sexual Extortion, 777 Bestiality, 778 Continuous Sexual Abuse of a Child, 779 Dangerous Crime Against a Child, 780 Female Genital Mutilation, 1108 Sexual Exploitation of a Child, 1109 Unlawful Dealing in Child Pornography, 1110 Subsequent Convictions of 1108 and 1109, 1111 Possession of Child Pornography, 1112 Sexual Offenders/Prohibitions from School Grounds, 1112A Sexual Solicitation of a Child

¹² Title 11, §4333 (d)(1)

¹³ Title 11, §4201 (c)

¹⁴ Title 11, §4333 (d)(2)

¹⁵ Title 11, §4333 (d)(3)

¹⁶ Title 11, §4333 (e)

¹⁷ Title 11, §4333 (f)

¹⁸ Title 11, §4333 (g)(1)

¹⁹ Title 11, §4333 (g)(2)

²⁰ Title 11, §4333 (j)

SENTAC STATEMENT OF POLICY

1. The purposes of the Sentencing Standards are as follows: (a) To incapacitate, through incarceration, the violence prone offender and (b) To avoid, in so far as possible, the incarceration of the non-violent offender for the purposes of:
 - Enabling the offender to make any ordered restitution in a more timely manner.
 - Enabling participation in programs aimed at rehabilitation of the offender.
 - Conserving the limited incarceration facilities for use by violent felons.
2. For the purposes of sentencing, a violence-prone offender is defined as one for whom the current most serious offense is a crime included in the current list of violent crimes. (See definition sheets)
3. For the purposes of sentencing, only those offenses adjudicated at age 14 or older shall be counted in prior history.
4. For the purposes of sentencing, a conviction-free period of ten (10) years after final release from incarceration, or from date of sentence if only probation at levels I thru IV was ordered, shall be sufficient to “wash” the criminal history prior to that date. Felony A and Felony B crimes are excluded from this policy and should always be considered at time of sentencing.
5. In an instance where an offender, who is awaiting sentencing after conviction, is brought before the court and convicted of additional charges, the sentencing order may include all the offenses in a single order. The earlier unsentenced offenses shall not be considered in the prior history of the later offenses unless the later offenses occurred in the period after conviction on the earlier offenses.
6. When it can be determined that two or more prior convictions were the result of a single incident, only one conviction per incident shall be considered for criminal history purposes in reaching a decision on the appropriate guideline. (Example: Conviction on same date of Robbery 2 and Possession of Deadly Weapon During Commission of Felony = 1 prior violent Felony.)
In addition to its normal definition, convictions for a single incident shall include all convictions resulting from a single indictment or information.
7. When sentencing on multiple charges, prior criminal history should be considered only in determining the guideline for the “lead” or most serious offense. Sentences for other current charges shall be calculated based on zero criminal history.
- 7a. Whenever a defendant is sentenced on multiple offenses to probation, the level of probation should be the same for all concurrent sentences. Senate Bill 50, codified as 11 Delaware Code Section 4333(c) makes with narrow exceptions, all periods of probation concurrent. Section 4333(b) also, with exceptions, places limits on the length of probation. If an offender is sentenced to different levels of probation, Probation and Parole places him or her in the highest level of probation imposed and that classification applies to all sentences imposed even at different levels. Title 11 Section 4333(i) empowers the Department of Correction to evaluate offenders after 60 days from the date of sentence. Such evaluation is to determine the appropriate level of probation within Level 3, 2, or 1.
This new policy does not apply to Level 1 – Restitution Only.
8. When sentencing on multiple charges and the lead offense is a violent felony, time for other current violent felonies will be added to Level V time.
9. When considering multiple charges, a violent felony shall be considered to be the most serious offense, for sentence calculation purposes, even though non-violent felonies of higher classification are present.

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10. When ordering a sentence, the Judge will order the offender to a specific initial level of supervision (Assessment of Risk). The judge may recommend a specific treatment program. The DOC will make every effort to assign the offender, or procure admittance into, the recommended program, or equivalent, as slots become available.
 11. In those cases where the Court would consider a level IV alternative to Level V incarceration and no vacancy exists, the judge should sentence the offender to Level IV, with the proviso that the offender be held at Levels V, IV, and III at the discretion of the Court until a Level IV facility becomes available.
 12. All probation sentences handed down at one time (levels I, II, and III) should in the normal case be imposed to run concurrently.
 13. Traffic offenses as listed in Del.C, Title 21, with the exception of section 2810, Driving after Judgment Prohibited, will not currently come under the purview of the Sentencing Standards. However, in the interest of conserving expensive and limited prison space for the violent and proven incalcitrant offender, it is strongly recommended that Title 21 offenders not be given a sentence to Level V incarceration unless they have previously been sentenced to, and failed at, supervision in Level III and Level IV, or unless incarceration is mandated by law.
 14. Repetitive criminal history, as an aggravating factor, is defined as conviction or adjudication for the same or similar offense on two or more previous occasions. This policy is subject to the limitations outlined in Policy Nos. 3 and 4, and to the limitations outlined in the various misdemeanor presumptive sentencing standards.
 15. Excessive cruelty, as an aggravating factor, is defined as those facts surrounding the commission of a violent felony, which demonstrate such a callousness and cruelty towards the victim of the offense as to shock the conscience of the court.
 16. Aggravating factors for the use of Level V as sanction for the non-violent categories of misdemeanor should be limited to objective factors, such as: Vulnerability of victim due to age or impairment Lack of Amenability – If offender is or was already at or above the presumptive Level of Supervision.
 17. When an offender is released from incarceration by any means (good time credits, conditional release, etc.) the release will be to the highest level specified by the court, or by statute, for any unserved sentence, or portion thereof. If no level has been specified, release will be to Level II by default.
 18. The supervisory levels (Level IV [Quasi-Incarceration]; Level III [Intensive Supervision]; etc.) refer to the perceived risk and resultant control to be exercised over the individual. An offender may, as a result of evaluation, be assigned to any type of treatment program without affecting the supervision level. Therefore, a change in supervisory level does not require a change in treatment program.
 19. For purposes of determining conformance to standard, the final sentence, after any suspensions, is the determinant factor. For example, if a given sentence is 2 years at Level V suspended for 2 years at Level II, the Level II sentence is the portion which will actually be served and, therefore, the portion which will be considered as conforming (or not conforming) to the standard.
 20. In those instances involving non-violent felonies, where a decision to incarcerate, with appropriate aggravating factors, has been made, the sentence should be UP TO, but NOT IN EXCESS of, 25% of the statutory maximum for the crime.
 21. In those instances involving misdemeanors, where, due to stated aggravating factors, a decision has been reached that a sentence to incarcerate is unavoidable; the sentence should not exceed the “recommended maximum” as noted in the standards.

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22. In instances when a non-TIS sentence to Level V is followed by a sentence to Level IV and/or Level III supervision, the Board of Parole may grant parole as follows:
- a. Parole to the highest level specified by the original sentencing order. Should a violation occur during the parole period, the offender would be returned before the Board of Parole for violation of parole. Upon successful completion of the required period, the Department may, if appropriate, move the offender pursuant to Policy No. 26, if such a move is not in conflict with the Board of Parole Order. (Revised 9/22/98)
 - b. Offenders released upon reaching their short-time release date (conditional release) shall be released to serve the balance of the Level V sentence (i.e. conditional release supervision period) to the next highest level specified by the original court order or other subsequent sentencing order. If appropriate, the Department may move the offender pursuant to Policy No. 26, if such a move is not in conflict with the Board of Parole Order.
 - c. If a paroled or mandatory-released offender is serving a court-ordered Level IV or III sentence and the unexpired portion of the Level V sentence is less than one (1) year, the Board of Parole, upon application by the Department of Correction, may issue an order discharging the offender from the balance of the Level V sentence, once an equivalent period has been successfully served at Level IV or III.
23. In those cases where an offender is subject to sentences for more than one offense, and when the combined sentence to intermediate sanction at level IV is in excess of one year, including any work release time on a sentence of incarceration, the Department of Correction shall, absent specific objections from the judge(s), be permitted to move the offender, after one year, to a lower level of supervision, providing the offender has met, and continues to meet, the regulations and any special conditions placed upon him/her by the courts. Any lapse in meeting those conditions shall be grounds for a return to completion of the Level IV sentence without recourse to the courts. In like manner, combined sentences to Level III in excess of twelve months shall be subject to movement to a lower level. Such movements, both up and down, will have no effect on the overall length of sentence, except when a formal violation report is filed with the court.
24. Any person failing to return to a Level IV facility shall be deemed to be on escape status. The facility shall cause a warrant to be issued charging the offender with Escape After Conviction and identifying him as a Level IV escapee. Any such person arrested on the warrant shall be returned to the original sentencing court for both a violation hearing and the new charge.
25. Where a defendant is directly sentenced to Level IV Work Release Center, residential treatment, or home confinement and has awaited placement pending slot availability at Level V for a period of 90 days or one half of the Level IV sentence (whichever is less), the Department of Correction shall make appropriate sentence modification recommendations to the sentencing Judge.
26. Level IV, work release center or halfway house, is deemed quasi-incarceration. A defendant serving a sentence at Level IV, work release or halfway house, i.e., quasi-incarceration, is entitled to earn "good time credits" pursuant to 11 Del. C s4381(b) and (c).
27. It is further the policy of SENTAC that individuals sentenced to Level IV (any variation), who must serve a term at Level V awaiting placement at Level IV, shall, during the time served with good conduct at Level V, be awarded good time pursuant to 11 Del. C. S4381(b)(2).
28. Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge.

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29. With regard to sentences of incarceration conditioned by section 4204(k) of Title 11, as amended in 1997, it shall be understood that such sentences are to be served in their entirety at level V, and that there shall be no diminution of such sentence by any of the normally available early release devices, including (but not limited to) good time credits, furlough, work release or community transition. Because such sentences add significant complexity to the management of the population of incarcerated offenders, and, if used indiscriminately, would substantially increase the prison population, Section 4204(k) should be used by judges only in exceptional circumstances.
 30. Since imposition of a sentence pursuant to 11 Del C., sec 4204(k) is, in effect, a departure from the presumptive sentencing guidelines; the reason for use of Sec 4204(k) must be stated on the record and included in the sentencing order. When Section 4204(k) is used with a sentence for an escape-related offense, the reasons for its use are self explanatory and need not be stated on the record or sentencing order.
 31. For any Title 16 offense in which no fine is imposed, the Court shall consider imposing a SARTEP (Substance Abuse, Rehabilitation, Treatment, Education and Prevention Fund) civil penalty not to exceed \$300.
 32. There is a significant cost benefit to the Court, police agencies, attorneys, Department of Correction, the victim and the public in general when a defendant resolves a case early in the criminal process and admits his or her involvement. As such, the Commission, in recognition of these efficiencies, reduces the guideline sentence by 25% when a defendant pleads guilty to the offense and resolves the matter 30 days prior to the scheduled trial. This guideline will only apply when there has been an admission of guilt and is not applicable to Robinson or nolo contendere pleas.

Please familiarize yourself with the above policies and follow them, insofar as possible, in each and every case. If questions should arise, contact either a member of the Commission or the SENTAC staff, Ron Keen, at (302) 577-8728 or Ronald.Keen@state.de.us .

MEMBERS OF THE SENTENCING ACCOUNTABILITY COMMISSION

Description of Commissioner Position	Commission Member:
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Chair: Honorable William C. Carpenter, Jr.
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable T. Henley Graves
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable Alan G. Davis
Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;	Honorable Chandlee Johnson Kuhn
The Attorney General or the Attorney General's designee;	Honorable Joseph R. Biden III
The Public Defender or the Public Defender's designee;	Honorable Brendan J. O'Neill
The Commissioner of Corrections or the Commissioner of Corrections' designee;	Honorable Carl Danberg
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor	Honorable Bernard Pepukayi
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices 1 by the Pres. Pro Tempore of the Senate	Honorable Jerome O. Herlihy
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor	Martin W. Johnson, III Chief Delaware Police Chief's Council
Members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 1 by the Speaker of the House	Colonel Robert Coupe

Class A Felony

Violent (FAV):

Sentence Range (Violent Category) FAV (Exclusive of 1st Degree Murder (11-4209))	
Statutory Range	15 yrs to life (First 15 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	15 yrs @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-634	<u>Child Murder by Abuse/Neglect 1st Degree</u> (a) Reckless: Death of Vt<14 y.o.a. by (1) abuse/ neglect/ (2) previous pattern
11-635	<u>Murder 2nd Degree (see note)</u> (1) Reckless:Cruel,Wicked,DepravedIndiff/ (2) Neg: Comm.Fel
11-636	<u>Murder 1st Degree (see note)</u> (a)(1)Intentional/ (2)Reckless:Comm.Fel/ (3)Causes Suicide by Force/ (4)Reckless: Death LEO, CO, FF/ (5)Death Detonation/ (6)Prevent Arrest
11-773	<u>Rape 1st Degree (see note)</u> (a)(1)W/out Consent & SeriousInjury/ (2)Comm.Crime/ (3)DeadlyW/ (4)Principle-Accomp/ (5)Vt<12,D>18/ (6)Vt<16 & D=Trust
11-777A(e)(3)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-778(f)(1)	<u>Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree(see note)</u>
11-787 b(2)(c), b(4), c	<u>Trafficking of Persons & Involuntary Servitude (see note)</u>
11-1304	<u>Hate Crime (Underlying Offense: Class A Felony) (see note)</u>
11-1339	<u>Adulteration: Death</u>
16-1136(a)	<u>Abuse/Neglect of Patient: Death</u>
31-3913(c)	<u>Abuse/Neglect of Infirm Adult: Death</u>

Sentences For Prior Criminal History Categories	
Offense committed while on release or pending trial or sentencing	15 to 25 yrs @ Level V
Two or more prior felonies	15 to 25 yrs @ Level V
One prior violent Felony	15 to 25 yrs @ Level V
Two or more prior violent Felonies	15 to Life @ Level V
Excessive Cruelty	15 to Life @ Level V

Supplemental Notations for Class A Felonies:

11-4381(a) Probation is not available for offenders sentenced to life.
All sentences for over 1 year at Level V require a six-month reintegration at Levels IV (quasi-incarceration), III, OR II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for the rehabilitation fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-635	Murder 2nd Degree. <i>Reclassified in 6/2003.</i>
11-636	<p><u>Murder 1st Degree</u></p> <ul style="list-style-type: none"> 4209(d)(1): The following sentence was added in regard to sentencing by the court: The jury's recommendation concerning whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist shall be given such consideration as deemed appropriate by the Court in light of the particular circumstances or details of the commission of the offense and the character and propensities of the offender as found to exist by the Court. The jury's recommendation shall not be binding upon the Court. 4209(d)(4): After the Court determines the sentence to be imposed, it shall set forth in writing the findings upon which its sentence is based. If a jury is impaneled, and if the Court's decision as to whether the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist differs from the jury's recommended finding, the Court shall also state with specificity the reasons for its decision not to accept the jury's recommendation.
11-773	<p><u>Rape 1st Degree</u></p> <ul style="list-style-type: none"> (c) A person convicted under this section shall be sentenced to life without benefit of probation, parole or other reduction if: (1) vt < 16 + serious injury, (2) permanent disfigures or disables (3) 3 or more vts or (4) prior conviction of unlawful sexual intercourse 1st degree, rape 1st or 2nd degree or equivalent offense 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is < 14 yoa, then the min. man. is 25 years at Level V up to life <i>(7/26/06)</i>
11-777A(e)(3)	<p><u>Sex Offender Unlawful Sexual Conduct Against a Child</u></p> <ul style="list-style-type: none"> (e)(3) If the underlying sexual offense is a class A or B felony, the crime of sex offender unlawful sexual conduct against a child shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled.

11-778(f)(1)	<p><u>Sexual Abuse of a Child by a person in a position of trust, authority, or supervision in the first degree:</u></p> <p>b. Notwithstanding any law to the contrary, a person convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this subsection shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:</p> <ul style="list-style-type: none"> • 1. at the time of the offense the person inflicts serious physical injury on the victim; or • 2. the person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member of the victim’s body; or • 3. the person is convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this subsection against 3 or more separate victims; or • 4. the person has previously been convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree, unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States.
<p>11-787 b(2)(C), b(4), c</p>	<p><u>Trafficking of Persons and Involuntary Servitude</u></p> <ul style="list-style-type: none"> • (b)(2)(C) sexual servitude of a minor in which overt force or threat was involved is a class A felony. • (b)(4) Trafficking of persons for use of body parts. A person is guilty of trafficking of persons for use of body parts when a person knowingly (i) recruits, entices, harbors, provides or obtains by any means, another person, intending or knowing that the person will have body parts removed for sale or (ii) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of this Section. Such person shall be guilty of a class A felony. Nothing contained herein shall be construed as prohibiting the donation of an organ by an individual at a licensed medical facility after giving an informed voluntary consent. • (c) Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution, including the greater of (1) the gross income or value to the defendant of the victim’s labor or services or (2) the value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19 of the Delaware Code, whichever is greater.
11-1304(b)(4)	<p><u>Hate Crime (Underlying Offense: Class A Felony)</u></p> <p>If the underlying offense is a Class A Felony, the minimum sentence of incarceration shall be doubled.</p>

Class B Felony

I.) Violent (FBV)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 yrs (First 2 yrs @ Level V may not be suspended. 11-4205(d))
Presumptive Sentence	2 – 5 yrs
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-606	<u>Abuse of Pregnant Female 1st Degree</u> Intentionally causes termination through violence without consent
11-613	<u>Assault 1st Degree (see note)</u> (a)(1) Intentional: Serious Injury & DW/ (2)Perm.Disfiguremt/ (4)Comm.Fel+SeriousInjury/ (5)Serious Injury: LEO, FF, (6) Medical Personnel, (7)>62y.o.a (a)(3) Recklessly: Serious Injury/ (4)Comm.Fel+SeriousInjury
11-615	<u>Assault of Child by Abuse/Neglect</u> (a) Recklessly: Serious Injury of Vt<14 y.o.a. by (1)abuse/ neglect/ (2)previous pattern
11-632	<u>Manslaughter (see note)</u> (1)Recklessly: Death/ (2)Intent=SeriousInjury: Death/ (3)Intentionally: Death but Extreme Emotion/ (4)Non-therapeutic Abortion: Death/ (5)Intentionally Causes Suicide
11-633	<u>Child Murder by Abuse/Neglect 2nd Degree</u> (a)Negligently: Death of Vt<14 y.o.a. by (1)abuse, neglect/ (b)previous pattern
11-771	<u>Rape 3rd Degree (see note) (7/26/06)</u> (a)(1) Intercourse: vt<16 & D>10 yrs older/ vt<14 & D=19+ y.o.a. (a)(2) Penetration: (a) w/out consent; Comm.fel; SeriousInjury/ (b) vt<16,Comm.Fel.; injury (a)(3) Intercourse or penetration, V>16, V<18, defendant at least 4 yrs older than victim and in a position of trust, authority, or supervision over the child, or is an invitee of a person who stands in a position of trust, authority or supervision over the child.
11-772	<u>Rape 2nd Degree (see note) (7/26/06).</u> (a)(1)Intercourse w/out consent/ (2)Penetration: (a) w/out consent & serious injury/ (b) w/out consent & Comm.Crime/ (c)vt<16 & SeriousInjury/ (d) w/out consent & DW or threat/ (e)vt<16 & DW or threat/ (f) w/out consent & Principle-accomp/ (g)vt<12 & D+18+/ (h) vt < 16 & D= trust
11-776	<u>Continuous Sexual Abuse of Child (see note) (7/26/06)</u>
11-777	<u>Dangerous Crime Against Child (see note) (7/26/06)</u>
11-777A(e)(2),(e)(3)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-778(f)(2)	<u>Sexual Abuse of a Child by a person in a position of trust authority or supervision in the first degree</u> The minimum sentence for a person convicted of sexual abuse of a child by a person in a position of trust authority or supervision in the first degree as set forth in subsection (b) of this section shall be 10 years at Level V.

11-778(f)(3)	Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree: As set forth in subsection (c) of this section is a class B felony.
11-783A	Kidnapping 1st Degree Unlawful restraint w/out voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
11-826(a)(2)	Burglary 1st Degree (Vt> 62 y.o.a.) (see note) (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
11-832	Robbery 1st Degree (see note) (a)(1)injury to nonparticipant/ (2) DW or threat of/ (3)armed & use or threat/ (4)vt>62)
11-836(a)(4-6)	Carjacking 1st Degree (a)(4)DW or threat/ (5)Injury/ (6)Vt>62 or <14 y.o.a
11-1108	Sexual Exploitation of Child (see note)
11-1109	Dealing in Child Pornography
11-1253	Escape After Conviction (Special Escape Category May Apply)(see note) Injury
11-1254(b)	Assault in Detention Facility w/Serious Injury (see note)
11-1304(b)(3)	Hate Crime (Underlying Offense: Class C Felony)
11-1304(b)(4)	Hate Crime (Underlying Offense: Class B Felony) (see note)
11-1447	Possession of Deadly Weapon during Commission of a Felony (see note)
11-1447A	Possession of Firearm during Commission of a Felony (see note)
11-1449	Wearing Body Armor during Commission of a Felony (see note)
11-1503	Racketeering (see note)
16-4751(c)	Manufacture/Delivery Narcotic: Death (see note)
16-4753A	Trafficking in Controlled Substances (see note)

II.) Nonviolent (FBN)

Crimes in Category

11-787 b(1)(A), b(1)(B),b(2)(B), b(3), c	Trafficking of persons and involuntary servitude (see note)
11-1110	Unlawful Dealing Child Pornography (2nd offense of 11- 1109)
31-610(a)(3)	Trafficking in Food Stamps (Firearms/Ammunition/Controlled Substances) (see note)

Sentences For Prior Criminal History Categories	
Offense committed while on release or pending trial/sentencing	Up to 10 yrs at Level V
Two or more prior felonies	Up to 10 yrs at Level V
One prior violent Felony	Up to 10 yrs at Level V
Two or more prior Violent Felonies	Up to 25 yrs at Level V
Excessive Cruelty	Up to 25 yrs at Level V

Supplemental Notations For Class B Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-613	Assault 1st Degree. <i>Reclassified in 6/2003</i>
11-632	Manslaughter. <i>Reclassified in 6/2003</i>
11-771	Rape 3rd Degree
11-771(a)(2)	<ul style="list-style-type: none"> • (c) If a child is born as a result of offense and remains in the custody of the vt or vt's family, timely child support payments ordered by Family Ct shall be a condition of probation • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life <i>(7/26/06)</i>
11-772	Rape 2nd Degree
	<ul style="list-style-type: none"> • (c) Minimum mandatory sentence: 10 yrs at Level V but see below. • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life <i>(7/26/06)</i>
11-776	Continuous Sexual Abuse of Child
	11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life <i>(7/26/06)</i>
11-777	Dangerous Crime Against Child
	<ul style="list-style-type: none"> • (b) Mandatory Minimum for 2nd offense= life imprisonment. • (c) Defendants sentenced pursuant to this statute shall be not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis until sentence is served. • 11-4205A: (1) If prior conv. for Class A or B felonious sex offense (or similar from another state) or (2) If the vt is <14 yoa, then the min. man. is 25 years at Level V up to life <i>(7/26/06)</i>
11-777A(e)(2), (e)(3)	Sex Offender Unlawful Sexual Conduct Against a Child
	<ul style="list-style-type: none"> • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. • (e)(3) If the underlying sexual offense is a class A or B felony, the crime of sex offender unlawful sexual conduct against a child shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled.

<p>11-787 (b)(1)(A), (b)(1)(B), (b)(2)(B), (b)(3) (c)</p>	<p><u>Trafficking of persons and involuntary servitude</u></p> <ul style="list-style-type: none"> • (b)(1)(A) by causing or threatening to cause physical harm to any person which is a class B felony; • (b)(1)(B) by physically restraining or threatening to physically restrain another person which is a class B felony; • (b)(2)(B) sexual servitude of a minor in which the minor had not attained the age of 14 years and which did not involve overt force or threat is a class B felony; • (b)(3) Trafficking of persons for forced labor or services. A person is guilty of trafficking of persons for forced labor or services when a person knowingly (i) recruits, entices, harbors, transports, provides or obtains by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (ii) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of this Section. Trafficking of persons for forced labor or services is a class B felony. • (c) Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution, including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19 of the Delaware Code, whichever is greater. 												
<p>11-826(a)(2)</p>	<p><u>Burglary 1st Degree (Vt> 62 y.o.a.)</u></p> <ul style="list-style-type: none"> • (b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt <table border="0" style="width: 100%;"> <tr> <td style="padding-left: 20px;">First Conviction</td> <td style="padding-left: 20px;">24 m. to 48 m. @ Level V</td> </tr> <tr> <td style="padding-left: 20px;">On release pending trial/sentence</td> <td style="padding-left: 20px;">36 m. to 60 m. @ Level V</td> </tr> <tr> <td style="padding-left: 20px;">2 or more Prior Felonies</td> <td style="padding-left: 20px;">48 m. to 96 m. @ Level V</td> </tr> <tr> <td style="padding-left: 20px;">1 Prior Violent Felony</td> <td style="padding-left: 20px;">48 m. to 96 m. @ Level V</td> </tr> <tr> <td style="padding-left: 20px;">2 or more Prior Violent Felonies</td> <td style="padding-left: 20px;">60 m. to 120 m. @ Level V</td> </tr> <tr> <td style="padding-left: 20px;">Excessive Cruelty</td> <td style="padding-left: 20px;">60 m. to 120 m. @ Level V</td> </tr> </table>	First Conviction	24 m. to 48 m. @ Level V	On release pending trial/sentence	36 m. to 60 m. @ Level V	2 or more Prior Felonies	48 m. to 96 m. @ Level V	1 Prior Violent Felony	48 m. to 96 m. @ Level V	2 or more Prior Violent Felonies	60 m. to 120 m. @ Level V	Excessive Cruelty	60 m. to 120 m. @ Level V
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Excessive Cruelty	60 m. to 120 m. @ Level V												
<p>11-832</p>	<p><u>Robbery 1st Degree</u></p> <ul style="list-style-type: none"> • (b) Minimum Mandatory sentence of (1) 3 years at Level V or (2) 5 years at Level V if the conviction is for an offense that was committed within 10 years of the date of a previous conviction or termination of the date of confinement from such previous conviction, whichever date is later. Sentence not subject to terms of §4215 (Previous Conviction Enhancement) • (c) Sentencing provisions equally applicable to Attempt. • Original jurisdiction over juveniles charged with Robbery 1st shifted to Superior Court with reverse amenability available. 1 year mandatory commitment for Robbery 1st involving weapons or serious physical injury or for PFDCF in Family Court. 												
<p>11-1108</p>	<p><u>Sexual Exploitation of Child</u> Any person convicted of a 2nd or subsequent violation shall be sentenced to life.(Title 11, §1110)</p>												
<p>11-1253</p>	<p><u>Escape After Conviction</u> Any sentence imposed shall not run concurrently with any other sentence.</p>												

11-1254(b)	<p><u>Assault in Detention Facility w/Serious Injury</u></p> <ul style="list-style-type: none"> • Minimum Mandatory Sentence: 3 yrs at Level V to begin immediately upon sentencing. • Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. • Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed.
11-1304(b)(4)	<p><u>Hate Crime (Underlying Offense: Class B Felony)</u> If the underlying offense is a Class B Felony, the minimum sentence of incarceration shall be doubled.</p>
11-1447	<p><u>Possession of Deadly Weapon during Commission of a Felony</u></p> <ul style="list-style-type: none"> • (b) Any sentence imposed shall not be subject to suspension, good time, parole or probation. • (c) Any sentence imposed shall not run concurrently. The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense. • (d) Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available.
11-1447A	<p><u>Possession of Firearm during Commission of a Felony</u></p> <ul style="list-style-type: none"> • (b) Minimum Mandatory Sentence= 3 years at Level V • (c) If conviction represents 3rd felony conviction= minimum mandatory sentence= 5 years at Level V • (d) Any sentence imposed shall not be subject to suspension, good time, parole or probation. • (f) Juveniles over the age of 15 shall be tried as an adult, with reverse amenability available
11-1449	<p><u>Wearing Body armor during Commission of a Felony</u></p> <ul style="list-style-type: none"> • Minimum Mandatory Sentence= 3 years at Level V which shall not be subject to suspension, parole or probation • Any sentence shall not run concurrently. • The sentence imposed shall be served following the imposition of a sentence for the conviction of the felony offense • Juveniles over the age of 16 shall be tried as an adult, with reverse amenability available
11-1503	<p><u>Racketeering</u></p> <ul style="list-style-type: none"> • 1504(a): Minimum fine= \$25,000 • 1504(b): Mandatory forfeiture of property; Superior Ct shall authorize seizure by AG • 1504(c): In lieu of fine, Defendant may be ordered to pay 3x gross value gained or gross loss caused, whichever is greater, together with investigation, prosecution and court costs reasonably incurred.
16-4751(c)	<p><u>Manufacture/Delivery Narcotic: Death</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$100,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • Title 21, §4177K: Mandatory 3 yr. driver's license revocation

<p>16-4753A</p>	<p><u>Trafficking in Controlled Substances</u></p> <ul style="list-style-type: none"> • (a) Mandatory Minimum Terms of Imprisonment (Level V) and Non-Mandatory Fines: <ul style="list-style-type: none"> (1) MARIJUANA 5 – 99 lbs.: 2 yrs + Up to \$25,000 fine 100 – 499 lbs.: 4 yrs + Up to \$50,000 fine 500+ lbs: 8 yrs + Up to \$100,000 fine (2) COCAINE 10 – 49 gm: 2 yrs + Up to \$50,000 fine 50 – 99 gm: 4 yrs + Up to \$100,000 fine 100+ gm: 8 yrs + Up to \$400,000 fine (3) OPIATES 2.5-9 gm: 3 yrs + Up to \$75,000 fine 10-49 gm: 10 yrs + Up to \$150,000 fine 50+ gm: 25 yrs + Up to \$750,000 fine (4) METHAMPHETAMINE 5 – 49 gm: 2 yrs + Up to \$50,000 fine 50 – 99 gm: 4 yrs + Up to \$100,000 fine 100+ gm: 8 yrs + Up to \$400,000 fine (5) AMPHETAMINE 5 – 49 gm: 2 yrs + Up to \$50,000 fine 50 – 99 gm: 4 yrs + Up to \$100,000 fine 100+ gm: 8 yrs + Up to \$400,000 fine (6) PHENCYCLIDINE (PCP) 5 – 49 gm: 2 yrs + Up to \$50,000 fine 50 – 99 gm: 4 yrs + Up to \$100,000 fine 100+ gm: 8 yrs + Up to \$400,000 fine (7) LYSERGIC ACID DIETHYLAMIDE (LSD) 50 – 99 doses/5 – 9 liquid mg: 2 yrs + Up to \$50,000 fine 100 – 499 doses/10 – 49 liquid mg: 4 yrs + Up to \$100,000 fine 500+ doses/50+ liquid mg: 8 yrs + Up to \$400,000 fine (8) DESIGNER DRUGS 25 – 249 doses/5 – 49 gm/5 – 49 ml: 2 yrs + Up to \$50,000 fine 250-500 doses/50-100 gm/50-100 ml – 4 yrs + Up to \$100,000 fine 500+ doses 100+ gm/100+ ml – 8 years + Up to \$400,000 fine (9) MDMA 25 – 249 doses/5 – 49 gm/5 – 49 ml: 2 yrs + Up to \$50,000 fine 250 – 499 doses/50 – 99 gm/50 – 99 ml: 4 yrs + Up to \$100,000 fine 500+ doses/100+ gm/100+ ml: 8 years + Up to \$400,000 fine • (b) Adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall such person be eligible for parole or release upon good time, work release, supervised custody, furlough or any similar program prior to serving mandatory minimum term of imprisonment • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
<p>31-610(a)(3)</p>	<p><u>Trafficking in Food Stamps (Firearms/Ammunition/Controlled Substances)</u> May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act</p>

Class C Felony (Violent)

I.) (FCV)

Sentence Range (Violent Category) FCV	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Acceptance of Responsibility	Up to 22 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-605	<u>Abuse of Pregnant Female 2nd Degree</u> Recklessly causes termination through violence without consent
11-612 (11)	<u>Assault 2nd Degree</u> The person recklessly or intentionally causes physical injury to a law enforcement officer, security officer, fire policeman, fire fighter, paramedic, or emergency medical technician in the lawful performance of their duties by means of an electronic control device shall be a class c felony.
11-770	<u>Rape 4th Degree</u> (a)(1) vt<16/ (2) vt<18 & D=30+, unless married/ (3)penetration (a)w/out consent or (b) vt<16/ vt>16 but< 18 & D= trust
11-777A(e)(2)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-778(f)(4)	<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree: (see note)</u>
11-783	<u>Kidnapping 2nd Degree</u> Unlawful restraint w/ voluntary release of vt unharmed prior to trial to: (1) hold vt for ransom/ (2) use vt as hostage/ (3) Comm.fel/ (4) injure or sexually abuse vt/ (5) terrorize vt or 3d party/ (6) take child<16
11-803	<u>Arson 1st Degree</u> Intentionally damage bldg by fire/explosion w/knowledge that bldg is either: (1) occupied or (2) it is within reason that it would have been
11-825	<u>Burglary 2nd Degree (Vt> 62 y.o.a.) (see note)</u> (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant
11-826	<u>Burglary 1st Degree (see note)</u> (a) Dwelling at night (1) armed/ (2) causes injury to nonparticipant
11-836(a)(1-3)	<u>Carjacking 1st Degree</u> (a)(1) Class D Felony or higher/ (2) DUI/ (3) Drug Offense
11-1105	<u>Crime Against a Vulnerable Adult(see note)</u>
11-1112A	<u>Child Sex Solicitation</u>
11-1253	<u>Escape After Conviction (Special Escape Category May Apply)(see note)</u> Force/Threat/Deadly Weapon

11-1304(b)(3)	Hate Crime (Underlying offense: Class D Felony)
11-1312	Stalking w/ Deadly Weapon (see note)
11-1353	Promoting Prostitution 1st Degree (1) Compels or profits by force or intimidation/ (2) Profits by prostitute < 16 y.o.a
11-1455	Firearm Transaction on Behalf of Another (Prior Conviction)
16-4751(a)	Manufacture/Delivery/PWI Schedule I,II Narcotic (see note)
16-4761(a)(1)	Distribution of Schedule I or II Narcotic to u/21 y.o.a. (see note)
31-3913(b)	Exploitation of Infirm Adult (>\$50,000/ Prior Conviction)

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 5 years @Level V
Two or more prior felonies	Up to 5 years @ Level V
One prior Violent felony	Up to 5 years @ Level V
Two or more prior violent felonies	Up to 10 years @ Level V
Excessive cruelty	Up to 10 years @ Level V

Supplemental Notations for Class C Violent Felonies

If crime is secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims' fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-777A(e)(2)	<p><u>Sex Offender Unlawful Sexual Conduct Against a Child</u></p> <ul style="list-style-type: none"> (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony. 												
11-778(f)(4)	<p><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree</u> as set forth in subsection (d) (intentionally engages in sexual intercourse or sexual penetration with a child and the Victim >16 <18) of this section is a class C felony.</p>												
11-825	<p><u>Burglary 2nd Degree (Vt > 62 y.o.a.)</u></p> <ul style="list-style-type: none"> (b) Minimum Mandatory Sentences: (1) 1 yr. at Level V or (2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. (c) Sentencing provisions equally applicable to Attempt <table> <tr> <td>First Conviction</td> <td>12 m. to 36 m. @ Level V</td> </tr> <tr> <td>On release pending trial/sentence</td> <td>18 m. to 36 m. @ Level V</td> </tr> <tr> <td>2 or more Prior Felonies</td> <td>36 m. to 72 m. @ Level V</td> </tr> <tr> <td>1 Prior Violent Felony</td> <td>36 m. to 72 m. @ Level V</td> </tr> <tr> <td>2 or more Prior Violent Felonies</td> <td>48 m. to 96 m. @ Level V</td> </tr> <tr> <td>Excessive Cruelty</td> <td>48 m. to 96 m. @ Level V</td> </tr> </table>	First Conviction	12 m. to 36 m. @ Level V	On release pending trial/sentence	18 m. to 36 m. @ Level V	2 or more Prior Felonies	36 m. to 72 m. @ Level V	1 Prior Violent Felony	36 m. to 72 m. @ Level V	2 or more Prior Violent Felonies	48 m. to 96 m. @ Level V	Excessive Cruelty	48 m. to 96 m. @ Level V
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Excessive Cruelty	48 m. to 96 m. @ Level V												

11-826	<p><u>Burglary 1st Degree</u></p> <ul style="list-style-type: none"> • (b) Minimum Mandatory Sentences: (b)(1) 2 yrs at Level V or (b)(2) 4 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt • Presumptive sentences: <table border="0"> <tr> <td>First Conviction</td> <td>24 m. to 48 m. @ Level V</td> </tr> <tr> <td>On release pending trial/sentence</td> <td>36 m. to 60 m. @ Level V</td> </tr> <tr> <td>2 or more Prior Felonies</td> <td>48 m. to 96 m. @ Level V</td> </tr> <tr> <td>1 Prior Violent Felony</td> <td>48 m. to 96 m. @ Level V</td> </tr> <tr> <td>2 or more Prior Violent Felonies</td> <td>60 m. to 120 m. @ Level V</td> </tr> <tr> <td>Excessive Cruelty</td> <td>60 m. to 120 m. @ Level V</td> </tr> </table>	First Conviction	24 m. to 48 m. @ Level V	On release pending trial/sentence	36 m. to 60 m. @ Level V	2 or more Prior Felonies	48 m. to 96 m. @ Level V	1 Prior Violent Felony	48 m. to 96 m. @ Level V	2 or more Prior Violent Felonies	60 m. to 120 m. @ Level V	Excessive Cruelty	60 m. to 120 m. @ Level V
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2 or more Prior Violent Felonies	60 m. to 120 m. @ Level V												
Excessive Cruelty	60 m. to 120 m. @ Level V												
11-1105	<p><u>Crime Against a Vulnerable Adult</u></p> <p>For this offense to be a class C felony, the underlying offense must be a class D felony. See page 114 for listing of qualifying underlying offenses for this statute.</p> <p>“Vulnerable Adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.</p>												
11-1253	<p><u>Escape After Conviction</u></p> <p>Any sentence imposed shall not run concurrently with any other sentence.</p>												
11-1312	<p><u>Stalking w/ Deadly Weapon</u></p> <ul style="list-style-type: none"> • (6) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension • (7) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension 												
16-4751(a)	<p><u>Manufacture/Delivery/PWI Schedule I,II Narcotic</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$50,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum penalty is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum penalty is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • Title 21, §4177K: Mandatory 3 yr. driver’s license revocation 												

<p>16-4761(a)(1)</p>	<p><u>Distribution of Schedule I or II Narcotic to u/21 y.o.a.</u></p> <ul style="list-style-type: none"> • (a)(3) If the recipient of the controlled substance/counterfeit is under <u>16 y.o.a.</u>, the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • (a)(3) If the recipient of the controlled substance/counterfeit is under <u>14 y.o.a.</u>, the mandatory minimum sentence = 2 yrs. At Level V; which minimum sentence shall not be subject to suspension, probation or parole • If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine. • 16-4763(a)(1)(f) If previous conviction under §§4751,4752,4753A or 4761, the maximum penalty is increased to 17 yrs • 16-4763(a)(2)(d) If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 10 yrs • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
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Class C Felony (Nonviolent)

II.) (FCN)

Sentence Range (Nonviolent Category) FCN	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 1 yr @ Level V
Acceptance of Responsibility	Up to 9 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-503	<u>Criminal Solicitation 1st Degree</u> Solicit to commit Class A Felony + Solicited <18 & D>18/Solicited<15 & D= 3+ yrs older
11-787 (b)(1)(C) (b)(2)(A)	<u>Trafficking of persons and involuntary servitude</u> (see note)
11-841(3)(b)	Theft (> \$100,000) (see note)
11-907B(b)	Criminal Impersonation of a Police Officer w/Injury or Felonies (see note)
11-913A(c)(3)	Health Care Fraud (Intended loss>\$100,000/Provider) (see note)
11-917(d)(3)	New Home Construction Fraud (Loss >\$100,000)
11-1458	Removing Firearm from a Law Enforcement Officer
11-1471(c)(f)(g)(h)(i)(j)	Video Lottery Cheat Device >\$99,999.99
16-2513(b)	Conceal/Destroy/Falsify/Forge Document Which Results in False Authorization of Maintenance Medical Treatment for Life Prolongation
16-4761A(a)(1)	Purchase Drugs from Minor (Schedule I,II/Narcotic) (see note)
31-1003	Benefit by False Representation >\$10,000 (see note)
31-1004(2)	Falsify Reimbursement Report >\$10,000 (see note)
31-1006	Unlawful Conversion of Benefits >\$10,000 (see note)

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

Supplemental Notations for Class C Nonviolent Felonies

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-787 (b)(1)(C) (b)(2)(A)	<u>Trafficking of persons and involuntary servitude</u> <ul style="list-style-type: none"> • (b)(1)(C) by abusing or threatening to abuse the law or legal process which is a class C felony; • (b)(2)(A) sexual servitude of a minor in which the minor was between the ages of 14 and 18 years and which did not involve overt force or threat is a class C felony. • (c) Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution, including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19 of the Delaware Code, whichever is greater.
11-841(3)(b)	<u>Theft (>\$100,000)</u> 841(d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-907B(b)	<u>Criminal Impersonation of a Police Officer w/Injury or Felonies</u> During the commission of the offense: (1) causes injury to a nonparticipant or (2) commits a Class A or Class B Felony or any sexual offense as defined in Title 11, §761(d)
11-913A(c)(3)	<u>Health Care Fraud (Intended loss>\$100,000/Provider)</u> 913(c)(4): Fine may be up to 5x pecuniary benefit sought or obtained.
16-4761A(a)(1)	<u>Purchase Drugs from Minor (Schedule I,II/Narcotic)</u> <ul style="list-style-type: none"> • (a)(3)If the recipient of the narcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • (a)(3)If the recipient of the narcotic/controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
31-1003 31-1004(2) 31-1006	<u>Benefit by False Representation</u> <u>Falsify Reimbursement Report</u> <u>Unlawful Conversion of Benefits</u> <ul style="list-style-type: none"> • 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State • 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class D Felony (Violent)

I.) (FDV)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Acceptance of Responsibility	Up to 18 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-607(3)	<u>Strangulation (see note)</u>
11-612	<u>Assault 2nd Degree</u> (a)Intentionally: (1) Serious Injury/ (2)Injury w/DW/ (3) Injures LEO, FF, CO/ (4) Medical personnel/ (5) Vt>62/ (6)Assaults LEO w/spray/ (7)Uses spray commit crime/ Injures State Employee/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a. (a)Recklessly: (1) Serious Injury/ (2)Injury w/DW/ (5)Vt>62/ (9) Injures Pregnant Female/ (10) Injures Vt< 6 y.o.a.
11-769	<u>Unlawful Sexual Contact 1st Degree</u> Causing physical injury/using deadly weapon or threat of
11-775	<u>Bestiality</u>
11-777A(e)(2)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-778(f)(5)	<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree: (see note)</u>
11-778A(d)(1)	<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree: (see note)</u>
11-802	<u>Arson 2nd Degree</u> Intentionally damage unoccupied bldg by fire/explosion
11-825	<u>Burglary 2nd Degree (see note)</u> (a)(1) Dwelling/ (a)(2) Bldg + (a) DW or (b) Injury to nonparticipant
11-835(b)(2)	<u>Carjacking 2nd Degree</u> (a)Risk of Death or Serious Injury/(b)Compels Lawful Occupant to Leave/(c) Reckless Operation
11-846	<u>Extortion (Vt>62 y.o.a.)</u>
11-1105	<u>Crime Against a Vulnerable Adult (see note)</u>
11-1109	<u>Dealing in Child Pornography (see note)</u>
11-1250(c)	<u>Assault 1st Degree on Law Enforcement Animal</u> Intentionally or Recklessly causes Death or Serious Injury
11-1253	<u>Escape After Conviction (Special Escape Category May Apply)(see note)</u>
11-1254(a)	<u>Assault in Detention Facility: Injury (see note)</u>
11-1254(c)	<u>Assault in Detention Facility: Bodily Emissions (see note)</u>
11-1304(b)(3)	<u>Hate Crime (Underlying Offense: Class E Felony)</u>

11-1338	Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive (see note)
11-1442	Carrying Concealed Deadly Weapon (Prior conviction <5 years) (see note)
11-1448(e)(1)	Poss/Purchase Firearm/Destructive Weapon by Prohibited Person w/Prior Conviction of Violent Felony (see note)
11-1448(e)(2)	Poss/Purchase Firearm/Destructive Weapon by Prohibited Person w/Prior Conviction of Violent Felony (see note)
11-1459	Possession of a Firearm with Altered Serial Number
11-3533	Aggravated Intimidation of Witness &/or Victim (see note)
16-1136(a)	Abuse/Neglect of Patient: Serious Injury
16-4752A	Delivery Noncontrolled Substance (see note)
31-3913(b)	Exploitation of Infirm Adult (\$10,000 - \$50,000)
31-3913(c)	Abuse of Infirm Adult: Bodily Harm

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 4 yrs @ Level V
Two or more prior felonies	Up to 4 yrs @ Level V
One Prior violent felony	Up to 4 yrs @ Level V
Two or more prior violent felonies	Up to 8 yrs @ Level
Excessive Cruelty	Up to 8 yrs @ Level V

Supplemental Notations for Class D Violent Felonies

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-607(3)	<p><u>Strangulation</u></p> <ul style="list-style-type: none"> • If person used or attempted to use a deadly weapon or dangerous instrument while committing the offense; or • The person caused serious physical injury to the other person while committing the offense; or • The person has previously been convicted of strangulation
11-777A(e)(2)	<p><u>Sex Offender Unlawful Sexual Conduct Against a Child</u></p> <ul style="list-style-type: none"> • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony.
11-778(f)(5)	<p><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree</u> as set forth in subsection (e)(engages in an act of sexual extortion as defined in Section 774 of this chapter, and the victim is <16) is a class D Felony.</p>

11-778A(d)(1)	<p><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree</u> as set forth in subsection (a)(intentionally has sexual contact with a child <16 or causes the child to have sexual contact with the person or a third person and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child) is a class D felony.</p>												
11-825	<p><u>Burglary 2nd Degree</u></p> <ul style="list-style-type: none"> • Minimum Mandatory Sentences: (b)(1) 1 yr at Level V or (b)(2) 3 yrs at Level V if within 5 yrs of the date of a previous conviction for Burglary of the 1st or 2nd degree, or the date of release from said conviction. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable. • (c) Sentencing provisions equally applicable to Attempt • Minimum Presumptive Sentences: <table border="1" data-bbox="461 621 1357 821"> <tr> <td>1st Conviction</td> <td>12 to 36 m @ Level V</td> </tr> <tr> <td>While on Release or pending Trial</td> <td>18 to 36 m @ Level V</td> </tr> <tr> <td>Two or more prior felonies</td> <td>36 to 72 m @ Level V</td> </tr> <tr> <td>One Prior Violent Felony</td> <td>36 to 72 m @ Level V</td> </tr> <tr> <td>Two or more prior violent felonies</td> <td>48 to 96 m @ Level V</td> </tr> <tr> <td>Excessive cruelty</td> <td>48 to 96 m @ Level V</td> </tr> </table>	1 st Conviction	12 to 36 m @ Level V	While on Release or pending Trial	18 to 36 m @ Level V	Two or more prior felonies	36 to 72 m @ Level V	One Prior Violent Felony	36 to 72 m @ Level V	Two or more prior violent felonies	48 to 96 m @ Level V	Excessive cruelty	48 to 96 m @ Level V
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Two or more prior violent felonies	48 to 96 m @ Level V												
Excessive cruelty	48 to 96 m @ Level V												
11-1105	<p><u>Crime Against a Vulnerable Adult</u> For this offense to be a class D felony, the underlying offense must be a class E felony. See page 114 for listing of qualifying underlying offenses for this statute. “Vulnerable Adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.</p>												
11-1109	<p><u>Dealing in Child Pornography</u> 2nd or subsequent conviction shall be guilty of a Class B Felony (Title 11, §1110).</p>												
11-1253	<p><u>Escape After Conviction</u> Any sentence imposed shall not run concurrently with any other sentence.</p>												
11-1254(a)	<p><u>Assault in Detention Facility: Injury</u></p> <ul style="list-style-type: none"> • Minimum Mandatory Sentence: 2 years at Level V to begin immediately upon sentencing. • Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed. 												
11-1254(c)	<p><u>Assault in Detention Facility: Bodily Emissions</u></p> <ul style="list-style-type: none"> • Minimum Mandatory Sentence: 1 yr at Level V to begin immediately upon sentencing. • Such sentence shall not be suspended nor shall the Defendant be eligible for parole or probation. • Original sentence causing confinement temporarily suspended and continues only after the sentence for this conviction has been completed. • The Defendant shall be tested for communicable diseases and the costs assessed as costs upon conviction. Results are to be communicated to the AG, the Victim, the Defendant and the medical care provider for D.O.C. 												
11-1338	<p><u>Mfr/Transfer/Use/Poss/Transport Bomb/Incendiary Device/ Molotov Cocktail/Explosive</u> Any person over 16 y.o.a. who violates this section shall be charged as an adult.</p>												

11-1442	<p><u>Carrying Concealed Deadly Weapon (Prior conviction < 5 yrs)</u></p> <ul style="list-style-type: none"> • T11 1457 (b)(1) & (j)(4): If the violation occurs within a Safe School and Recreation Zone the crime shall be a class D violent felony. • T11 1457 (b)(1) & (j)(5): If the individual is an elementary or secondary school student the student shall be expelled for 180 days.
11-1448(e)(1)	<p><u>Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony</u></p> <ul style="list-style-type: none"> • Mandatory Minimum Sentence- (e)(1): 1 yr at Level V if previously convicted of a violent felony or (e)(2): 3 yrs at Level V if offense occurs within 10 yrs of the conviction or incarceration for any violent felony, whichever is later or (e)(3): 5 yrs at Level V if the person has been convicted on 2 or more separate occasions of any violent felony. The provisions of §4215 (Previous Conviction Enhancement) shall not be applicable.
11-1448(e)(2)	<p><u>Poss/Purchase Firearm/Destructive Device by Prohibited Person w/Prior Conviction of Violent Felony</u></p> <ul style="list-style-type: none"> • Mandatory Minimum Sentence- (e)(2): a. 4 yrs at Level V; or b. 6 yrs at Level V, if the person causes such injury or death within 10 yrs of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or c. 10 yrs at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.
11-3533	<p><u>Aggravated Intimidation of Witness &/or Victim</u> 11-3534: Sentencing provisions equally applicable to Attempt</p>
16-4752A	<p><u>Delivery Noncontrolled Substance</u></p> <ul style="list-style-type: none"> • (c) Sentence is governed by the penalty for delivery of the substance which the defendant represented the noncontrolled substance to be. If no specific express or implied representation was made, the penalty shall be that for delivery of a nonnarcotic controlled substance. Section 4751(b) of Title 16 shall not apply • Minimum Fine= \$5,000, Maximum Fine= \$50,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)

Class D Felony (Nonviolent)

II.) (FDN)

Sentence Range (Nonviolent Category) FDN	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 12 months @ Level II or III
Acceptance of Responsibility	Up to 9 months at Level II or III
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-850(b)(3)	Unlawful Telecommunication Device (>2 prior convictions/ 50+ devices)(see note)
11-854	Identity Theft (see note)
11-932	Unauthorized Computer Access (>\$10,000)(see note)
11-933	Theft Computer Services (>\$10,000) (see note)
11-934	Interruption Computer Services (>\$10,000)(see note)
11-935	Misuse Computer System Information (>\$10,000)(see note)
11-936	Destruction Computer Equipment (>\$10,000)(see note)
11-937	Unauthorized Electronic Mail (>\$10,000) (see note)
11-938	Fail to Cease Electronic Communication (>\$10,000) (see note)
11-939	Computer Offense Penalties (>\$10,000) (see note)
11-951	Money Laundering
11-1223	Perjury 1st Degree Material, False Testimony
11-1457(j)(3)	Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Class E Fel.) (see note)
11-1448	Poss/Purchase Firearm/Ammunition by Prohibited Person (see note)

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 24 months @ Level V
Lack of amenability to lesser sanctions	Up to 24 months @ Level V

Supplemental Notations for Class D Nonviolent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(2) Gang Participation: Conviction for a Class D Felony as a result of gang participation shall be sentenced as a Class C Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-850(b)(3)	<p><u>Unlawful Telecommunication Device (>2 prior convictions/ 50+ devices)</u></p> <ul style="list-style-type: none"> • (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints • (b)(7) All fines shall be imposed for each unlawful telecommunication or access device • (b)(8) Restitution shall be ordered in the manner prescribed by §4106 • (b)(9) The court may order forfeiture of unlawful device(s)
11-854	<p><u>Identity Theft</u> Restitution shall be ordered for monetary loss including documented loss of wages and reasonable attorney's fees</p>
11-932 11-933 11-934 11-935 11-936 11-937 11-938 11-939	<p><u>Unauthorized Computer Access</u> <u>Theft Computer Services</u> <u>Interruption Computer Services</u> <u>Misuse Computer System Information</u> <u>Destruction Computer Equipment</u> <u>Unauthorized Electronic Mail</u> <u>Fail to Cease Electronic Communication</u> <u>Computer Offense Penalties</u></p> <ul style="list-style-type: none"> • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.
11-1448 11-1448(a)(5)	<p><u>Poss/Purchase Firearm/Ammunition by Prohibited Person</u></p> <ul style="list-style-type: none"> • Nonviolent classification only applies to Poss/Purchase <u>Firearm</u> if no prior violent felony conviction. If prior violent felony conviction, see p.39 for §1448(e). • (f)(1) Any juvenile 14 y.o.a or older convicted under (a)(5) shall for a 1st offense, receive a minimum sentence of 6 m. at Level V, or, for a 2nd or subsequent offense, 1 yr of Level V, which shall not be suspended. §§4205(b) and 4215 shall not be applicable to this subsection. • (g) In addition, said juvenile shall be ordered after a first conviction to view a film/slide presentation related to the damage and injury caused by a gun and must meet with a victim or family of a deceased victim of violent crime.
11-1457	<p><u>Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Class E Fel.)</u> (j)(3) If the underlying offense is a class e felony the crime shall be a class d felony. (j)(5) An elementary or secondary school student shall be expelled for 180d.</p>

Class E Felony (Violent)

I.) (FEV)

Sentence Range (Violent Category): FEV	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 15 m. @ Level V
Acceptance of Responsibility	Up to 11 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-513	<u>Conspiracy 1st Degree</u> Conspires to Commit Class A Felony
11-602(b)	<u>Aggravated Menacing (Display Deadly Weapon)</u>
11-604	<u>Reckless Endangering 1st Degree</u> Conduct likely to cause death
11-607(1)	<u>Strangulation</u>
11-630A	<u>Vehicular Homicide 1st Degree (see note)</u> DUI & criminally negligent driving: death
11-631	<u>Criminally Negligent Homicide</u>
11-774	<u>Sexual Extortion</u>
11-777A(e)(2)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-831	<u>Robbery 2nd Degree</u> (a)Theft w/force to (1) overcome resistance/(2)compel owner's cooperation
11-835	<u>Carjacking 2nd Degree</u> Intentional Theft Occupied Motor Vehicle by Coercion/Duress
11-846	<u>Extortion</u>
11-1105	<u>Crime Against a Vulnerable Adult (see note)</u>
11-1304(b)(3)	<u>Hate Crime (Underlying Offense: Class F Felony)</u>
11-1339	<u>Adulteration (Injury/Illness)</u>
11-1444	<u>Possess Destructive Weapon (see note)</u>
11-1445(5)	<u>Unlawful Dealing with Dangerous Weapon</u> Enabling Felony/Class A Misdemeanor/Drug Crime
16-4751(b)	<u>Manufacture/Delivery/PWI of Sched. III,IV,V Narcotic (see note)</u>
16-4752(a)	<u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance (see note)</u>
16-4752(b)	<u>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics (see note)</u>
16-4754A(d)	<u>Deliver/PWI Noncontrolled Prescription Drug (see note)</u>
16-4761(a)(2)	<u>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a. (see note)</u>
16-4774(c)	<u>Delivery Drug Paraphernalia to Minor (see note)</u>
31-3913(b)	<u>Exploitation of Infirm Adult (>\$5,000/<\$10,000)</u>

Sentences For Prior Criminal History Categories

Sentences For Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 30 m. @ Level V
Two or more prior felonies	Up to 30 m. @ Level V
One prior violent felony	Up to 30 m. @ Level V
Two or more prior violent felonies	Up to 5 yrs @ Level V

Supplemental Notations For Class E Violent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-630A	<p><u>Vehicular Homicide 1st Degree</u></p> <ul style="list-style-type: none"> (b) Minimum mandatory sentence = 2 years which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody for the first 18 m. Every person >16 y.o.a., shall be treated as an adult, subject to reverse amenability provisions, except that mandatory minimum sentences in (b) shall not apply. Incarceration, if ordered, shall be initially served in juvenile facility until 18 y.o.a and then shall continue in an adult facility.
11-777A(e)(2)	<p><u>Sex Offender Unlawful Sexual Conduct Against a Child</u></p> <ul style="list-style-type: none"> (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony.
11-1105	<p><u>Crime Against a Vulnerable Adult</u></p> <p>For this offense to be a class E felony the underlying offense must be a class F felony. See page 114 for listing of qualifying underlying offenses for this statute.</p> <p>“Vulnerable Adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.</p>
11-1444	<p><u>Possess Destructive Weapon</u></p> <ul style="list-style-type: none"> 11-1457(b)(1&2)&(j)(4): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class D Violent Felony. 11-1457(j)(5): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.

16-4751(b)	<p><u>Manufacture/Delivery/PWI of Sched. III,IV,V Narcotic</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$15,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
16-4752(a)	<p><u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$10,000/ Maximum Imprisonment= 5 yrs • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)
16-4752(a) 16-4752(b)	<p><u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</u> <u>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics</u></p> <ul style="list-style-type: none"> • 16-4763(a)(1)(c) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 5 yrs. • 16-4763(a)(2)(a) If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 3 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)
16-4754A(d)	<p><u>Deliver/PWI Noncontrolled Prescription Drug</u></p> <ul style="list-style-type: none"> • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V (continued) • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)

<p>16-4761(a)(2)</p>	<p><u>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a.</u></p> <ul style="list-style-type: none"> • (a)(4) If the recipient of the nonnarcotic controlled substance/counterfeit is under <u>16 y.o.a.</u>, the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. • If the recipient is under <u>14 y.o.a.</u>, the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. (continued) • (c) If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine. • 16-4763(a)(1)(e) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 9 years • 16-4763(a)(2)(c) If previous conviction under §§4751,4752,4753A or 4761, the mandatory minimum imprisonment is 7 yrs • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
<p>16-4774(c)</p>	<p><u>Delivery Drug Paraphernalia to Minor</u></p> <p>16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</p>

Class E Felony (Nonviolent)

II.) (FEN)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-503	<u>Criminal Solicitation 1st Degree</u> Solicit to commit Class A Felony
11-780	Female Genital Mutilation
11-787(b)(1)(D),c	<u>Trafficking of persons and involuntary servitude (see note)</u>
11-841B(c)	<u>Theft: Organized Retail Crime: class A misd; class E felony (see note)</u>
11-841(c)(3)(a)	Theft (\$50,000-\$99,999)(see note)
11-876	<u>Tamper w/ Public Record 1st Degree</u> With Intent to Defraud
11-907B	Criminal Impersonation Police Officer
11-913A(c)(2)	<u>Health Care Fraud (see note)</u> Intended loss= \$50,000-\$99,999/ Pattern of Claims When Offender is Provider
11-926(d)(3)	<u>Trademark Counterfeiting (2+Conv/Mfr/>1,000/>\$10,000+) (7/7/05)</u>
11-932	<u>Unauthorized Computer Access (\$5,000-\$9,999) (see note)</u>
11-933	<u>Theft Computer Services (\$5,000-\$9,999) (see note)</u>
11-934	<u>Interruption Computer Services (\$5,000-\$9,999) (see note)</u>
11-935	<u>Misuse Computer System Information (\$5,000-\$9,999) (see note)</u>
11-936	<u>Destruction Computer Equipment (\$5,000-\$9,999) (see note)</u>
11-937	<u>Unauthorized Electronic Mail (\$5,000-\$9,999) (see note)</u>
11-938	<u>Fail to Cease Electronic Communication (\$5,000-\$9,999) (see note)</u>
11-939	<u>Computer Offense Penalties (\$5,000-\$9,999) (see note)</u>
11-1100	Dealing in Children
11-1101	Abandonment of Child (<than 14 yrs of age)
11-1102(b)(1)	Endanger Welfare of Child: Death
11-1201	Bribery of a Public Servant
11-1203	Receiving a Bribe by a Public Servant
11-1239	Wearing Disguise during Felony
11-1248	Obstruct Rabies Control during Emergency
11-1261	Bribery of a Witness
11-1262	Receiving a Bribe by a Witness

11-1263	Tamper with a Witness
11-1263A(a)(2)	<u>Interfere with Child Witness</u> Fail to Produce
11-1263A(a)(3)(b)	<u>Interfere with Child Witness</u> Bribes Another: Fail to Produce
11-1263A(a)(4)(b)	<u>Interfere with Child Witness</u> Threaten Another: Fail to Produce
11-1264	Bribery of a Juror
11-1265	Receiving a Bribe by a Juror
11-1326(a)	Animals; fighting and baiting (see note)
11-1327(c)(1)	Dangerous Animal: Death of Person
11-1352	<u>Promoting Prostitution 2nd Degree</u> (1)Manages or Owns Business w/2+ prostitutes/ (2)Profits by prostitute < 18 y.o.a
11-1361	Providing Obscenity to Minor (see note)
11-1457(j)(3)	Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class F Felony) (see note)
11-1471(c)(f)(g)(h)(i)(j)	Video Lottery Cheat Device >50,000<100,000
11-3532	Intimidation of a Witness &/or Victim
16-4761A(a)(2)	Purchase Drugs from Minor (Controlled Substance/Nonnarcotic) (see note)
31-610(a)(1)	Transfer/Alter/Possess Food Stamps (\$500>) (see note)
31-1003	False Representation for Benefits (\$500-\$9,999) (see note)
31-1004(2)	Falsify Reimbursement Report (\$500-\$9,999) (see note)
31-1004(3)	Misrepresentation to Qualify as Provider (see note)
31-1004(4)	Misrepresentation as to Operation of Provider/Facility (see note)
31-1005	Kickback Schemes (see note)
31-1006	Unlawful Conversion of Benefits (\$500-\$9,999) (see note)

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 15 m. @ Level V
Lack of amenability to lesser sanctions	Up to 15 m. @ Level V

Supplemental Notations for Class E Nonviolent Felonies:

If crime is a secondary offense, use non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
11-616(c)(3) Gang Participation: Conviction for a Class C Felony as a result of gang participation shall be sentenced as a Class B Felony under Title 11, §4205.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<p>11-787 (b) (1) (D), c</p>	<p><u>Trafficking of persons and involuntary servitude</u></p> <ul style="list-style-type: none"> • (b)(1)(D) by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person which is a class E felony; • (c) Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution, including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19 of the Delaware Code, whichever is greater.
<p>11-841B(c)</p>	<p><u>Theft: Organized Retail Crime; class A misdemeanor; class E felony</u> In addition to the provisions of Section 841(c) and (d) of this chapter, if a defendant has two or more times been convicted of Theft: Organized Retail Crime, the offense of Theft: Organized Retail Crime is a class E felony.</p>
<p>11-841(c)(3)(a)</p>	<p><u>Theft (\$50,000-\$99,999)</u> Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.</p>
<p>11-913A(c)(2)</p>	<p><u>Health Care Fraud (c)(4):</u> Fine may be up to 5x pecuniary benefit sought or obtained.</p>
<p>11-932 11-933 11-934 11-935 11-936 11-937 11-938 11-939</p>	<p><u>Unauthorized Computer Access</u> <u>Theft Computer Services</u> <u>Interruption Computer Services</u> <u>Misuse Computer System Information</u> <u>Destruction Computer Equipment</u> <u>Unauthorized Electronic Mail</u> <u>Fail to Cease Electronic Communication</u> <u>Computer Offense Penalties</u></p> <ul style="list-style-type: none"> • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.

11-1326(a)	<p><u>Animals; fighting and baiting</u></p> <ul style="list-style-type: none"> All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be disposed of in a humane manner. A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.
11-1361	<p><u>Providing Obscenity to Minor</u></p> <ul style="list-style-type: none"> If the obscenity involved live conduct, the business or establishment shall be closed for 6 m. (c) Minimum mandatory sentence for 2nd or subsequent conviction within 5 yrs.: (1) \$5,000 fine (\$10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.
11-1457	<p><u>Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class F Felony)</u> (j)(4) An elementary or secondary school student shall be expelled for 180d.</p>
16-4761A(a)(2)	<p><u>Purchase Drugs from Minor (Controlled Substance/Nonnarcotic)</u></p> <ul style="list-style-type: none"> (a)(4) If the recipient of the nonnarcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole (a)(4) If the recipient of the nonnarcotic/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 1 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
31-610(a)(1)	<p><u>Transfer/Alter/Possess Food Stamps (\$500>)</u> May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act</p>
<p>31-1003 31-1004(2) 31-1004(3) 31-1004(4) 31-1005 31-1006</p>	<p><u>Benefit by False Representation</u> <u>Falsify Reimbursement Report</u> <u>Misrepresentation to Qualify as Provider</u> <u>Misrepresentation as to Operation of Provider/Facility</u> <u>Kickback Schemes</u> <u>Unlawful Conversion of Benefits</u></p> <ul style="list-style-type: none"> 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class F Felony (Violent)

I.) (FFV)

Sentence Range (Violent Category): FFV	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 9 m. @ Level V
Acceptance of Responsibility	Up to 7 months at Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-617(b)(2)	Criminal Youth Gang: Recruitment/Retention:Violence or Threat (7/10/06)
11-629	Vehicular Assault 1st Degree DUI & criminally negligent driving: Serious Injury
11-630	Vehicular Homicide 2nd Degree (see note) (a)(1)Criminally negligent driving: death/ (2) DUI + Negligent driving: death
11-645	Promoting Suicide
11-768	Unlawful Sexual Contact 2nd Degree Vt<16 y.o.a.
11-777A(e)(2)	Sex Offender Unlawful Sexual Conduct Against a Child (see note)
11-778A(d)(2)	Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree: (see note)
11-1105	Crime Against a Vulnerable Adult (see note)
11-1256	Promoting Prison Contraband: Deadly Weapon, mobile phone, cellular phone or other prohibited electronic device
11-1302	Riot
11-1304(b)(3)	Hate Crime (Underlying Offense: Class G Felony)
11-1312	Stalking (see note) Causing Fear/Defendant=21+ y.o.a. & Vt= <14 y.o.a., def. viol. N.c. ord. w/vic, or vic >62, or thrt of death or serious phys. inj. to vic. or another person, serious phys. inj. to vic.

Sentences for Prior Criminal History Categories	
While on release or pending trial or sentencing	Up to 18 Months @ Level V
Two or more prior felonies	Up to 18 months @ Level V
One prior violent felony	Up to 18 Months @ Level V
Two or more prior violent felonies	Up to 36 Months @ Level V

Supplemental Notations for Class F Violent Felonies:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

<p>11-630</p>	<p><u>Vehicular Homicide 2nd Degree</u></p> <ul style="list-style-type: none"> • (b) Mandatory minimum sentence for violation of (a)(2) DUI: 1 yr. which shall not be subject to suspension, probation, parole, furlough, work release or supervised custody during the 1st year. • (c) Persons 16 y.o.a. or older, shall be treated as an adult except that mandatory minimum sentence shall not apply & any period of incarceration shall be served at a juvenile facility until 18 y.o.a. at which time the person shall be transferred to an adult facility to continue their sentence
<p>11-777A(e)(2)</p>	<p><u>Sex Offender Unlawful Sexual Conduct Against a Child</u></p> <ul style="list-style-type: none"> • (e)(2) If the underlying sexual offense is a Class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony.
<p>11-778A(d)(2)</p>	<p><u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree;</u> as set forth in subsection (b)(1)(Is a male who intentionally exposes his genitals or buttocks to a child who <16 under circumstances in which he knows his conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and he stands in a position of trust, authority or supervision over the child or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child): or (2)(Is a female who intentionally exposes her genitals, breast or buttocks to a child <16 under circumstances in which she knows her conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and she stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.) is a class F felony.</p>
<p>11-1105</p>	<p><u>Crime Against a Vulnerable Adult</u></p> <p>For this offense to be a class F felony, the underlying offense must be a class G felony. See page 114 for listing of qualifying underlying offenses for this statute.</p> <p>“Vulnerable Adult” means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term “vulnerable adult” includes any adult for whom a guardian or the person or property has been appointed.</p>

11-1312	<u>Stalking</u> <ul style="list-style-type: none">• (6) If act(s) has been previously prohibited by court order or sentence, minimum mandatory sentence = 6 m. at Level V; the first 6 m. of sentence shall not be subject to suspension• (7) If convicted of stalking w/in 5 yrs of prior stalking conviction, minimum mandatory sentence = 1 yr at Level V; the first year of sentence shall not be subject to suspension
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Class F Felony (Nonviolent)

II.) (FFN)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II for Title 11 offenses Up to 14 months @ Level II for Title 16 offenses
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-502	<u>Criminal Solicitation 2nd Degree</u> (see note) Solicit to commit Felony
11-621(a)(2)	<u>Terroristic Threat</u> (see note) False Stmt likely to: (a)evacuation/ (b)serious inconvenience/ (c)terror + School or Care Facility
11-621(a)(3)	<u>Terroristic Threat</u> (see note) Intent to Cause Belief of Substance Exposure: Death/Serious Injury
11-622	<u>Hoax Device</u>
11-651	<u>Abortion</u>
11-787(b)(1)(E) c	<u>Trafficking of persons and involuntary servitude</u> (see note)
11-824	<u>Burglary 3rd Degree</u> (see note) Building
11-828	<u>Possess Burglary Tools</u>
11-840A	<u>Use of Illegitimate Sales Receipt/UPC Label (15+ Receipts/ UPC Labels/ \$1,500+)</u>
11-841(c)(2)	<u>Theft</u> (see note) \$1500+/vt= 62+ y.o.a./Infirm/Disabled
11-841C(b)	<u>Theft: Theft of a blank prescription form or pad</u>
11-850(b)(2)	<u>Unlawful Telecommunication Device (Previous Conviction/ 10-49 Devices)</u>
11-860	<u>Possess Shoplifters Tools</u>
11-861(b)(1)	<u>Forgery 1st Degree</u> (see note) Money/Stamps/Stocks/Bonds etc.
11-903	<u>Unlawful Use Credit Card</u> Vt= 62+ y.o.a & >\$1,500
11-917(d)(2)	<u>New Home Construction Fraud</u> Loss= \$50,000-\$99,999
11-922(c)	<u>Improper Labeling (PriorConv 100>)</u> (see note) (7/10/06)
11-932	<u>Unauthorized Computer Access (\$1,000-\$4,999)</u> (see note)
11-933	<u>Theft Computer Services (\$1,000-\$4,999)</u> (see note)
11-934	<u>Interruption Computer Services (\$1,000-\$4,999)</u> (see note)

11-935	Misuse Computer System Information (\$1,000-\$4,999) (see note)
11-936	Destruction Computer Equipment (\$1,000-\$4,999) (see note)
11-937	Unauthorized Electronic Mail (\$1,000-\$4,999) (see note)
11-938	Fail Cease Electronic Communication (\$1,000-\$4,999) (see note)
11-939	Computer Offense Penalties (\$1,000-\$4,999) (see note)
11-1101	Abandonment of Child (14 yrs of age or older)
11-1111	Possession of Child Pornography
11-1112(a)(2)	Sex Offender (Loiter w/in 500 ft School)
11-1222	<u>Perjury 2nd Degree</u> Written, Material False Stmt Intended to Mislead Public Servant
11-1263A(a)(1)	<u>Interfere with Child Witness</u> Complainant removed from jurisdiction
11-1263A(a)(3)(a)	<u>Interfere with Child Witness</u> Bribe to cause Complainant's removal from jurisdiction
11-1263A(a)(4)(a)	<u>Interfere with Child Witness</u> Threat to cause Complainant's removal from jurisdiction
11-1271A(b)(c)	<u>Crim. Contempt Dom Violence Pro. Order (PFA)</u> (see note)
11-1303(3)(b)	<u>Disorderly Conduct: Funeral/Memorial Service</u> (Prior Conv) (6/1/06)
11-1325	<u>Cruelty to Animals</u> (see note) Cruelly or Unnecessarily kills or seriously injures under (b)(4) or (5)
11-1326(b)(c)	<u>Fighting/Baiting Animals</u> (see note)
11-1327(c)(2)	<u>Dangerous Animal: Serious Injury to Person</u>
11-1351	<u>Promoting Prostitution 3rd Degree</u> Profit from prostitution
11-1448	<u>Poss/Purchase Deadly Weapon (Other than Destructive Weapon/ Firearm/Ammunition) by Prohibited Person</u> (see note)
11-1450	<u>Receiving Stolen Firearm</u>
11-1451	<u>Theft of firearm</u>
11-1454	<u>Giving Firearm to Person Prohibited</u>
11-1455	<u>Firearm Transaction on Behalf of Another</u> (1 st Offense)
11-1457(j)(3)	<u>Possession Weapon in Safe School/Recreation Zone</u> (Underlying Offense: Class G Felony) (see note)
16-4755(a)(1)	<u>Illegal Distribution of Controlled Substance</u> (see note)
16-4755(a)(2)	<u>Unauthorized Manufacture/Distribution Controlled Substance</u> (see note)
16-4755(a)(4)	<u>Refusal to Allow Inspection</u> (see note)
16-4755(a)(5)	<u>Maintain Structure/Conveyance for Illegal Use/Delivery</u> (see note)
16-4756	<u>Obtain/Distribute Controlled Substance by Fraud/Theft</u> (see note)
21-4134(d)	<u>Operation of vehicles on approach of authorized emergency vehicles</u>

Standard Sentences for Prior Criminal History Categories

Repetitive criminal history	Up to 9 m. @ Level V
Lack of amenability at lesser sanctions	Up to 9 m. @ Level V

Supplemental Notations for Class F Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-502	<u>Criminal Solicitation 2nd Degree</u> Class F Felony unless the solicitor is 18 y.o.a. or older and the solicited is >18 y.o.a. or unless the solicitor is more than 3 yrs older than the solicited, who is less than 15 y.o.a. in which case, this crime is a Class D Felony.
11-621(a)(2)	<u>Terroristic Threat</u> <ul style="list-style-type: none"> • (c)(1) Mandatory fine: \$1,000-\$2,500 which cannot be suspended and a minimum of 100 hrs community service • If the defendant is 17 y.o.a. or > & it is a first offense = Class A Misd
11-621(a)(3)	<u>Terroristic Threat</u> . (d) Mandatory fine: \$2,000 which shall not be suspended
11-787(b)(1)(E), c	<u>Trafficking of persons and involuntary servitude</u> <ul style="list-style-type: none"> • (b)(1)(E) by using blackmail, or using or threatening to cause financial harm to, or by using financial control over any person which is a class F felony. • (c) Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution, including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA) or of Title 19 of the Delaware Code, whichever is greater.
11-824	<u>Burglary 3rd Degree</u> . Presumptive sentences: First Conviction – Quasi Incarceration (Level IV) for 3 Mo. Repetitive Criminal History – Level V for 3 to 12 Mo. Lack of amenability to Lesser Sanction - Level V for 3 to 12 Mo.
11-841(c)(2)	<u>Theft</u> . Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.
11-850(b)(2)	<u>Unlawful Telecommunication Device</u> <ul style="list-style-type: none"> • (b)(4) A prior conviction shall consist of convictions upon separate indictments or criminal complaints (b)(7) All fines shall be imposed for each unlawful telecommunication or access device • (b)(8) Restitution shall be ordered in the manner prescribed by §4106 • (b)(9) The court may order forfeiture of unlawful device(s)
11-861	<u>Forgery 1st Degree</u> . (c) Restitution for resultant losses to all parties.
11-922(c)	<u>Improper Labeling (PriorConv 100 >)</u> 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.
11-932 11-933	<u>Unauthorized Computer Access</u> <u>Theft Computer Services</u>

Class G Felony (Violent)

I.) (FGV)

Sentence Range (Violent Category) FGV	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 6 m. @ Level V For 16-4767 & 16-4768: 3 to 9 m. @ Level V
Acceptance of Responsibility	Up to 4 months @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-614	Abuse of Sports Official (Prior Conv)(see note)
11-617(b)(1)	Criminal Youth Gang: Recruitment (7/10/06)
11-777A(e)(2)	<u>Sex Offender Unlawful Sexual Conduct Against a Child (see note)</u>
11-778A(d)(3)	<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree (see note)</u>
11-782	<u>Unlawful Imprisonment 1st Degree</u> Risk of Serious Injury
11-1105	<u>Crime Against a Vulnerable Adult (see note)</u>
11-1304(b)(2)	Hate Crime (Underlying Offense: Class A, B or C Misdemeanor)
11-1312(a)	Stalking
11-1442	Carrying Concealed Deadly Weapon (Prior conviction >5 yrs)(see note)
11-1445(4)	Unlawfully Dealing with a Dangerous Weapon
16-1136(b)	Exploit Patient's Resources (\$1000+)
16-4761(c)	Hire Minor to Violate any Drug Provision (see note)
16-4767	Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School (see note)
16-4768	Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship (see note)
31-3913(b)	Exploitation of Infirm Adult (\$500- \$4,999)

Sentences for Prior Criminal History Categories

While on release or pending trial or sentence	Up to 12 months @ Level V
Two or more prior felonies	Up to 12 months @ Level V
One prior violent felony	Up to 12 months @ Level V
Two or more prior violent felonies	Up to 24 months @ Level V

Supplemental Notations for Class G Violent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All criminal fines require 18% surcharge for Victims fund
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-614	<u>Abuse of Sports Official (Prior Conv)</u> Mandatory Penalty: fine=>\$1,000/<\$2,350 & prohibition from participation/attending an organized sporting event for >3 m./<12 m.
11-777A(e)(2)	<u>Sex Offender Unlawful Sexual Conduct Against a Child</u> <ul style="list-style-type: none"> (e)(1) If the underlying sexual offense is a Class C, D, E, F, or G, felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony one grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony.
11-778A(d)(3)	<u>Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the second degree</u> as set forth in subsection (c)(Suggests, solicits, requests, commands, importunes or otherwise attempts to induce a child <16 to have sexual contact or sexual intercourse or unlawful sexual penetration with the person or a third person, knowing that the person is thereby likely to cause annoyance, affront, offense or alarm to the child or another when the person is at least 4 years older than the child and the person stands in a position of trust authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.) is a class G felony.
11-1105	<u>Crime Against a Vulnerable Adult</u> For this offense to be a class G felony, the underlying offense must be a class A misdemeanor. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older, who by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term "vulnerable adult includes any adult for whom a guardian or the person or property has been appointed.
11-1442	<u>Carrying Concealed Deadly Weapon Prior conviction > 5 yrs)</u> <ul style="list-style-type: none"> 11-1457(b)(1)&(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class F Violent Felony. 11-1457(j)(4):If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
16-4761(c)	<u>Hire Minor to Violate any Drug Provision</u> <ul style="list-style-type: none"> Maximum Sentence: Imprisonment= 10 yrs., Fine= \$250,000 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
16-4767	<u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School</u> <ul style="list-style-type: none"> (a)(1) Narcotic: Maximum Penalty= 30 yrs imprisonment/ \$250,000 fine. (a)(2) Nonnarcotic: Maximum Penalty= 15 yrs imprisonment/\$250,000 fine. 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

16-4768	<p><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship</u></p> <ul style="list-style-type: none">• Maximum Penalty: Imprisonment= 15 yrs/ Fine= \$250,000.• 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
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Class G Felony (Nonviolent)

II.) (FGN)

Sentence Range (Nonviolent Category) FGN	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

11-512	Conspiracy 2nd Degree Conspires to commit Felony
11-621(a)(1)	Terroristic Threat (Vt= 62+ y.o.a.) (see note)
11-621(a)(2)	Terroristic Threat (see note) False Stmt likely to cause: (a) evacuation/ (b) serious inconvenience/ (c) terror
11-626	Unlawful Administration Controlled Substance/Narcotic
11-785	Interfere w/Custody Removal from State
11-801	Arson 3rd Degree Recklessly damage unoccupied bldg by fire/explosion
11-804	Reckless Burning (\$1500+ Damage)
11-811(b)(1)	Criminal Mischief (\$5000+ Loss/Substantial Interruption) (see note)
11-812(a)(2)	Graffiti and Possession of Graffiti Implements (\$1500+ damage)(see note)
11-840	Shoplift (\$1500+)
11-841	Theft (see note) \$1500+
11-841A	Theft: Motor Vehicle (6/20/06)
11-841C(a)	Possession of a blank prescription form or pad
11-848	Misapplication of Property (\$1500+)
11-849	Theft of Rental Property (\$1500+)
11-851	Receive Stolen Property (\$1500+/2 prior convictions)
11-852A	Selling Stolen Property; class G felony (see note)
11-859	Larceny of Livestock (see note)
11-861(b)(2)	Forgery 2nd Degree (see note) Deed/Will/Commercial Instrument/Public Record/Tokens/Prescriptions
11-862	Possess Forgery Devices
11-878	Issue False Certificate
11-900	Issue Bad Check (\$1500+)
11-903	Unlawful Use Credit Card Vt= 62+ y.o.a or >\$1,000

11-907A	Criminal Impersonation (Accident Related) (see note)
11-908	Unlawful Concealing Will
11-911	Fraudulent Conveyance of Public Lands
11-912	Fraudulent Receipt of Public Lands
11-913	Insurance Fraud
11-913A	Health Care Fraud (see note)
11-916	Home Improvement Fraud \$1500+ /vt=62+y.o.a./Prior Conviction
11-917(d)(1)	New Home Construction Fraud (\$1,500-\$49,999)
11-920	Transfer of Recorded Sounds
11-922(b)	Improper Labeling (1st Offense 100 >) (see note) (7/10/06)
11-926(d)(2)	Trademark Counterfeiting(PriorConv/100-999/\$2,000-\$9,999) (7/7/05)
11-932	Unauthorized Computer Access (\$500-\$999) (see note)
11-933	Theft Computer Services (\$500-\$999) (see note)
11-934	Interruption Computer Services (\$500-\$999) (see note)
11-935	Misuse Computer System Information (\$500-\$999) (see note)
11-936	Destruction Computer Equipment (\$500-\$999) (see note)
11-937	Unauthorized Electronic Mail (\$500-\$999) (see note)
11-938	Fail Cease Electronic Communication (\$500-\$999) (see note)
11-939	Computer Offense Penalties (\$500-\$999) (see note)
11-951(f)	Money Laundering
11-1001	Bigamy
11-1102(b)(2)	Endanger Welfare of Child: Serious Injury
11-1102(b)(3)	Endanger Welfare of Child: Sex Offense
11-1112(a)(1)	Sex Offender (Residing w/in 500 ft of School)
11-1113	Aggravated Criminal Non-Support (see note) Prior Conviction/ Delinquent as to Full Amt/ \$10,000+
11-1114A(c)	Tongue Splitting (Prior conviction)
11-1206	Receiving Unlawful Gratuity (value > \$1,000)
11-1240	Terroristic Threat to Public Officials/Servants
11-1244(b)	Hinder Prosecution of a Felony
11-1245	False Report Incident/Child Abduction (Prior Conv)(see note) (6/30/05)
11-1249	Abetting Driver's License Violation (Prior Conviction/Death)
11-1252	Escape 2nd Degree (Special Escape Category May Apply) Escape from detention facility or custody of DHSS or DOC
11-1257(a)	Resisting Arrest With Violence (6/27/06)
11-1257A	Use Animal to Avoid Capture Prevent Prosecution/Injures L.E.O
11-1259	Sexual Relations in Detention Facility
11-1260	Misuse of Prisoner Mail (Prior Conviction)
11-1263A(a)(1)	Interfere with Child Witness Removal from Jurisdiction
11-1263A(a)(3)(a)	Interfere with Child Witness Bribes to Cause Removal from Jurisdiction
11-1263A(a)(4)(a)	Interfere with Child Witness Threatens to Cause Removal from Jurisdiction
11-1269	Tampering with Physical Evidence
11-1312	Aggravated Harassment Only applies to offenses prior to 11/1/08; statute repealed, now only Harassment
11-1312	Stalking (see note)
11-1326(b)	Fighting/Baiting Animals (see note) Knowledge and Presence during Preparation

11-1335(a)(6)-(7)	Violation of Privacy Prurient Recording w/out Consent
11-1339	Adulteration
11-1361	Obscenity (see note)
11-1442	Carry Concealed Deadly Weapon (1st conviction)
11-1446A	Undetectable Knives (Mfr/Import/Sell/Possess) (6/30/06)
11-1448A(l)	Firearm Sale Violation: False Statement/Information
11-1448A(m)	Firearm Sale Violation (Second Offense)
11-1471(a)(b)(d)(e)(l)	Video Lottery Cheat Device (Prior Conviction w/in 3 yrs)
11-1471(c)(f)(g)(h)(i)(j)	Video Lottery Cheat Device >\$1500<\$50000
11-2109(c)(1)	Breach of Conditions of Bail (see note)
11-2113(c)(1)	Breach of Release Conditions (Felony/Prior Conviction Crime)(see note)
11-4120(k)	Sex Offender (Fail to Register)
11-4121(t)	Sex Offender (Fail to Comply with Registration Mandates)
11-8562(b)	Provide False Child Abuser Information
16-3111(a)	Crimes Regarding Vital Records (see note)
16-4757(d)	Deliver/Dispose Hypodermic Syringe (see note)
16-4771 (b)	Deliver/Mfr/PWI Drug Paraphernalia (see note)
16-4774(b)	Manufacture/Deliver/PWI Drug Paraphernalia (see note)

Sentences For Prior Criminal History Categories	
Repetitive Criminal History	Up to 6 m. @ Level V
Lack of Amenability to Lesser Sanctions	Up to 6 m. @ Level V

Supplemental Notations for Class G Nonviolent Felony:

If crime is a secondary offense, use the non-aggravated presumptive.
All sentences for over 1 yr @ Level V require 6 month reintegration at Levels IV (quasi-incarceration), III, or II.
All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-621(a)(1) 11-621(a)(2)	<u>Terroristic Threat (Vt= 62+ y.o.a.)</u> <u>Terroristic Threat</u> <ul style="list-style-type: none"> (c)(1) Mandatory fine: \$1,000-\$2,500 which cannot be suspended and a minimum of 100 hrs community service If the defendant is 17 y.o.a. or younger, the offense is a Class A Misdemeanor
11-811(b)(4)	<u>Criminal Mischief</u> <ul style="list-style-type: none"> If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9), the court shall impose a minimum mandatory fine of at least \$500.

11-812(a)(2)	<p><u>Graffiti and Possession of Graffiti Implements</u> The penalty for graffiti shall include a minimum fine of not less than \$1,000 which shall not be subject to suspension, restitution for damages to the property and 250 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of an act of graffiti. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed on or along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).</p>
11-841	<p><u>Theft</u>. (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.</p>
11-852A	<p><u>Selling Stolen Property</u>: value of the resold property is \$1,000 or more, or unless the seller has been convicted 2 or more times of Selling Stolen Property</p>
11-859	<p><u>Larceny of Livestock</u>. Minimum sentence of imprisonment, if any, not subject to suspension,, probation or parole during 1st 6 m.</p>
11-861(b)(2)	<p><u>Forgery 2nd Degree</u>. (c) Restitution for resultant losses to all parties.</p>
11-907A	<p><u>Criminal Impersonation (Accident Related)</u>. (1) If Defendant pretended to be someone other than the driver, upon conviction, driving privileges are to be suspended by DMV for 2 yrs.</p>
11-913A	<p><u>Health Care Fraud</u> 913(c)(4): Fine may be up to 5x pecuniary benefit sought or obtained.</p>
11-922(b)	<p><u>Improper Labeling (1st Offense 100 >)</u> 11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.</p>
11-932 11-933 11-934 11-935 11-936 11-937 11-938 11-939	<p><u>Unauthorized Computer Access</u> <u>Theft Computer Services</u> <u>Interruption Computer Services</u> <u>Misuse Computer System Information</u> <u>Destruction Computer Equipment</u> <u>Unauthorized Electronic Mail</u> <u>Fail to Cease Electronic Communication</u> <u>Computer Offense Penalties</u></p> <ul style="list-style-type: none"> • (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. • (g) Amounts may be aggregated to determine degree of crime. • (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.
11-1113	<p><u>Aggravated Criminal Non-Support</u></p> <ul style="list-style-type: none"> • (i) Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person • (j) Restitution shall be ordered in the amount of the total accrued arrearages
11-1245	<p><u>False Report Incident/Child Abduction (Prior Conviction)</u> Minimum Mandatory sentence: Fine= \$500 or for (3)(d): \$1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response</p>

11-1312	<p><u>Stalking</u></p> <ul style="list-style-type: none"> (6) If act or acts include conduct which has previously been prohibited by a then-existing court order or sentence shall receive a minimum sentence of 6 months incarceration at Level V which shall not be subject to suspension. (7) Any person who is convicted of stalking within 5 years of a prior conviction of stalking shall receive a minimum sentence of 1 year incarceration at Level V which shall not be subject to suspension.
11-1326	<p><u>Fighting/Baiting Animals.</u>(c) All animals, equipment, devices, and money shall be forfeited to the State. Forfeited animals shall be disposed of humanely.</p>
11-1361	<p><u>Obscenity</u></p> <ul style="list-style-type: none"> If the obscenity involved live conduct, the business or establishment shall be closed for 6 m. (c) Minimum mandatory sentence for 2nd or subsequent conviction within 5 yrs.: (1) \$5,000 fine (\$10,000 if the Defendant is an organization), (2) imprisonment for a minimum of 9 m. which shall not be suspended or reduced, (3) probation for 2 yrs. and (4) the establishment shall be closed for 2 yrs.
11-1442	<p><u>Carrying Concealed Deadly Weapon (1st conviction)</u></p> <ul style="list-style-type: none"> 11-1457(b)(1)&(j)(3): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class F NonViolent Felony. 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
11-1472	<p><u>Video Lottery Cheat Device</u> . Any instrumental materials shall be forfeited to the Delaware State Police, including but not limited to vehicles used for storage.</p>
11-2109(c)(1)	<p><u>Breach of Conditions of Bail</u> Maximum Penalty: Imprisonment = <5yrs &/or Fine = <\$5,000</p>
11-2113(c)(1)	<p><u>Breach of Release Conditions (Felony/Prior Conviction Crime)</u>. Maximum Penalty: Imprisonment= <5yrs &/or Fine= <\$5,000</p>
16-3111(a)	<p><u>Crimes Regarding Vital Records.</u> Maximum Penalty: Imprisonment= 5 yrs or less; Fine= \$10,000</p>
16-4757(d) 16-4774(b)	<p><u>Deliver/Dispose Hypodermic Syringe</u> <u>Manufacture/Deliver/PWI Drug Paraphernalia</u> 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV</p>
16-4771 (b) 16-4774 (b)	<p><u>Delivery/Mfr/PWI Drug Paraphernalia</u> Delivers, PWI to del, offers for sale, mfr wi to del</p>

Class A Misdemeanors

I.) Violent (MA1)

Sentence Range (Violent Category) MA1	
Statutory Range	0 to 1 yr @ Level V and up to \$2,300 Fine
Presumptive Sentence	1st offense: Up to 12 m. @ Level II 2nd offense w/in 2 yrs: Up to 6 m. @ Level III & Up to 6 m. @ Level II 3rd offense w/in 5 yrs: Up to 3 m. @ Level V & Up to 9 m @ Level II
Acceptance of Responsibility	Up to 9 months @ Level II

Crimes in Category

11-603	Reckless Endangering 2nd Degree (Special DV Category May Apply) Refer to Pg. 105
11-611	Assault 3rd Degree (Special DV Category May Apply) Refer to Pg. 105
11-614	Abuse of Sports Official (1st Offense) Refer to Pg. 105
11-621(a)(1)	Terroristic Threatening (Special DV Category May Apply) Refer to Pg. 105
11-766	Incest (Special DV Category May Apply) Refer to Pg. 105
11-767	Unlawful Sexual Contact 3rd Degree (Special DV Category May Apply) Refer to Pg. 105
11-777A(e)(1)	Sex Offender Unlawful Sexual Conduct Against a Child (see note)
11-1105	Crime Against a Vulnerable Adult (see note)
11-1250(b)	Assault 2d Degree Against Law enforcement Animal Reckless: Risk of injury
11-1271A	Criminal Contempt: DV Protective Order (Special DV Category May Apply) (see note) Refer to Pg. 105
11-1304(b)(1)	Hate Crime (Underlying Offense: Violation or Unclassified Misdemeanor)
11-1443	Carrying Concealed Dangerous Instrument
16-1136(a)	Abuse/Neglect of Patient in Residential Facility
31-3913(a)	Abuse/Neglect of Infirm Adult

Supplemental Notations Violent Class A Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-777A(e)(1)	Sex Offender Unlawful Sexual Conduct Against a Child <ul style="list-style-type: none"> (e)(1) If the underlying sexual offense is a misdemeanor, the crime of sex offender sexual conduct against a child shall be a class G felony except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class c felony.
11-1105	Crime Against a Vulnerable Adult For this offense to be a class A misdemeanor the underlying offense must be a class B misdemeanor. See page 114 for listing of qualifying underlying offenses for this statute. "Vulnerable Adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.

11-1271A	<u>Criminal Contempt of a Dom Viol Protection Order, Class A Misd, Class F felony</u> <ul style="list-style-type: none">• (c) Mandatory minimum sentence of 15 days imprisonment if contempt resulted in: (1) injury, (2) threat of Deadly Weapon or (3) 2 prior convictions this section• (d) Minimum sentence shall not be subject to suspension, probation, parole, furlough, or suspended custody
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Class A Misdemeanors

II.) Escape (MA2)

Sentence Range (Escape Category) MA2	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	Up to 3 m. in quasi-incarceration (Level IV) Recommended Maximum: Up to 1 m. @ Level V
Acceptance of Responsibility	Up to 2 months @ Level IV

Crimes in Category

11-1251	Escape 3rd Degree (Special Escape Category May Apply) Escape from custody including nonsecure facilities of DYRS
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Supplemental Notations for Class A Misdemeanors (Escape):

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

Class A Misdemeanors

III.) Property (MA3)

Sentence Range (Property Category) MA3	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	1st Offense: Up to 12 m. @ Level I 2nd w/in 18 m: Up to 6 m. @ Level II 3rd w/in 3 yrs: Up to 3 m. @ Level IV (quasi-incarceration) & 0 to 9m. @ Level II Recommended Maximum: 15 days @ Level V
Acceptance of Responsibility	Up to 9 months @ Level I

Crimes in Category

11-804	Reckless Burning/Exploding (< \$1500)
11-805	Cross or Religious Symbol Burning
11-811(b)(2)(4)	Criminal Mischief (>\$1000-<\$5000) (see note)
11-812(a)(2)	Graffiti and Possession of Graffiti Implements (<\$1500 damage)(see note)
11-823	<u>Criminal Trespass 1st Degree</u> Dwelling/Animal Shelter, i.e. barn, stable
11-840	Shoplifting (<\$1500)
11-840A	Use of Illegitimate Sales Receipt/UPC Label (<1500)
11-841	Theft (<\$1500) (see note)
11-841B	Theft: Organized Retail Crime (V<62, not infirm, value < \$1,000)
11-848	Misapplication of Property (< \$1500)
11-849	Theft of Rental Property (< \$1500)
11-851	Receiving Stolen Property (< \$1500)
11-852A	Selling Stolen Property (<\$1000)
11-853	Unauthorized Use of a Vehicle
11-858(a)(2)	Unlawful Operation Recording Device (Motion Picture) (see note) (6/28/06)
11-861(b)(3)	Forgery 3rd Degree (see note)
11-891	Defrauding Secured Creditors
11-892	Fraud in Insolvency
11-900	Issue Bad Check (< \$1500)
11-903	Unlawful Use Credit Card (< \$1500)
11-906	Deceptive Business Practices
11-916	Home Improvement Fraud (< \$1500)
11-917(d)	New Home Construction Fraud (<\$1,500)
11-918	Ticket Scalping (Prior Conviction)
11-926(d)(1)	Trademark Counterfeiting (No priors/<100 items/<\$2,000) (7/7/05)
11-932	Unauthorized Computer Access (<\$500) (see note)
11-933	Theft Computer Services (<\$500) (see note)
11-934	Interruption Computer Services (<\$500) (see note)
11-935	Misuse Computer System Information (<\$500) (see note)
11-936	Destruction Computer Equipment (<\$500) (see note)
11-937	Unauthorized Electronic Mail (<\$500) (see note)
11-938	Fail Cease Electronic Communication (<\$500) (see note)
11-939	Computer Offenses Penalties (<\$500) (see note)
11-1472	Video Lottery Cheat Device
16-1136(b)	Exploit Patient's Resources (<\$1000)
31-1003	False Statement to Obtain Benefits (<\$500) (see note)
31-1004(1)	False Benefit Reimbursement Statement (<\$500) (see note)

31-1006	Unlawful Conversion of Benefits (<\$500) (see note)
31-3913(b)	Exploitation of Infirm Adult (<\$500)

Supplemental Notations for Class A Misdemeanors: Property

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-811(b) (2)(4)	<p><u>Criminal Mischief</u></p> <ul style="list-style-type: none"> (4) If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 109(a)(9), the court shall impose a minimum mandatory fine of at least \$500.
11-812(a)(2)	<p><u>Graffiti and Possession of Graffiti implements</u></p> <p>The penalty for graffiti shall include a minimum fine of not less than \$1,000 which shall not be subject to suspension, restitution for damages to the property and 250 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of an act of graffiti.</p> <p>The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed on or along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).</p>
11-841	<p><u>Theft.</u> (d): Full restitution required for victim's monetary losses. Consider community service &/or curfew for a juvenile defendant.</p>
11-858(a)(2)	<p><u>Unlawful Operation Recording Device (Motion Picture)</u></p> <p>Notwithstanding any law to the contrary, may include a max. fine of \$50,000</p>
11-861(b)(3)	<p><u>Forgery 3rd Degree.</u> (c) Restitution for resultant losses to all parties.</p>
11-932 11-933 11-934 11-935 11-936 11-937 11-938 11-939	<p><u>Unauthorized Computer Access</u></p> <p><u>Theft Computer Services</u></p> <p><u>Interruption Computer Services</u></p> <p><u>Misuse Computer System Information</u></p> <p><u>Destruction Computer Equipment</u></p> <p><u>Unauthorized Electronic Mail</u></p> <p><u>Fail to Cease Electronic Communication</u></p> <p><u>Computer Offense Penalties</u></p> <ul style="list-style-type: none"> (f) In lieu of fine, Court may order Defendant to pay an amount up to double the proceeds from the offense. Record shall reflect findings as to the proceeds gained. (g) Amounts may be aggregated to determine degree of crime. (h) Value shall be (1) market value at time of offense or (2) cost of replacement. If value cannot be established, it shall be \$250 or (i) in the case of private personal data, \$500.
31-1003 31-1004(1) 31-1006	<p><u>False Statement to Obtain Benefits</u></p> <p><u>False Benefit Reimbursement Statement</u></p> <p><u>Unlawful Conversion of Benefits</u></p> <ul style="list-style-type: none"> 31-1007(d): Every provider convicted under this chapter shall make full restitution of money, goods or services or of the value of same plus interest at the rate of 1.5% per month for the period from the date upon which payment was made to the date upon which repayment is made to the State 31-1007(e): Provider shall not be eligible for participation in Delaware Public Assistance Program, subject to certain exceptions.

Class A Misdemeanors

IV.) Order & Decency (MA4)

Sentence Range (Order & Decency Category) MA4	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	1st Offense: Up to 12 m. @ Level I 2nd w/in 18 m.: Up to 12m. @ Level II 3rd w/in 3 yrs.: Up to 6m. @ Level III & 0 to 6m. @ Level II Recommended Maximum Up to 15d. @ Level V
Acceptance of Responsibility	Up to 9 months @ Level I
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category

11-501	Criminal Solicitation 3rd Degree Solicit to commit misdemeanor
11-511	Conspiracy 3rd Degree Conspires to commit misdemeanor
11-601(a)(1)	Offensive Touching Vt= LEO, FF, CO, Medical personnel
11-601(a)(2)	Offensive Touching (see note) Bodily Emissions
11-625	Unlawfully Administer Drugs
11-652	Self Abortion
11-765	Indecent Exposure 1st Degree Vt= <16 y.o.a.
11-781	Unlawful Imprisonment 2nd Degree (Special DV Category May Apply) Knowingly restrain Refer to Pg. 105
11-785	Interference with Custody (Special DV Category May Apply) Refer to Pg. 105
11-791	Coercion (Special DV Category May Apply)
11-871	Falsifying Business Records
11-873	Tampering w/ Public Records 2nd Degree
11-877	Offering False Instrument for Filing
11-881	Bribery
11-882	Receiving a Bribe
11-893	Interference Levied-Upon Property
11-907	Criminal Impersonation
11-909	Execution of Document by Deception
11-918	Ticket Scalping
11-921	Sale Transferred Recorded Sound
11-1102	Endanger Welfare of Child (Special DV Category May Apply) Refer to Pg. 105
11-1105	Endanger Welfare of Incompetent

11-1113(a)	Aggravated Criminal Non-support (Prior Conviction) (see note)
11-1114	Body Piercing & Tattoos (Prior Conviction)
11-1114A(a)	Tongue Splitting 1st Degree
11-1205	Give Unlawful Gratuity
11-1206	Receive Unlawful Gratuity (value < \$1,000)
11-1207	Improper Influence
11-1211	Official Misconduct
11-1212	Profiteering
11-1221	<u>Perjury 3rd Degree</u> False statement under oath
11-1233	Make False Written Statement
11-1243	Obstructing Firefighting
11-1244	Hinder Prosecution of Misdemeanor
11-1245	False Report Incident/Child Abduction (see note) (6/30/05)
11-1246	Compound a Crime
11-1249	Abetting Violation of Driver's License
11-1256	Promote Prison Contraband
11-1257(b)	Resist Arrest Without Violence
11-1257A	Use of Animal to Avoid Capture
11-1260	Misuse of Prisoner Mail
11-1266	Tampering w/Juror
11-1267	Misconduct by Juror
11-1271(2-8)	<u>Criminal Contempt</u> (2)Breach of peace/ (3) Intentional disobedience/ (4)Refusal of Oath/to Answer/ (5)Publish false proceedings/ (6)Refuse Jury Service/ (7)Juror fail to attend trial/ (8)Defendant's failure to appear for criminal proceedings
11-1303(3)(a)	Disorderly Conduct: y/Funeral/Memorial Service (6/1/06)
11-1311	Harassment
11-1325	Cruelty to Animals (see note)
11-1325A(b)	Trade in Dog/Cat By-Products (Flesh) (see note)
11-1327	<u>Dangerous Animal</u> Injury to Person/Serious Injury or Death Animal
11-1331	Desecration
11-1332	Abusing a Corpse
11-1335(a)(1-5, 8)	<u>Violation of Privacy (6/30/06)</u> (1)Trespass to eavesdrop/ (2) Installs recording device in private place/ (3)Installs/uses recording device outside private place/ (4) Intercepts/ (5) Divulges private communication/ (8) Installs in MV electronic/mechanical tracking device
11-1340	Desecration of Burial Place (see note)
11-1365	Obscene Literature Harmful to Minors
11-1401	<u>Advancing Gambling 2nd Degree</u> Unlawful(ly) (1)Sell/dispose/PWI lottery policy or similar/ (2)Device to do same/ (3)Interest in lottery policy writing or in selling/disposing policy or similar/ (4)Device to do same
11-1402	Foreign Lotteries
11-1403	<u>Advancing Gambling 1st Degree</u> Unlawful(ly) (1)Keeping "books"/ (2)Owner/occupant property for purpose of bookkeeping/ (3)Recording bets/ (4)Place bets
11-1404	Providing Premises for Gambling (Prior Conviction w/in 5 yrs)
11-1405	Possession Gambling Device
11-1406	Interest in Keeping Gambling Device
11-1411	Unlawful Dissemination Gambling Information
11-1428	Maintaining an Obstruction (Prior Conviction w/in 2 yrs)
11-1448A(k)	Improper Request/Dissemination Criminal History Check
11-1448A(m)	Firearm Sale Violation

11-1456	Allow Unlawful Access to Firearm by Minor
11-1457(j)(1)	Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class B Misdemeanor) (see note)
11-1471(a)(b)(d)(e)(l)	Video Lottery Cheat Device (first offense)
11-1471(c)(f)(g)(h)(i)(j)	Video Lottery Cheat Device <1500
11-8522	Refusal to Permit Photo or Fingerprints
11-8523(a)	Refusal/Neglect/Hinder Report
11-8523(d)	Unlawful Use of Criminal History Record Information
11-8562(a)	Fail to Obtain Child Sex Abuser Information
16-1136(c)	Fail to Correct Abuse/Neglect of Patient in Residential Facility
29-4830(f)(1)(f)(2)	Standards of Licensing
29-4831(a)(b)	Prohibition on employment of persons or service agencies w/o a license
29-4836(a)(b)	Penalties for wagering by excluded persons
31-610(a)(2)	Transfer/Alter/Possess Food Stamps (<\$500) (see note)

Supplemental Notations for Class A Misdemeanors (Order & Decency):

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-601(a)(2)	Offensive Touching (b) The Defendant shall be tested for communicable diseases, the costs of which are to be assessed as costs of conviction. The results are to be provided to the AG, the victim, the Defendant and the D.O.C. medical provider
11-1113(a)	Aggravated Criminal Non-support (Prior Conviction) <ul style="list-style-type: none"> • (i) Court may ("shall" in the event support order entered) order any fine to be paid for the support of the entitled person • (j) Restitution shall be ordered in the amount of the total accrued arrearages
11-1245	False Report Incident/Child Abduction Minimum Mandatory sentence: Fine= \$500 or for (3)(d): \$1,000, which cannot be suspended + 100 hrs community service + reimbursement to the State/government agency for costs of investigation and/or response
11-1325	Cruelty to Animals. (c) The Defendant shall not own or possess any animal for 5 yrs following conviction (<i>but see</i> exceptions). Violation of this condition is punishable by a mandatory \$1,000 fine and forfeiture of the animal.
11-1325A	Trade in Dog/Cat By-Products. (c) Defendant shall: (1) be prohibited from possessing dog/cat for 15 yrs after conviction (but see exceptions),(2) pay a fine of \$2,500 and (3) forfeit any dog/cat.
11-1340	Desecration of Burial Place. Mandatory Minimum Fine= >\$1,000 up to \$10,000.
11-1457	Possession Weapon in Safe School/Recreation Zone (Underlying Offense: Class B Misdemeanor). (j)(4) An elementary or secondary school student shall be expelled for 180d.
31-610(a)(2)	Transfer/Alter/Possess Food Stamps (<\$500) May be suspended from the Food Stamp Program for 18 months more than suspension mandated by the Federal Food Stamp Act

Class A Misdemeanors

V.) Controlled Substances (MA5)

Sentence Range (Controlled Substance Category) MA5	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	1st Offense w/16-4764 First Offender Program: Minimum 12 m. @ Level I <i>(7/12/05)</i> 1st Offense: 12 m. @ Level II 2nd Offense w/in 2 Years: 6 m. @ Level III & 6m. @ Level II 3rd Offense w/in 3 Years: 6 m. @ Level V
Acceptance of Responsibility	Up to 9 months @ Level II

Crimes in Category

16-4740	Sale of Pseudoephedrine/Ephedrine <i>(6/14/05)</i>
16-4753	Possess/Use/Consumption Narcotic/Counterfeit w/out Rx (see note)
16-4755(a)(3)	Refuse/Fail to Make/Keep/Furnish Required Record (see note)
16-4758	Keeping Drugs in Original Container (see note)
16-4771-4774(a)	Possession of Drug Paraphernalia (see note)

Supplemental Notations for Class A Misdemeanors (Controlled Substances):

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Any violations of Title 16, §§4751-4761: 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V
Any offenses under Title 16, Chapter 47: 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
Costs of prosecution may be ordered. (Title 11, §4204(i))

16-4753	Possess/Use/Consumption Narcotic/Counterfeit w/out Rx <ul style="list-style-type: none"> • May qualify for First Offender Diversion Program (see §4764 for details)
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Class B Misdemeanors

Sentence Range (Class B Misdemeanors) MB	
Statutory Sentence	0 to 6m. @ Level V and up to \$1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

Crimes in Category

11-628	<u>Vehicular Assault 2nd Degree</u> (see note) (1)Criminal negligence: serious injury/ (2) DUI: injury
11-653	<u>Issuing Abortion Articles</u>
11-812(b)(1)	<u>Possession of Graffiti Implements</u> (see note)
11-820	<u>Trespass with Intent to Peep</u>
11-858(a)(2)	<u>Unlawful Operation Recording Device</u> (Still Photograph) (6/28/06)
11-910	<u>Debt Adjusting</u>
11-918	<u>Ticket Scalping</u>
11-1106	<u>Unlawful Dealing with Child</u>
11-1113(a)	<u>Criminal Non-support</u> (see note)
11-1114	<u>Body Piercing & Tattoos</u>
11-1114A(b)	<u>Tongue Splitting 2nd Degree</u> Performed by doctor/dentist and recipient is: (1)under the influence/ (2)minor w/out legal guardian's consent
11-1241	<u>Refusing to Aid Police Officer</u>
11-1248	<u>Obstructing Control of Rabies</u>
11-1271(1)	<u>Criminal Contempt</u> Disorderly Behavior
11-1273	<u>Unlawful Grand Jury Disclosure</u>
11-1313	<u>Malicious Interference with Emergency Communications</u>
11-1325A(a)	<u>Trade in Dog/Cat Byproducts</u> (Fur/Hair)
11-1333	<u>Trading in Human Remains/Funerary Objects</u>
11-1341	<u>Lewdness</u>
11-1342	<u>Prostitution</u>
11-1355	<u>Permitting Prostitution</u>
11-1452	<u>Unlawful Dealing with Knuckles-Combination Knife</u> (see note)
11-1453	<u>Unlawful Dealing with Martial Arts Throwing Star</u> (see note)
11-1457(j)(2)	<u>Poss. Weapon in Safe School/Recreation Zone</u> (Underlying Offense: Unclassified Misdemeanor)(see note)
16-4754	<u>Possess/Use/Consume Controlled Substance</u> (Nonnarcotic)(see note)
16-4754A	<u>Possession of Noncontrolled Prescription Drug</u> (see note)

Supplemental Notations Class B Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-628	<u>Vehicular Assault 2nd Degree</u>			
	<table border="1"> <tr> <td>Statutory Sentence</td> <td>Up to 6m.; Fine up to \$1,150.</td> </tr> <tr> <td>Presumptive Sentence</td> <td>1st Offense: Up to 2m. @ Level V 2nd Offense w/in 2 yrs: Up to 4m. 3rd Offense w/in 5 yrs: Up to 6m.</td> </tr> </table>	Statutory Sentence	Up to 6m.; Fine up to \$1,150.	Presumptive Sentence
Statutory Sentence	Up to 6m.; Fine up to \$1,150.			
Presumptive Sentence	1 st Offense: Up to 2m. @ Level V 2 nd Offense w/in 2 yrs: Up to 4m. 3 rd Offense w/in 5 yrs: Up to 6m.			
11-812 (b)(1)	<p><u>Possession of Graffiti Implements</u> Min. fine of not less than \$500 which shall not be subject to suspension, restitution for damages to property and 100 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of possession of graffiti implements. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9).</p>			
11-1113	<p><u>Criminal Non-support</u></p> <ul style="list-style-type: none"> • (i) Court may (“shall” in the event support order entered) order any fine to be paid for the support of the entitled person • (j) Restitution shall be ordered in the amount of the total accrued arrearages 			
11-1452 11-1453	<p><u>Unlawful Dealing with Knuckles-Combination Knife</u> <u>Unlawful Dealing with Martial Arts Throwing Star</u></p> <ul style="list-style-type: none"> • 11-1457(b)(5&6)&(j)(1): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class A Misdemeanor. • 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d. 			
11-1457	<p><u>Poss. Weapon in Safe School/Recreation Zone (Underlying Offense: Unclass Misdemeanor)</u> (j)(4) An elementary or secondary school student shall be expelled for 180d.</p>			
16-4754	<p><u>Possess/Use/Consume Controlled Substance (Nonnarcotic)</u></p> <ul style="list-style-type: none"> • May qualify for First Offender Diversion Program (see §4764) • 16-4763(a)(1)(a) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 2 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver’s license revocation subject to (d) 			
16-4754A	<p><u>Possession of Noncontrolled Prescription Drug</u></p> <ul style="list-style-type: none"> • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver’s license revocation subject to (d) 			

Unclassified Misdemeanors

Sentence Range (Unclassified Misdemeanors) UM	
Statutory Sentence	Up to 30d. @ Level V and up to \$575 fine
Presumptive Sentence	1 st or 2 nd offense: Fine, Costs, Restitution Only 3 rd Offense w/in 2 yrs:0 to 6m. @ Level I or II

Crimes in Category

11-601	Offensive Touching (Special DV Category May Apply) Refer to Pg. 105
11-602	Menacing (Special DV Category May Apply) Refer to Pg. 105
11-627	Substances Releasing Vapors or Fumes
11-763	Sexual Harassment (Special DV Category May Apply) Refer to Pg. 105
11-764	Indecent Exposure 2nd Degree
11-811(b)(3)(4)	Criminal Mischief (<\$1000) (see note)
11-822	Criminal Trespass 2nd Degree Building/ Real Property + Fenced/ Enclosed
11-850(b)(1)	Unlawful Telecommunication Device (see note)
11-914	Unlawful Use of Consumer Identification Information
11-915	Unlawful Use of Credit Card Information
11-915A	Unlawful Printing Credit Card Receipt
11-922	Improper Labeling (<100) (see note) (7/10/06)
11-925	Video Privacy Protection
11-1107	Endangering Children
11-1250(a)	Harassment of Law Enforcement Animal
11-1301	Disorderly Conduct (Special DV Category May Apply) Refer to Pg. 105
11-1315	Public Intoxication (3rd Offense w/in 1 Year)
11-1322	Criminal Nuisance
11-1324	Obstructing Ingress/Egress at Public Building
11-1343	Patronizing a Prostitute (see note)
11-1404	Providing Premises for Gambling
11-1445 (1-3)	Unlawful Dealing with Dangerous Weapon (1) Possess/Sell BB/Air gun or ammunition for same/ (2)Unlawfully transfer to u/16 a BB/Air gun/ (3)Parent permits u/16 to have FA, BB/ Air/ Spear gun unsupervised
11-1446	Unlawful Dealing with Switchblade (see note)
11-1907(c)	Fail to Answer Summons (see note)
11-2109(c)(2)	Breach of Conditions of Bail (see note)
11-2113	Breach Conditions of Release (Misdemeanor) (see note)
11-6562A	Furnishing Contraband
16-2513(a)	Threat/Coerce/Intimidate to W/D Medical Treatment (see note)
16-3111(b)	Violations Concerning Vital Statistics Records (see note)
16-4757(c)	Possession of Hypodermic Syringe (see note)
16-4774 (d)	Advertisement of Drug Paraphernalia (see note)
16-6611(b)	Violation of Fire Regulations (see note)
29-4810	Lottery Sales to persons prohibited

Supplemental Notations Unclassified Misdemeanors:

All Criminal fines require 18% surcharge for Victims fund.
All Drug crimes require additional 15% surcharge for rehabilitation fund
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-811(b)(3)(4)	<p><u>Criminal Mischief</u></p> <ul style="list-style-type: none"> (4) If the act is committed along a Delaware byway, as defined in 17 Del. C. Section 101(a)(9), the court shall impose a minimum mandatory fine of at least \$500.
11-850(b)(1)	<p><u>Unlawful Telecommunication Device</u></p> <ul style="list-style-type: none"> Punishable by up to 1 yr at Level V; Fine up to \$10,000 (b)(7) All fines shall be imposed for each unlawful telecommunication or access device (b)(8) Restitution shall be ordered in the manner prescribed by §4106 (b)(9) The court may order forfeiture of unlawful device(s)
11-922	<p><u>Improper Labeling (<100)</u></p> <p>11-924A: Court must order the forfeiture & destruction or other disposition of (1) all articles on which the conviction is based and (2) all implements, devices, materials & equipment used or intended to be used in the mfr of the recordings on which the conviction is based.</p>
11-1343	<p><u>Patronizing a Prostitute</u></p> <ul style="list-style-type: none"> (b) Minimum Mandatory Fine= \$500, which shall not be suspended (c)/(d) For a prior conviction w/in 5 yrs, any vehicle used in connection shall be seized
11-1446	<p><u>Unlawful Dealing with Switchblade</u></p> <ul style="list-style-type: none"> 11-1457(b)(3)&(j)(2): If the violation occurs within a Safe School and Recreation Zone, the crime shall become a Class B Misdemeanor. 11-1457(j)(4): If the Defendant is an elementary or secondary school student, in addition to other penalties, the student shall be expelled for not less than 180 d.
11-1907	<p><u>Fail to Answer Summons.</u> Maximum penalty: 30 d. imprisonment &/or \$100 fine.</p>
11-2109(c)(2)	<p><u>Breach of Conditions of Bail</u> Maximum penalty: Imprisonment= < 1yr.&/or Fine <\$500</p>
11-2113	<p><u>Breach Conditions of Release (Misdemeanor)</u></p> <p>Maximum penalty: 1 yr. imprisonment &/or \$500 fine.</p>
16-2513(a)	<p><u>Threat/Coerce/Intimidate to W/D Medical Treatment</u></p> <p>Mandatory penalty: >\$500/<\$1,000 fine; >30 d. /<90 d. imprisonment</p>
16-3111(b)	<p><u>Violations Concerning Vital Statistics Records</u></p> <p>Maximum penalty: Fine up to \$1,000; Imprisonment up to 1 yr.</p>
16-4757(c)	<p><u>Possession of Hypodermic Syringe</u></p> <ul style="list-style-type: none"> Maximum penalty: Fine up to \$100; Imprisonment up to 30 d. 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
16-4774	<p><u>Advertisement of Drug Paraphernalia</u></p> <ul style="list-style-type: none"> 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
16-6611(b)	<p><u>Violation of Fire Regulations</u></p> <ul style="list-style-type: none"> Reckless violation-Maximum penalty: up to 10 d. imprisonment &/or up to \$100 fine. Each & every day the violation continues after notification shall be deemed a separate offense

Violations

Sentence Range (Violations) V	
Statutory Sentence	1st offense: Up to \$345 2nd offense (same violation): Up to \$690 3rd offense (same viol. W/in 5 yrs): Up to \$1150
Presumptive Sentence	1st or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: Up to 6m. @ Level I

Crimes in Category

11-821	Criminal Trespass 3rd Degree
11-1116	Tobacco Sale Violations: Sell/Distribute to u/18 (see note)
11-1117	Tobacco Sale Violations: Fail to Post Notice to u/18 (see note)
11-1118	Tobacco Sale Violations: Dist Samples/Coupons to u/18 (see note)
11-1119	Tobacco Sale Violations: Dist by Vending Machine (see note)
11-1120	Tobacco Sale Violations: Sell from Unlawful Package (see note)
11-1315	Public Intoxication
11-1316	Out-of-State Liquor Agent Registration (see note)
11-1320	Loitering on State-Supported School Property
11-1321	Loitering
11-1323	Obstructing Public Passages
11-1330	Smoking on Bus or Trolley
11-1407	Engaging in Crap Game
11-1428	Maintaining an Obstruction

Supplemental Notations for Violations:

All Criminal fines require 18% surcharge for Victims fund.
Restitution shall be ordered for losses to victim. (Title 11, §4106)
Costs of prosecution may be ordered. (Title 11, §4204(i))

11-1116-11120 (penalties §11-1121)	<u>Tobacco Sale Violations</u> <ul style="list-style-type: none"> Mandatory Fines: 1st offense= \$250, 2nd offense= \$500, 3rd and subsequent offenses= \$1,000 Prior conviction w/in 12 m.: Defendant's license to sell tobacco may be suspended for up to 6m. w/out refund of registration fees
11-1316	<u>Out-of-State Liquor Agent Registration</u> Violations shall result in the loss of the right to register or registration for period of 6m.

Title 21 and Title 23 Offenses

Crimes In Category

21-2810	Driving After Judgment Prohibited (see note)
21-4103(b)	Flee or Attempt to Elude (see note)
21-4112A(c)	Unlawful Sale Traffic Control Signal Preemption Devices (see note)
21-4175	Reckless Driving (see note)
21-4175A	Aggressive Driving (see note)
21-4176	Careless or Inattentive Driving (see note)
21-4176A	Operation of Vehicle Causing Death (see note)
21-4177 et al.	Driving a Vehicle While Under the Influence (see note)(also note T11-4219 below)
21-4201	Leaving the Scene of an Accident (see note)
21-4202	Leaving the Scene of an Accident (Injury/Death) (see note)
23-2302	Operation of a Vessel or Boat While Under the Influence (see note)

Supplemental Notations for Title 21 Offenses:

<p>Per SENTAC Policy #15: Traffic offenses with the exception of 21-2810 (Driving after Judgment Prohibited) do not come under the purview of SENTAC's sentencing recommendations. However, in the interest of conserving expensive and limited prison space for the violent and proven incalcitrant offender, it is strongly recommended that Title 21 offenders not be given a sentence to Level V incarceration unless that have previously been sentenced to, and failed at, supervision in Level III & IV, or unless incarceration is mandated by law. Legislative mandates for the above listed offenses have been noted below.</p>
<p>21-4205(a) Other than offenses involving injury, death or DUI, terms of imprisonment may be served in quasi-incarceration (Level IV).</p>
<p>21-4205(b) For offenses involving injury caused by operation of a motor vehicle or DUI, imprisonment shall be served at Level V or in quasi-incarceration (Level IV) so long as such placement is in a D.O.C. facility which requires full-time residence and that the person may not be outside of the confines of said facility without armed supervision.</p>
<p>21-4205(c) For offenses involving death caused by operation of a motor vehicle or DUI, imprisonment shall be served at Level V.</p>
<p>21-4205(d) The appropriate supervision level under (a) or (b) shall be determined by D.O.C. and not by the sentencing judge.</p>
<p>Restitution shall be ordered for losses to victim. (Title 11, §4106)</p>
<p>Costs of prosecution may be ordered. (Title 11, §4204(i))</p>
<p>11-4101(f)(1) In addition to, and at the same time as any fine, penalty or forfeiture is assessed to a criminal defendant, recipient of a civil offense, or any child adjudicated delinquent, there shall be levied an additional surcharge of 50% of the fine for the Transportation Trust Fund imposed and collected for any violations of Title 21 of the Delaware Code.</p>
<p>11-4101(f)(3) If a fine or penalty is waived in whole or in part, the court may, in its discretion, waive up to the same percentage of the assessment.</p>

21-2810	Driving After Judgment Prohibited	
	Statutory Sentence	<ul style="list-style-type: none"> Habitual Offender: (1) 1st Conviction- Mandatory Imprisonment from 90d. up to 30m. & Fine up to \$1,150; (2) Prior Conviction- Mandatory Imprisonment from 180d. up to 5 yrs. & Fine up to \$2,300. Mandatory Imprisonment not subject to suspension
	Presumptive Sentence	(1) 1 st Conviction: 3m. @ Level V (2) Prior Conviction: 6m. @ Level V
21-4103(b)	Flee or Attempt to Elude <ul style="list-style-type: none"> Class G Felony. 1st Conv: Min.Man. fine of \$575 which may not be suspended. Subsequent Conv.: Min.Man. fine of \$1150 which may not be suspended. 	
21-4112A(c)	Unlawful Sale Traffic Control Signal Preemption Devices : Class A Misdemeanor	
21-4134(d)	Operation of vehicles upon approach of authorized emergency vehicles Class F Felony	
21-4175	Reckless Driving. Mandatory Minimum Sentences: <ul style="list-style-type: none"> 1st Offense: 10 - 30d. @ Level V; Fine= \$100-\$300 Prior Conviction w/in 3 yrs.: 30 - 60d.@ Level V; Fine= \$300-1,000. Sentence may not be suspended. If charge is result of DUI reduction: Completion of course required under §4177D and payments of its attendant fees are mandated. The court must notate the record that the conviction was alcohol-related and, as result, shall be reflected upon Defendant's motor vehicle record. 	
21-4175A	Aggressive Driving. Mandatory Minimum Sentences <ul style="list-style-type: none"> 1st Offense: 10-30d. @ Level V; Fine= \$100-\$300 Prior Conviction w/in 3 yrs.:30-60d.@ Level V; Fine= \$300-1,000. Sentence may not be suspended. Driving privileges suspended for 30d. Completion of Behavior Modification course and payment of its attendant fees are mandated. 	

<p>21-4176</p>	<p><u>Careless or Inattentive Driving</u>, Mandatory Minimum Sentences:</p> <ul style="list-style-type: none"> • 1st Offense: Fine= \$25-\$115 • Prior Conviction w/in 3 yrs: 10-30d.@ Level; Fine=\$50-\$230 • (d)(1) In addition to any other penalty if the court determines that the commission of that offense contributed to the serious physical injury of a vulnerable user of a public right of way, the court shall: <ul style="list-style-type: none"> a. Impose a sentence that requires the convicted person to: <ol style="list-style-type: none"> 1. complete a traffic safety course approved by DMV 2. Perform up to 100 hours of community service which much include activities related to driver improvement and providing public education on traffic safety; b. Impose, but suspend on the condition that the person complete the requirements of (d)(1)a, <ol style="list-style-type: none"> 1. A fine of not more than \$550 2. A suspension of driving privileges as provided in Section 2733(a)(2) of this Title; and 3. Set a hearing date up to one year from the date of sentencing. At that Hearing, the court shall: <ul style="list-style-type: none"> A. If the person has successfully completed the requirements described in paragraph (d)(1)(a) of this section, dismiss the penalties imposed under (d)(1)b. 1. and 2 of this section. B. If the person has not successfully completed the requirements Described in (d)(1)(a) of this section, either <ol style="list-style-type: none"> I. grant the person an extension based on good cause shown, or II. impose the penalties under (d)(1)b. 1. and 2. of this section.
<p>21-4176A</p>	<p><u>Operation of Vehicle Causing Death</u></p> <ul style="list-style-type: none"> • Maximum penalty 1st Conviction: up to 30 m. imprisonment &/or \$1,150 Fine • Prior Conviction: up to 60 m. imprisonment &/or \$2,300 Fine

21-4177

Driving a Vehicle While Under the Influence. Mandatory Minimum Sentences:

- **1st Offense:** (1) up to 6m. @ Level V; (2) Fine= \$500-\$1,500; (3) Completion of alcohol evaluation and program (§4177D) which may include up to 6m. confinement & a fee not in excess of maximum fine under this section; (4) 12m. DL revocation
- **2nd Offense:** (1) 60d-18m. @ Level V; (2) Fine= \$750-\$2,500; minimum sentence may not be suspended; (3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement & a fee not in excess of maximum fine under this section; (4) 18 m. DL revocation if B.A.L. < .16/ 24. if B.A.L.=.16-.19/ 30m. if B.A.L. = > .20.; (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater
- **3rd Offense:** (Class G Felony): (1) 1-2 yrs. imprisonment (first 3m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind);(2) Fine= \$1,500-\$5,000. (3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement & a fee not in excess of maximum fine under this section; (4) 24m. DL revocation if B.A.L. < .16/ 30m. if B.A.L.=.16-.19/ 36m. if B.A.L. = > .20.; (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater.
- **4th Offense:** (Class E Felony): (1) 2-5 yrs. imprisonment (first 6m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind); (2) Fine= \$3,000-\$7,000. (3) Completion of alcohol evaluation and program (4177D) which may include up to 15m confinement & a fee not in excess of maximum fine under this section. (4) 60 months revocation regardless of B.A.L. (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater. Payment of associated costs is required unless indigent (4177G9e)).
- **5th Offense** (Class E Felony): (1) 3-5 yrs. (2) Fine= \$3,500-\$10,000(3) Completion of alcohol evaluation and program (§4177D) which may include up to 15m. confinement & a fee not in excess of maximum fine under this section. (4) 60 months DL revocation regardless of B.A.L. (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater; Payment of associated costs is required unless indigent (§4177G(e)).
- **6th Offense:** (Class D Felony): (1) 5-8 yrs. (2) Fine=\$5,000-\$10,000 (3) Completion of alcohol evaluation and program (4177D) which may include up to 15m. confinement & a fee not in excess of maximum fine under this section. (4) 60 months DL revocation regardless of B.A.L. (5) Ignition Interlock Device shall be installed on all vehicles registered to Defendant after the first 12m. of DL revocation and for either 3 months or the remaining revocation period whichever is greater. Payment of associated costs is required unless indigent (4177G(e)).
- **7th or for any subsequent offense:** (Class C Felony): (1) 10-15 yrs. (2) Fine= \$10,000-\$15,000 (3) Completion of alcohol evaluation and program (4177D) which may include up to 15m. confinement & a fee not in excess of maximum fine under this section. (4) 60 months DL revocation regardless of B.A.L. (5) Ignition Interlock Device shall be installed on all vehicles registered to defendant after the first 12m of DL revocation and for either 3 months or the remaining revocation period whichever is greater. Payment of associated costs is required unless indigent (4177G9e)).
- For the fourth, fifth, sixth, seventh offense or greater, the provisions of Section 4205(b) or Section 4217 of Title 11 or any other statute to the contrary notwithstanding, the first six months of the sentence shall not be suspended, but

shall be served at Level V and shall not be subject to any early release, furlough, or reduction of any kind. No conviction for violation of this section for which a sentence is imposed pursuant to this paragraph shall be considered a predicate felony conviction for sentencing pursuant to Section 4214 of Title 11. No offense for which sentencing pursuant to this paragraph is applicable shall be considered any underlying felony for a murder in the first degree pursuant to section 636(a)(2) of Title 11.

- Any provisions under (d)(3) may be applied upon motion of AG.
- Aggravating Factor: In addition to the above, if a person > 17 y.o.a. was in the vehicle, the following additional requirements must be added: (a) 1st offense- 40 hrs. community service benefiting children & \$230-\$1,150; (b) Prior offense involving same: 80 hrs. community service benefiting children & \$575-\$2,300.
- Revocation of driving privileges will remain in effect until (1) the minimum required period AND (2) completion of alcohol evaluation and program have been satisfied. The court shall take possession of the Defendant's driver's license upon conviction and forward it to the appropriate agency (§4177A(c))

Discretionary Sentence Conditions:

- For a violation of (a) or (b), the Court may order an ignition interlock device for a minimum period of 1 yr. A person violating (a) while also in violation of this section shall be sentenced to 60d. imprisonment & a fine of \$2,300.
- §4177B First Offenders: Election in Lieu of Trial
- §4177G Subsequent Offender eligibility for Interlock Ignition Device License

11-4219. Continuous Remote Alcohol Monitoring Program.

(a) There is hereby established for sentencing and probation purposes a Continuous Remote Alcohol Monitoring Program which shall use technology to monitor offenders for alcohol use. The program shall be administered by the Department of Correction which shall have the sole authority to determine which offenders are accepted into the program.

(b) The Board of Parole or any Court of competent jurisdiction may request and recommend, as part of conditions of release or the sentence of any person convicted under § 4177(a) of Title 21 for a first offense where the first offender election is not available, or for a subsequent offense involving a blood alcohol content of .20 or higher, a period of continuous remote alcohol monitoring not to exceed 90 days for a first offense and 120 days for a second offense.

(c) Any inmate incarcerated for violations of § 4177 of Title 21 and selected for participation in the program shall be released on Level IV status, subject to the conditions of the program, and those conditions imposed by the sentencing judge. The remainder of the participant's sentence of incarceration shall be suspended upon completion of the program requirements. Participants failing to satisfactorily complete the program shall be returned to the Board of Parole or the sentencing authority for resentencing.

(d) Any offender considered for participation must agree to adhere to the conditions established for participation before being accepted into the program.

(e) The Department of Correction shall report annually on the use of the program, and its effectiveness as a supervision mechanism. (75 Del. Laws, c. 143, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 381,

	§§ 1, 2; 76 Del. Laws, c. 134, § 1; 76 Del. Laws, c. 366, § 1.)
21-4201	<u>Leaving the Scene of an Accident.</u> Mandatory Minimum Sentence: (1) 60d.-6m. imprisonment; (2) Fine \$230-\$1,150; (3) 6m. driver's license revocation.
21-4202	<u>Leaving the Scene of an Accident (Injury/Death).</u> Mandatory Minimum Sentences: <ul style="list-style-type: none"> • (b) Injury (unclassified misdemeanor): (1) 1-2 yrs. imprisonment; (2) Fine= \$1,000-\$2,000; (3) 1 yr. driver's license suspension • (c) Death (class E felony): (1) 1 yr. minimum imprisonment of which the first 6m. may not be suspended; (2) 2 yr. driver's license suspension
23-2302	<u>Operation of a Vessel or Boat While Under the Influence.</u> Mandatory Minimums: <ul style="list-style-type: none"> • (1) 1st Offense: (1) 60d.-6m. @ Level V <u>&/or</u> (2) Fine= \$200-\$1,000 • (2) 2nd Offense w/in 5 yrs: (1) 60d.-18m. @ Level V <u>and</u> (2) Fine= \$500-\$2,000; minimum sentence may not be suspended and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • (3) 3rd Offense w/in 5 yrs: (Class G Felony): (1) 1-2 yrs. @ Level V (first 3m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) <u>and</u> (2) Fine= \$1,000-\$3,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • (4) 4th or Subsequent Offense: (Class E Felony): (1) 2-5 yrs. @ Level V (first 6m. must be @ Level V and shall not be subject to suspension, early release, furlough or reduction of any kind) <u>and</u> (2) Fine: \$2,000-\$6,000 and (3) completion of a program of education or rehabilitation which may include inpatient program and followed by such other programs as established by the training facility, not to exceed a total of 15 months, and pay a fee not to exceed the maximum fine (see subsection 8) • (5)(a) Aggravating factor-If a juvenile <17 y.o.a. was on board, then: <ul style="list-style-type: none"> • 1st Offense: Additional fine= \$200-\$1,000 and 40 hrs. community service • Subsequent Offense: Additional fine= \$500-\$2,000 and 80 hrs. community service

SUMMARY OF DRUG OFFENSES

Summary of Drug Offenses- Class B Felonies

Class B Felony (Violent)

Sentence Range (Violent Category) FBV	
Statutory Range	2 to 25 Years
Presumptive Sentence	2 – 5 yrs; First Two Years at Level V (May Not Be Suspended)
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4751(c)	Manufacture/Delivery Narcotic: Death (see note)
16-4753A	Trafficking in Controlled Substances (see note)

Supplemental Notations:

16-4751(c)	<p><u>Manufacture/Delivery Narcotic: Death</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$100,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • Title 21, §4177K: Mandatory 3 yr. driver's license revocation
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16-4753A

Trafficking in Controlled Substances

- (a) Mandatory Minimum Terms of Imprisonment (Level V) and Fines:

MARIJUANA (1)	5 - 99 lbs.: 2 yrs + up to \$25,000 fine 100 - 499 lbs.: 4 yrs + up to \$50,000 fine 500+ lbs: 8 yrs + up to \$100,000 fine
COCAINE (2)	10 - 49 gm: 2 yrs + up to \$50,000 fine 50 - 99 gm: 4 yrs + up to \$100,000 fine 100+ gm: 8 yrs + up to \$400,000 fine
OPIATES (3)	2.5-9 gm: 3 yrs + up to \$75,000 fine 10-49 gm: 10 yrs + up to \$150,000 fine 50+ gm: 25 yrs + up to \$750,000 fine
METHAMPHETAMINE (4)	5 - 49 gm: 2 yrs + up to \$50,000 fine 50 - 99 gm: 4 yrs + up to \$100,000 fine 100+ gm: 8 yrs + up to \$400,000 fine
AMPHETAMINE (5)	5 - 49 gm: 2 yrs + up to \$50,000 fine 50 - 99 gm: 4 yrs + up to \$100,000 fine 100+ gm: 8 yrs + up to \$400,000 fine
PHENYLCYCLIDINE (PCP) (6)	5 - 49 gm: 2 yrs + up to \$50,000 fine 50 - 99 gm: 4 yrs + up to \$100,000 fine 100+ gm: 8 yrs + up to \$400,000 fine
LYSERGIC ACID (LSD) (7)	50 - 99 doses/5 - 9 liquid mg: 2 yrs + up to \$50,000 fine 100 - 499 doses/10 - 49 liquid mg: 4 yrs + up to \$100,000 fine 500+ doses/50+ liquid mg: 8 yrs + up to \$400,000 fine
DESIGNER DRUG (8)	25 - 249 doses/5 - 49 gm/5 - 49 ml: 2 yrs + up to \$50,000 fine 250-500 doses/50-100 gm/50-100 ml – 4 yrs + up to \$100,000 fine 500+ doses 100+ gm/100+ ml – 8 years + up to \$400,000 fine
MDMA (9)	25 - 249 doses/5 - 49 gm/5 - 49 ml: 2 yrs + up to \$50,000 fine 250 - 499 doses/50 - 99 gm/50 - 99 ml: 4 yrs + up to \$100,000 fine 500+ doses/100+ gm/100+ ml: 8 years + up to \$400,000 fine

- (b) Adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall such person be eligible for parole or release upon good time, work release, supervised custody, furlough or any similar program prior to serving mandatory minimum term of imprisonment
- **16-4763(c)** If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V
- **16-4763(d)** Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
- 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)

Summary of Drug Offenses- Class C Felonies

Class C Felony (Violent)

Sentence Range (Violent Category) FCV	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 30 months @ Level V
Acceptance of Responsibility	Up to 22 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4751(a)	Manufacture/Delivery/PWI Schedule I,II Narcotic (see note)
16-4761(a)(1)	Distribution of Schedule I or II Narcotic to u/21 y.o.a. (see note)

Supplemental Notations:

16-4751(a)	<p><u>Manufacture/Delivery/PWI Schedule I,II Narcotic</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$50,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • Title 21, §4177K: Mandatory 3 yr. driver's license revocation
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16-4761(a)(1)	<p><u>Distribution of Schedule I or II Narcotic to u/21 y.o.a.</u></p> <ul style="list-style-type: none"> • (a)(3) If the recipient of the controlled substance/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • (a)(3) If the recipient of the controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. At Level V; which minimum sentence shall not be subject to suspension, probation or parole • If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine. • 16-4763(a)(1)(f) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 17 yrs • 16-4763(a)(2)(d) If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 10 yrs • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
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Class C Felony (Nonviolent)

Sentence Range (Nonviolent Category) FCN	
Statutory Range	0 to 15 years @ Level V
Presumptive Sentence	Up to 1 yr @ Level V
Acceptance of Responsibility	Up to 9 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4761A(a)(1)	Purchase Drugs from Minor (Schedule I,II/Narcotic) (see note)
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Supplemental Notations:

16-4761A(a)(1)	<u>Purchase Drugs from Minor (Schedule I,II/Narcotic)</u> <ul style="list-style-type: none">• (a)(3)If the recipient of the narcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole• (a)(3)If the recipient of the narcotic/controlled substance/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 2 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole• 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V• 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
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Summary of Drug Offenses- Class D Felonies

Class D Felony (Violent)

Sentence Range (Violent Category) FDV	
Statutory Range	0 to 8 years @ Level V
Presumptive Sentence	Up to 2 years @ Level V
Acceptance of Responsibility	Up to 18 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4752A	Delivery Noncontrolled Substance (see note)
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Supplemental Notations:

16-4752A	<p><u>Delivery Noncontrolled Substance</u></p> <ul style="list-style-type: none"> • (c) Sentence is governed by the penalty for delivery of the substance which the defendant represented the noncontrolled substance to be. If no specific express or implied representation was made, the penalty shall be that for delivery of a nonnarcotic controlled substance. Section 4751(b) of Title 16 shall not apply • Maximum Fine= \$50,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
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Summary of Drug Offenses- Class E Felonies

Class E Felony (Violent)

Sentence Range (Violent Category): FEV	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 15 m. @ Level V
Acceptance of Responsibility	Up to 11 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4751(b)	Manufacture/Delivery/PWI of Sched. III,IV,V Narcotic (see note)
16-4752(a)	Manufacture/Delivery/PWI Nonnarcotic Controlled Substance (see note)
16-4752(b)	Dist/Sell/Prescribe Steroids/Counterfeit for Athletics (see note)
16-4754A(d)	Deliver/PWI Noncontrolled Prescription Drug (see note)
16-4761(a)(2)	Distribution Nonnarcotic Controlled Substance to u/21 y.o.a. (see note)
16-4774(c)	Delivery Drug Paraphernalia to Minor

Supplemental Notations:

16-4751(a)	<p><u>Manufacture/Delivery/PWI of Sched. III,IV,V Narcotic</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$15,000 • 16-4751(d): If by a preponderance the Defendant is determined to be a Nonaddict (1) 1st conviction: minimum mandatory sentence= 6 years at Level V (2) 2nd or subsequent conviction= minimum mandatory sentence of 12 years at Level V. Sentence may not be suspended. • 16-4763(a)(1) If previous conviction under §§4751,4752,4753A or 4761,(c) the maximum imprisonment is 5 yrs or (d): if heroin or heroin mixture, the maximum imprisonment is increased to 10 years. • 16-4763(a)(2) If previous conviction under §§4751,4752,4753A or 4761, (a) the mandatory minimum imprisonment is 3 yrs or (b): if heroin or heroin mixture, the minimum imprisonment is increased to 5 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
16-4752(a)	<p><u>Manufacture/Delivery/PWI Nonnarcotic Controlled Substance</u></p> <ul style="list-style-type: none"> • Maximum Fine= \$10,000/ Maximum Imprisonment= 5 yrs • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)

16-4752(b)	<p><u>Dist/Sell/Prescribe Steroids/Counterfeit for Athletics</u></p> <ul style="list-style-type: none"> • 16-4763(a)(1)(c) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 5 yrs. • 16-4763(a)(2)(a) If previous conviction under §§4751,4752,4753A or 4761, mandatory minimum imprisonment is 3 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)
16-4754A(d)	<p><u>Deliver/PWI Noncontrolled Prescription Drug</u></p> <ul style="list-style-type: none"> • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (e)
16-4761(a)(2)	<p><u>Distribution Nonnarcotic Controlled Substance to u/21 y.o.a.</u></p> <ul style="list-style-type: none"> • (a)(4) If the recipient of the nonnarcotic controlled substance/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. If the recipient is under 14 y.o.a., the mandatory minimum sentence = 1 yr. at Level V; which minimum sentence shall not be subject to suspension, probation or parole. (continued) • (c) If the Defendant is over 18 y.o.a. and uses, solicits, directs, hires or employs a person under 18 y.o.a. to commit violation of subchapter IV or V, the maximum sentence consists of 10 years at Level V and a \$250,000 fine. • 16-4763(a)(1)(e) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is increased to 9 yrs • 16-4763(a)(2)(c) If previous conviction under §§4751,4752,4753A or 4761, the mandatory minimum imprisonment is 7 yrs • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
16-4774(c)	<p><u>Delivery Drug Paraphernalia to Minor</u></p> <ul style="list-style-type: none"> • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

Summary of Drug Offenses- Class E Felonies

Class E Felony (Nonviolent)

Sentence Range (Nonviolent Category) FEN	
Statutory Range	0 to 5 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4761A(a)(2)	Purchase Drugs from Minor (Controlled Substance/Nonnarcotic) (see note)
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Supplemental Notations:

16-4761A(a)(2)	<p><u>Purchase Drugs from Minor (Controlled Substance/Nonnarcotic)</u></p> <ul style="list-style-type: none"> • (a)(4) If the recipient of the nonnarcotic/counterfeit is under 16 y.o.a., the mandatory minimum sentence = 6 m. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • (a)(4) If the recipient of the nonnarcotic/counterfeit is under 14 y.o.a., the mandatory minimum sentence = 1 yrs. at Level V; which minimum sentence shall not be subject to suspension, probation or parole • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
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Summary of Drug Offenses- Class F Felonies

Class F Felony (Nonviolent)

Sentence Range (Nonviolent Category) FFN	
Statutory Range	0 to 3 years @ Level V
Presumptive Sentence	Up to 12 m. for Title 11 offenses; up to 18 months for Title 16 offenses @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II for Title 11 offenses Up to 14 mos. @ Level II for Title 16 offenses
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4755(a)(1)	Illegal Distribution of Controlled Substance (see note)
16-4755(a)(2)	Unauthorized Manufacture/Distribution Controlled Substance (see note)
16-4755(a)(4)	Refusal to Allow Inspection (see note)
16-4755(a)(5)	Maintain Structure/Conveyance for Illegal Use/Delivery (see note)
16-4756	Obtain/Distribute Controlled Substance by Fraud/Theft (see note)

Supplemental Notations:

16-4755 16-4756	<ul style="list-style-type: none"> • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
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Summary of Drug Offenses- Class G Felonies

Class G Felony (Violent)

Sentence Range (Violent Category) FGV	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 6 m. @ Level V. For 16-4767 & 16-4768: 3 - 9 m. @ Level V.
Acceptance of Responsibility	Up to 4 mos. @ Level V
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none"> • (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others. • (c) Consecutive sentence shall not amount to more than limitations herein. • (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly. • (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4761(c)	Hire Minor to Violate any Drug Provision (see note)
16-4767	Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School (see note)
16-4768	Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship (see note)

Supplemental Notations:

16-4761(c)	<p><u>Hire Minor to Violate any Drug Provision</u></p> <ul style="list-style-type: none"> • Maximum Sentence: Imprisonment= 10 yrs., Fine= \$250,000 • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(b): Mandatory 3 yr. driver's license revocation subject to (e)
16-4767	<p><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 1000 ft School</u></p> <ul style="list-style-type: none"> • (a)(1) Narcotic: Maximum Penalty= 30 yrs imprisonment/ \$250,000 fine. • (a)(2) Nonnarcotic: Maximum Penalty= 15 yrs imprisonment/\$250,000 fine.\ • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
16-4768	<p><u>Distribution/Delivery/Possession Controlled Substances/ Counterfeit w/in 300 ft Park/Worship</u></p> <ul style="list-style-type: none"> • Maximum Penalty: Imprisonment= 15 yrs/ Fine= \$250,000. • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

Class G Felony (Nonviolent)

Sentence Range (Nonviolent Category) FGN	
Statutory Range	0 to 2 years @ Level V
Presumptive Sentence	Up to 12 m. @ Level II
Acceptance of Responsibility	Up to 9 mos. @ Level II
Probation or Suspension of Sentence (11-4333)	<ul style="list-style-type: none">• (b)(1) 2 years for violent felonies; (b)(2) 18 months for Title 16 offenses; (b)(3) 1 year for all others.• (c) Consecutive sentence shall not amount to more than limitations herein.• (d) Limitations shall not apply to: (1) sex offenses, (2) violent felonies if public safety requires, or (3) if restitution remains unpaid at the end of the term. Additional probation for restitution purposes must be served at Level I. Record must be noted accordingly.• (e) Limitations may be exceeded for a 90-day period to ensure the completion of a court-ordered substance abuse program.

Crimes in Category:

16-4757(d)	Deliver/Dispose Hypodermic Syringe (see note)
16-4774(b)	Manufacture/Deliver/PWI Drug Paraphernalia (see note)

Supplemental Notations:

16-4757(d) 16-4774(b)	16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
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Summary of Drug Offenses- Misdemeanors:

Class A Misdemeanor

Sentence Range (Controlled Substance Category) MA5	
Statutory Sentence	0 to 1 yr @ Level V and up to \$2,300 fine
Presumptive Sentence	1st Offense w/16-4764 First Offender Program Minimum 18 m. @ Level I ^(7/12/05) 1st Offense 12 m. @ Level II 2nd Offense w/in 2 Years: 6 m. @ Level III & 6m. @ Level II 3rd Offense w/in 3 Years: 6 m. @ Level V
Acceptance of Responsibility	Up to 9 mos @ Level II

Crimes in Category:

16-4740	Sale of Pseudoephedrine/Ephedrine
16-4753	Possess/Use/Consumption Narcotic/Counterfeit w/out Rx (see note)
16-4755(a)(3)	Refuse/Fail to Make/Keep/Furnish Required Record (see note)
16-4758	Keeping Drugs in Original Container (see note)
16-4774(a)	Possession of Drug Paraphernalia (see note)

Supplemental Notations:

16-4753	<p><u>Possess/Use/Consumption Narcotic/Counterfeit w/out Rx</u></p> <ul style="list-style-type: none"> May qualify for First Offender Diversion Program (see §4764) 16-4763(a)(1)(b) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 3 yrs. 21-4177K(a) Mandatory 2 yr. driver's license revocation subject to (d)
16-4753 16-4755 16-4758 16-4774	<ul style="list-style-type: none"> 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)

Class B Misdemeanor

Sentence Range (Class B Misdemeanors) MB	
Statutory Sentence	0 to 6m. @ Level V and up to \$1,150 fine
Presumptive Sentence	1st &/or 2nd offense: Fine, Costs, Restitution Only 3rd Offense w/in 2 yrs: up to 6m. @ Level I or II

Crimes in Category:

16-4754	Possess/Use/Consume Controlled Substance (Nonnarcotic) (see note)
16-4754A	Possession of Noncontrolled Prescription Drug (see note)

Supplemental Notations:

16-4754	<p><u>Possess/Use/Consume Controlled Substance (Nonnarcotic)</u></p> <ul style="list-style-type: none"> • May qualify for First Offender Diversion Program (see §4764) • 16-4763(a)(1)(a) If previous conviction under §§4751,4752,4753A or 4761, the maximum imprisonment is 2 yrs. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)
16-4754A	<p><u>Possession of Noncontrolled Prescription Drug</u></p> <ul style="list-style-type: none"> • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV • 21-4177K(a): Mandatory 2 yr. driver's license revocation subject to (d)

Unclassified Misdemeanors

Sentence Range (Unclassified Misdemeanors) UM	
Statutory Sentence	Up to 30d. @ Level V and up to \$575 fine
Presumptive Sentence	1 st or 2 nd offense: Fine, Costs, Restitution Only 3 rd Offense w/in 2 yrs: 0 to 6m. @ Level I or II

Crimes in Category

16-4757(c)	Possession of Hypodermic Syringe (see note)
16-4774 (d)	Advertisement of Drug Paraphernalia (see note)

Supplemental Notations:

16-4757(c)	<p><u>Possession of Hypodermic Syringe</u></p> <ul style="list-style-type: none"> • Maximum penalty: Fine up to \$100; Imprisonment up to 30 d. • 16-4763(c) If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV
16-4774(d)	<p><u>Advertisement of Drug Paraphernalia</u></p> <ul style="list-style-type: none"> • 16-4763(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

Summary of Trafficking Offenses

CONTROLLED SUBSTANCE	SECTION NO.	OLD CLASS/ PENALTY	NEW CLASS/ PENALTY	FINES
<u>MARIJUANA</u> 5-99 lbs. 100-499 lbs. 500+ lbs.	4753A(a)(1)(a) 4753A(a)(1)(b) 4753A(a)(1)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$25,000 \$50,000 \$100,000
<u>COCAINE</u> 10-49 grams 50-99 grams 100+ grams	4753A(a)(2)(a) 4753A(a)(2)(b) 4753A(a)(2)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>HEROIN/OPIATES</u> 2.5-9 grams 10-49 grams 50+ grams	4753A(a)(3)(a) 4753A(a)(3)(b) 4753A(a)(3)(c)	B/3-20 years B/10-20 years B/25 years	B/3-25 years B/10-25 years B/25 years	\$75,000 \$150,000 \$750,000
<u>METHAMPHETAMINES</u> 5-49 grams 50-99 grams 100+ grams	4753A(a)(4)(a) 4753A(a)(4)(b) 4753A(a)(4)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>AMPHETAMINES</u> 5-49 grams 50-99 grams 100+ grams	4753A(a)(5)(a) 4753A(a)(5)(b) 4753A(a)(5)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>PCP</u> 5-49 grams 50-99 grams 100+ grams	4753A(a)(6)(a) 4753A(a)(6)(b) 4753A(a)(6)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>LSD</u> 50-99 doses/5-9 mg 101-499 doses/10-49 mg 500+ doses/ 50+ mg	4753A(a)(7)(a) 4753A(a)(7)(b) 4753A(a)(7)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>DESIGNER DRUGS</u> 25-249d/5-49gm/ ml 250-500d/50-100gm/ ml 500+d/100+gm/ ml	4753A(a)(8)(a) 4753A(a)(8)(b) 4753A(a)(8)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000
<u>MDMA</u> 25-249d/5-49gm/ ml 250-500d/50-100gm/ ml 500+d/100+gm/ ml	4753A(a)(8)(a) 4753A(a)(8)(b) 4753A(a)(8)(c)	B/3-20 years B/5-20 years B/15-20 years	B/2-25 years B/4-25 years B/8-25 years	\$50,000 \$100,000 \$400,000

Summary of 16-4763

(a) Previous Convictions- If a defendant has previously been convicted of any of the following sections: §§ 4751, 4752, 4753A or 4761, the penalties set forth in § § 4751-4761 of this title shall be increased as follows:

(1) The Maximum Penalties shall be increased to:

- a. §4754- not more than 2 years.
- b. §4753- not more than 3 years.
- c. §4751 or §4752 (except heroin or a heroin compound)- 5 years.
- d. §4751 Heroin or Heroin compound- 10 years.
- e. §4761(a)(2)- not more than 9 years.
- f. §4761(a)(1)- not more than 17 years.

(2) Minimum Mandatory Penalties: The following sections require the imposition of the minimum mandatory penalties as described. Said penalties shall not be suspended, nor shall defendants be eligible for probation or parole during the mandatory portion of their sentence:

- a. §4751 or §4752 (except heroin or heroin compounds)- 3 years.
- b. §4751 Heroin or Heroin compound- 5 years.
- c. §4761(a)(2)- 7 years.
- d. §4761(a)(1)- 10 years.

(b) Mitigating Circumstances and Reduced Penalties

(1) The maximum penalty for a violation of **§4752 or §4761(a)(2)** is \$1,000 fine and/or 2 years @ Level V if all of the following conditions have been met:

- a. Defendant is under 21 y.o.a.,
- b. The defendant delivered a controlled or counterfeit substance classified in Schedule I or II as a narcotic,
- c. The incident was an isolated one, the Defendant did not profit by it or assist another to profit and the Defendant is not engaged in the business of delivering controlled or counterfeit substances,
- d. The person who purchased the substance was at least 15 y.o.a. and had known the Defendant for a minimum of 1 year prior to the transaction.

(2) In any prosecution under **§4754**, the maximum penalty shall be a fine of \$500 and/or 90 days @ Level V if all of the following conditions have been met:

- a. Defendant is under 21 y.o.a.,
- b. Defendant had used or possessed a controlled or counterfeit substance other than a narcotic,
- c. Defendant is not engaged in the business of delivering controlled or counterfeit substances
- d. The controlled or counterfeit substance was obtained from one whom the defendant reasonably believed was at the time under the age of 21 and did not make a profit or assist another in making a profit in the transaction and was not in the business of delivering controlled or counterfeit substances and had been acquainted with the Defendant for a period of 1 year before any delivery took place

(3) The burden shall be on the Defendant to establish mitigating circumstances by preponderance. The Defendant may elect to plead said mitigating circumstances and present to either but not both: (i) the trier of fact or (ii) the court at a hearing after conviction and prior to sentencing

(4) This subsection is not applicable to Defendants with previous convictions as defined in subsection (a) of this section and the penalties provided therein shall apply fully. A conviction for which the penalty has been mitigated under subsection (b) shall count as a previous conviction for purposes of subsection (a).

(c) Additional Penalties- If Defendant moved to this State in order to commit offense penalty shall be increased by 1 yr at Level V

(d) Substance Abuse Treatment: Upon request of D.O.C. the Defendant may be placed during last 180 d. of Level V sentence in quasi-incarceration @ Level IV

AGGRAVATING AND MITIGATING FACTORS

The standard sentence range is presumed to be appropriate for the typical criminal case. The court may impose a sentence outside the standard sentence range for that offense if it finds that there are substantial and compelling reasons justifying an exceptional sentence.

The following aggravating and mitigating circumstances for exceptional sentences are provided as examples and are not intended to be exclusive reasons for departure. An aggravating or mitigating circumstance, whether listed below or not, shall only apply if it does not reflect the statutory language defining the current offense, or constitute an element thereof.

When an exceptional sentence is decreed, the governing factor(s) leading to the exceptional sentence must be stated for the record, and should be identified in the sentencing order or on the sentencing worksheet.

Aggravating Factors:

- A1 Excessive Cruelty
- A2 Prior Violent Criminal Conduct
- A3 Repetitive Criminal Conduct
- A4 Need for Correctional Treatment
- A5 Undue Depreciation of Offense
- A6 Major Economic Offense or Series of Offenses
- A7 Prior Abuse of Victim
- A8 Custody Status at Time of Offense
- A9 Lack of Remorse
- A10 Betrayal of Public Trust
- A11 Supervision to Monitor Restitution
- A12 Lack of Amenability
- A13 Vulnerability of Victim
- A14 Statutory Aggravation
- A15 Statutory Habitual Offender
- A16 Child Domestic Violence Victim
- A17 Offense Against a Child
- A18 Sentenced to Time Already Served Only

Mitigating Factors:

- M1 Victim Involvement
- M2 Voluntary Redress or Treatment
- M3 Under Duress or Compulsion
- M4 Inducement By Others
- M5 Physical/Mental Impairment
- M6 Concern for Victim by Non-Principal
- M7 No Prior Convictions
- M8 Treatment Need exceeds Need for Punishment
- M9 Could Lose Employment
- M10 Statutory Mitigation
- M11 Assistance to Prosecution
- M12 Mental Retardation
- M13 Other

Description of AGGRAVATING FACTORS For Exceptional Sentences

Violent Felonies Only:

EXCESSIVE CRUELTY

- a. Those facts surrounding the commission of a violent felony which demonstrate such a callousness and cruelty towards the victim as to shock the conscience of the Court. [Standard 4 II.A.(i)]
- b. Allowable Penalty: Up to the statutory maximum for the instant offense.

PRIOR VIOLENT CRIMINAL CONDUCT

- a. Defendant has demonstrated, by his prior criminal history, a propensity for violent criminal conduct. (SEE POLICY NO. 4) [Standard 4 I.A.(i)]
- b. Recommended Penalties:
 1. With two or more prior, separate violent felonies --Up to the statutory maximum.
 2. With one prior violent felony -- up to 50% of the statutory maximum.

SUMMARY: STANDARD PRIOR HISTORY CATEGORIES FOR VIOLENT FELONIES

Category	Factor	Fel A	Fel B	Fel C	Fel D	Fel E	Fel F	Fel G
A	One or less prior felonies	Presumptive Sentence						
B	While on release or pending trial/sentencing	Level V for up to the time shown below:						
		25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
C	Two or more prior felonies	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
D	One prior violent felony	25 yrs	10 yrs	5 yrs	4 yrs	2.5 yrs	1.5 yrs	1 yr
E	Two or more prior violent felonies	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs
F	Excessive Cruelty	Life	25 yrs	15 yrs	8 yrs	5 yrs	3 yrs	2 yrs

If violent crime is a secondary offense, use up to the presumptive sentence.

Aggravated Prior History Sentences at Level V for Nonviolent Felonies

H	Repetitive criminal history	NA	NA	24 months	Up this number of months:			
					24	15	9	6
J	Lack of amenability to lesser sanctions	NA	NA	24 months	Up to this number of months:			
					24	15	9	6

If nonviolent crime is a secondary offense, use the nonaggravated presumptive sentence.

Any Offense:

REPETITIVE CRIMINAL CONDUCT

Definition: Repetitive Criminal Conduct is conviction or adjudication for the same or similar offense on two or more previous, separate occasions. (SEE POLICY NO. 16)

NEED FOR CORRECTIONAL TREATMENT

The defendant is in need of correctional treatment which can be most effectively provided if he is placed in total confinement. [Standard 4 I.B]

UNDUE DEPRECIATION OF OFFENSE

It would unduly depreciate the seriousness of the offense to impose a sentence of other than total confinement. [Standard 4 I.D.]

MAJOR ECONOMIC OFFENSE OR SERIES OF OFFENSES:

Identified by a consideration of any of the following factors:

- a. The offense involved multiple victims or multiple incidents per victim;
- b. The offense involved attempted or actual monetary loss substantially greater than typical for the offense;
- c. The offense involved a high degree of sophistication or planning, or occurred over a lengthy period of time;
- d. The defendant used his/her position of trust, confidence or fiduciary responsibility to facilitate the offense.

PRIOR ABUSE OF VICTIM:

On prior occasions, the defendant has harassed, threatened, or physically abused the victim of the current offense.

CUSTODY STATUS AT TIME OF OFFENSE:

The offender was on bail, early release from incarceration, or was serving a sentence in other than Level V at the time the offense was committed.

LACK OF REMORSE

The offender has demonstrated a total lack of remorse or acceptance of responsibility with regard to the offense.

BETRAYAL OF PUBLIC TRUST

The offender, in attempting to gain, or while holding, public office by appointment or election, betrayed the Public Trust by his or her unlawful conduct.

SUPERVISION TO MONITOR RESTITUTION

A long period of supervision is necessary to monitor the offender's restitution responsibilities. Penalty Note: Applicable to sentences involving **less than Level V time** only.

LACK OF AMENABILITY

The defendant has demonstrated a lack of amenability to lesser restrictive sanctions through violation of a prior period of probation, or a failure to meet the conditions of a prior or current period of probation.

VULNERABILITY OF VICTIM

The Defendant knew, or should have known, that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

STATUTORY AGGRAVATION

The current offense carries with it a statutory minimum mandatory period of incarceration which exceeds the sentencing guidelines.

STATUTORY HABITUAL OFFENDER

The Court, on motion, determined the defendant to be an habitual offender under the provisions of 11 Del.C., s4214, thus calling for a sentence of incarceration which exceeds the sentencing guidelines.

CHILD DOMESTIC VIOLENCE VICTIM

The person who is a victim in domestic violence is a child.

OFFENSE AGAINST A CHILD

The victim in the offense was a child under 16 years old.

Description of MITIGATING FACTORS for Exceptional Sentences
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VICTIM INVOLVEMENT:

To a significant degree, the victim was an initiator, willing participant, aggressor, or instigator of the incident.

VOLUNTARY REDRESS OR TREATMENT:

Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained, or, before detection, he voluntarily sought professional help for drug/alcohol treatment, or for any other recognized compulsive behavioral disorders related to the offense.

UNDER DURESS OR COMPULSION:

The defendant committed the crime under duress, coercion, emotional distress, threat or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

INDUCEMENT BY OTHERS:

The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

PHYSICAL/MENTAL IMPAIRMENT:

The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this circumstance.

CONCERN FOR VICTIM BY NON-PRINCIPAL:

The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

NO PRIOR CONVICTIONS**TREATMENT NEED EXCEEDS NEED FOR PUNISHMENT:**

The offender is in greater need of an available treatment program than of punishment through incarceration.

COULD LOSE EMPLOYMENT:

The offender is gainfully employed and will more than likely lose his/her job if the sentencing standard is imposed.

STATUTORY MITIGATION

- Regarding violation of 16 Del.C., §4752 or §4761(2), see 16 Del.C., §4763(b)(1).
- Regarding violation of 16 Del.C., §4754, see 16 Del.C., §4763(b)(2).
- Regarding violation of 16 Del.C., §4753 or §4754, see 16 Del.C., §4764.

ASSISTANCE TO PROSECUTION:

Defendant rendered substantial assistance to Authorities in the investigation and/or prosecution of this or other crimes.

MENTAL RETARDATION

- a. Defendant is "significantly sub average in general intellectual function" (usually interpreted as an IQ score of 70 or less); AND
- b. "has deficits in adaptive behavior" (has insufficient life skills to get along without constant assistance from others); AND
- c. "manifested the above handicaps during the developmental period". (usually interpreted as having experienced the onset of handicap at the age of 21 or younger).

QUALIFYING UNDERLYING OFFENSES FOR TITLE 11 SECTION 1105: Crime Against a Vulnerable Adult:

Title 11:

Section 601.	Offensive touching
Section 602(a)	Menacing
Section 602(b)	Aggravated Menacing
Section 603	Reckless endangering in the second degree
Section 604	Reckless endangering in the first degree
Section 605	Abuse of a pregnant female in the second degree
Section 606	Abuse of a pregnant female in the first degree
Section 611	Assault in the third degree
Section 612	Assault in the second degree
Section 621	Terroristic threatening
Section 622	Hoax device
Section 625	Unlawfully administering drugs
Section 626	Unlawfully administering controlled substance or narcotic drugs
Section 645	Promoting suicide
Section 763	Sexual harassment
Section 764	Indecent exposure in the second degree
Section 766	Incest
Section 767	Unlawful sexual contact in the third degree
Section 769	Unlawful sexual contact in the first degree
Section 770	Rape in the fourth degree
Section 776	Sexual extortion
Section 780	Female genital mutilation
Section 781	Unlawful imprisonment in the second degree
Section 782	Unlawful imprisonment in the first degree
Section 783	Kidnapping in the second degree
Section 791	Acts constituting coercion
Section 803	Criminal mischief
Section 825	Burglary in the second degree
Section 831	Robbery in the second degree
Section 835	Carjacking in the second degree
Section 841	Theft, except subsection (c)(3)b.
Section 841A	Theft of a motor vehicle
Section 842	Theft; lost or mislaid property
Section 843	Theft; false pretense
Section 844	Theft; false promise
Section 846	Extortion
Section 848	Misapplication of property
Section 853	Unauthorized use of a vehicle
Section 854	Identity theft
Section 861	Forgery
Section 903	Unlawful use of credit card
Section 909	Securing execution of documents by deception
Section 914	Use of consumer identification information
Section 916	Home improvement fraud
Section 917	New home construction fraud, except (d)(3)

Section 1001	Bigamy
Section 1311	Harassment
Section 1312	Stalking, except (d)(1) and (d)(2)
Section 1335	Violation of privacy
Section 1339	Adulteration
Section 1451	Theft of a firearm

Title 6:

Section 7322	Securities fraud
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SUBSTANTIAL ASSISTANCE

Title 11 Section 4220. Modification, suspension or reduction of sentence for substantial assistance.

(a) The Attorney General may move the sentencing court to modify, reduce or suspend the sentence of any person who is convicted of any crime or offense specified in this Code, and who provides substantial assistance in the identification, arrest or prosecution of any other person for a crime or offense specified in this Code, in the laws of the United States, or any other state or territory of the United States.

(c) The provisions of Sections 4204(d) or 4217 of this Title, any court rule or any other provision of law to the contrary notwithstanding, a judge of the Court that is imposing or that has imposed a sentence, upon hearing a motion filed pursuant to subsection (a) of this section, may modify, reduce or suspend that sentence, including any minimum mandatory, or a portion thereof, if the Court finds that the person rendered such substantial assistance.

SERIOUS MEDICAL ILLNESS, INJURY, OR INFIRMITY

Title 11 Section 4221. Modification, deferral, suspension or reduction of sentence for serious medical illness, injury, or infirmity.

Notwithstanding any provision of law to the contrary, a Court may modify, defer, suspend or reduce a minimum or mandatory sentence of one year or less, or a portion thereof, required, where the court finds by clear and convincing evidence, or by stipulation of the State, that the person to be sentenced suffers from a serious medical illness, injury or infirmity with continuing treatment needs which make incarceration inappropriate and that such person does not constitute a substantial risk to the community.

EXCEPTIONAL SENTENCES

Special Categories:

Domestic Violence

The particular nature of criminal charges involving domestic violence may be considered as deserving of aggravated punishment, for example, those cases where there have been repeated incidences prior to the first formal charge in Court, **and those cases where children the witnesses or victims of domestic violence.** If aggravating circumstances are present, the following recommendations are presented below. If the guidelines in this category are used, the sentencing order/worksheet must identify the charge as "Domestic Violence Involved".

Class A Misdemeanors

Statutory Range - 0 To 1 Years

11-603	Reckless Endangering 2nd Degree
11-611	Assault 3rd Degree
11-621	Terroristic Threatening
11-766	Incest
11-767	Unlawful Sexual Contact 3rd Degree
11-781	Unlawful Imprisonment 2nd Degree
11-785	Interference with Custody
11-791	Coercion
11-1101	Abandonment of Child
11-1102	Endangering Welfare of Child
11-1271A	Criminal Contempt: DV Protection Order
11-1311	Harassment

Presumptive Sentence	Level	Time
1st Offense	V	Up To 1 Month
2nd Offense w/in 2 years	V	Up to 2 Months
3rd Offense w/in 5 years	V	Up To 3 Months

Unclassified Misdemeanors

Statutory Range - 0 to 30 days

11-601	Offensive Touching	Presumptive Sentence	Level	Time
11-602	Menacing	Any offense	V	Up To 1 month
11-763	Sexual Harassment			
11-1301	Disorderly Conduct			

Enhanced Penalties applicable when:

Children are present during the crime OR are victims of the offense against a co-defendant if a conspirator was under the age of 14 and the codefendant was 4 or more years older than the child at the time of the crime. (Enhanced penalty for ANY crime)

Enhanced Presumptive Sentence:	Level	Time
Any Non-Violent Felony G	II	12 months or more
Misdemeanor Class A or B:		
1st Offense	V	1 to 2 months
2nd Offense in 2 years	V	2 to 3 months
3rd Offense in 5 years	V	3 or more months
Any Unclassified Misdemeanor	V	1 or more months

EXCEPTIONAL SENTENCES

Special Categories:

Escape

Due to the peculiar nature of escape charges, which may be considered as deserving aggravated punishment even though they are primarily non-violent in nature, the following recommendations are presented:

11-1251	Escape 3rd Degree	0 to 1 m @ Level V
11-1252	Escape 2nd Degree	0 to 3 m @ Level V
11-1253	Escape After Conviction (Class D Felony Violent)	0 to 2 yrs @ Level V
11-1253	Escape After Conviction (Force/Threat/DW)(Class C Fel Violent)	1 to 3 yrs @ Level V
11-1253	Escape After Conviction (Injury)(Class B Felony Violent)	2 to 5 yrs @ Level V

ESCAPE FROM LEVEL IV FACILITY

(Applies to all Half-Way House and Residential Treatment facilities)

1st offense	Level V for 30 days (Title 11, §4204(k))
2nd offense	Level V for 90 days (Title 11, §4204(k))
3rd & subsequent offense	Level V for 180 days (Title 11, §4204(k))

Presumptive penalty for a first escape from Home Confinement is a lateral assignment to a Half-way House facility.

Sentencing Orders and worksheets should reflect the status as a Level IV Escape.

Policy 31: Any person arrested on a charge of escape from any Correctional facility, including both Level V and Level IV facilities, should be returned by the court to a Level V secured facility pending such hearings as may ensue from the charge. Persons charged with such escapes should not be released on bond.

Exceptional Sentences:

Habitual Criminal

§4214(a)- 3 Prior Felony Convictions

- If an offender has been convicted three times of a felony, other than those mentioned in subsection (b), and is thereafter convicted of a subsequent felony, that offender is declared to be an habitual criminal.
- The Court May, In Its Discretion, Sentence the Offender to any sentence up to life imprisonment.
- The Court Shall Sentence the Offender to a minimum sentence of the statutory maximum for the fourth or subsequent felony when it is a Title 11 Violent Felony as defined in §4201.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, Parole, Earned Good Time or any other reduction.
- A sentence for less than life under this section shall be served in its entirety at a full custodial Level V institutional setting and is not subject to Suspension, Probation, or Parole except the provisions contained within §§4205(h)²¹, 4217,²² 4381²³ and 4382²⁴ of this title.

§4214(b)- 2 Prior Specifically Enumerated Felony Convictions

- If an offender has been convicted two times of a specifically enumerated felony or its equivalent or an attempt of the same, and who shall be subsequently convicted of another of the enumerated felonies, that offender is declared to be an habitual criminal.
- The Court Shall Sentence the Offender to Life unless the sentence of Death has been imposed.
- A life sentence under this section shall be served in its entirety at a full custodial Level V institutional setting without benefit of Probation, Parole, Earned Good Time or any other reduction.
- A life sentence under this section shall not be subject to the Probation or Parole provisions of Chapter 43 of this Title.

11-606	Abuse of a Pregnant Female 1st Degree
11-613	Assault 1st Degree
11-615	Assault by Abuse
11-632	Manslaughter
11-635	Murder 2nd Degree
11-636	Murder 1st Degree
11-763	Rape 2nd Degree
11-764	Rape 1st Degree
11-766	Sodomy 1st Degree
11-771	Rape 3rd Degree
11-772	Rape 2nd Degree

²¹ Title 11, §4205(h): D.O.C. may house inmates at a Level IV halfway house or work-release for the last 180d. of sentence.

²² Title 11, §4217: D.O.C. may apply to Parole Board who may approve and thereafter apply to Court for modification based on good cause, i.e. exceptional rehabilitation, serious illness or overcrowding.

²³ Title 11, §4381: Earned good time.

²⁴ Title 11, §4382: Forfeiture of good time.

11-773	Rape 1st Degree
11-778(a)(b)(c)	Sexual Abuse of a Child by a person in a position of trust, authority or supervision in the first degree
11-783	Kidnapping 2nd Degree
11-783A	Kidnapping 1st Degree
11-803	Arson 1st Degree
11-825	Burglary 2nd Degree
11-826	Burglary 1st Degree
11-832	Robbery 1st Degree
11-836	Carjacking 1st Degree
16-4751	Manufacture/Deliver/PWID Narcotic
16-4752	Manufacture/Deliver/PWID Nonnarcotic Controlled Substance
16-4752A	Unlawful Delivery/Attempt Noncontrolled Substance
16-4753A	Trafficking in Marijuana, Cocaine, Illegal Drugs or Methamphetamine

- (c) A person who was convicted prior to July 1, 1973 of any of the hereinafter enumerated crimes shall be considered an habitual criminal as described in subsection (b) and shall be sentenced accordingly:

Arson 1st Degree	Kidnapping
Burglary 1st Degree	Abducting Child Under 12 y.o.a.
Burglary 2nd Degree	Kidnapping Child Under 15 y.o.a.
Murder 1st Degree	Maiming by Lying in Wait
Murder 2nd Degree	Rape
Manslaughter (except involuntary)	Assault w/Intent to Commit Rape
Manslaughter by Motor Vehicle	Robbery
Assault w/Intent to Murder	Assault w/Intent to Commit Robbery
Poisoning w/Intent to Murder	

VIOLATION OF PROBATION SENTENCING POLICY

When a violation of probation hearing is held and determination is made that the offender is guilty of the violation and probation is to be revoked, it is presumed that the offender may move up only one SENTAC level from his/her current level.

AGGRAVATING CIRCUMSTANCES

An offender may have his/her level of supervision raised more than one level if any of the following aggravating circumstances exists:

- A. Conviction of a new offense which was a felony, a violent misdemeanor, or an offense requiring a mandatory sentence.
- B. The violation is a violation of a special treatment condition , e.g., offender willfully refuses to attend the ordered program and, as a result of such refusal, poses a substantial threat to the community or himself. Confinement in this instance should be short-term and could consist of either a Level IV (quasi-incarceration) or a Level V (incarceration), situation until treatment is arranged.
- C. The offender has demonstrated willful failure to make court-ordered payments, and no other alternatives are possible, or those alternatives would depreciate the seriousness of the offense.
- D. The offender is found to be in possession of a weapon, leading to the violation, and the offender has a past history of violence, drug trafficking or weapons violations.
- E. The behavior of the offender represents an immediate threat to the community or an identified victim.
- F. The behavior of the offender is repetitive and flagrantly defies the authority of the court.

Length of Level V Sentences - SENTAC Standard

When a period of incarceration is determined to be the sanction of choice for a violation of probation, a Level V sanction should be in accordance with the current SENTAC standard presumptive sentence for the original crime for which the probation is being served. If the presumptive sentence is less than level V, the sentence for violation of probation should be UP TO 25% of the statutory maximum.

Effective June 30, 1990, all Violation of Probation sentences must be designated as to whether they are "Truth in Sentencing" or "Non TIS" sentences. A defendant who had an original non-TIS sentence and is violated may not be given a TIS sentence for the violation, unless he specifically agrees thereto, and the sentence is given in relation to TIS guidelines. Designation is imperative so that DOC can maintain proper records on the time to be served, goodtime credits, and parole eligibility.

1. Sentencing orders (and worksheet forms) should refer to all violations as "Violation of Level ____ ", where the blank contains the current level designation.
2. In addition to the above designation, all violation orders, regardless of specific format, should contain the following information:
 - Client name, Effective date of sentence, Original offense, Type of action: i.e. terminated, continued, modified, or revoked as defined above. New sentence Level(s) and time(s), TIS or NON-TIS status, Aggravating factor(s): if necessary due to a two- level (or more) increase, or a longer than standard sentence length at Level V.

Glossary of Violation of Probation Terms:

Continuation

An order may be entered continuing a probationer on probation where there has been a finding of a violation of probation or a finding that there has been no established violation of probation, and the same conditions remain in place after the finding is entered.

Discharge as Unimproved

An order may be entered discharging a probationer as unimproved upon recommendation of the probation officer or at the discretion of the Court, when the Court determines that continued supervision of the probationer is unlikely to have a beneficial effect, even though one or more terms of the probation order have not been fulfilled.

Modification

An order modifying probation may be ordered when the Court finds that a violation has occurred and the probationer should be kept at the same level or placed at a lower level with additional, more restrictive requirements or altered requirements to more realistically assist the management of the supervision of the probationer.

Probation

As referenced in this section, shall be any sentence of supervision at a level less than incarceration at Level V which is imposed in lieu of, or in addition to, any sentence to said Level V as a result of conviction for any criminal offense.

Repetitive Behavior

The offender persists, after notice, in actions which constitute a pattern of behavior which repeats a past record of non-amenability to community sanctions.

Revocation

An order revoking probation may be entered when it is the intention of the Court to raise the level of intensity of supervision after finding that probation has been violated.

Substantial Risk

The threat of repetitive violations or causing physical injury to self or others is high.

Willful Failure to Pay

A failure to pay a monetary obligation despite the availability of resources with which to pay the obligation, or the refusal to take steps to obtain the resources to pay the obligation.

WORK RELEASE POLICY (Department of Correction/Bureau of Prisons)

A program permitting an inmate of proper custody status to work in the community at paid employment. The inmate is still assigned to a Halfway House/Work Release Center when not working or participating in extracurricular programs. Inmates meeting the following standards may be given consideration.

Inmates within 36 months to short-time release date and 9 months to parole eligibility. (Non- TIS offenders only.)

Inmates convicted of a violent crime against person(s) and served more than a year at Level V must have a mental evaluation prior to being considered for the program.

MDT must review and recommend placement.

Inmates with minor open charges can be approved and will be expected to clear the charges; i.e., motor vehicle offenses.

Inmates serving a sentence for a third DUI offense occurring within 5 years from a prior offense are not eligible for work release during the first 3 months of the sentence imposed.

Inmates serving a sentence for a fourth or subsequent offense occurring any time after 3 prior offenses are not eligible for work release during the first 6 months of the original sentence imposed.

Truth In Sentencing Inmates

1. Sentenced to one year or more under Truth in Sentencing if they are in the last 180 days of their sentence.
2. Truth in Sentencing inmates sentenced to less than 1 year provided, however, the first 5 days be served at Level V, may be classified to work release, unless the court states otherwise.

Inmates serving a Level V sentence with a Level IV sentence to follow.

Inmates must not have had any Class I or major conduct offenses within the last 6 months prior to consideration.

Inmates in the following categories **will not** be given consideration in this program due to either statutory or departmental/bureau policy.

1. Class A Felons, those committed as a Habitual Criminal or those previously convicted of two or more offenses listed herein on page 8 or 9 until within six months of the date of release from custody.
2. Any offender convicted of a sex offense, including but not limited to offenders convicted of any of the following offenses: Unlawful sexual contact in the First or Second Degree, Unlawful sexual penetration in the First, Second, or Third Degree, Unlawful sexual intercourse in the First, Second, or Third Degree, Sexual Extortion, Continuous sexual abuse of a child, Dangerous crimes against a child, Sexual exploitation of a child, Unlawfully dealing in material depicting a child in a prohibited sexual act, or Subsequent convictions of Sec. 1108 or Sec. 1109.
3. Inmates with detainer, unless the detaining authority has given specific written approval for work release.
4. Inmates serving a sentence under 4204K, unless the sentencing judge specifies that work release is allowed.
5. Inmates convicted of escape after conviction or escape 2nd and are never eligible for work release.

Inmates serving minimum mandatory sentences for trafficking are not eligible until the mandatory portion of their sentence is completed. Those serving minimum mandatory sentences for other offenses are eligible after serving 50%t of the minimum mandatory, unless minimum term is set by statute. (Non TIS offenders only.)

Conditions of Supervision

1. You must not commit a new criminal offense or moving motor vehicle offense during the supervision period.
2. You must report any new arrest, conviction, or police contact within 72 hours to your Supervising Officer.
3. You must report to your Supervising Officer at such times and places as directed, and permit the Probation/Parole Officer to enter your home and/or visit places of employment.
4. You must have authorization from your Supervising Officer to leave the State of Delaware or your approved state of residence.
5. You must report any changes of residence and/or employment within 72 hours to you Supervising Officer.
6. You must have written approval from your Supervising Officer to own, possess, or be in control of any firearm or deadly weapon. (NOTE: Del. Code Title 11, Section 1448 prohibits purchase, possession, ownership, or control of any deadly weapon by persons convicted of a felony, crime of violence, drug offense, or commitment for a mental disorder.)
7. You are not to possess or consume a controlled substance or other dangerous drugs unless prescribed lawfully. You are subject to random testing as directed by your Supervising Officer.
8. You must pay a supervision fee as required by State Law in accordance with a schedule as established by the Department of Correction.
9. You must comply with any Special Conditions imposed at any time by your Supervising Officer, the Court and/or the Board of Parole.
10. You must not quit a job, training program, or school without prior approval of your Supervising Officer.
11. You must be employed full-time or active in job training or school on a full-time basis. If not, you must attend a Job Search Program or perform Community Service on a schedule established by the Supervising Officer.
12. You must participate in 0-35 hours of community service each week as directed by your Supervising Officer.
13. You must abide by a curfew established by your Supervising Officer.

Sex Offender Additional Standard Conditions of Supervision

The following additional standard conditions of probation may be required by the Department of Correction in the supervision of defendants who have been convicted of a sex offense or those whose criminal record reflects a prior conviction of such offenses. The Commission expects the Department of Correction to review the needs of each individual defendant and impose only those additional conditions needed to appropriately supervise the defendant.

1. Participate in sex offender assessment, evaluation, and treatment as determined by the Department of Correction. The offenders will be financially responsible for all examinations and treatment unless the Department of Correction finds the offender is financially unable to pay.
2. Prohibit access or possession of sexually explicit and/or obscene material unless approved by the Probation Officer.
3. Comply with all statutory requirements imposed upon individuals convicted of a sex offense including but not limited to compliance with 11 Del. Code Section 8510 requiring the submission of photographs, fingerprints and identification, sex offender registration (11 Del. Code Section 4120), community notification (11 Del. Code Section 4121), and DNA collection (29 Del. Code Section 4713) and limitations regarding contact with school zones (11 Del. Code Section 1112).
4. Prohibit contact or residing with children under the age of 18 unless approved by the Probation Officer.
5. Prohibit access, possession or control over or use of a computer device, modem or network interface device. Any device or storage medium of an offender whose use has been approved by the Department of Correction is subject to random examination by the Probation Officer to determine compliance with this

requirement. Using a computer modem or network interface device for any purpose which might further sexual activity is strictly prohibited. If violation of this provision is found, the Department of Correction may seize the computer, related equipment and storage devices.

6. To require submission to polygraph testing to assist in the treatment and supervision of the offender. The failure of a polygraph test alone may not be a basis to violate the offender's probation.
7. Require no contact with the victim of the crime unless otherwise approved by the Probation Officer.

LEGISLATIVE UPDATE

Compilation of changes affecting the Benchbook from the 145th General Assembly listed by statute number (as of September 2010). The changes herein listed have also been included under the Classifications and Notations and take into account all House and Senate amendments and substitutions.

TITLE 11

Section 607: Legislative Synopsis-Currently there is not a crime of strangulation in Delaware's criminal code. Cases of strangulation have been prosecuted using the crime of assault or even the misdemeanor charge of offensive touching. This Act recognizes the severity of the crime of strangulation by making it a stand-alone felony. Strangulation is a leading indicator in domestic violence deaths. Delaware would become the 19th state with a strangulation felony law on the books

§ 607. Strangulation; penalty; affirmative defense.

(a)(1) A person commits the offense of strangulation if the person knowingly or intentionally impedes the breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person.

(2) Except as provided in paragraph (a)(3) of this section, strangulation is a class E felony.

(3) Strangulation is a class D felony if:

a. The person used or attempted to use a dangerous instrument or a deadly weapon while committing the offense; or

b. The person caused serious physical injury to the other person while committing the offense; or

c. The person has been previously convicted of strangulation.

(b) It is an affirmative defense that an act constituting strangulation was the result of a legitimate medical procedure.

Section 761: Legislative Synopsis-This Act implements one of the recommendations made in the Final Report of the Independent Review of the Earl Brian Bradley Case which was commissioned by the Governor and was issued on May 10, 2010. The Act clarifies who is in a “position of trust, authority or supervision over a child” and may therefore be subject to the enhanced penalties associated with the crimes defining sexual abuse of children.

This Act also consolidates those provisions of the present criminal code concerning rape and unlawful sexual conduct that contain “position of trust” enhancement as a single crime known as "sexual abuse of a child by a person in a position of trust, authority or supervision." This Act further applies the "position of trust" category to other acts of sexual abuse that do not currently have any enhancement when perpetrated by a person in a "position of trust," including sexual extortion, sexual harassment, and indecent exposure. Lastly, the Act makes the necessary changes to related sex offender registration and sentencing provisions.

§ 761. Definitions generally applicable to sexual offenses.

(a) "Cognitive disability" means a developmental disability that substantially impairs an individual's cognitive abilities including, but not limited to, delirium, dementia and other organic brain disorders for which there is an identifiable pathologic condition, as well as nonorganic brain disorders commonly called functional disorders. "Cognitive disability" also includes conditions of mental retardation, severe cerebral palsy, and any other condition found to be closely related to mental retardation because such condition results in the impairment of general intellectual functioning or adaptive behavior similar to that of persons who have been diagnosed with mental retardation, or such condition requires treatment and services similar to those required for persons who have been diagnosed with mental retardation.

(b) "Cunnilingus" means any oral contact with the female genitalia.

(c) "Fellatio" means any oral contact with the male genitalia.

(d) "Object" means any item, device, instrument, substance or any part of the body. It does not mean a medical instrument used by a licensed medical doctor or nurse for the purpose of diagnosis or treatment.

(e) "Position of trust, authority or supervision over a child" includes, but is not limited to:

(1) Familial, guardianship or custodial authority or supervision; or

(2) A teacher, coach, counselor, advisor, mentor or any other person providing instruction or educational services to a child or children, whether such person is compensated or acting as a volunteer; or

(3) A babysitter, child care provider, or child care aide, whether such person is compensated or acting as a volunteer; or

(4) A health professional, meaning any person who is licensed or who holds himself or herself out to be licensed or who otherwise provides professional physical or mental health services, diagnosis, treatment or counseling which shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists, whether such person is compensated or acting as a volunteer; or

(5) Clergy, including but not limited to any minister, pastor, rabbi, lay religious leader, pastoral counselor or any other person having regular direct contact with children through affiliation with a church or religious institution, whether such person is compensated or acting as a volunteer; or

(6) Any law-enforcement officer, as that term is defined in § 222 of this title, and including any person acting as an officer or counselor at a correctional or counseling institution, facility or organization, whether such person is compensated or acting as a volunteer; or

(7) Any other person who because of that person's familial relationship, profession, employment, vocation, avocation or volunteer service has regular direct contact with a child or children and in the course thereof assumes responsibility, whether temporarily or permanently, for the care or supervision of a child or children.

(f) "Sexual contact" means:

(1) Any intentional touching by the defendant of the anus, breast, buttocks or genitalia of another person; or

(2) Any intentional touching of another person with the defendant's anus, breast, buttocks or genitalia; or

(3) Intentionally causing or allowing another person to touch the defendant's anus, breast, buttocks or genitalia

which touching, under the circumstances as viewed by a reasonable person, is intended to be sexual in nature. Sexual contact shall also include touching when covered by clothing.

(g) "Sexual intercourse" means:

(1) Any act of physical union of the genitalia or anus of 1 person with the mouth, anus or genitalia of another person. It occurs upon any penetration, however slight. Ejaculation is not required. This offense encompasses the crimes commonly known as rape and sodomy; or

(2) Any act of cunnilingus or fellatio regardless of whether penetration occurs. Ejaculation is not required.

(h) "Sexual offense" means any offense defined by §§ 763-780 and §§ 1108-1112A, 1352(2) and 1353(2) of this title.

(i) "Sexual penetration" means:

(1) The unlawful placement of an object, as defined in subsection (d) of this section, inside the anus or vagina of another person; or

(2) The unlawful placement of the genitalia or any sexual device inside the mouth of another person.

(j) "Without consent" means:

(1) The defendant compelled the victim to submit by any act of coercion as defined in §§ 791 and 792 of this title, or by force, by gesture, or by threat of death, physical injury, pain or kidnapping to be inflicted upon the victim or a third party, or by any other means which would compel a reasonable person under the circumstances to submit. It is not required that the victim resist such force or threat to the utmost, or to resist if resistance would be futile or foolhardy, but the victim need resist only to the extent that it is reasonably necessary to make the victim's refusal to consent known to the defendant; or

(2) The defendant knew that the victim was unconscious, asleep or otherwise unaware that a sexual act was being performed; or

(3) The defendant knew that the victim suffered from a cognitive disability, mental illness or mental defect which rendered the victim incapable of appraising the nature of the sexual conduct or incapable of consenting; or

(4) Where the defendant is a health professional, as defined herein, or a minister, priest, rabbi or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested. For purposes of this paragraph, "health professional" includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health services, diagnosis, treatment or counseling and shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists and hypnotherapists; or

(5) The defendant had substantially impaired the victim's power to appraise or control the victim's own conduct by administering or employing without the other person's knowledge or against the other person's will, drugs, intoxicants or other means for the purpose of preventing resistance.

(k) A child who has not yet reached that child's sixteenth birthday is deemed unable to consent to a sexual act with a person more than 4 years older than said child. Children who have not yet reached their twelfth birthday are deemed unable to consent to a sexual act under any circumstances.

11 Del. C. 1953, § 773; 58 Del. Laws, c. 497, § 1; 60 Del. Laws, c. 416, § 1; 61 Del. Laws, c. 56; 65 Del. Laws, c. 494, § 1; 66 Del. Laws, c. 269, §§ 27, 28; 69 Del. Laws, c. 44, § 1; 69 Del. Laws, c. 440, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 285, §§ 3-7; 71 Del. Laws, c. 467, § 6; 72 Del. Laws,

c. 109, § 1; 74 Del. Laws, c. 345, § 2; 75 Del. Laws, c. 392, § 2; 76 Del. Laws, c. 66, § 1; 77 Del. Laws, c. 150, §§ 1-3; 77 Del. Laws, c. 318, § 1.

§ 774. Sexual extortion; class E felony.

A person is guilty of sexual extortion when the person intentionally compels or induces another person to engage in any sexual act involving contact, penetration or intercourse with the person or another or others by means of instilling in the victim a fear that, if such sexual act is not performed, the defendant or another will:

(1) Cause physical injury to anyone;

(2) Cause damage to property;

(3) Engage in other conduct constituting a crime;

(4) Accuse anyone of a crime or cause criminal charges to be instituted against anyone;

(5) Expose a secret or publicize an asserted fact, whether true or false, intending to subject anyone to hatred, contempt or ridicule;

(6) Falsely testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(7) Perform any other act which is calculated to harm another person materially with respect to the other person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

Sexual extortion is a class E felony.

68 Del. Laws, c. 379, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 318, §§ 2, 6.

§ 775. Bestiality.

A person is guilty of bestiality when the person intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.

Bestiality is a class D felony.

69 Del. Laws, c. 91, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 318, § 6.

§ 776. Continuous sexual abuse of a child; class B felony.

(a) A person is guilty of continuous sexual abuse of a child when, either residing in the same home with the minor child or having recurring access to the child, the person intentionally engages in 3 or more acts of sexual conduct with a child under the age of 18 years of age over a period of time, not less than 3 months in duration.

(b) Sexual conduct under this section is defined as any of those criminal sexual acts defined under § 768, § 769, § 770, § 771, § 772, § 773, 777A, § 778, § 778A or § 1108 of this title.

(c) To convict under this section, the trier of fact, if a jury, need unanimously agree only that the requisite number of acts occurred, not on which acts constitute the requisite number.

(d) Continuous sexual abuse of a child is a class B felony.

69 Del. Laws, c. 442, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 392, § 4; 77 Del. Laws, c. 318, §§ 3, 4, 6;

§ 777. Dangerous crime against a child, definitions, sentences.

(a) A "dangerous crime against a child" is defined as any criminal sexual conduct against a minor under the age of 14 years as defined in §§ 770-773, § 777A, §§ 778-778A, or §§ 1108-1112A of this title. For purposes of this section only, and § 762(a) of this title to the contrary notwithstanding, the defendant may use as an affirmative defense that the defendant believed that the victim of the crime was over the age of 16 years of age.

(b) Except as otherwise provided in this title, a person who is at least 18 years of age, or who has been tried as an adult and who is convicted of a dangerous crime against a child as defined in subsection (a) of this section, shall be guilty of a class B felony. For a second offense under this section, the Court shall impose a mandatory sentence of life imprisonment.

(c) A person sentence pursuant to this section shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the sentence imposed by the Court has been served.

70 Del. Laws, c. 124, § 1; 71 Del. Laws, c. 467, § 7; 77 Del. Laws, c. 318, §§ 5, 6;

§ 777A. Sex offender unlawful sexual conduct against a child.

(a) A sex offender who knowingly commits any sexual offense against a child is guilty of sex offender unlawful sexual conduct against a child.

(b) For purposes of this section, the term "sex offender" shall mean any person registered or required to be registered pursuant to § 4120(b)(1) and 4121(a)(4) of this title, or the laws of any other state, the United States or any territory of the United States.

(c) For purposes of this section, the term "sexual offense" shall mean any offense designated as a sexual offense by § 761(h) of this title.

(d) For purposes of this section, the term "child" shall mean any individual who has not reached that child's eighteenth birthday. If the underlying sexual offense involves an offense defined by §§ 1108, 1109, 1110, 1111 and 1112A of this title, the term "child" shall also mean any individual who is intended by the defendant to appear to be 14 years of age or less. A sex offender who knowingly possesses any material prohibited by § 1111 of this title is committing an offense against a child for purposes of this section.

(e) Sex offender unlawful sexual conduct against a child shall be punished as follows:

(1) If the underlying sexual offense is a misdemeanor, the crime of sex offender unlawful sexual conduct against a child shall be a class G felony except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class C felony;

(2) If the underlying sexual offense is a class C, D, E, F, or G felony, the crime of sex offender unlawful sexual conduct against a child shall be a felony 1 grade higher than the underlying offense except where the child against whom a sexual offense is committed is a child younger than 12 years of age in which case the crime of sex offender unlawful sexual conduct against a child shall be a class B felony;

(3) If the underlying sexual offense is a misdemeanor and the victim is under 18 years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child shall be a class C felony;

(4) If the underlying sexual offense is a class C, D, E, F, or G felony and the victim is under 18 years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child shall be a class B felony;

(5) If the underlying sexual offense is a class A or B felony, the crime of sex offender unlawful sexual conduct against a child shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled.

(f) The provisions of this section shall not apply if the defendant is also a child.

76 Del. Laws, c. 66, § 2; 77 Del. Laws, c. 149, §§ 1, 2; 77 Del. Laws, c. 150, § 4; 77 Del. Laws, c. 318, § 6.

§ 778. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree; penalties.

A person is guilty of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree when the person:

(1) Intentionally engages in sexual intercourse with a child who has not yet reached that child's own sixteenth birthday and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(2) Intentionally engages in sexual penetration with a child who has not yet reached that child's own sixteenth birthday and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(3) Intentionally engages in sexual intercourse or sexual penetration with a child who has reached that child's own sixteenth birthday but has not yet reached that child's own eighteenth birthday when the person is at least 4 years older than the child and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(4) Intentionally engages in sexual intercourse or sexual penetration with a child and the victim has reached that child's own sixteenth birthday but has not yet reached that child's own eighteenth birthday and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(5) Engages in an act of sexual extortion, as defined in § 774 of this title, against a child who has not yet reached that child's own sixteenth birthday and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(6)a1. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (1) of this section is a class A felony.

2. Notwithstanding any law to the contrary, a person convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this paragraph shall be sentenced to life imprisonment without benefit of probation, parole or any other reduction if:

A. At the time of the offense the person inflicts serious physical injury on the victim; or

B. The person intentionally causes serious and prolonged disfigurement to the victim permanently, or intentionally destroys, amputates or permanently disables a member or organ of the victim's body; or

C. The person is convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in this paragraph against 3 or more separate victims; or

D. The person has previously been convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree, unlawful sexual intercourse in the first degree, rape in the second degree or rape in the first degree, or any equivalent offense under the laws of this State, any other state or the United States.

b. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (2) of this section is a class B felony. Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (2) of this section shall be 10 years at Level V.

c. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (3) of this section is a class B felony.

d. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (4) of this section is a class C felony.

e. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree as set forth in paragraph (5) of this section is a class D felony.

(7) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

77 Del. Laws, c. 318, § 6; 70 Del. Laws, c. 186, § 1.;

§ 778A. Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree; penalties.

A person is guilty of sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree when the person:

(1) Intentionally has sexual contact with a child who has not yet reached that child's sixteenth birthday or causes the child to have sexual contact with the person or a third person and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(2)a. Is a male who intentionally exposes his genitals or buttocks to a child who has not yet reached that child's sixteenth birthday under circumstances in which he knows his conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and he stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

b. Is a female who intentionally exposes her genitals, breast or buttocks to a child who has not yet reached that child's sixteenth birthday under circumstances in which she knows her conduct is likely to cause annoyance, affront, offense or alarm when the person is at least 4 years older than the child and she stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(3) Suggests, solicits, requests, commands, importunes or otherwise attempts to induce a child who has not yet reached that child's sixteenth birthday to have sexual contact or sexual intercourse or unlawful sexual penetration with the person or a third person, knowing that the person is thereby likely to cause annoyance, affront, offense or alarm to the child or another when the person is at least 4 years older than the child and the person stands in a position of trust, authority or supervision over the child, or is an invitee or designee of a person who stands in a position of trust, authority or supervision over the child.

(4)a. Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree as set forth in paragraph (1) of this section is a class D felony.

b. Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree as set forth in paragraph (2) of this section is a class F felony.

c. Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree as set forth in paragraph (3) of this section is a class G felony.

(5) Nothing contained in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

77 Del. Laws, c. 318, § 6; 70 Del. Laws, c. 186, § 1.;

§ 4205. Sentence for felonies.

(a) A sentence of incarceration for a felony shall be a definite sentence.

(b) The term of incarceration which the court may impose for a felony is fixed as follows:

(1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.

(2) For a class B felony not less than 2 years up to 25 years to be served at Level V.

(3) For a class C felony up to 15 years to be served at Level V.

(4) For a class D felony up to 8 years to be served at Level V.

(5) For a class E felony up to 5 years to be served at Level V.

(6) For a class F felony up to 3 years to be served at Level V.

(7) For a class G felony up to 2 years to be served at Level V.

(c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.

(d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.

(e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.

(f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.

(g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

67 Del. Laws, c. 130, § 6; 67 Del. Laws, c. 260, § 1; 71 Del. Laws, c. 98, § 6; 74 Del. Laws, c. 106, §§ 9, 10;

§ 4214. Habitual criminal; life sentence.

(a) Any person who has been 3 times convicted of a felony, other than those which are specifically mentioned in subsection (b) of this section, under the laws of this State, and/or any other state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent felony of this State is declared to be an habitual criminal, and the court in which such 4th or subsequent conviction is had, in imposing sentence, may in its discretion, impose a sentence of up to life imprisonment upon the person so convicted. Notwithstanding any provision of this title to the contrary, any person sentenced pursuant to this subsection shall receive a minimum sentence which shall not be less than the statutory maximum penalty provided elsewhere in this title for the 4th or subsequent felony which forms the basis of the State's petition to have the person declared to be an habitual criminal except that this minimum provision shall apply only when the 4th or subsequent felony is a Title 11 violent felony, as defined in § 4201(c) of this title. Notwithstanding any provision of this title to the contrary, any sentence of life imprisonment imposed pursuant to this subsection shall not be subject to suspension

by the court, and shall be served in its entirety at a full custodial Level V institutional setting without the benefit of probation, parole, earned good time or any other reduction. Notwithstanding any provision of this title to the contrary, any sentence of less than life imprisonment imposed pursuant to this subsection shall not be subject to suspension by the court, and shall be served in its entirety at a full custodial Level V institutional setting without the benefit of probation or parole, except that any such sentence shall be subject to the provisions of §§ 4205(h), 4217, 4381 and 4382 of this title.

(b) Any person who has been 2 times convicted of a felony or an attempt to commit a felony hereinafter specifically named, under the laws of this State, and/or any other state, United States or any territory of the United States, and who shall thereafter be convicted of a subsequent felony hereinafter specifically named, or an attempt to commit such specific felony, is declared to be an habitual criminal, and the court in which such third or subsequent conviction is had, in imposing sentence, shall impose a life sentence upon the person so convicted unless the subsequent felony conviction requires or allows and results in the imposition of capital punishment. Such sentence shall not be subject to the probation or parole provisions of Chapter 43 of this title.

Such felonies shall be:

Section Crime

803 Arson in the first degree

826 Burglary in the first degree

825 Burglary in the second degree

636 Murder in the first degree

635 Murder in the second degree

632 Manslaughter

783 Kidnapping in the second degree

783A Kidnapping in the first degree

606 Abuse of a pregnant female in the first degree

613 Assault in the first degree

615 Assault by abuse

Former 763 Rape in the second degree

Former 764 Rape in the first degree

Former 766 Sodomy in the first degree

832 Robbery in the first degree

836 Carjacking in the first degree

Former 771 Unlawful sexual penetration in the second degree

Former 772 Unlawful sexual penetration in the first degree

Former 773 Sexual intercourse in the third degree

Former 774 Unlawful sexual intercourse in the second degree

Former 775 Unlawful sexual intercourse in the first degree

771 Rape in the third degree

772 Rape in the second degree

773 Rape in the first degree

778(a), (b) or (c) Sexual Abuse of a Child by a Person in a Position of Trust,

Authority or Supervision in the First Degree

Title 16, Section Crime

4751 Manufacture, delivery or possession

with intent to manufacture or deliver
a narcotic drug

4752 Manufacture, delivery or possession

with intent to manufacture or deliver
nonnarcotic, controlled substance

4752A Unlawful delivery or attempt to deliver

noncontrolled substance

4753A Trafficking in marijuana, cocaine,

illegal drugs or methamphetamine.

Notwithstanding any provision of this title to the contrary, any sentence imposed pursuant to this subsection shall not be subject to suspension by the court, and shall be served in its entirety at a full custodial Level V institutional setting without benefit of probation, parole, earned good time or any other reduction.

(c) Any person who has been convicted for an offense which occurred within this State prior to July 1, 1973, of any of the hereinafter enumerated crimes shall be considered as having been convicted previously of the crimes specified in subsection (b) of this section for purposes of the operation of this section and § 4215 of this title. Any person convicted under the laws of another state, the United States or any territory of the United States of any felony the same as or equivalent to any of the above or hereinafter named felonies is an habitual offender for the purposes of this section and § 4215 of this title.

Such felonies include:

- Arson in the first degree,
- Burglary in the first degree,
- Burglary in the second degree,
- Murder in the first degree,
- Murder in the second degree,
- Manslaughter except involuntary,
- Manslaughter by motor vehicle,
- Assault with intent to murder,
- Poisoning with intent to murder,
- Kidnapping,
- Abducting child under 12 years,
- Kidnapping child under 15 years,
- Maiming by lying in wait,
- Maiming without lying in wait,
- Rape,
- Assault with intent to commit rape,
- Robbery,

Assault with intent to commit robbery.

(d) A conviction of rape or kidnapping under either § 763 or § 783 of this title, as the same existed and were defined prior to the amendment of this section, shall be considered a prior conviction for the purpose of the effectiveness and applicability of this subsection, this section and § 4215 of this title.

11 Del. C. 1953, § 4213; 58 Del. Laws, c. 497, § 2; 59 Del. Laws, c. 547, §§ 19-21; 65 Del. Laws, c. 159, § 1; 66 Del. Laws, c. 269, § 7; 67 Del. Laws, c. 350, § 37; 70 Del. Laws, c. 477, § 2; 71 Del. Laws, c. 285, §§ 15, 16; 72 Del. Laws, c. 34, § 4; 72 Del. Laws, c. 43, § 7; 72 Del. Laws, c. 197, § 8; 74 Del. Laws, c. 346, § 1; 77 Del. Laws, c. 318, § 15;

Section 771: Legislative Synopsis- This bill provides that a person who stands in a position of trust, authority or supervision over a child who is at least 16 years old but not yet 18 years old and intentionally engages in sexual intercourse or sexual penetration with such child or an invitee or designee of such person shall have committed the offense of Rape in the 3rd degree which is a class B felony. This offense is currently Rape in the 4th degree which is a class C felony.

§ 771. Rape in the third degree; class B felony.

(a) A person is guilty of rape in the third degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the victim has not reached that victim's sixteenth birthday and the person is at least 10 years older than the victim, or the victim has not yet reached that victim's fourteenth birthday and the person has reached that person's nineteenth birthday and is not otherwise subject to prosecution pursuant to § 772 or § 773 of this title; or

(2) Intentionally engages in sexual penetration with another person under any of the following circumstances:

a. The sexual penetration occurs without the victim's consent and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim; or

b. The victim has not reached that victim's sixteenth birthday and during the commission of the crime, or during the immediate flight from the crime, or during an attempt to prevent the reporting of the crime, the person causes physical injury or serious mental or emotional injury to the victim.

(3) [Repealed.]

(b) Paragraph (a)(2) of this section does not apply to a licensed medical doctor or nurse who places 1 or more fingers or an object inside a vagina or anus for the purpose of diagnosis or treatment, or to a law-enforcement officer who is engaged in the lawful performance of his or her duties.

(c) Notwithstanding any law to the contrary, in any case in which a violation of subsection (a) of this section has resulted in the birth of a child who is in the custody and care of the victim or the victim's legal guardian or guardians, the court shall order that the defendant, as a condition of any probation imposed pursuant to a conviction under this section, timely pay any child support ordered by the Family Court for such child.

(d) Nothing in this section shall preclude a separate charge, conviction and sentence for any other crime set forth in this title, or in the Delaware Code.

Rape in the third degree is a class B felony.

71 Del. Laws, c. 285, § 11; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 271, §§ 4-6; 77 Del. Laws, c. 318, §§ 7, 8;

Section 811; Legislative Synopsis-This bill adds a mandatory \$500 penalty to criminal and/or civil charges of injuring, damaging, littering, or applying graffiti to or along a scenic and historical highway or a scenic byway, as defined in 17 Del.C. § 101(a)(9), as follows: § 101(a)(9) A “Scenic and Historic Highway” or “Scenic Byway” is a transportation route which is adjacent to or runs along or next to an area that has particular intrinsic scenic, historic, recreational, cultural or archaeology qualities for which such transportation route is managed in order to protect such characteristics and to encourage development of tourism and recreational resources.”

§ 811. Criminal mischief; classification of crime; defense.

(a) A person is guilty of criminal mischief when the person intentionally or recklessly:

(1) Damages tangible property of another person; or

(2) Tamper with tangible property of another person so as to endanger person or property; or

(3) Tamper or makes connection with tangible property of a gas, electric, steam or waterworks corporation, telegraph or telephone corporation or other public utility, except that in any prosecution under this subsection it is an affirmative defense that the accused engaged in the conduct charged to constitute an offense for a lawful purpose.

(b) Criminal mischief is punished as follows:

(1) Criminal mischief is a class G felony if the actor intentionally causes pecuniary loss of \$5,000 or more, or if the actor intentionally causes a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service;

(2) Criminal mischief is a class A misdemeanor if the actor intentionally or recklessly causes pecuniary loss in excess of \$1,000;

(3) Otherwise criminal mischief is an unclassified misdemeanor.

(4) If an actor commits an act of criminal mischief of any degree on or along a Delaware byway, as defined in § 101(a)(9) of Title 17, the court shall impose a minimum mandatory fine of at least \$500.

(c) It is a defense that the defendant has a reasonable ground to believe that the defendant has a right to engage in the conduct set forth in subsection (a) of this section.

11 Del. C. 1953, § 811; 58 Del. Laws, c. 497, § 1; 60 Del. Laws, c. 590, § 6; 65 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 211, § 1; 77 Del. Laws, c. 133, § 14; 77 Del. Laws, c. 350, § 1;

§ 812. Graffiti and possession of graffiti implements; class G felony; class A misdemeanor; class B misdemeanor.

(a)(1) A person is guilty of the act of graffiti when the person intentionally, knowingly or recklessly draws, paints, etches or makes any significant mark or inscription upon any public or private, real or personal property of another without the permission of the owner.

(2) Graffiti is a class A misdemeanor, unless the property damage caused thereby exceeds \$1500, in which case it is a class G felony. The penalty for graffiti shall include a minimum fine of not less than \$1000 which shall not be subject to suspension, restitution for damages to the property and 250 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of an act of graffiti. The minimum fine shall also be doubled, and may not be suspended, for a first, second, or subsequent conviction of an act of graffiti which is performed on or along a Delaware byway, as defined in § 101(a)(9) of Title 17.

(b)(1) A person is guilty of possession of graffiti implements when the person possesses any tool, instrument, article, substance, solution or other compound designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon or otherwise mark, under circumstances evidencing an intent to use the same in order to commit an act of graffiti or damage such property.

(2) Possession of graffiti implements is a class B misdemeanor. The penalty for possession of graffiti implements shall include a minimum fine of not less than \$500 which shall not be subject to suspension, restitution for damages to the property and 100 hours of community service, at least half of which shall be served removing graffiti on public property. The minimum fine and community service hours shall be doubled for a second or subsequent conviction of possession of graffiti implements.

71 Del. Laws, c. 464, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 68, § 1; 76 Del. Laws, c. 377, § 1; 77 Del. Laws, c. 181, §§ 1, 2; 77 Del. Laws, c. 350, § 2;

§ 1605. Penalties; jurisdiction; voluntary assessment form.

(a) Any person found guilty of violating this chapter shall be punished by a fine of not less than \$50 and up to 8 hours of community service for a first offense and \$75 and up to 25 hours of community service for a second offense within 2 years. If the offense occurred on or along a Delaware byway, as defined in § 101(a)(9) of Title 17, an additional mandatory penalty of \$500 must be imposed for every first, second, and subsequent offense, in addition to the fine. In addition, any person found guilty of violating this chapter shall, at the discretion of the Court, be required to pick up and remove from any public street, highway or public or private right-of-way, or public beach, stream, bank or public park any and all litter deposited thereon by anyone prior to the date of execution of sentence.

(b) For the purposes of this chapter the Justices of the Peace Courts shall have jurisdiction.

(c) The Court is hereby directed to make public the names of persons convicted of violating this chapter.

(d) Any duly constituted peace officer in the State, who charges any person with any offense under this chapter may, in addition to issuing a summons for such offense, provide the offender with a voluntary assessment form which, when properly executed by the officer and the offender, allows the offender to dispose of the charge without the necessity of personally appearing in the Court to which the summons is returnable. Payments made pursuant to this section shall be remitted to the Court to which the summons is returnable and shall be received by the Court within 10 days from the date of arrest (excluding Saturday and Sunday) and shall be paid only by check or money order. The fine imposed pursuant to this subsection shall be the minimum fine as provided for in subsection (a) of this section, plus other costs as may be assessed by law. Voluntary assessment forms, as used in this section, means the written agreement or document signed by the violator wherein the violator agrees to pay by mail the fine for the offense described therein together with costs and penalty assessment.

60 Del. Laws, c. 613, § 1; 62 Del. Laws, c. 387, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 325, § 1; 77 Del. Laws, c. 350, § 3;

Section 1105; Legislative Synopsis-This purpose of this Act is to provide greater protections for Delaware's vulnerable and infirm adults, individuals the General Assembly considers to be particularly at risk of physical, emotional and/or financial exploitation. The Act creates a new criminal offense, Crime Against the Vulnerable or Infirm, which imposes enhanced penalties in more than 60 criminal offenses if the victim is a vulnerable or infirm adult.

§ 1105. Crime against a vulnerable adult.

(a) Any person who commits, or attempts to commit, any of the crimes or offenses set forth in subsection (f) of this section against a person who is a vulnerable adult is guilty of a crime against a vulnerable adult.

(b) A crime against a vulnerable adult shall be punished as follows:

(1) If the underlying offense is an unclassified misdemeanor, or a class B misdemeanor, the crime against a vulnerable adult shall be a class A misdemeanor;

(2) If the underlying offense is a class A misdemeanor, the crime against a vulnerable adult shall be a class G felony;

(3) If the underlying offense is a class D, E, F, or G felony, the crime against a vulnerable adult shall be 1 class higher than the underlying offense.

(c) "Vulnerable adult" means a person 18 years of age or older who, by reason of isolation, sickness, debilitation, mental illness or physical, mental or cognitive disability, is easily susceptible to abuse, neglect, mistreatment, intimidation, manipulation, coercion or exploitation. Without limitation, the term "vulnerable adult" includes any adult for whom a guardian or the person or property has been appointed.

(d) Notwithstanding any provision of law to the contrary, it is no defense to an offense or sentencing provision set forth in this section that the accused did not know that the victim was a vulnerable adult or that the accused reasonably believed the person was not a vulnerable adult unless the statute defining the underlying offense, or a related statute, expressly provides that knowledge that the victim is a vulnerable adult is a defense.

(e) No person shall be sentenced for both an underlying offense and a crime against a vulnerable adult. No person shall be sentenced for a violation of subsection (a) of this section if the underlying offense, as charged against the accused, has an element that the victim was 62 years of age or older or was an infirm adult.

The following shall be underlying offenses for the purposes of this section:

Title 11:

§ 601 Offensive touching § 602(a) Menacing § 602(b) Aggravated Menacing § 603 Reckless endangering in the second degree § 604 Reckless endangering in the first degree § 605 Abuse of a pregnant female in the second degree § 606 Abuse of a pregnant female in the first degree § 611 Assault in the third degree § 612 Assault in the second degree § 621 Terroristic threatening § 622 Hoax device § 625 Unlawfully administering drugs § 626 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs § 645 Promoting suicide § 763 Sexual harassment § 764 Indecent exposure in the second degree § 766 Incest § 767 Unlawful sexual contact in the third degree § 769 Unlawful sexual contact in the first degree § 770 Rape in the fourth degree § 776 Sexual extortion § 780 Female genital mutilation § 781 Unlawful imprisonment in the second degree § 782 Unlawful imprisonment in the first degree § 783 Kidnapping in the second degree § 791 Acts constituting coercion § 811 Criminal mischief § 825 Burglary in the second degree § 831 Robbery in the second degree § 835 Carjacking in the second degree § 841 Theft, except paragraph (c)(3)b. § 841A Theft of a motor vehicle § 842 Theft; lost or mislaid property § 843 Theft; false pretense § 844 Theft; false promise § 846 Extortion § 848 Misapplication of property § 853 Unauthorized use of a vehicle § 854 Identity theft § 861 Forgery § 903 Unlawful use of credit card § 909 Securing execution of documents by deception § 914 Use of consumer identification information § 916 Home improvement fraud § 917 New home construction fraud, except paragraph (d)(3) § 1001 Bigamy § 1311 Harassment § 1312 Stalking, except paragraphs (d)(1) and (d)(2) § 1335 Violation of privacy § 1339 Adulteration § 1451 Theft of a firearm Title 6: § 7322 Securities fraud. (11 Del. C. 1953, § 1105; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 416, § 1.)

Section 1326; Legislative Synopsis-This bill increases the penalties for animal fighting, baiting, and attendance from a class F felony to a class E felony, and increases the penalties for being present where an exhibition of fighting and/or baiting is being prepared and knowing that the exhibition is about to take place from a class G felony to a class F felony.

This bill also expands the penalty provisions to allow a court to order persons convicted under § 1326 to attend mandatory counseling and/or psychological treatment, and to pay the costs of treatment and/or counseling.

§ 1326. Animals; fighting and baiting prohibited; class E felony.

(a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

(b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.

(c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.

(d) All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be disposed of in a humane manner.

(e) Prosecution for any offense under this section may not be commenced after 5 years from the commission of the offense.

(f) A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.

(g) A fine issued as a result of a violation of this section may not be suspended.

(h) In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.

66 Del. Laws, c. 369, § 2; 67 Del. Laws, c. 130, § 8; 67 Del. Laws, c. 350, §§ 34, 35; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 417, § 1; 73 Del. Laws, c. 238, §§ 3-5; 73 Del. Laws, c. 411, § 1; 76 Del. Laws, c. 259, §§ 1-3; 77 Del. Laws, c. 264, § 1;

Section 1442; Legislative Synopsis-This bill increases the penalties for carrying a concealed deadly weapon, when the weapon is a firearm, by reclassifying what is currently a class G felony as a class D violent felony. The bill also deletes a penalty provision that is unnecessary and duplicative, since any person previously convicted of a violation of section 1442 is also a person prohibited under section 1448 of Title 11. Furthermore, the bill makes corresponding changes to other statutes.

§ 1442. Carrying a concealed deadly weapon; class G felony; class D felony.

A person is guilty of carrying a concealed deadly weapon when the person carries concealed a deadly weapon upon or about the person without a license to do so as provided by § 1441 of this title.

Carrying a concealed deadly weapon is a class G felony, unless the deadly weapon is a firearm, in which case it is a class D felony.

It shall be a defense that the defendant has been issued an otherwise valid license to carry a concealed deadly weapon pursuant to terms of § 1441 of this title, where:

(1) The license has expired,

(2) The person had applied for renewal of said license within the allotted time frame prior to expiration of the license, and

(3) The offense is alleged to have occurred while the application for renewal of said license was pending before the Court.

11 Del. C. 1953, § 1442; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 547, § 13; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 313, §§ 1, 6.;

§ 1457. Possession of a weapon in a Safe School and Recreation Zone; class D, E, or F: class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who possesses a firearm or other deadly weapon, and does so while in or on a "Safe School and Recreation Zone" shall be guilty of the crime of possession of a weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 shall be:

(1) Section 1442. -- Carrying a concealed deadly weapon; class G felony; class D felony.

(2) Section 1444. -- Possessing a destructive weapon; class E felony.

(3) Section 1446. -- Unlawfully dealing with a switchblade knife; unclassified misdemeanor.

(4) Section 1448. -- Possession and purchase of deadly weapons by persons prohibited; class F felony.

(5) Section 1452. -- Unlawfully dealing with knuckles-combination knife; class B misdemeanor.

(6) Section 1453. -- Unlawfully dealing with martial arts throwing star; class B misdemeanor.

(c) For the purpose of this section, "Safe School and Recreation Zone" shall mean:

(1) Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-technical school or any college or university, within 1,000 feet thereof; or

(2) Any motor vehicle owned, operated, leased or rented by any public or private school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or any college or university; or

(3) Any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of possession of a weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, and that no person under the age of 18 was present in such private residence at any time during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(h) This section shall not apply to any law enforcement or police officer, or to any security officer as defined in Chapter 13 of Title 24.

(i) For purposes of this section only, "deadly weapon" shall include any object described in § 222(5) or (12) of this title or BB guns.

(j) The penalty for possession of a weapon in a Safe School and Recreation Zone shall be:

(1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(4) If the underlying offense is a class D felony, the crime shall also be a class D felony.

(5) In the event that an elementary or secondary school student possesses a firearm or other deadly weapon in a Safe School and Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of the expulsion.

70 Del. Laws, c. 213, § 1; 74 Del. Laws, c. 131, §§ 1-4; 76 Del. Laws, c. 326, § 1; 77 Del. Laws, c. 64, §§ 1, 2; 77 Del. Laws, c. 313, §§ 4, 5;

§ 4201. Transition provisions.

(a) Felonies are classified, for the purpose of sentence, into 7 categories:

- (1) Class A felonies;
- (2) Class B felonies;
- (3) Class C felonies;
- (4) Class D felonies;
- (5) Class E felonies;
- (6) Class F felonies;
- (7) Class G felonies.

(b) Any crime or offense which is designated as a felony but which is not specifically given a class shall be a class G felony and shall carry the sentence provided for said class felony.

(c) The following felonies shall be designated as violent felonies:

Title 11, Section Crime

513 Conspiracy First Degree

602 Aggravated Menacing

604 Reckless Endangering First Degree

605 Abuse of a Pregnant Female in the Second Degree

606 Abuse of a Pregnant Female in the First Degree

612 Assault in the Second Degree

613 Assault in the First Degree

614 Assault on a Sports Official

615 Assault by Abuse

617 Criminal Youth Gangs

629 Vehicular Assault in the First Degree

630 Vehicular Homicide in the Second Degree

630A Vehicular Homicide in the First Degree

631 Criminally Negligent Homicide

632 Manslaughter

633 Murder by Abuse or Neglect in the Second Degree

634 Murder by Abuse or Neglect in the First Degree

635 Murder in the Second Degree

636 Murder in the First Degree

645 Promoting Suicide

768 Unlawful Sexual Contact in the Second Degree

769 Unlawful Sexual Contact in the First Degree

770 Former Unlawful Sexual Penetration in the Third Degree or
Rape in the Fourth Degree

771 Former Unlawful Sexual Penetration in the Second Degree or
Rape in the Third Degree

772 Former Unlawful Sexual Penetration in the First Degree or
Rape in the Second Degree

773 Former Unlawful Sexual Intercourse in the Third Degree or
Rape in the First Degree

774 Sexual Extortion

775 Bestiality

776 Continuous Sexual Abuse of Child

777 Dangerous Crime Against a Child

777A Sex Offender Unlawful Sexual Conduct Against a Child

778 Sexual Abuse of a Child by a Person in a Position of Trust,
Authority or Supervision in the First Degree

778A Sexual Abuse of a Child by a Person in a Position of
Trust, Authority or Supervision in the Second Degree

782 Unlawful Imprisonment in the First Degree

783 Kidnapping in the Second Degree

783A Kidnapping in the First Degree

802 Arson in the Second Degree

803 Arson in the First Degree

825 Burglary in the Second Degree

826 Burglary in the First Degree

831 Robbery in the Second Degree

832 Robbery in the First Degree

835 Carjacking in the Second Degree

836 Carjacking in the First Degree

846 Extortion

1108 Sexual Exploitation of a Child

1109 Unlawfully Dealing in Child Pornography

1112A Sexual Solicitation of a Child

1250 Assault in the First Degree Against a Law-Enforcement
Animal

1253 Escape After Conviction

1254 Assault in a Detention Facility

1256 Promoting Prison Contraband (Deadly Weapon)

1302 Riot

1304 Hate Crimes

1312 Stalking

1338 Bombs, Incendiary Devices, Molotov Cocktails and
Explosive Devices

1339 Adulteration (Causing Injury or Death)

1353 Promoting Prostitution in the First Degree

1442 Carrying a Concealed Deadly Weapon (Firearm Offense)

1444 Possessing a Destructive Weapon

1445 Unlawfully Dealing With a Dangerous Weapon

1447 Possessing a Deadly Weapon During the Commission of a
Felony

1447A Possessing a Firearm during the Commission of a Felony

1448(e) Possession of a Deadly Weapon by Persons Prohibited
(Firearm or Destructive Weapon Purchased, Owned, Possessed or Controlled by a Violent Felon).

1455 Engaging in a Firearms Transaction on Behalf of Another
(Subsequent Offense)

1449 Wearing Body Armor During the Commission of a Felony

1503 Racketeering

3533 Aggravated Act of Intimidation

Title 16, Section Crime

1136 Abuse/Mistreatment/Neglect of a Patient

4751 Manufacture/Delivery/Possession With Intent to Deliver a

Controlled or Counterfeit Controlled Substance, Manufacture or Delivery Causing Death

4752 Manufacture/Delivery/Possession With Intent to Deliver a

Controlled or Counterfeit Controlled Substance

4752A Unlawful Delivery of a Noncontrolled Substance

4753A Trafficking in Marijuana, Cocaine, Illegal Drugs,

Methamphetamine, LSD, Designer Drugs or MOMA

4754A Possession and Delivery of a Noncontrolled Prescription

Drug

4761 Distribution to Minors

4767 Distribution, Delivery or Possession of a Controlled

Substance Within 1,000 Feet of School Property

4768 Distribution, Delivery or Possession of a Controlled

Substance Within 300 Feet of a Park or Recreation Area

4774 Delivery of Drug Paraphernalia to a Minor

Title 31, Section Crime

3913 Abuse/Neglect/Exploit/Mistreat an Infirm Adult

Any attempt to commit any felony designated in this subsection as a violent felony shall also be designated as a violent felony.

67 Del. Laws, c. 130, § 6; 70 Del. Laws, c. 477, § 1; 71 Del. Laws, c. 285, § 14; 71 Del. Laws, c. 467, § 10; 72 Del. Laws, c. 34, § 5; 72 Del. Laws, c. 43, § 6; 72 Del. Laws, c. 197, § 7; 72 Del. Laws, c. 480, § 17; 74 Del. Laws, c. 106, § 8; 75 Del. Laws, c. 421, § 3[2]; 76 Del. Laws, c. 66, § 3; 76 Del. Laws, c. 343, § 5; 77 Del. Laws, c. 313, § 2; 77 Del. Laws, c. 318, § 13.;

§ 6703. "Violent crime" defined.

For purposes of this chapter, the words "violent crime" shall mean: abuse of an infirm adult; abuse of a patient in a nursing facility; abuse of a patient causing injury; abuse of a patient causing death; adulteration causing death; adulteration causing injury; aggravated intimidation; arson in the first degree; arson in the second degree; assault in the first degree; assault in the second degree; assault in the third degree; assault in the first degree on K-9 dog causing, injury or death to the dog; assault on a K-9 dog with risk of injury to the dog; assault in a detention facility which causes injury; assault in a detention facility; assault on a sports official; bestiality; burglary in the first degree; carjacking; carrying a concealed deadly weapon (firearm offense); continuous sexual abuse of child; criminally negligent homicide; dealing with child pornography, second offense; delivering drug paraphernalia to a minor; delivery or distribution of narcotics within 1000 feet of a school; delivery or distribution of narcotics within 300 feet of a park; delivery or manufacture of narcotics causing death; delivery or manufacture or possession with intent to deliver narcotics (non-use); delivery or manufacture or possession with intent to deliver narcotics listed on schedule I or schedule II; delivery of narcotics to minor under 16 years of age; delivery of narcotics to minor; delivery of non-narcotic drugs to a minor under 16 years of age; delivery or distribution of non-narcotic drugs within 1000 feet of a school; delivery or distribution of non-narcotic drugs within 300 feet of parkland; delivery or manufacture or possession with intent to deliver a non-narcotic controlled substance; delivery or possession with intent to deliver a prescription body-building drug; possession of a destructive weapon; trafficking in drugs; reckless endangering; escape after conviction; escape in the second degree; extortion; possession of an explosive device; unlawful imprisonment; incest; kidnapping in the first degree; kidnapping in the second degree; manslaughter; manufacture or delivery or possession with intent to deliver any schedule I or schedule II narcotic; manufacture or delivery or possession with intent to deliver non-narcotics; manufacture or use or possession of explosives or an incendiary device; murder in the first degree, murder in the second degree; organized crime and racketeering; possession of a deadly weapon during the commission of a felony; possession of a destructive weapon; possession of a firearm during the commission of a felony; promoting prison contraband (weapon); promoting prostitution in the first degree; racketeering; reckless endangering first degree; reckless endangering in the second degree; riot; robbery in the first degree; robbery in the second degree; continued sexual abuse of child; unlawful sexual contact in the first degree; unlawful sexual contact in the second degree; unlawful sexual contact in the third degree; sexual exploitation of a child; sexual extortion; rape in the first degree; rape in the second degree; rape in the third degree; rape in the fourth degree; unlawful sexual intercourse in the first degree; unlawful sexual intercourse in the second degree; unlawful sexual intercourse in the third degree; unlawful sexual penetration in the first degree; unlawful sexual penetration in the second degree; unlawful sexual penetration in the third degree; stalking; terroristic threatening; trafficking in illegal drugs; unlawful delivery of a controlled substance; unlawful firearm transactions (second or subsequent offense); unlawful imprisonment in the first degree; unlawful transportation of a firearm to commit a felony; vehicular assault in the first degree; vehicular assault in the second degree; vehicular homicide in the first degree; vehicular homicide in the second degree; wearing body armor during felony.

70 Del. Laws, c. 244, § 1; 71 Del. Laws, c. 7, § 1; 71 Del. Laws, c. 285, § 21; 77 Del. Laws, c. 313, § 3;

Section 1470: Legislative Synopsis-This Bill strengthens certain Delaware criminal statutes applicable to conduct that may occur in a table gaming environment.

Section 1. This amendment to the definition for "cheating device" broadens the scope of that definition to include cheating devices applicable to table games. The new definition includes cards or dice that have been marked, loaded or tampered with, and clarifies that cheating devices may be mechanical, electromechanical, electronic, photographic or computerized in nature.

Section 2. This new definition for "table game" is identical to the definition utilized in Title 29, Chapter 48.

Section 3. Sub-paragraphs (a), (c), (d) and (e) of Section 1471 are amended to include table games. Sub-paragraph (c) is also amended to clarify that cheating may be done on behalf of a third party. Sub-paragraph (d) is amended to broaden the prohibition on manipulating components of a table game, and sub-paragraph (e) is amended to broaden the type of instruments that may be counterfeited to include chips and other wagering instruments. Sub-paragraphs (f) - (l) are new and are added to address specific fraudulent activity incident to table games, such as: (f) shuffle fraud, (g) falsely claiming another's winning wager, (h) dealer collusion, (i) posting wagers after the game outcome is known; (j) decreasing wagers after the game outcome is known; (k) solicitation of game fixing; and (l) use of unlawful electronic devices.

Section 4. Section 4 alters the penalty structure for theft crimes. Section 1472, as it presently exists, makes all violations of this subchapter class A misdemeanors for first offenses and a class G felonies for second and subsequent offenses. The new section preserves this penalty structure for non-theft table crimes, such as possession and use of a cheating device, use of counterfeits, manipulation of game components, and use of unlawful electronic devices. However, the new section increases the penalties for theft crimes such as cheating, altering bets, dealer collusion, late posting or decreasing of wagers. The enhanced penalties for theft crimes are consistent with the penalties for theft crimes generally, and vary based on the amount of the theft. The new Section 1472 also includes a new penalty for game fixing.

Section 5. Because law enforcement officers may not always be on-site to assist in the apprehension of a person committing a violation of Section 1471, this new section gives video lottery agents and their employees or agents the authority to detain patrons for questioning when they have probable cause to believe a violation of that section has occurred. It also provides civil and criminal qualified immunity to the video lottery agent for conducting questioning and detaining a suspect, and requires that law enforcement be summoned without delay and that the video lottery agent post notice of its detention authority.

Section 6. Section 6 amends the definition of "money laundering" to including knowingly engaging in a transaction with criminal proceeds with the intent of evading currency transaction reporting requirements.

Sections 7-9. Sections 7-9 address a current gap in Delaware law by prohibiting persons from structuring financial transactions or otherwise attempting to evade the filing of a currency transaction report. Section 7 defines "structuring" to include transactions arranged for the purpose of evading currency transaction reporting requirements, such as breaking down transactions into smaller sums or engaging in transactions over a series of days. Section 8 preserves money laundering, as it exists under current law, as a Class D felony. Section 9 creates a new prohibition against causing or attempting to cause a financial institution not to file a currency transaction report or to file a misleading currency transaction report, as well as "structuring" a transaction to avoid a currency transaction report. This new prohibition would be a Class G felony.

Sections 10-11. Section 10 enhances the penalties for underage gaming by specifying the penalties for persons under the required age who use the lottery and creating a penalty for video lottery agents who allow underage persons to take part in lottery games. Section 11 allows underage gaming prosecutions to be heard in courts other than Superior Court.

§ 1470. Definitions.

(a) "Cheat" means to alter the element of chance, method of selection, or criteria which determines:

- (1) The result of the game;
- (2) The amount or frequency of payment in a game, including intentionally taking advantage of a malfunctioning machine;
- (3) The value of a wagering instrument; or
- (4) The value of a wagering credit.

(b) "Cheating device" means any physical, mechanical, electromechanical, electronic, photographic, or computerized device used in such a manner as to cheat, deceive or defraud a video lottery machine or a table game. This includes, but is not limited to, slugs, plastic, tape, string or dental floss which is placed inside a coin or bill acceptor or any other opening in a video lottery machine in a manner to simulate coin or currency acceptance, and is thereafter withdrawn, or forged or stolen keys used to gain access to a machine to remove its contents, or game cards or dice that have been marked, loaded or tampered with.

(c) "Paraphernalia for the manufacturing of cheating devices" means the equipment, products or materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the chips, tokens, debit instruments or other wagering devices approved by the State Lottery Office or lawful coin or currency of the United States of America. This term includes, but is not limited to, lead or lead alloy molds, forms, or similar equipment capable of producing a likeness of a gaming token or United States coin or currency; melting pots or other receptacles; torches; tongs, trimming tools or other similar equipment; and equipment that can be used to manufacture facsimiles of debit instruments or wagering instruments approved by the State Lottery Office.

(d) "Table game" shall mean any game played with cards, dice or any mechanical, electromechanical or electronic device or machine (excluding video lottery machines) for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, twenty-one, poker, craps, roulette, keno, bingo, wheel of fortune or any variation of these games, whether or not similar in design or operation.

(e) "Video lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options to the player, are randomly and immediately determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

73 Del. Laws, c. 232, § 1; 77 Del. Laws, c. 221, §§ 1, 2.;

§ 1471. Prohibited acts.

(a) It shall be unlawful for any person to use a cheating device in a video lottery machine or at a table game or to have possession of such a device in a video lottery facility, including its parking areas and/or adjacent facilities.

(b) It shall be unlawful for any person to possess, use or have paraphernalia for manufacturing cheating devices.

(c) It shall be unlawful for any person to cheat in order to collect or take or attempt to cheat in order to collect or take money or anything of value, for themselves or for another, in or from a video lottery machine or a table game in a video lottery facility, including its parking areas and/or adjacent facilities.

(d) It shall be unlawful for any person to manipulate or alter, with the intent to cheat, any physical, mechanical, electromechanical, electronic, or computerized component of a video lottery machine or of a table game, contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a video lottery machine, knowing that the manipulation can or could affect the outcome of the game.

(e) It shall be unlawful for any person to use, sell or possess counterfeit slugs, counterfeit tokens, counterfeit gaming chips, counterfeit debit instruments or other counterfeit wagering instruments or any other counterfeit device resembling tokens, gaming chips, debit or other wagering instruments approved by the State Lottery Office for use in a video lottery machine or at a table game in a video lottery facility, including its parking areas and/or adjacent facilities.

(f) It shall be unlawful for any person to place, increase or decrease a wager or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of a table game or any event that affects the outcome of the game or which is the subject of the wager or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a wager or determining the course of play contingent upon that event or outcome.

(g) It shall be unlawful for any person to claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a video lottery machine or a table game, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won.

(h) It shall be unlawful for any employee or agent of a video lottery facility to knowingly fail to collect a losing wager or pay an amount greater on any wager than required under the rules of a table game.

(i) It shall be unlawful for any person to place or increase a wager or attempt to place or increase a wager after acquiring knowledge of the outcome of the table game or other event which is the subject of the wager.

(j) It shall be unlawful for any person to reduce the amount wagered or remove or cancel the wager or to attempt to reduce the amount wagered or remove or cancel the wager after acquiring knowledge of the outcome of the table game or other event which is the subject of the wager.

(k) It shall be unlawful for any person to directly or indirectly offer, confer or agree to confer to another, or solicit, accept or agree to accept from another, anything of value to anyone, for the purpose of influencing the outcome of a race, sporting event, contest or table game upon which a wager may be made, or to place, increase or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest or game upon which the wager is placed, increased or decreased.

(l) It shall be unlawful for any person at a video lottery facility, including its parking areas and/or adjacent facilities, without the written consent of the Delaware Lottery Director to use, or possess with the intent to use, any electronic, electrical or mechanical device that is designed, constructed or programmed to assist the user or another person:

- (1) In projecting the outcome of a table game or video lottery machine;
- (2) In keeping track of the cards played;
- (3) In analyzing the probability of the occurrence of an event relating to the game; or
- (4) In analyzing the strategy for playing or wagering to be used in the game.

73 Del. Laws, c. 232, § 1; 77 Del. Laws, c. 221, § 3.;

§ 1472. Penalties.

(a) Any person convicted of conduct constituting a violation of § 1471(a), (b), (d), (e) or (l) of this title shall be guilty of a class A misdemeanor for a first offense and a class G felony for a second or subsequent conviction in this State or a state with a comparable criminal code section within 3 years of a first offense.

(b) Any person convicted of conduct constituting a violation of § 1471(c), (f), (g), (h), (i), or (j) of this title shall be guilty of:

- (1) A class A misdemeanor if the amount involved is less than \$1,500 or;
- (2) A class G felony if the amount involved is \$1,500 or more but not greater than \$50,000;
- (3) A class E felony if the amount involved is more than \$50,000 but less than \$100,000;
- (4) A class C felony if the amount involved is \$100,000 or more.

(c) Any person convicted of conduct constituting a violation of § 1471(k) of this title shall be guilty of a class G felony.

(d) Amounts involved pursuant to 1 scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the crime.

(e) Upon conviction, the sentencing judge shall require full restitution to the victim for any monetary losses suffered and shall consider the imposition of community service and/or an appropriate curfew for a minor.

(f) Any cheating devices, slugs, paraphernalia for the manufacturing of cheating devices or related materials used by the person shall be forfeited to the Delaware State Police, including vehicles used to store such devices or paraphernalia. The Courts of the Justices of the Peace shall have concurrent jurisdiction with the Court of Common Pleas for misdemeanor offenses under this subpart and the Superior Court shall have exclusive jurisdiction for felony offenses under this subchapter.

73 Del. Laws, c. 232, § 1; 77 Del. Laws, c. 221, § 4.;

TITLE 29

§ 4810. Sales to certain persons prohibited; penalties.

(a) No person who is under the age of 18 shall purchase a lottery ticket. No person who is under the age of 21 shall wager on the video lottery, sports lottery or table games in a video lottery facility. Whoever has not reached the specified age and has violated this subsection shall be guilty of a misdemeanor.

(b) No ticket shall be sold to any person under the age of 18 years, but this shall not be deemed to prohibit the purchase of a ticket for the purpose of making a gift by a person 18 years of age or older to a person less than that age.

(c) No licensed video lottery agent or employee of a video lottery agent shall allow a person under the age of 21 to wager on the video lottery, table games or the sports lottery.

(d) A violation of subsection (b) or (c) of this section shall be a misdemeanor, except that the establishment of the following facts shall constitute a defense to any prosecution therefore:

(1) That the underage person presented proof of age or photographic identification that would lead a reasonable person to believe that the underage person was over the minimum age required in this section.

(2) That the appearance of the underage person was such that an ordinary prudent person would believe that the person was over the minimum age required in this section.

(e) No ticket shall be purchased by and no prizes received by or awarded to any officers or employees of the State Lottery Office or any member of their immediate households. Any person convicted of violating this section shall forfeit any prize money so obtained and shall be sentenced to not less than 1 year in jail and pay a fine of no less than \$5,000.

59 Del. Laws, c. 348, § 1; 60 Del. Laws, c. 539, § 4; 66 Del. Laws, c. 367, § 2; 69 Del. Laws, c. 446, § 15; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 221, § 10;

TITLE 11 SECTION 4221; Legislative Synopsis-This Act authorizes a sentencing court to modify, defer, reduce or suspend a minimum or mandatory sentence of one year or less if it finds the person to be sentenced has serious and ongoing medical treatment needs which make incarceration inappropriate and that the person does not pose a substantial risk to the community. The Department of Corrections has authority (11 Del. C. §4217) to request the modification of an inmate's sentence based on medical illness or infirmity. This Act would give Delaware's courts similar authority in imposing sentences, but only where the sentence required is for 1 year or less. Minimum and mandatory sentences for virtually all violent crimes would not be eligible for modification under this Act because the sentences required for such crimes exceed one year.

§ 4221. Modification, deferral, suspension or reduction of sentence for serious physical illness, injury or infirmity.

Notwithstanding any provision of law to the contrary, a court may modify, defer, suspend or reduce a minimum or mandatory sentence of one year or less, or a portion thereof, where the court finds by clear and convincing evidence, or by stipulation of the State, that the person to be sentenced suffers from a serious physical illness, injury or infirmity with continuing treatment needs which make incarceration inappropriate and that such person does not constitute a substantial risk to the community.

77 Del. Laws, c. 304, § 1;

SECTION 4381; Legislative Synopsis-The ability of inmates to earn good time credits was a mechanism established to assist and encourage appropriate behavior by inmates while they are incarcerated. This general concept has been modified by the General Assembly over time to prohibit good time credit for specific offenses. Unfortunately, this ad hoc application has caused significant administrative issues to arise that are difficult to address with limited staff and is inconsistent with the original intent and purpose of good time credit. This legislation proposed by SENTAC will ensure a fair and consistent application of credit time and will restore its original purpose as a tool for prisoner management. The legislation has no effect on the procedures used to award good time credit by DOC or the ability of the Commissioner to forfeit good time credit to reflect inappropriate prison behavior. The legislation will however restore the ability of inmates (other than ones serving a life sentence) to be awarded good time credit regardless of the statutory offense for which they are incarcerated subject to the limitations set forth in subparagraph (b). SENTAC has prepared this legislation as a result of its

belief that it reflects the appropriate management of limited DOC resources and will result in financial savings to the State. The inmates will be supervised during their conditional release period by DOC probation officers.

§ 4381. Earned good time.

(a) Subject to the limitations set forth in subsection (b) of this section, all sentences, other than a life sentence, imposed for any offense pursuant to any provision of this title, Title 16 and/or Title 21 may be reduced by good time credit under the provisions of this subchapter and rules and regulations adopted by the Commissioner of Corrections. This provision will apply regardless of any previously imposed statutory limitations set forth in this title, Title 16 or Title 21.

(b) The awarding of good time credit set forth in subsection (a) of this section above will not apply to sentences imposed pursuant to § 4214 or § 4204(k) of this title or sentences imposed prior to the enactment of this statute.

(c) "Good time" may be earned for good behavior while in the custody of the Department of Corrections when the person has not been guilty of any violation of discipline, rules of the Department or any criminal activity and has labored with diligence toward rehabilitation according to the following conditions:

(1) During the first year of any sentence, good time may be awarded at the rate of 2 days per month beginning on the first day of confinement.

(2) After completing 365 days of any sentence, good time may be awarded at the rate of 3 days per month.

(3) No person shall be awarded more than 36 days of good time under this subsection for good behavior in any 1 year consisting of 365 calendar days actually served.

(d) "Good time" may be earned by participation in education, rehabilitation, work, or other programs as designated by the Commissioner. Good time may be awarded for satisfactory participation in approved programs at a rate of up to 5 days per calendar month.

(e) No more than a total of 100 days of "good time" may be earned in any 1 year consisting of 365 days actually served.

67 Del. Laws, c. 130, § 5; 74 Del. Laws, c. 346, § 2; 76 Del. Laws, c. 351, §§ 1-3; 77 Del. Laws, c. 406, § 1.;

TITLE 21

SECTION 4134; Legislative Synopsis-This Bill makes it a Class F Felony to strike an emergency responder while violating the "move over" law applicable to emergency vehicles.

§ 4134. Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersections and shall relinquish the right-of-way until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, blue, blue and white, red and white, red and blue, or red, white and blue lights, or upon approaching a stationary authorized vehicle of the Department of Transportation, which is giving a signal by displaying alternately flashing amber or red and amber lights, or upon approaching a stationary tow truck, which is giving a signal by displaying alternately flashing amber, white, or amber and white lights, a person who drives an approaching vehicle shall:

(1) Proceed with caution and yield the right-of-way by making a lane change into a lane not adjacent to that of such vehicle, if possible with due regard to safety and traffic conditions, if on a roadway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the approaching vehicle; or,

(2) Proceed with caution and reduce the speed of the vehicle to a safe speed while passing such stationary vehicle, if changing lanes would be impossible or unsafe.

(c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(d) Any person violating subsection (b) of this section who hits, strikes, or in any way contacts an emergency responder, causing physical injury, with that person's vehicle shall be guilty of a class F felony.

21 Del. C. 1953, § 4134; 54 Del. Laws, c. 160, § 1; 59 Del. Laws, c. 351, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 366, § 1; 76 Del. Laws, c. 345, § 1; 77 Del. Laws, c. 27, § 1; 77 Del. Laws, c. 465, § 1;

SECTION 4176; Legislative Synopsis-This Bill amends the careless or inattentive driving law by enhancing the penalty for a careless or inattentive driver who contributes to the serious physical injury of a vulnerable user in a public right of way. The Bill defines vulnerable users in public right of ways.

§ 4176. Careless or inattentive driving.

(a) Whoever operates a vehicle in a careless or imprudent manner, or without due regard for road, weather and traffic conditions then existing, shall be guilty of careless driving.

(b) Whoever operates a vehicle and who fails to give full time and attention to the operation of the vehicle, or whoever fails to maintain a proper lookout while operating the vehicle, shall be guilty of inattentive driving.

(c) Whoever violates this section shall for the first offense be fined not less than \$25 nor more than \$115. For each subsequent like offense occurring within 3 years of a former offense, the person shall be

fined not less than \$50 nor more than \$230, or imprisoned not less than 10 nor more than 30 days, or both.

(d)(1) In addition to any other penalty imposed for an offense committed under this section, if the finder of fact determines that the commission of that offense contributed to the serious physical injury of a vulnerable user lawfully in the public right-of-way, the court shall:

a. Impose a sentence that requires the person convicted of the offense to:

1. Complete a traffic safety course approved by the Delaware Division of Motor Vehicles;

2. Perform up to 100 hours of community service, which must include activities related to driver improvement and providing public education on traffic safety;

b. Impose, but suspend on the condition that the person complete the requirements of paragraph (d)(1)a. of this section,

1. A fine of not more than \$550, and

2. A suspension of driving privileges as provided in § 2733(a)(2) of this title; and

3. Set a hearing date up to 1 year from the date of sentencing. At that hearing, the court shall:

A. If the person has successfully completed the requirements described in paragraph (d)(1)a. of this section, dismiss the penalties imposed under paragraphs (d)(1)b.1. and 2. of this section.

B. If the person has not successfully completed the requirements described in paragraph (d)(1)a. of this section, either: I. Grant the person an extension based on good cause shown, or II. Impose the penalties under paragraphs (d)(1)b.1. and 2. of this section.

(2) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense contributed to the serious physical injury of a vulnerable user of the public right-of-way. If so noted, the person receiving the citation shall not be permitted to use the voluntary assessment process otherwise permitted under § 709 of this title.

(3) As used herein, "vulnerable user of a public right-of-way" means:

a. A pedestrian, including those persons actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; or

b. A person riding an animal; or

c. A person operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:

1. A farm tractor or similar vehicle designed primarily for farm use;
2. A skateboard;
3. Roller skates;
4. In-line skates;
5. A scooter;
6. A moped;
7. A bicycle; or
8. A motorcycle.

21 Del. C. 1953, § 4175A; 56 Del. Laws, c. 305; 60 Del. Laws, c. 701, § 47; 65 Del. Laws, c. 503, § 20; 68 Del. Laws, c. 9, § 31; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 464, § 1.

TITLE 29

SECTION 4830; Legislative Synopsis-This bill authorizes the introduction and operation of table games by the Delaware Lottery at licensed video lottery agents. Like the video lottery, the table games would be offered on the premises of Delaware's video lottery agents. The Delaware Lottery would determine which table games would be played and establish regulations for the effective management of the games.

Proceeds from the operation of the Delaware Lottery would be paid to the Delaware Lottery, which would keep a portion of those proceeds to cover its administrative expenses and its law-enforcement and security expenses, as well as an amount to fund programs for the treatment, education and assistance of compulsive gamblers, with the remainder contributed to the General Fund.

This bill also imposes a license fee structure that will reward video lottery agents for making capital investments by allowing them to reduce the annual license fee by up to 50% to account for the cost of capital projects, and that reduces the total license fee further if the video lottery agents are able to achieve certain table gaming revenue annual targets. As such, this bill promotes capital investment by video lottery agents, incentivizes the video lottery agents to achieve reasonable revenue targets, and creates additional new employment opportunities.

This bill would also authorize the creation of a Lottery Commission, which would have responsibility for conducting hearings on disputed licensing and exclusion matters, as well as the issuance of regulations beginning in the next fiscal year. This bill would also authorize a Division of Gaming Enforcement in the Department of Safety and Homeland Security. That Division, part of which would consist of Delaware State Police investigators, would be responsible for investigating table

gaming crimes, as well as the background checks currently being conducted by the Video Lottery Enforcement Unit of the State Police.

This bill also makes certain changes to the Delaware criminal laws to ensure that prohibitions on transporting table game equipment will not inhibit the Lottery. Finally, it provides that the addition of table gaming in Delaware will not affect the number of harness racing days.

§ 4830. Standards of licensing.

(a) All applicants, licensees, registrants, or any other person who must be qualified pursuant to this chapter shall have the continuing duty to provide any assistance or information required by the Director or the Division of Gaming Enforcement, and to cooperate in any background check or investigation conducted by the Division of Gaming Enforcement or in any hearing conducted by the Director. If an applicant, licensee, registrant or any other person who must be qualified pursuant to this act refuses to provide information, evidence or testimony upon formal request by the Director or the Division of Gaming Enforcement, the Director may deny or revoke the application, license, registration or qualification of such person.

(b) An applicant for a key license or gaming employee license shall be required to establish that applicant's qualifications for obtaining a license by clear and convincing evidence. The Director of the Delaware lottery shall deny a license to any applicant who fails to prove by clear and convincing evidence that the applicant is qualified under the provisions of this chapter.

(1) An applicant for a key license or gaming employee license shall provide such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has good character, honesty and integrity.

(2) An applicant for a key license or gaming employee license has the affirmative obligation to provide such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has financial stability, responsibility and integrity.

(c) The Director shall deny a license to any applicant or revoke the license of any licensee based on the following criteria:

(1) The conviction of a felony in any jurisdiction;

(2) The conviction of a gambling offense or a crime of moral turpitude in any jurisdiction within 10 years prior to applying for a license or at any time subsequent to the granting of a license;

(3) The commission of any act within 10 years prior to applying for a license or at any time subsequent to the granting of a license in any jurisdiction, which would constitute any offense enumerated in paragraphs (c)(1) and (2) of this section, even if such conduct has not been prosecuted, or if prosecuted, has not resulted in a conviction;

(4) A conviction which has been the subject of a pardon or order of expungement shall not be grounds for automatic disqualification under paragraphs (c)(1) and (2) of this section, but may be grounds for disqualification under paragraph (c)(3) of this section. Such conviction also may be

considered in evaluating an applicant's ability to demonstrate his qualifications pertaining to good character, honesty and integrity;

(5) Current prosecution for any offense listed in paragraphs (c)(1) and (2) of this section, provided that, at the request of the applicant, the Director shall defer its decision on the application during the pendency of the charge;

(6) The failure to provide information, documentation and assurances required by the act or requested by the Director, or the supplying of information which is untrue or misleading as to a material fact pertaining to the criteria for obtaining a license;

(7) Notorious or unsavory reputation that would adversely affect public confidence and trust that the Delaware Lottery is free from criminal or corruptive elements; or

(8) Anything that, in the opinion of the Director, would denigrate or undermine the integrity or overall soundness of the lottery, including but not limited a person's reputation, habits and associations that may pose a threat to the public interest of the State or to the reputation or effective control of the lottery.

(d) Notwithstanding the provisions in paragraphs (c)(1), (2), and (3) of this section above for the denial or revocation of a license, no application should be denied and no license should be revoked if the applicant or licensee is able to demonstrate that applicant's or licensee's rehabilitation by clear and convincing evidence. In determining whether an applicant or licensee has affirmatively established that applicant's or licensee's rehabilitation, the Director shall consider the following factors:

(1) The conviction occurred more than 5 years from the date of application;

(2) The nature and duties of the position applied for;

(3) The nature and seriousness of the offense or conduct;

(4) The circumstance under which the offense or conduct occurred;

(5) The age of the applicant or licensee when the offense or conduct was committed;

(6) Whether the offense or conduct was an isolated or repeated incident; and

(7) Any evidence of rehabilitation including, without limitation, good conduct in prison or in the community; successful completion of court-ordered probation; counseling or medical treatment received; and the recommendations of persons who have had the person under their supervision.

(e) Participation in gaming operations as a licensed employee or service company under this chapter shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee and upon the discharge of the affirmative responsibility of each such licensee to provide to the regulatory and investigatory authorities established by this subchapter, any assistance and information necessary to assure that the policies declared by this subchapter are achieved. Consistent with this policy, it is the intent of this chapter to preclude the creation of any property right in any license permitted by this chapter, or the accrual of any value to the privilege of participation in gaming

operations, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(f)(1) All information and data required by the Office to be furnished in the application or investigative process, or which otherwise may be obtained by the Office or Division of Gaming Enforcement, pertaining to an applicant's criminal record, financial record, family and background, including, but not limited to, an application form, license investigation report, or request for placement on the self-exclusion list, shall be considered confidential, shall not be public records subject to Chapter 100 of this title, and shall not be revealed in whole or in part except in the ordinary administration of the chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law-enforcement agency. The Division of Gaming Enforcement may enter into agreements with other law-enforcement agencies or other gaming regulatory agencies that have law-enforcement status for the sharing of confidential information. Any person who violates this paragraph (f)(1) shall be guilty of a Class A misdemeanor.

(2) All information and data required by the Office or the Division of Gaming Enforcement to be furnished, or which otherwise may be obtained by the Office or the Division of Gaming Enforcement, relative to internal controls of a video lottery agent shall be considered confidential, shall not be public records subject to Chapter 100 of this title, and shall not be revealed in whole or in part except in the ordinary administration of the chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law-enforcement agency. Any person who violates this paragraph (f)(2) shall be guilty of a Class A misdemeanor.

(g) The licensure procedure shall take no more than 90 days to complete, unless extenuating circumstances require a longer period, in which case the Director and the State shall act with all deliberate speed to complete the process. The Division of Gaming Enforcement or persons acting at the direction of the Division of Gaming Enforcement shall conduct the security, fitness and background checks required by this chapter.

(h) The Director may issue temporary licenses for good cause and upon a finding that the issuance of a temporary license is necessary to allow for the efficient operation of the video lottery facility. Temporary licenses shall remain in effect for no more than 6 months from the date of issuance.

(i) The Director of the Delaware Lottery may issue an emergency order for the suspension of any license, other than a video lottery agent license, if the Director finds that:

(1) A licensee has been charged with a violation of the criminal laws of Delaware or any jurisdiction; and

(2) Such action is necessary to preserve the public policy of this subchapter.

An emergency order shall set forth the grounds upon which it is issued and shall be effective immediately upon issuance, and remain in effect until further order of the Director. An emergency order for suspension shall be served upon the licensee within 5 days of issuance. The person or entity against whom the emergency order has been issued shall be entitled to a hearing on an appeal to the Lottery Commission for reconsideration in accordance with the provisions of this chapter and the regulations promulgated hereunder.

(j)(1) Within 30 days after an adverse determination by the Director, the applicant or licensee seeking to appeal the denial of a permit application or revocation or suspension of a previously issued permit may demand a hearing before the Lottery Commission and show cause why the Director's determination was in error. Failure to demand a hearing within the time allotted in this section precludes the person from having an administrative hearing, but in no way affects his right to petition for judicial review.

(2) Upon receipt of a demand for hearing, the Lottery Commission shall set a time and place for the hearing. This hearing must not be held later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by the Lottery Commission with the agreement of the Director and the person demanding the hearing. At the hearing, the person seeking the hearing shall have the affirmative obligation to demonstrate by clear and convincing evidence that the Director's determination was in error under the criteria for licensing established by this chapter and any regulations hereunder.

(3) If, upon completion of the hearing, the Lottery Commission determines that the person seeking the hearing has met that person's own burden of proof, an order to that effect should be entered and the license issued. If, upon completion of the hearing, the Lottery Commission finds that the person seeking the hearing has not met that person's own burden of proof, an order shall be entered to that effect. This order is subject to review in the Superior Court pursuant to the Administrative Procedures Act [Chapter 101 of this title].

(k) Any person whose license has been revoked or whose application for a license has been denied shall be prohibited from reapplying for any license for a period of 5 years from the date of the order denying or revoking the license.

77 Del. Laws, c. 219, § 20; 70 Del. Laws, c. 186, § 1.;

§ 4831. Prohibition on employment of persons or service companies without a license.

(a) It shall be unlawful for any licensed agent to employ or continue to employ an individual or service company that is required to possess a license under the provisions of this chapter, but that is not licensed. A licensed agent who violates the provisions of this section shall pay a fine imposed by the Office of not less than \$1,000 and not more than \$5,000. A licensed person who knowingly violates the provisions of this section is guilty of a Class A misdemeanor.

(b) Any individual or service company that works or is employed in a position whose duties require licensing under the provisions of this chapter, without holding the requisite license, is guilty of a Class A misdemeanor.

77 Del. Laws, c. 219, § 20.;

§ 4836. Penalties for wagering by excluded persons.

(a) Any person whose name has been placed on the list of persons to be excluded or ejected from video lottery facilities, except for persons whose name has been placed on the self-exclusion list, who thereafter knowingly enters the premises of a video lottery facility, is guilty of a Class A misdemeanor.

(b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area, is guilty of a Class A misdemeanor.

(c) A licensed agent shall have a duty to keep from its premises any person who is on the list of persons to be excluded from entering a video lottery facility, and shall have a duty to keep from its gaming room any person who is on the self-exclusion list. The Director may revoke, limit, condition, or suspend the license of a video lottery agent, or impose a fine or other monetary penalty, if that video lottery agent knowingly fails to exclude or eject from its premises any person placed on the list of persons to be excluded or ejected, or knowingly fails to exclude or eject from its gaming room any person on the self-exclusion list.

(d) A person who is prohibited from gaming activity by any order of the Director, or court of competent jurisdiction, or by any provision of this chapter, including underage persons and any person on the exclusion or self-exclusion list, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

(e) In addition to any other penalty provided by law, any money or thing of value which has been obtained by any person prohibited from gaming activity in a video lottery facility shall be subject to an order of forfeiture by the Director, following notice to the prohibited person and an opportunity for the prohibited person to be heard.

(f) The Director shall establish regulations concerning the disposition of any forfeited funds received under this section.

77 Del. Laws, c. 219, § 20.;

SEX OFFENDER REGISTRATION PROVISIONS

Please review Title 11 Section 4121 for the complete Sex Offender information-

(f)(1) Any person designated, as a sex offender pursuant to this section shall comply with the registration provisions of Section 4120 of this title as follows:

- a. For life, if the sex offender is designated to Assessment Tier III, or if the person is designated to Assessment Tier I or II, and has previously been convicted of any of the offenses specified in subparagraphs (a)(4)a., c. or d. of this section; or
- b. For 25 years following the sex offender's release from Level V custody, or for 25 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Risk Assessment Tier II, and is not otherwise required to register for life pursuant to this subsection, except that any time spent at any subsequent period of Level V custody shall not be counted against such 25 year period.
- c. For 15 years following the sex offender's release from Level V custody, or for 15 years following the effective date of any sentence to be served at Level IV or below, if the person is designated to Assessment Tier I, and is not otherwise required to register for life pursuant to this subsection period of Level V custody shall not be counted against such 15 year period.

(2) Notwithstanding any provision in this section to the contrary:

- a. Any sex offender designated to Assessment Tier III may petition to the Superior Court for redesignation to Assessment Tier II if 25 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State, and has not been convicted of any crime (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole, or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 25 years have elapsed from the date of the subsequent conviction or finding of a violation, during which time no additional convictions or findings of violation can have occurred. Notwithstanding any provision of this section or Section 4120 of this title to the contrary, any sex offender who is redesignated from Assessment Tier III to Assessment Tier II shall continue to comply with the registration and re-registration requirements imposed by Section 4120(g) upon Tier III offenders for life. Any re-designation from Assessment Tier III to Assessment Tier II shall not release the offender from the requirement of lifetime registration or address verification every 90 days pursuant to Section 4120 (g)(1)(a) of this title and subsection (f)(1) of this section.

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- b. Any sex offender designated to Assessment Tier II may petition the Superior Court for redesignation to Assessment Tier I if the victim was not a child under 18 years of age and 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no level IV or V sentence was imposed, and the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole or conditional release relating to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 10 years have elapsed from the date of the subsequent conviction or finding of violation, during which time no additional convictions or findings of violation can or have occurred.
- c. Any sex offender designated to Assessment Tier I may petition the Superior Court for relief from designation as a sex offender, and from all obligations imposed pursuant to this section and Section 4120 of this title, if 10 years have elapsed from the last day of any Level IV or V sentence imposed at the time of the original conviction, or from the date of sentencing if no Level IV or V sentence was imposed, and if the offender has successfully completed an appropriate sex offender treatment program certified by the State and has not been convicted of any crime (other than a motor vehicle offense) during such time. If the offender has been convicted of any subsequent offense (other than a motor vehicle offense) or has been otherwise found to have violated the terms of any probation, parole, or conditional release to the sentence originally imposed following the conviction for the underlying sex offense, no petition or redesignation shall be permitted until 10 years have elapsed from the date of the subsequent conviction or finding of violation, during which time no additional convictions or findings of violation can or have occurred.
- d. The Superior Court shall not grant a petition for redesignation or relief filed pursuant to this subsection unless:
1. The sex offender establishes, by a preponderance of the evidence, that the public safety no longer requires preservation of the original designation; and
 2. The Court provides the Attorney General with notice of the petition and with reasonable period of time to be heard upon the matter.

When considering a petition for redesignation, the Court shall weigh all the relevant evidence, which bears upon the character and propensities of the offender, and the facts and circumstances of his or her prior offenses. The Court may in its discretion hold a hearing on the petition. If the Court grants the petition, it shall promptly enter the information concerning the redesignation into the DELJIS system.

Delaware State Police Bureau of Identification closest to your location.

- A. The Delaware State Police shall mail a non-forwardable letter to the last known address of the person. Mailing address will be done in batch and sent 30 days prior to the re-registration date.
- B. For example, if registration date is March 15, a letter will be mailed out in February stating you must respond prior to March 31st that year. Listed below are the time limits for Sex Offender registration-

Tier Level 1 – Once a year in person

Tier Level 2 – Twice a year in person (every 6 months)

Tier Level 3 - Four times a year, quarterly, in person

Note: **Reporting times are based on the offender's date of initial registration.**

Homeless Sex Offender reporting Requirements

Tier Level 1 – Report in person every 90 days for verification

Tier Level 2 – Report in person every 30 days for verification

Tier Level 3 – Report in person every 7 days for verification

Reporting locations are as follows- Offenders must report to State Bureau of Identification Dover, or State Bureau of Identification Northern location which is Delaware State Police Troop # 2. Currently we have no reporting location in Sussex County.

- C. Once the court has found a person guilty of a Megan's Law felony offense, Title 11 Section 4120 of the Delaware Code, the offenders Driver's License must be relinquished to the applicable court. The court will issue a temporary operator's license, directing that person to report to the Division of Motor Vehicle for a replacement Driver's License with the code under restrictions: "Y" indicating sex offender. The person will pay \$5.00 to the Division of Motor Vehicles for the replacement license. The Division of Motor Vehicles will receive an automated notification generated by CJIS advising that the offender will be appearing to have another photo taken and a new restriction coded operator's license issued. Note, upon a person being removed from the registration requirement, the Division of Motor Vehicle shall issue a license without the sex offender code printed at no charge. The sentencing court shall forward to the Division all licenses that it receives, along with a copy of the Sentencing Order.

Note: This section was passed to bring Delaware into compliance with Title 42 United States Code, Section 14071, The Jacob Wetterling Crimes Against Children and Sexually Violent Offender registration program by September 13, 1997 compliance deadline.

SEX OFFENDER TIER III ASSESSMENT

1. Automatic designation to Tier III

- a. DE110773 Rape First Degree
DE110772 Rape Second Degree
DE110771 Rape Third (if involved a child under 12, or offense involved force or threat of Physical Violence)
DE110769 Unlawful Sexual Contact First Degree
DE110772 Unlawful Sexual Penetration First Degree (repealed in 1998)
DE110771 Unlawful Sexual Penetration Second Degree (repealed in 1998)
DE110775 Unlawful Sexual Intercourse Second Degree (repealed in 1998)
DE110774 Unlawful Sexual Intercourse First Degree (repealed in 1998)
DE110778 Continuous Sexual Abuse of a Child
DE111108 Sexual Exploitation of a Child

- b. DE1107830004 Kidnapping First Degree*
DE110783A004 Kidnapping Second Degree*

***If the purpose of the crime was to facilitate the commission of any offense designated as a sexual offense where the defendant is not a parent, step parent or guardian of the victim.**

- c. Any attempt to commit the previous offenses
DE110531

- d. Any equivalent offense in any other state or US Territory.

e. Upon motion of the State, any person convicted of a felony, if the victim had not yet reached his or her 16^h birthday AND if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence which bears upon the particular facts and circumstances of the offense and the character and propensities of the offender, that public safety will be enhanced.

DE110761 (currently definitions only) Sexual Assault 7/1/73-7/9/86

DE110762 (currently provisions applic. to sex offenses) Sexual Miscond. 7/1/73-7/9/86

DE110764 Indecent Exposure Second Degree – If Second Conviction within 5yrs

DE110765 Indecent Exposure First Degree

DE110766 Incest

DE110767 Unlawful Sexual Contact Third Degree

DE110768 Unlawful Sexual Contact Second

DE110770 Rape Fourth Degree

DE110771 Rape Third Degree

DE110776 Sexual Extortion
DE110777 Bestiality
DE110779 Dangerous Crime Against a Child
DE111108 Sexual Exploitation of a Child
DE111109 Unlawfully Dealing in Child Pornography
DE111110 Subsequent Conviction of 1108 or 1109
DE111111 Possession of Child Pornography
DE111112A Sexual Solicitation of a Child

SEX OFFENDER TIER II ASSESSMENT

1. Automatic Designation to Tier II

- a. DE110771 Rape Third Degree (if does NOT involve a child under 12, or offense involved force or threat of Physical Violence)
DE110770 Rape Fourth Degree
DE110770 Unlawful Sexual Penetration Third Degree (repealed in 1998)
DE110773 Unlawful Sexual Intercourse Third Degree (repealed in 1998)
DE110768 Unlawful Sexual Contact Second Degree
DE110776 Sexual Extortion
DE110777 Bestiality
DE110779 Dangerous Crime Against a Child
DE111109 Unlawfully Dealing in Child Pornography
DE111111 Possession of Child Pornography
DE111112A Sexual Solicitation of a Child
DE110762 (Currently Provisions applic. to sex offenses) Sexual Miscond. 7/1/73-7/9/86
DE111361 Providing Obscene Materials to Minors
- b. Any attempt to commit the previous offenses
DE110531
- c. Any equivalent offense in any other state or U.S. Territory
- d. **Upon motion of the State, a person convicted of any sexual offense, if the sentencing court determines by a preponderance of the evidence, after it weighs all relevant evidence, which bears upon the particular facts and circumstances or details of the commission of the offense and the character and propensities of the offender, that public safety will be enhanced.**

DE110761 (currently definitions only) Sexual Assault
DE110762 (currently provisions applic. to sex offenses) Sexual Miscond. 7/1/73-7/9/86
DE110764 Indecent Exposure Second Degree – If Second Conviction within 5 yrs
DE110765 Indecent Exposure First Degree
DE110766 Incest
DE110767 Unlawful Sexual Contact Third Degree

DE111108 Sexual Exploitation of a Child
DE111110 Subsequent Conviction of 1108 or 1109
DE111111 Possession of Child Pornography
DE111321(5) Loitering in Public Place to Solicit
DE111352(2) Promotes/Profits from Prostitution of a Person under 18 years
DE111353(3) Promotes/Profits from Prostitution of a Person under 16 years

SEX OFFENDER TIER I ASSESSMENT

Any sex offender not otherwise designated to Assessment Tier II or III:

- a. DE110764 Indecent Exposure Second Degree – If Second Conviction within 5 yrs
- DE110765 Indecent Exposure First Degree
- DE110766 Incest
- DE110767 Unlawful Sexual Contact Third Degree
- DE110780 Female Genital Mutilation
- DE111100 Dealing in Children
- DE111112 Sexual Offender who Resides or Loiters within 500 feet of school
- DE111335(a)(6) or (7) Violation of Privacy

Conviction for a second Tier 3 or Tier 2 offense will be designated Tier 3.

Conviction for a subsequent Tier 1 offense occurs within 5 years of previous conviction, sex offender will be placed in Tier 2 when convicted again.

Also all sex offenders will be raised to Level Tier 3 once they are wanted persons. They will also be reduced back to their original Tier Level Assessment once the Warrant/Capias has been cleared.

- **The entire Sex Offender Training Manual can be found at:**

<http://server.deljjs.state.de.us>

Click on the Training heading and scroll down to the DELJIS Sex Offender Training Manual

POLICY STATEMENT – BAIL

Recognizing that the setting of bail is an important and delicate exercise of judicial discretion, but that such discretion is restrained by both constitutional and statutory limitations, SENTAC has adopted a “totality of the circumstances test” as bail policy to assist Delaware judicial officers in making logical, appropriate bail setting decisions. This policy has been adopted for the following reasons:

- Presumptive bail under Delaware law is to release upon a defendant’s own recognizance or upon an unsecured appearance bond.
- Delaware law requires judicial officers to consider **all** legally relevant circumstances and criteria in reaching a bail decision.
- Departure from presumptive release upon OR or unsecured bail is permissible **only** if a totality of the circumstances analysis determines that secured bail is necessary to (a) ensure the defendant’s appearance to answer charges and/or (b) to ensure the safety of any victims or witnesses or the community.
- In considering and weighing legally relevant factors, the judicial officer must balance the rights of the defendant:
 - to be presumed innocent,
 - to be at liberty while awaiting trial,
 - to develop a defense,
 - to provide financial and other support for family, and
 - to preclude pressure to resolve the case to escape confinementwith the State’s interests:
 - to ensure the defendant appears to answer to criminal charges,
 - to protect victims, witnesses, and the community, and
 - to ensure the proper administration of justice.
- A totality of the circumstances analysis requires a judicial officer to focus on **all** the factors legally relevant to a bail decision, not on a single factor, such as nature of the charged offense.
- A totality of the circumstances analysis requires and permits a judicial officer to make, “...a balanced assessment of the relative weights” of all the various factors legally relevant to a bail decision.²⁵
- A totality of the circumstances analysis gives a judicial officer broad, comprehensive discretion to fit bail to each case as the factors of each case warrant.

²⁵ *Illinois v. Gates*, 462 U.S. 213, 234 (1983).

THE BAIL DECISION – APPROPRIATE STEPS

1. REVIEW

Review the charging document and/or case file; criminal, traffic, capias and/or payment history information relating to the defendant and the offense; the Recommended Monetary Ranges; and any Special Case Procedures.

2. RECORD INITIAL FINDINGS

- a. Record applicable aggravating and/or mitigating factors.
- b. Review the list of bail conditions that may be imposed.
- c. Determine the flight and/or safety risks involved, using a totality of the circumstances approach.
- d. Determine whether imposition of bail conditions may reduce risk, and to what extent.
- e. Record findings.

Risk of Flight: Will defendant appear as directed? If uncertain, or if it is apparent the defendant will not appear, are there any bail conditions that will abate the risk?

Safety of the Victim and/or Community: Does the defendant present a danger to any victim(s) and/or the community? If uncertain, or if it is apparent the defendant will endanger the safety of the victim and/or the community, are there any bail conditions that will abate the risk?

3. WEIGH AND ANALYZE FOR FINAL DECISION

- a. Consider and weigh all applicable factors, the conclusions reached regarding flight risk and safety risk, and possible bail conditions that may abate any risk. Using a totality-of-the-circumstances approach, determine the bail type.
- b. Using the same approach, determine bail amount for each charge. Also consider that the total bail amount for the entire case should be reasonable under all the circumstances; and that bail amount for each charge should be within the Recommended Monetary Range for the offense classification **unless** exceptional, articulable factors exist. If the bail amount is outside the Range, record additional justification.

4. SELECT AND RECORD BAIL CONDITIONS

- a. Bail conditions should be reasonably related to the instant offense or the underlying circumstances of the offense.
- b. May be used as an alternative to secured bail, where appropriate.
- c. Record all conditions.

THE BAIL DECISION – BASIC CONSIDERATIONS

- **PRESUMPTION:** Judges are required to release defendants on their own recognizance **OR** on unsecured bail **unless** factors to the contrary (“aggravating factors”) exist.
 - **Exception:** Capital crimes. 11 *Del. C.* §§ 2101 and 2105(a).²⁶
- **BAIL TYPE:** Shall be based on a totality-of-the-circumstances analysis of all mitigating and aggravating factors.
 - **Bail type** should not be based solely on the nature of the charge(s).
 - **Secured Bail** may be considered reasonable only if aggravating factors exist. Establish and record all applicable factors.
 - **Cash Bail** is a more restrictive type of secured bail. Therefore, cash bail should be used sparingly, reserved for extraordinary circumstances, the presence of which must be recorded.
 - **Mixed Bail Types:** Avoid setting secured and unsecured/OR bail on the same case. Bail for non-incarcerable offenses may be set at \$1 secured each **IF** the overall case **bail type** is secured.
- **BAIL AMOUNT:** Shall be based on a totality-of-the-circumstances (TOTC) analysis of all aggravating and mitigating factors.
 - The accompanying monetary ranges are recommendations for bail amount based on the **nature** of the offense as indicated by the *Delaware Code* offense classification. “Nature of offense” is only one of many relevant bail factors and shall not be the sole basis for the bail decision. Use these ranges in conjunction with other relevant bail factors.
 - The vast majority of bail decisions should fall within the recommended monetary ranges. Reasons for departing from the ranges must be documented.
 - Bail **amounts** shall be set *by charge* pursuant to SENTAC policy.

²⁶ At publication (06-30-2010), only Murder in the First Degree, 11 *Del. C.* § 636, is a capital offense in Delaware.

RECOMMENDED MONETARY RANGES

Offense Class	Bail Guideline	Penalty-Custody	Penalty-Fine	Notes
FELONIES				
Murder 1 11 <i>Del. C.</i> § 636	Hold Without Bail* (11 <i>Del. C.</i> § 2103)	Death or Natural Life	no cap	Capital Offense Non-Bailable
Felony Class A	\$20,000 to \$100,000	M/M 15 years to Life	no cap	
Felony Class B	\$10,000 to \$60,000	M/M 2 to 25 years	no cap	
Felony Class C	\$2,000 to \$20,000	0-15 years	no cap	
Felony Class D	\$1,000 to \$10,000	0-8 years	no cap	
Felony Class E	\$500 to \$6,000	0-5 years	no cap	
Felony Class F	\$250 to \$3,000	0-3 years	no cap	
Felony Class G	\$250 to \$2,000	0-2 years	no cap	
MISDEMEANORS and VIOLATIONS				
Misdemeanor Class A	OR to \$1,000	0-1 year	0-\$2300	
Misdemeanor Class B	OR to \$200	0-6 months	0-\$1150	
Misdemeanor (unclassified)	OR to \$100	0-30 days	0-\$575	
Violation – 1 st	OR to \$50	0-1 year probation LI	0-\$345	Subsequent violations are within a 5-year period.
Violation – 2 nd	OR to \$100	0-1 year probation LI	0-\$690	
Violation – 3 rd	OR to \$200	0-1 year probation LI	0-\$1150	

See special case procedures and considerations for issues related to special case types.

*Only Murder 1 under 11 *Del. C.* § 636(a)(1) through (6) is a capital offense as of this writing (June 2010). See “No Bail – No Jail” section of this Benchbook. Murder 1 does not include Attempted Murder.

SPECIAL CASE PROCEDURES & CONSIDERATIONS

The following represents a concise, but not comprehensive, outline of circumstances and case types requiring consideration of factors that may not have been appropriate to consider at the time the case bail was set initially, or factors that, due to the nature of the case, may require exceptionally close examination.

Capiases/Warrants & Rule 9 Warrants

- Failure to Appear: Original case bail; bail recommendation of issuing court; known practices of issuing court (for instance, Superior Court FTA Trial Capias may contain a high cash bail recommendation based on that Court's rigorous trial-setting practices and notice to defendants); FTA capias history; history of escape or resisting arrest convictions.
- Failure to Pay: Amount owed; history of FTP capiases on the case; whether Work Referral or Wage Assignment has been ordered but not defendant failed to follow order; history of FTP capiases on all cases; amounts owed to all courts at time of arrest on FTP capiases.
- Rule 9 Warrants: Treat similar to new charges with bail set for first time, absent any recommendation from Superior Court.

Domestic Violence - PFA Violations

- Intimate Partners: (Husband/Wife; Ex-Spouses; Boyfriend/Girlfriend and ex; Same-sex relationships) – Use DV Lethality Screening Tool to assess risk – Do not underestimate results; recent separation of parties increases risk dramatically—loss of control may trigger violence.
- Other Family Members: Threats of violence or suicide; prior incidents of violence and escalating violence; sexual assault; whether instant offense involves injury; access to weapons; substance abuse; mental health issues; employment issues.
- PFA Violations: History of violations and violation of no contact orders (breach of release).

Drugs

- Offense occurred in Protected Area or in an area used as a Base of Operations
- Force or high-speed flight via motor vehicle was used to escape apprehension
- History includes prior Title 16 convictions and/or violent offenses
- Instant Offense carries mandatory penalty and/or quantity of drug indicates serious drug dealing;
- Minors are involved in offense as accomplices or as targeted customer; or offense involves death or injury to user/customer

Fugitives

- Nature of offense alleged to have been committed in foreign jurisdiction & bail guideline for comparable Delaware offense
- Circumstances of defendant's apprehension

Motor Vehicle & DUI

- DUI: Classification of offense as felony or misdemeanor – based on defendant’s conviction history; alleged BAC at time of offense; circumstances of defendant’s apprehension (accident, risky driving, injury or death to others, property damage); history of defendant’s compliance with substance abuse treatment and/or rehabilitation previously ordered by court; indications of long-term substance abuse – Use mandatory bail condition if required [11 *Del. C.* § 2108(c)].
- Motor Vehicle: Imperative to remember that secured bail may not be ordered as initial bail for non-jailable offenses. A driver’s license may be used as a form of secured bail provided defendant is given a receipt.

Sexual Offenses

- Child Victim: Require that the defendant have no contact with children except upon good cause shown and as provided by the Court [mandatory bail condition as required by 11 *Del. C.* § 2108(b)].
- Registered Sex Offenders: Require the defendant to register if defendant is charged with failing to register as a sex offender [mandatory bail condition as required by 11 *Del. C.* § 4120(4)].

Truancy

Adult Offender:

- Original Truancy charge: Truancy charges are criminal offenses if adult offender and may be treated as such for bail purposes.
- FTA Capias/FTP Capias/Contempt of Court: Set unsecured or secured based on circumstances

Juvenile Offender:

- Original Truancy charge: Truancy charges are civil offenses if juvenile offender; all restrictions on incarcerating juveniles pursuant to 10 *Del. C.* § 1007 apply to such cases.
- FTA Capias: Secured bail may only be set if the conditions imposed by 10 *Del. C.* § 1007 are met.
- FTP Capias: A capias may not be issued for a juvenile for FTP. Such a capias may be issued for the juvenile’s parent or other responsible who co-signed any payment agreement. Thus, if presented with a FTP capias issued on a juvenile, set unsecured bail.
- Contempt of Court: If based on the underlying truancy matter, bail may be secured or unsecured depending on the circumstances and only if the conditions imposed by 10 *Del. C.* § 1007 are met.

Violation of Probation – Contempt of Court – Breach of Release

- If returned to other than issuing court, give great deference to recommendation of issuing court.
- VOP: Consider any facts available showing VOP is substantive or for collection of monies owed only. Consult probation officer if available. Review underlying offense and original sentence imposed. Consider prior VOPs on same or other cases.

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- COC (often issued for FTP matters): Consider amount of monies owed, defendant financial resources, age of case, payments made to date if any, and history of prior FTP capiases on instant case and other cases.
 - Breach of Release: Consider type of breach involved – breach of no-contact order, and nature of alleged unlawful contact are generally the most serious, although bail conditions can be breached in other ways than violation of a no-contact order.