

# State of Delaware Child Protection Accountability Commission Legislative Committee

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FRIDAY, JULY 30, 2018

## MINUTES

In Attendance:

Tania Culley, Esq. (Chair)  
Addie Asay, Esq.  
Judge Joelle Hitch  
James Kriner, Esq.  
Abigail Layton, Esq.

Maureen Monagle  
Kathryn Lunger, Esq  
Randy Williams  
Janice Mink  
Meredith Seitz (by phone)  
Ashley Tucker, Esq.

### I. WELCOME AND INTRODUCTIONS; MINUTES

Tania Culley, Chair, welcomed everyone and attendees introduced themselves. The minutes from June 8, 2018 were approved without changes. Janice Mink motioned for approval. Abby Layton seconded the motion. All voted in favor.

### II. REVIEW/DISCUSSION OF SB209 AND SB210

Ms. Culley began by reporting on her tasks from the last meeting. A meeting with the Administrative Office of the Courts (“AOC”) occurred. AOC indicated that there was no intent to make policy changes or rewrite the law, but instead to put in place an overall organizational structure. AOC welcomes the comments of CPAC and would appreciate having those quickly as it intends to have the bill reintroduced in January. Once those are received from CPAC, AOC will provide to the working group and others as needed and will let CPAC know what the next steps will be. A meeting was also held with the Office of Defense Services wherein Ms. Culley reviewed the concerns of CPAC.

The Committee then reviewed the changes to prosecution of child sexual abuse cases. It was first noted that under the proposed code sexual intercourse, penetration and contact is all under the umbrella of rape.

1. 11 Del. C. § 4205A has been eliminated. This section provided enhanced sentencing for those who commit sexual offenses against children, requiring a minimum mandatory sentence of 25 years and not allowing flexibility to suspend the sentence. Changes were made to this in both 2016 and 2018 emphasizing the seriousness with which this State takes rape of children.
2. 11 Del. C. § 776 has been eliminated. This section, through its specific title and in its classification as a Class B Felony, made a deliberate policy statement that the continuous rape of a child is a stand alone crime requiring a minimum mandatory sentence.

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3. 11 Del. C. § 777 and § 777A have been eliminated. These specific crimes were created or strengthened to ensure appropriate punishment to those who rape children.
4. The age of consent has been decreased from age 18 to 16. The proposed code has eliminated it being a crime for a 17 year old child to have sexual relations with a person more than 30 years old unless the person is in a position of trust. This is particularly problematic given the uptick in child sex trafficking.
5. Child Pornography has decreased the age of a child from 18 to 16.

Minimum mandatories have been significantly impacted for those who commit sexual abuse against a child. One of the most common scenarios is a child less than 12 being sexually abused by a person more than 19 years of age. Under the current law, the sentence is 25 years to life. Under the proposed code, it is 5 years to 35 years. If the perpetrator is in a position of trust, the current code remains at 25 years to life. The proposed code is 15 years to life. This is but one example where the most heinous crimes against children has had a significant reduction in mandatory time.

The Committee agreed to have Ms. Culley draft a letter for CPAC to review and approve at its August 8<sup>th</sup> meeting. The letter should outline the policy history behind the current code sections and what objections CPAC has without providing specific suggestions as to where and what to insert into the proposed code (per the request of AOC). The letter should also specifically request that a separate section be created in the proposed code to house all physical and sexual abuse crimes against children. The Committee will then meet again once it receives a response from AOC as to next steps.

### **III. NEXT MEETING DATE – TBD.**

### **IV. PUBLIC COMMENT AND ADJOURNMENT**

There was no public comment. The meeting was adjourned at 11:20 am.