



**STATE OF DELAWARE  
SENTENCING ACCOUNTABILITY  
COMMISSION**

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**Hon. Brendan J. O'Neill  
Hon. Perry Phelps  
Col. Nathaniel McQueen  
Dr. James Wilson  
Jeffrey Horvath**

**MEETING**

**April 5, 2019 2:00 pm  
DOC Administration Building, Room 300  
245 McKee Rd., Dover, Delaware 19901**

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Judge Carpenter opened the meeting at about 2:00 pm. Judge Carpenter proceeded to discuss Draft Legislation affecting SENTAC.

**1. Discussion of Draft Legislation affecting SENTAC (J. Carpenter)**

Judge Carpenter addressed newly proposed legislation H.B. 4 (150<sup>th</sup> General Assembly). This proposal is sponsored by Rep. Longhurst and has not yet been introduced in the House. The second half of the bill directly affects SENTAC guidelines as this legislation would require the new Commission to dramatically review the sentencing process, guidelines, and effect on prison and community corrections. Additionally, the passing of this bill would substantially change the makeup and practices of SENTAC. Historically, the SENTAC Chair has been a Judicial Officer. The proposed changes would allow a non-judicial member to hold this position. Judge Carpenter suggested that a Judicial Officer should continue as Chair, so long as they come without an agenda. Proposed H.B. 4 §8906C states that the Commission will employ an Executive Director. Judge Carpenter recommended that the Commission should select an Executive Director, but that this individual would be employed by the Delaware Criminal Justice Council, not SENTAC. There was discussion on how the proposed bill would affect reviewing sentencing guidelines.

Judge Carpenter opened the floor for concerns regarding the SENTAC portion of the proposed bill (Chapter 89C). There was a general consensus that this proposition was unanticipated. DOC Commissioner Phelps expressed concerns about the responsibilities that were being taken from DOC and placed on SENTAC. Commissioner Phelps also expressed concerns that the bill's terminology is inconsistent with DOC and appears to take discretionary power away from the correctional officers. There were concerns about how much will

be expected from the newly proposed Commission and whether there will be enough funding and personnel for the amount of work and research that will be required. Spencer Price (SAC) explained that the Executive Director of the Delaware Criminal Justice Council is putting together a plan of how to appropriately staff the new Commission to account for the demands, should the bill pass. There was a general opinion that the bill as written is vague and the wording does not appear to be Delaware-specific.

Judge Carpenter reviewed the first half of H.B. 4. This portion of the bill focuses on sentence modifications. There are substantial changes to § 4217, including providing defendants the opportunity to request sentence modifications themselves, eliminating the need for a recommendation from DOC. While there are good cause requirements, there were concerns that this could greatly affect the Courts due to the increase in number of petitions. There were questions posed as to why this portion of the bill was introduced. It was suggested that it is in response to costly inmate healthcare and the lack of § 4217 petitions currently being received. It was recommended that H.B. 4 be split into two separate bills; one pertaining to SENTAC guidelines and the other to Chapter 42, Title 11. The legislation is still a work in progress and Judge Carpenter will address the significant concerns with the sponsor(s).

Judge Carpenter briefly discussed House Bills 77 and 78. These relate to robbery, carjacking, home invasion, and burglary. These bills would eliminate some mandatory sentencing and would make the vast majority of drug offenses non-violent, with the exception of serious drug offenses (i.e. trafficking). Judge Carpenter also briefly discussed Senate Bills 37 and 44. S.B. 37 is expansive of current expungement law and S.B. 44 assesses a civil penalty for underage drinking.

The floor was opened for general concerns from the Commission. Commissioner Phelps expressed concerns about the impact of mandatory release and expansive expungement policies on the safety of the community. Dr. Wilson had concerns about whether victims would be represented fairly with the proposed changes to sentencing guidelines. Judge Carpenter responded that the number of petitions filed will likely increase greatly and the impact on the Courts, Public Defender's office, and Department of Correction would need to be addressed. Additionally, there is a need to implement a timeline to ensure a smooth transition for SENTAC if H.B. 4 passes.

## **2. Adjournment**

There were no public comments. The meeting was adjourned at 3:40pm.