



Governor's Advisory Council for Exceptional Citizens (GACEC)
516 West Loockerman St., Dover, DE 19904
302-739-4553 (voice) 302-739-6126 (fax) <http://www.gacec.delaware.gov>

MEMORANDUM

DATE: June 8, 2016

TO: The Honorable Members of the Delaware General Assembly

**FROM: Robert D. Overmiller, Chairperson
GACEC**

RE: Senate Substitute No. 1 for Senate Bill No. 134 (Homeless Bill of Rights)

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed **Senate Substitute No. 1 for Senate Bill No. 134** which would establish a "Homeless Individual's Bill of Rights" The Bill of Rights would provide rights to protections for individuals experiencing homelessness, including protections from discrimination while in public and while seeking access to housing, employment and temporary shelter. Council submitted the attached January 26, 2016 commentary endorsing the original version of this legislation. The main difference between the original bill and the substitute bill is the establishment of a detailed complaint resolution system. In short, an aggrieved party could file a complaint with the State Human Relations Commission for processing similar to that used for complaints filed under the Equal Accommodations Act and Fair Housing Act, 6 Del.C. Chs. 45 and 46. The legislation includes multiple references to persons with disabilities lacking stable housing (line 55 and 80) or living in institutions (lines 87-88). It would therefore seemingly benefit a highly vulnerable set of individuals with disabilities. Council **endorses** the current proposed legislation and would like to share the following observations.

First, there appear to be erroneous references to "§7803(1)" at lines 65, 68, 91, and 93. It would be preferable to change the references to "§7803" consistent with lines 164 and 167. Council would not recommend changing the references to "§7803(a)" since this could preclude filing of complaints addressing violation of §7803(b).

Second, there is an erroneous reference to §7812 in line 150. The reference is to "a civil action" but §7812 addresses criminal enforcement. Council believes the reference should be to §7811.

Third, there is an apparent transcription error at line 97. The "line out" provision merits review.

Fourth, in line 205, the word “is” should be “are”.

Fifth, lines 55-56 could be interpreted as limiting only prospectively enacted laws, ordinances, and regulations. This could result in a flurry of non-conforming enactments during the 90-day period prior to the effective date (line 256). Concomitantly, existing non-conforming laws, ordinances and regulations would be “grandfathered”. The sponsors could consider amending line 55 as follows: “No political subdivision of this State may enact or enforce any law, ordinance, or regulation contrary to subsection (a) of this section.

Sixth, line 19 contains the following recital: “Such an individual is granted the same rights and privileges as any other resident of this State.” This provision could have far-reaching consequences. For example, there are multiple public benefits programs in which State residency is an eligibility requirement. Compare, e.g., the DPH Cancer Treatment Program, 16 DE Admin Code 4203.4.0. Recognition of this effect could result in a significant fiscal note.

Seventh, the 90-day statute of limitations (lines 137-138) to file a complaint with the Human Relations Commission is relatively short. Contrast the one year statute of limitation for Fair Housing complaints [6 Del.C. §4610(a)].

Thank you for your time and consideration of our endorsement and observations. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.

Attachment