



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Lookerman St., Dover, DE 19904
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MEMORANDUM

DATE: April 4, 2014

TO: The Honorable Members of the Delaware General Assembly

FROM: Terri Hancharick, Chairperson
GACEC

RE: **Senate Bill No. 163 (Endangering the Welfare of a Child)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed Senate Bill No. 163 relating to endangering the welfare of a child. This legislation is intended to "allow prosecution for endangering the welfare of a child if the person had reason to know that the child was witnessing the crime(s)." The proposed statutory amendment is as follows:

(a) A person is guilty of endangering the welfare of a child when:

...(4) The person commits any violent felony, or reckless endangering second degree, assault third degree, terroristic threatening, or unlawful imprisonment second degree against a victim, knowing or having reason to know that such felony or misdemeanor was witnessed, either by sight or sound, by a child less than 18 years of age who is a member of the person's family or the victim's family.

Council considered two items in its discussion on the merits of this bill and would like to share the following observations.

First, consistent with Title 11 Del.C. §231, there are standard definitions of the required state of mind which apply to criminal offenses. There is no definition of "reason to know" and the term is not common in the criminal law. This may result in a lack of uniform interpretation of the term.

Second, consistent with both §231(c) and the Title 11 Del.C. §255, there is already a "reason to know" component to determination of whether a perpetrator acts knowingly. If a perpetrator is aware of a high probability that a child may be witnessing the violent crime, the "knowing" standard is apparently met.

Thank you for your time and consideration of our observations. Please feel free to contact me or Wendy Strauss should you have questions or concerns.

CC: Brendan O'Neill, Office of the Public Defender