



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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### **MEMORANDUM**

**DATE:** March 9, 2018

**TO:** The Honorable Members of the Delaware General Assembly

**FROM:** Dafne A. Carnright, Chairperson  
GACEC

**RE:** **House Bill No. 305, House Bill No. 306, House Bill No. 307, House Bill No. 308 and Senate Bill No. 146 (Juvenile Justice Legislation)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the following legislation relating to juvenile offenders: House Bill Nos. 305, 306, 307, 308 and Senate Bill No. 146. These proposed bills advance a more nuanced approach to juvenile justice in Delaware that will lead to better long term outcomes for our young people. Council **endorses** the proposed legislation and would like to provide the following observations. The legislation being addressed is as follows:

**House Bill No. 305.** This bill amends 16 Del. Code §4751B by removing juvenile adjudications from the list of "prior qualifying Title 16 convictions" that can lead to vastly increased sentences for subsequent drug offenses as an adult. Judges can continue to use juvenile sentences as a factor in adult sentences, but the juvenile convictions will no longer automatically trigger enhanced penalties.

**House Bill No. 306.** Currently, every person over the age of 15 who is in possession of a firearm during the commission of a Class B felony must be tried as an adult in the adult court system. House Bill No. 306 seeks to amend 11 Del. Code §1447A by leaving the decision to try a minor as an adult under these circumstances to the judge and also raises the age to over 16. Superior Court could choose under the proposed revision to send a case back to Family Court. It is worth noting that this discretion was given back to Superior Court last year for other felonies that were previously non-discretionary. (HB 9).

**House Bill No. 307.** This bill repeals 10 Del. Code §1009 and 11 Del Code §1448 to remove all mandatory minimum sentencing schemes for juveniles adjudicated delinquent in Family Court.

**House Bill No. 308.** This bill removes the sunset provision in House Bill No. 405 of the 148<sup>th</sup> General Assembly to allow the continuation of a program allowing the issuance of civil citations to juveniles who have committed minor misdemeanors as an alternative to arrest and the introduction of the criminal justice system.

Senate Bill No. 146. This bill seeks to amend 10 Del. Code §1017 to require the mandatory expungement of felony cases that were terminated in favor of the child.

All of the bills listed above are efforts to have the criminal code allow judges more discretion in producing appropriate sentences for juvenile offenders. The philosophy behind the proposed changes is the recognition that juveniles should not be viewed as, and treated like, adults in the criminal justice system. The bills also reflect the understanding that juveniles are not yet fully developed and do not have the same ability to control impulses and make good decisions that is expected from adults.

There are a multitude of reasons why it is good public policy to enable juvenile offenders to stay in the Family Court and juvenile justice system. Exposing juveniles to adult jails is dangerous and undermines rehabilitation efforts. The adult corrections system will not address the underlying issues that may have led to the criminal behavior exhibited by the offender, setting the juvenile offender up for a lifetime of criminal behavior when targeted treatment may lead to a better outcome. These measures will also help to address the disproportionate representation of children with disabilities and minority children in the correctional system by diverting young offenders to treatment or other more appropriate settings. As the state advisory panel for students with disabilities in Delaware, we feel it is our responsibility to support this legislation that will address the needs of many of our students with disabilities who become juvenile offenders.

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

CC: The Honorable Matt Denn, Attorney General  
The Honorable Susan L. Bunting, Secretary of Education