

J. LARRY MITCHELL
STATE REPRESENTATIVE
13th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

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House Judiciary Committee Meeting Minutes
1.25.2017

Chair Mitchell called the meeting to order at 1:03 p.m. Members present included Reps. J. Johnson, Lynn, Paradee, Potter, Outten, Spiegelman, and Wilson. Rep. Q. Johnson was also present. For a list of guests present, please see the speaker list below.

Chair Mitchell introduced **HB 48, AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUVENILE EXPUNGEMENTS**, and asked Rep. J. Johnson, the bill's prime sponsor, to speak.

Rep. J. Johnson explained that this bill fixes a drafting error in last session's SB 198 that inadvertently made it harder for juveniles to get mandatory expungements by adding the term "violent misdemeanor" as an excepting factor that would prevent a youth from receiving an expungement. He concluded by saying that he had representatives from the Delaware Office of Defense Services with him to answer any questions.

Rep. Spiegelman asked if the term "violent misdemeanor" was being removed from the entire Delaware Code, or just from this specific statute as it relates to juvenile expungement.

Rep. J. Johnson deferred to Lisa Minutola, Chief of Legal Services for the Delaware Office of Defense Services, to answer Rep. Spiegelman's question.

Ms. Minutola clarified that the bill would only remove the term from the statute regarding juvenile expungement. She added that she is an advocate for this bill, and apologized for the mistake.

Chair Mitchell opened the floor for public comment.

Tim Collins asked about children who commit crimes and are placed on the sex offender registry. He requested that the provisions of HB 48 additionally be applied in these situations so that people who commit crimes as children and are placed on the sex offender registry can have their records expunged.

Kathleen MacRae, Executive Director of the Delaware American Civil Liberties Union (ACLU), stated her support for the bill. She concluded by saying it is important for children, parents, and their families to know how to correct a mistake made by a child, and also that this bill will help children when they become adults.

Kim Siegel, Legislative Affairs Manager for the Delaware Department of Justice, said that her organization is not opposed to HB 48, but they do have some concerns. She requested that the committee table the bill so that the department would have more time to review it.

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Chair Mitchell asked Rep. J. Johnson if the Delaware Department of Justice was made aware of this bill's passage in the last General Assembly.

Rep. J. Johnson deferred to Ms. Siegel, who responded that they were made aware of it.

Rep. J. Johnson added that he would be happy to work with anyone who had issues with the bill.

Rep. Spiegelman asked Rep. J. Johnson if he could assure that if the bill passed through committee, it would not be on the House Agenda for January 26th so as to permit the Delaware Department of Justice time to continue reviewing the bill.

Rep. J. Johnson replied that the bill would not be on the House Agenda for January 26th.

Chair Mitchell requested a motion.

A motion was made by Rep. Spiegelman and seconded by Rep. Lynn to release HB 48 from committee. Motion carried. Yes - 7 (Mitchell, J. Johnson, Lynn, Paradee, Outten, Spiegelman, Wilson); No - 0; Absent - 4 (Smith, Brady, Potter, Smyk). HB 48 was reported out of committee with an F = 3, M = 6, U = 0 vote.

Chair Mitchell then introduced **HB 29, AN ACT TO AMEND TITLE 10 AND TITLE 30 OF THE DELAWARE CODE RELATING TO JUDGMENTS**, and called on Rep. Q. Johnson, the bill's prime sponsor, to speak.

Rep. Q. Johnson said that this bill was being brought forward again because it did not pass the Senate in the previous General Assembly. He explained that this bill establishes a writ of attachment of tax refunds and lottery winnings, and also provides a procedure for interception of tax refunds and lottery winnings by the Delaware Department of Finance for judgments resulting from a breach of a residential or commercial rental agreement. He said that the bill only deals with landlord / tenant agreements because of issues of legitimacy when it comes to other forms of debt, and requires the creation of a court fee in order to administer the collection of tax refunds and lottery winnings. Rep. Q. Johnson added that this legislation was the first of two parts. The court system would need to update their computer systems in order to adhere to the provisions of HB 29, so the second part would be to include a fiscal note regarding the cost of the new electronic system as well as a recommendation of how much the fee should be. He concluded by saying that he hopes the bill would not cost the State anything.

Chair Mitchell asked Rep. Q. Johnson if any other states in the region charged a similar fee.

Rep. Q. Johnson replied that while he could not think of any state in the region, Michigan charges \$5 for the process.

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Rep. J. Johnson thanked Rep. Q. Johnson for working on this and for addressing one of his concerns by rewording the bill for this session. He concluded by saying that he supported the bill.

Rep. Lynn said that he needed to disqualify himself from the vote due to a conflict of interest.

Chair Mitchell opened the floor to questions from the public.

C. Scott Kidner, on behalf of the Delaware Apartment Association, stated support for the bill.

Chair Mitchell requested a motion.

A motion was made by Rep. Wilson and seconded by Rep. Spiegelman to release HB 29 from committee. Motion carried. Yes - 7 (Mitchell, J. Johnson, Paradee, Potter, Outten, Spiegelman, Wilson); No - 0; Absent - 3 (Smith, Brady, Smyk); Disqualified - 1 (Lynn). HB 29 was reported out of committee with an F = 0, M = 8, U = 0 vote.

Chair Mitchell then introduced **HB 45, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO CONSUMER PROTECTION**. Rep. Keeley, the bill's prime sponsor, was not present, so he called on Christian Wright, Director of Consumer Protection for the Delaware Department of Justice, to speak about the bill.

Mr. Wright stated that the General Assembly passed legislation in 2010 that allowed the Consumer Protection Unit within the Delaware Department of Justice to conduct administrative hearings. However, uncertainty remained as to both the idea of personal jurisdiction and also the ability of the hearing officers to obtain evidence and testimony via subpoenas. He concluded by saying that the bill addresses these uncertainties as well as other procedural and technical changes.

Chair Mitchell opened the floor for public comment.

C. Scott Kidner, on behalf of the Central Delaware Chamber of Commerce, asked Mr. Wright if HB 45 would broaden the power of subpoena so that people living outside of Delaware could be subpoenaed.

Mr. Wright said that he believes that power was already granted to his unit.

Mr. Kidner then asked Mr. Wright if anyone from the Delaware Bar Association has had an opportunity to review this bill.

Mr. Wright presumed they did, since they historically have paid close attention to matters such as this.

Mr. Kidner asked the committee to not release the bill in order for his organization to continue reviewing it.

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Chair Mitchell asked Mr. Wright if there was any pressing need that would require HB 45 to be passed immediately.

Mr. Wright replied that there was not.

Rep. Lynn asked Mr. Wright if this bill was limited to only issuing subpoenas to people living within Delaware.

Mr. Wright replied that it was not; subpoenas could be issued for people outside of the state as long as it was both necessary and legal to do so.

Rep. Lynn asked Mr. Wright if HB 45 dealt at all with the associated costs of issuing and serving a subpoena to somebody outside of Delaware, and expressed his concerns over the lack of explanation concerning who specifically bears the costs associated with issuing and serving subpoenas outside of the state.

Mr. Wright replied that while Rep. Lynn is correct in that there are no explanations for who bears the costs, there are also no explanations in the Security Act. He concluded by saying that if a subpoena needed to be executed outside of Delaware, the only way of carrying this out would be to get a court order from the appropriate jurisdiction.

James DeChene of the Delaware Chamber of Commerce said that the bill provided no ability for someone to contest their issuance of subpoena. He concluded by saying that the bill needed additional clarifying language.

Rep. Spiegelman wanted assurance that HB 45 would not be on the House Agenda for January 26th if it was released from committee today.

Chair Mitchell replied that since the bill's prime sponsor was not currently present at the committee meeting, he was uncertain if he could do that.

Rep. Spiegelman requested HB 45 be tabled.

Mr. Wright did not object to that request.

Chair Mitchell requested a motion.

A motion was made by Rep. Spiegelman and seconded by Rep. Potter to table HB 45. Motion carried.

Chair Mitchell concluded the meeting at 1:35 p.m.

Respectfully submitted by:

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Scott Eisenhart

Speaker List:

Tim Collins – Citizen

Lisa Minutola - Chief of Legal Services, Delaware Office of Defense Services

Kathleen MacRae - Executive Director, Delaware American Civil Liberties Union (ACLU)

Kim Siegel – Legislative Affairs Manager, Delaware Department of Justice

C. Scott Kidner – Delaware Apartment Association and the Central Delaware Chamber of Commerce

James DeChene – Delaware Chamber of Commerce