

To: Delaware General Assembly

From: Developmental Disabilities Council

RE: H.B. No. 304 (Rape by Persons in Position of Trust, Authority or Supervision)

Date: February 17, 2010

The Developmental Disabilities Council has reviewed H.B. No. 304 Rape by Persons in Position of Trust, Authority or Supervision. We understand that this bill would enhance the authorized penalties for such assaults. We **strongly endorse** this bill.

The DD Council offers the following comments.

The Code [Title 11 Del.C. §770] currently characterizes the following conduct as a class C felony:

A person is guilty of rape in the fourth degree when the person:

...(4) Intentionally engages in sexual intercourse or sexual penetration with another person, and the victim reached that victim's sixteenth birthday but has not yet reached that victim's eighteenth birthday and the defendant stands in a position of trust, authority, or supervision over the child, or is an invitee or designee to a person who stands in a position of trust, authority or supervision over the child.

The bill, as amended, would not affect the elements of the above crime. Instead, it amends the Code [Title 11 Del.C. §771] to characterize the same conduct, if there is at least a 4 year age difference between perpetrator and victim, as a Class B felony:

A person is guilty of rape in the third degree when the person:

...(3) Intentionally engages in sexual intercourse or sexual penetration with another person, and the victim reached that victim's sixteenth birthday but has not yet reached that victim's eighteenth birthday and the defendant is at least 4 years older than the victim and the defendant stands in a position of trust, authority, or supervision over the child, or is an invitee or designee to a person who stands in a position of trust, authority or supervision over the child.

The difference in authorized penalty is significant. The term of incarceration for a Class C felony is up to 15 years with no minimum. The term of incarceration for a Class B felony is 2-25 years. See Title 11 Del.C. §4205(b).

Persons with disabilities are disproportionately victims of violent crimes, including sexual assaults. See attached October 1, 2009 DOJ Press Release. Since the bill would increase the authorized penalty for sexual assaults by persons in a position of trust, authority, or supervision of 16-17 year old teens, we **strongly endorse H.B. No. 304.**

Thank you in advance for your consideration of our remarks. Should you have questions please contact our office at 739-3333.

cc. The Honorable Beau Biden, Attorney General  
Victim Rights Task Force