

CHAPTER 150
FORMERLY
HOUSE BILL NO. 206

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING
TO SPECIFIC OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §761(i)(3), Title 11 of the Delaware Code by inserting after the words “from a” and before the words “mental illness” the language “cognitive disability;”.

Section 2. Amend §761(i)(3), Title 11 of the Delaware Code by inserting after the words “sexual conduct” and before the language “; or” the language “or incapable of consenting”.

Section 3. Amend §761, Title 11 of the Delaware Code by relettering subsections (a) thru (j) as subsections (b) thru (k) respectively and by adding a new §761(a) to read as follows:

"(a) 'Cognitive disability' means a developmental disability that substantially impairs an individual's cognitive abilities including, but not limited to, delirium, dementia and other organic brain disorders for which there is an identifiable pathologic condition, as well as nonorganic brain disorders commonly called functional disorders. 'Cognitive disability' also includes conditions of mental retardation, severe cerebral palsy, and any other condition found to be closely related to mental retardation because such condition results in the impairment of general intellectual functioning or adaptive behavior similar to that of persons who have been diagnosed with mental retardation, or such condition requires treatment and services similar to those required for persons who have been diagnosed with mental retardation."

Section 4. Amend §779A(e), Title 11 of the Delaware code by renumbering paragraph (3) as paragraph (5) and by adding new paragraphs (3) and (4) to read as follows:

“(3) If the underlying sexual offense is a misdemeanor and the victim is under eighteen years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child shall be a class C felony;

(4) If the underlying sexual offense is a class C, D, E, F, or G felony and the victim is under eighteen years of age and has a cognitive disability, the crime of sex offender unlawful sexual conduct against a child shall be a class B felony;”.

Approved July 10, 2009