

LAWS OF DELAWARE
VOLUME 84
CHAPTER 449
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 203

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFICIAL MISCONDUCT.

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

Section 1. Amend § 1211, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1211. Official misconduct; class A misdemeanor, class G, F, D, B felony.

(a) A public servant is guilty of official misconduct when, intending to obtain a personal benefit or to cause harm to another person, the public servant knowingly does any of the following:

(1) Commits an act constituting an unauthorized exercise of official functions, knowing that the act is unauthorized.

(2) Refrains from performing a ~~duty, or~~ duty or breaches a duty which is imposed by law or is clearly inherent in the nature of the office.

(3) Performs official functions in a way intended to benefit the public servant's own property or financial interests under circumstances in which the public servant's actions would not have been reasonably justified in consideration of the factors which ought to have been taken into account in performing official functions.

(4) Performs official functions in a way intended to practice discrimination on the basis of race, religion, color, disability, sexual orientation, sex, age, gender identity, national origin, or ancestry.

(5) Uses or relies ~~upon their~~ on the public servant's position of trust or authority to engage in criminal conduct.

~~Official misconduct is a class A misdemeanor.~~

(b) Official misconduct ~~shall be~~ is punished as follows:

(1) For a violation of ~~either paragraph (a)(1) or (a)(2) of this section the offense shall be~~ section, a class A misdemeanor.

(2) For a violation of paragraph (a)(3), (a)(4), or (a)(5) of this ~~section the offense shall be~~ section, a class G felony.

(3) ~~Official misconduct is a~~ A sentence is enhanced for a violation of paragraphs (a)(1) through (a)(5)
of this section as follows:

a. ~~A class F felony where~~ felony, if the value of the personal benefit received, or the harm caused,
is \$1,500 or ~~more.~~ more, but less than \$50,000.

b. ~~(4) Official misconduct is a~~ A class D felony where felony, if the value of the personal benefit
received, or the harm caused, is \$50,000 or more, but less than \$100,000.

c. ~~(5) Official misconduct is a~~ A class B felony where felony, if the value of the personal benefit
received, or the harm caused, is \$100,000 or more.

d. ~~(6) Official misconduct is a~~ A class F felony where felony, if the harm caused is physical injury,
or the public servant engages in conduct constituting an offense ~~which~~ that is punishable as an unclassified
misdemeanor, a class B misdemeanor, or a class A misdemeanor.

e. ~~(7) Official misconduct is a~~ A class D felony where felony, if the harm caused is serious
physical injury, or the public servant engages in conduct constituting an offense ~~which~~ that is punishable as
a class G felony, a class F felony, or a class E felony.

f. ~~(8) Official misconduct shall be~~ One grade higher than the underlying offense where offense,
if the public servant engages in conduct constituting an offense ~~which~~ that is punishable as a class D felony
or a class C felony.

g. ~~(9) Official misconduct shall be a~~ A class A felony where felony, if the public servant engages
in conduct constituting an offense ~~which~~ that is punishable as a class B felony or a class A ~~felony~~ felony,
or ~~where~~ if the harm caused is death.

(c) The Superior Court has exclusive jurisdiction over a violation of this section.

Approved September 26, 2024