

DEBRA J. HEFFERNAN  
STATE REPRESENTATIVE  
6<sup>TH</sup> District



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

COMMITTEES  
Natural Resources, Chair  
Health & Human  
Development, Chair  
Appropriations  
Education  
Joint Finance  
Veterans Affairs

**House Health and Human Development Committee Meeting Minutes**  
6.22.16

Chair Heffernan called the meeting to order at 12:15 p.m. Members present included Vice-Chair Bentz and Reps. Hensley, Jaques, Briggs King, Miro, Osienski, Dukes, Kowalko, Yearick and Bolden.

Rep. Potter introduced **HB 427, AN ACT TO AMEND TITLES 11, 16 AND 22 OF THE DELAWARE CODE RELATING TO DOGS**. He stressed that all dogs have personalities, and that individual dogs should be judged individually, not by their breed. He explained that often dogs are discriminated against because certain breeds are seen as being more dangerous than others, even though all dogs in a breed do not act the same. He introduced Hetti Brown, Director of the Delaware Office of Animal Welfare, to share her insight with the committee.

Ms. Brown shared that in 2015, there were 1,487 dog bites reported to the Division of Public Health (DPH) in Delaware. Of the 900 or so reports that included breed information, over seventy-five breeds were listed, and there are an estimated 160,000 dogs in Delaware. The Office of Animal Welfare enforces laws consistently regardless of breed, and solely based on the actions of the dog, as well as the dog owner. Breed-specific ordinances are not effective ways to keep people safe because the Office does not have the resources to genetically test dogs to enforce those ordinances. She suggested other methods, such as strict leash laws, to keep people safe. The majority of dog bites reported are from dogs running at large.

Rep. Hensley asked whether the municipalities have been tasked with enforcement to this point.

Rep. Potter replied that the City of Wilmington has been.

Ms. Brown clarified that the Office of Animal Welfare is handling cases statewide as of July 1<sup>st</sup> of last year.

Rep. Hensley asked if this bill would preclude municipalities from doing any type of enforcement.

Rep. Potter replied in the affirmative.

Rep. Dukes asked if Rep. Potter has heard any feedback from any municipalities.

Rep. Potter replied in the negative.

Chair Heffernan asked if Ms. Brown had heard any feedback from other cities.

Ms. Brown said she has only heard from the City of Wilmington because the City of Wilmington has had breed-specific ordinances for twelve years, but reversed them last year after seeing that they were ineffective.

Rep. Potter spoke in recognition of those who have been bitten by dogs in the past, but he stressed the importance of giving dogs a chance to prove themselves as they all have different personalities.

Rep. Dukes asked if any towns had a problem with the legislation. Ms. Brown said there were no towns that reached out with concerns.

Rep. Bolden noted that Councilman Brown, from the City of Wilmington, was in attendance and asked if he could share his thoughts on the legislation. She asked if Rep. Potter could give Councilman Brown a summation of the bill so he could share his opinion of it.

Rep. Potter said that the City has already reversed the breed-specific law that it had, and that the City has been on board with this legislation.

Rep. Osienski asked if a local government or municipality found itself in a specific breed situation, would officials need to go to the Division of Public Health.

Ms. Brown said that the Division provides enforcement for municipalities that request it. She noted that Newark and Dover are exceptions, but can still receive assistance.

Rep. Briggs King mentioned it may make more sense to have cases heard by the Justice of the Peace instead of just a panel.

Councilman Todd Ruckle from the City of Newark spoke about his love for dogs, but as a councilman he took an oath to protect the public and defend the Constitution. He argued that pit-bulls are bred to fight, and that they can end up in homes of families in the state who are unaware of this fact. He likened dogs to motor vehicles, arguing that they should be regulated to protect the public, just like laws regulate motor vehicles. He questioned giving a proper trial, and brought an example for impounding cars, then having trials, not vice versa. He expressed his dissatisfaction over not being notified of the bill earlier.

Patrick Carroll is the Executive Director of the Delaware Humane Association, which was the only organization that registered pit-bulls when the legislation was in place. Now that the legislation has been lifted, a few issues have started. He expressed that lifting the law has helped increase adoptions of pit-bull mixes. He said that one of the biggest barriers to adoption of pit-bulls are breed-specific laws, such as having to register the dogs or have them wear muzzles in public. He added that one of the other biggest barriers to adoption is breed-restrictive landlord policies. He stated that the Delaware Humane Association is in support of the legislation because it will help more dogs to be adopted.

A motion was made by Rep. Briggs King and seconded by Rep. Bolden to release HB 427 from committee. Motion carried. Yes — 9 (Heffernan, Bentz, Bolden, Briggs King, Dukes, Kowalko,

Miro, Osienski, Yearick). Not Voting — 1 (Hensley). HB 427 was reported out of committee with an F=1, M=9, U=0 vote.

Rep. Longhurst introduced **SB 265, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO A STATEWIDE STROKE CARE SYSTEM**. SB 265 establishes an Inclusive Statewide Stroke Care System to improve stroke care and survival in Delaware. The first six hours after someone has a stroke are crucial. This bill would require the Secretary of Health and Social Services to designate different stroke care centers as acute, primary, or comprehensive stroke centers.

Dr. Valerie DeChant highlighted that it takes only six hours for it to be too late for stroke victims. The bill pulls together experts to make it easier for patients to be brought to the right location at the right time for proper treatment. She asserted that working to put more data together and available makes it easier to heal patients.

Rep. Longhurst spoke of how her niece who has cerebral palsy had a stroke and was left unable to walk because of it. She would have been walking today had the stroke been diagnosed earlier.

Rep. Briggs King noted that strokes are the fourth-highest leading cause of death, and that the clock starts ticking for a stroke victim immediately. In the moment, it can be difficult to decide where the best facility is for a stroke victim. She shared a personal story, saying that her mother had a stroke, and Rep. Briggs King knew to go to the best facility, not the closest facility. Thus, she ensured her mother received the proper treatment in time. Her mother made a full recovery.

Dr. Sivapatham, a stroke therapy specialist, said that “time is brain” and shared that arteries need to be operated on immediately after a stroke happens. The new stroke treatment, mechanical thrombectomy, is only offered at comprehensive stroke centers. He shared a story of one of his patients, Miranda, who was a young healthy woman when she had a stroke. If she had had gone to an unequipped facility, she would not be able to walk today.

Michele Dohner, a stroke victim and survivor, said that when she had a stroke in 2012, she received fast and immediate care. She argued that every Delawarean who has a stroke deserves the opportunity to have rapid treatment like she had. She stressed that it can be the difference between a lifetime of freedom, as well as ability or irreversible disabilities.

Christine Schultz, representing Christiana Care, shared their support for the legislation. Bringing the stakeholders together, establishing statewide standards and coordinating for stroke care is the best way to offer the treatment needed to stroke victims.

Drew Wilson, representing the Medical Society of Delaware, shared the organization’s support of the bill and urged the committee to the release the bill.

Dr. Sandra Gibney, an emergency room physician representing St. Francis Hospital, shared that St. Francis Hospital is the only hospital in New Castle County other than Christiana Care. She said that St. Francis Hospital has some issues with the bill. They do not think that there is an issue right now with stroke treatment. St. Francis is an acute stroke treatment center, and the only comprehensive stroke treatment center in the state is Christiana Care. Their concern is that this

legislation would take St. Francis off of the map for stroke victim care. She said that only one to four percent of stroke victims would be medically qualified to have the mechanical thrombectomy treatment, the other 96-99 percent would be fine with the normal procedure.

A motion was made by Rep. Dukes and seconded by Rep. Hensley to release SB 265 from committee. Motion carried. Yes — 10 (Heffernan, Bentz, Bolden, Briggs King, Dukes, Hensley, Kowalko, Miro, Osienski, Yearick). SB 265 was reported out of committee with an F=0, M=10, U=0 vote.

Rep. Smith introduced **HB 433, AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES**. Rep. Smith explained that the legislation was intended to start a conversation about the issue of caregiver turnover. The bill would mandate an increase in the rates paid according to the Instrument for Client and Agency Planning (ICAP) assessment, so that by the year 2020; Delaware would achieve funding providers at 100% of the market rate. ICAP is used by the Division of Developmental Disabilities Services to determine the number of support hours and the funds provided to direct support professionals. Studies have found that these professionals are underfunded by over 37 million dollars, or 25 percent. She recognized that the fiscal note, though not finalized, will be large, but stressed that the need is there due to the fact that direct support professionals are grossly underfunded. It is difficult for someone to continuously let a new caregiver into their lives, which is why it needs to be easier for professionals to provide for themselves by working full-time in the field, not working two or three jobs and using food stamps.

Rep. Hensley thanked Rep. Smith for bringing the issue to their attention. He asked when ICAP started and how much the assessment has increased since that date.

Rep. Smith clarified that ICAP began to be used in 2004 and that she would follow up with him to answer the second question. She did know that three years ago one million dollars was put towards what the state owed.

Rep. Hensley replied that since then the cost of providers' care has jumped.

Rep. Smith agreed, and expressed that legislation should be written to periodically adjust pay.

Rep. Yearick asked what the job titles are for the positions affected by this bill.

Rep. Smith replied that they are direct support professionals, but that she would ask members of the public who plan to speak to answer the question as well.

Rep. Yearick asked what the training is like for those jobs.

Rep. Smith deferred to the providers to answer that question.

Rep. Yearick asked if the larger portion of the fiscal note would go to paying health insurance claims for employees, for the state paying for more professionals, or the state actually paying for more services.

Rep. Smith answered that it is the latter.

Rep. Yearick asked if she is expecting any increase in the cost of care.

Rep. Smith said that they are not state employees, but rather contracted employees who work for organizations and non-profits. Money provided would be going directly to non-profits to help to continue the care. The state gives a lump sum to the organizations to continue the care based off of the ICAP level, which is where the gap is.

Noel Olson, a support professional for Autism Delaware, mentioned that there are issues with health insurance coverage. She explained that some workers are on Medicaid because the salary they make is not enough to cover their health care costs. She mentioned that it is demoralizing to have to take Medicaid even if they work hard. Despite working full time and multiple jobs, many still cannot make ends meet.

Thomas Cook from the Ability Network of Delaware said that his organization supports the bill. He referenced a study from 2014 that showed a pay rate of \$12.75 as a goal to reach. All costs are described as a percentage of that wage. Because they are not close to achieving that rate, not only are the wages low, but the cost of delivering the services is underrepresented as well.

Verna Hensley from Easter Seals said that pay would be reset every three years, but it has not been reset in over thirteen years. She used Dory, from the Finding Nemo franchise, to describe what it would be like to have an adult child who needed help like Dory. Her full testimony can be found at the end of these minutes.

Mickey Edelson from Homes for Life stated her organization's support for the bill. She said that this bill is about broken promises. Through Homes for Life, she has been able to raise money for 25 homes. She feels responsible for the residents of those homes. Direct support professionals should be treated fairly and should not need food stamps or second jobs to make ends meet. She thanked Rep. Smith for bringing the legislation forward.

Kim Harmon brought her son who has autism and epilepsy. She explained that the professionals, who work with her son, as well as other children, need to be well trained and deserve to be treated, as well as compensated as professionals.

Cynthia Campbell, a member of Families Speaking Up, said that all persons with disabilities should be integrated into the community as much as possible. She shared that their direct support professional is a single mother on Medicaid who supports her mother as well. She asked the committee to support these professionals and the legislation.

Jamie Wolfe spoke on behalf of herself and her attendants who care for her. She informed the committee that the bill only affects those with developmental disabilities, not others with other types of disabilities. She said she thinks the bill should cover all disabilities, not just developmental ones.

Vivian Turner, Executive Director for CERTS, Inc., spoke about the importance of this bill. She noted that programs like the ones run out of her organization are underfunded by twenty percent,

that is an estimated \$300,000 that could go towards supporting direct support professionals. She distributed written testimony to the committee which can be found at the end of the minutes.

Rep. Briggs King, and Rep. Miro thanked Rep. Smith for bringing the issue forward, expressing their full support for the legislation.

A motion was made by Chair Heffernan and seconded by Rep. Yearick to release HB 433 from committee. Motion carried. Yes — 9 (Heffernan, Bentz, Briggs King, Dukes, Hensley, Kowalko, Miro, Osienski, Yearick). Absent — 5 (Bolden, Jaques, Lynn, Matthews, Q. Johnson). HB 433 was reported out of committee with an F=0, M=8, U=0 vote.

Vice-Chair Bentz introduced **SB 192, AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO CONTROL OF HEALTH CARE SUPPLIES**. This bill expands the distribution ability of the Division of Public Health, enabling it to meet requirements set by the Center for Disease Control. It would allow unlicensed people to assist in distributing critical medications in the case of a statewide emergency.

Rep. Hensley asked why the legislation was created.

Jamie Mack from the Division of Public Health (DPH) explained that this would allow the Division to better respond to extreme emergencies and to open distribution centers.

Rep. Yearick asked for clarification on what an extreme situation could be.

Mr. Mack cited pandemic flus or acts of terrorism as examples.

Kevin Musto, representing the DPH, cited anthrax attacks as the main concern this legislation addresses. The Center for Disease Control and Prevention (CDC) has guidelines for dealing with statewide attacks that require rapid distribution of vaccinations.

Rep. Briggs King inquired about the stockpile mentioned in the legislation.

Mr. Musto said that stockpile dissemination would take place across the counties. There is another stockpile that would be available within twelve hours.

A motion was made by Rep. Briggs King and seconded by Rep. Yearick to release SB 192 from committee. Motion carried. Yes — 7 (Heffernan, Bentz, Briggs King, Kowalko, Miro, Osienski, Yearick). Absent — 7 (Bolden, Dukes, Hensley, Jaques, Lynn, Matthews, Q. Johnson). SB 192 was reported out of committee with an F=0, M=8, U=0 vote.

Rep. Kowalko introduced **HB 366, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO A PATIENT'S RIGHT TO KNOW ALL THEIR HEALTH CARE OPTIONS**. This bill balances the religious liberty of health care providers with the health care rights of their patients, requiring religious health care providers to determine patient care that will inform health insurance companies of alternative options.

Rep. Yearick asked what brought forth this legislation.

Rep. Kowalko said that it was brought forward from constituents who wanted to be made aware of their medical options earlier on, while allowing providers to practice their religious beliefs.

Glen Schmiesing, representing himself, explained that tubal ligations procedures are not allowed under some providers' policies.

Rep. Kowalko said that the idea is to have the patient know their rights while preserving the rights of the provider to act as they see fit.

Rep. Yearick asked what feedback he has received from providers.

Rep. Kowalko responded that he has not received feedback, but that the question may be addressed during public comment.

Mr. Schmiesing shared his support for the bill. His friends who wanted to have tubal ligations performed after giving birth were informed in the hospital that the procedure is not performed due to religious beliefs. He said his friends should have known earlier that this was the case. He urged the committee to release the bill.

Wayne Smith, President and CEO of the Delaware Healthcare Association, said the legislation comes from an atheist organization and does not appear to have passed in any other state. Mr. Smith said the bill is intrusive and would require hospitals to publish lists of procedures on their websites. He found issue with the inclusion of the word "philosophy," which would encompass a lot of institutions and procedures based on clinical philosophies. Acupuncture, alternative medicine and cancer treatment are all examples of different medical philosophies.

Joe Fitzgerald, representing Highmark Delaware, said that this bill would contribute substantial administrative burden. The healthcare provider lists are put together based on federal regulations. The bill is unclear on the frequency and medium required to notify patients of treatment options. His organization would like to see the language in 1205 b stricken or amended with suggestions.

Rep. Kowalko expressed disappointment that members of the medical lobby would suggest that this legislation is part of an insidious plot to attack religious freedoms.

Chair Heffernan expressed interest in hearing what the Delaware Medical Society's thoughts were on the legislation.

Rep. Kowalko assured her that he did not intend to move the bill forward rapidly and asked if the bill could be released from committee.

A motion was made by Rep. Osienski and seconded by Rep. Kowalko to release HB 366 from committee. HB 366 was later reported out of committee with an F=1, M=7, U=0 vote.

Rep. Smyk introduced **HB 415, AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SANITARY CONTROLS**, which was created to address prostitution that was occurring in massage parlors. He said there was support for the bill from the state police

who have been brought in to address these issues from around the state of Delaware. The bill would allow the state to target the location instead of the act of prostitution.

Deborah Gottschalk, from the Department of Health and Social Services, said it would be a new responsibility for them to start licensing massage providers. She was unclear on how they could establish standards that would address human trafficking. They could establish standards for hygiene but she was unsure how else they could address the issue.

Julie Johnson, representing the Delaware Department of Justice, explained that targeting the women through law enforcement is not an efficient solution. Trafficked women are often moved around every few weeks and so it is difficult to have them testify.

Rep. Smyk said that this bill will not create a need for further funding or staffing. The bill requires an inspection upon receipt of a complaint. There are an estimated three to six complaints per year, which would easily be absorbed. The bill focuses on the business center of the issue, not the women being trafficked.

Rep. Briggs King asked what the current laws regarding licensing of massage parlors are.

Rep. Smyk replied that David Mangler, Director of the Division of Professional Regulation, has agreed to tighten regulations in the field.

Director Mack said that DPH cannot regulate the profession, but it can regulate the building.

Chair Heffernan asked if the legislation is needed to allow DPH to enter these facilities to inspect them.

Director Mack replied in the affirmative.

Rep. Smyk shared an example of an establishment in Dover where condoms were being flushed down the toilets. This was a septic violation and so the city was able to close the establishment.

Director Mack used nail salons as an example, explaining that if a nail salon does not have proper ventilation DPH can inspect and issue a violation. This legislation would give DPH the authority to act similarly with massage parlors, an authority that does not currently exist.

A motion was made by Rep. Briggs King and seconded by Rep. Yearick to release HB 415 from committee. HB 415 was later reported out of committee with an F=0, M=8, U=0 vote.

Chair Heffernan adjourned the meeting at 2:02pm.

Respectfully submitted by:

Madinah Wilson

## Speakers List

Hetti Brown, Director of the Delaware Office of Animal Welfare  
Todd Ruckle, Councilman for the City of Newark  
Patrick Carroll, Executive Director of the Delaware Humane Association  
Valerie DeChant, doctor at Christiana Care  
Thinesh Sivapatham, doctor at Christiana Care  
Michele Dohner, stroke survivor  
Christine Schultz, Christiana Care  
Drew Wilson, Medical Society of Delaware  
Sandra Gibney, doctor at St. Francis Hospital  
Noel Olson, Autism Delaware support professional  
Thomas Cook, Ability Network of Delaware  
Verna Hensley, Easter Seals  
Mickey Edelson, Homes for Life  
Kim Harmon, parent  
Cynthia Campbell, Families Speak Up  
Jamie Wolfe, advocate  
Vivian Turner, Executive Director for CERTS, Inc.  
Jamie Mack, Division of Public Health  
Kevin Musto, Division of Public Health  
Glenn Schmeising, Delawarean  
Wayne Smith, President and CEO of the Delaware Healthcare Association  
Joe Fitzgerald, Highmark Delaware  
Deborah Gottschalk, Department of Health and Social Services  
Julie Johnson, Delaware Department of Justice

HB 427 Testimony from Todd Ruckle (appears in **bold** and underlined)

Here is a new law proposed that is getting ready to be voted on in the House and Senate which sounds like it is protecting humans from dangerous dogs; however, in some cases it is actually protecting the dangerous dog. It is saying if a child pets (menaces) that means the dog is legally provoked and cannot be deemed dangerous. Only unprovoked dogs are dangerous. They neglected to show the changes from the current law to the new law. The old law was much stricter on protecting humans and other animals.

This law is also taking all local rights away from municipalities including Newark from making laws stronger than state law to protect its local citizens. I cannot think of one time the state infringed on local rights? Can anyone else?

I personally will always side on human life in all cases. I took an oath to protect the public when I took my office. I am sad to see legislation that does not follow our Constitution and puts special interest above human life.

HOUSE BILL NO. 427

WHEREAS, the State of Delaware Office of Animal Welfare has created Delaware Animal Services, an animal control enforcement unit charged with enforcing all animal control laws in the State; and

WHEREAS, the Delaware Code provides a uniform definition for determining whether a dog should be considered a "dangerous animal" based on behavior; and

WHEREAS, the public welfare is best served by consistent application of the law throughout the State of Delaware;

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 1327 Maintaining a dangerous animal; class E felony; class F felony; class A misdemeanor.

(a) A person is guilty of maintaining a dangerous animal when such person knowingly or recklessly owns, controls or has custody over any dangerous animal which causes death, serious physical injury or physical injury to another person or which causes death or serious injury to another animal.

(b) For the purposes of this section, "dangerous animal" means any dog or other animal which:

(1) Had been declared dangerous or potentially dangerous by the Dog Control Panel pursuant to subchapter III of Chapter 17 of Title 7 by a Justice of the Peace Court pursuant to subchapter V of Chapter 30F of Title 16;

Dogs are not human and we cannot waste our court system for these types of personal property issues. Dogs have no constitutional rights. In dangerous dog situations, we need

**immediate action and should not wait months before a trial. This is a law enforcement decision and it must be made immediately to protect the public.**

(2) Had been trained for animal fighting, or that has been used primarily or occasionally for animal fighting;

(3) Had been intentionally trained so as to increase its viciousness, dangerousness or potential for unprovoked attacks upon human beings or other animals; or

(4) Has an individualized and known propensity, tendency or disposition, specific to the individual dog, for viciousness, dangerousness or unprovoked attacks upon human beings or other animals.

**This section opens the doors for saying petting a dog means provoked, it was the child's fault they were injured**

(c) No dog shall be considered dangerous or potentially dangerous solely because of the dog's breed or perceived breed.

**Large breeds of dogs are higher risk and inflicted more bodily harm than any other small breeds, most insurance companies will not insure several large breed of dogs that have killed humans or inflicted major bodily harm. This clause may actually be used to later limit the insurance companies risk assessments which would either make them raise rates or not insure in the State of Delaware costing us all more money**

(f) (g) In any prosecution under this section it shall be an affirmative defense (means not guilty) that at the time of the attack during which physical injury or death was inflicted upon an animal:

(1) The animal which was injured or killed had entered onto the real property of the owner or custodian of the dangerous animal without permission;

(2) The animal which was injured or killed had provoked the attack by menacing, biting or attacking the dangerous animal or its owner or custodian; or

**This means if your dog is on a leash across the street and is barking at another dog on the other side of the street and the other owner lets their dog go and it kills your dog, it is your dog's fault for its own death for menacing.**

(3) The owner or custodian of the dangerous animal was in full compliance with the applicable provisions of subchapter III of Chapter 17 of Title 7 subchapter V of Chapter 30F of Title 16, including the requirements pertaining to confinement, restraint and muzzling.

**This clause does not make sense because if an owner was following all laws there could not be an animal death? If someone can think of a situation where this could happen, let me know.**

Section 2. Amend Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 3077F. Finding to declare a dog potentially dangerous; duties of owner.

(a) The Justice of the Peace Court may declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog has done any of the following:

**This is the power of law enforcement to declare an animal dangerous. When did dogs become humans? Dogs do not get trials, they are personal property. This type of determination does not belong in our court system. Dogs are not humans. They do not get attorneys. They are not presumed innocent?**

(1) Attacked or inflicted physical injury upon a human being.

(2) Attacked or inflicted serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner.

**So is a dangerous dog goes and kills livestock, does that mean the farmer is not out any money?**

(3) Chased or pursued a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack on 2 separate occasions within a 12-month period.

**So this means a dog must escape their property 2 times in 12 months and chase or injury our children before be marked as dangerous. The old law was much stricter. This law should read "Anytime a dog chases someone they are dangerous. No exceptions." We have dogs get out all the time in our neighborhood and none are chasing my kids. Protect the public**

(b) No dog may be declared potentially dangerous based solely on the dog's breed or perceived breed.

**Large breeds need to be considered higher risk. I have a German Shepherd and I know if he was not trained he could inflict or kill a child. He is higher risk.**

Section 3. Amend Chapter 1, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 116. Dogs.

The municipal governments shall enact no law, ordinance, or regulation relating to dogs, or restrictions on dogs, based on a dog's breed or perceived breed.

**This is the icing on the cake. The city of Newark residents decide how we want to regulate ourselves. We have our own animal control. Just the City of Newark and City of Dover have their own animal control. Our tax dollars pay for this service and we do not rely on any state or county money to regulate animals. If the City Council feels that anything is a danger to our citizens, it is our oath to protect them. This clause is a direct violation of that oath.**

## SYNOPSIS

This bill provides Statewide consistency of the law that protects the public welfare from dangerous dogs and clarifies that dogs may not be held potentially dangerous or dangerous for animal control enforcement or for purposes of criminal liability based solely on breed-specific criteria. Findings to deem a dog dangerous will be based on actions of the dog, or an individualized demonstration of vicious behavior. It also prohibits municipalities from enacting breed-specific ordinances or regulations.

The bill deletes references to the Dog Control Panel replaced with reference to the Justice of the Peace Court procedure laid out in Chapter 30F of Title 16. The bill also removes the inconsistent language regarding animal fighting criteria from Title 11 to correspond with the removal of that criterion from the Title 16.

**All of us can agree to the end of dog fighting, However it is clear that a few extreme minorities in our government are doing everything it can to take local authorities from regulating animal control along with making dogs equal to humans. Thus having Court trials wasting countless tax dollars for something a police officer can determine in seconds. It is our job to protect the public, I just wish the office of Animal Control would protect citizens first.**

**Human lives matter!**

Health and Human Services Committee  
Testimony Submitted by Verna Wilkins Hensley  
Easter Seals Delaware & Maryland's Eastern Shore  
June 22, 2016

Thanks for the opportunity to comment on House Bill 433. I commend and thank Representatives Melanie Smith and Debra Heffernan for holding this hearing. Although we realize the challenging circumstances of the State budget will make tackling this issue unfeasible this year, I think it's important to highlight a critical situation that is impacting Delawareans with intellectual disabilities.

How is it possible that there is a \$39 million deficit in funding for services for adults with developmental disabilities in Delaware?

A brief and greatly condensed history lesson: For decades throughout the country, people with intellectual disabilities were segregated in institutions operated by States, based on the belief that people with developmental disabilities were incapable of participating in a life in the community. Children were sent to state institutions and excluded from public schools. In Delaware, people with intellectual disabilities were sent to the Stockley Center in Sussex. Slowly this began to change, in part due to actions ordered by the Courts.

As deinstitutionalization progressed and Delaware looked to move people with intellectual disabilities out of the Stockley Center, nonprofit providers were asked to develop programming that would allow these individuals to receive services in the community, including adult day and employment programs like those at Easter Seals, and also residential housing.

Why did the State look to outsource services to nonprofit providers? I believe it was in order to serve the individuals in their community at a lower cost to the State and a higher quality of life for the people served.

In 2004, a 'rate of reimbursement' was established to be reflected in a contract between the State and the service providers, with the promise that the rates would be reviewed and 'rebased' or adjusted every three years. The rate system was based on an average direct care staff wage which would be adjusted upwards with each "rebasings" of the rate.

I don't think it's an exaggeration to say that the state's promise has been broken. This "rebasings" of the rates has never occurred. Rates have been virtually stagnant, with only very minor increases, of less than 5% total over the last 13 years. As recently as 2010 epilogue language in the State Budget calling for rebasing was ignored.

Though funding has lagged, the provider's costs of care have steadily climbed, including wages for direct support staff, the cost of health care benefits, utilities, Worker's Compensation insurance, transportation and other costs of business. Multiple years without reimbursement rate increases as the cost of providing the care has increased has resulted in the \$39 million gap in funding.

The partnership between the State and nonprofit service providers makes good business sense but it is in serious trouble. Clearly, if disability service providers falter, the disruption on the lives of thousands of Delawareans with intellectual disabilities and their families could be severe.

### "Funding Dory"

Let me conclude with a somewhat whimsical illustration that has started an interesting conversation nationally about what's required to care for those with cognitive challenges.

Dory is a delightful little fish that is swimming its way into the hearts of millions across the country. If you've seen "Finding Dory" or its predecessor "Finding Nemo", you know that Dory has severe short-term memory loss causing her to promptly forget something she just heard within minutes --sometimes seconds -- of hearing it.

As delightful as Dory is, it's clear that she needs a lot of help from her family and her friends just to survive, even in the magical world of Disney. Dory gets lost a lot, sometimes wandering into dire situations of great danger.

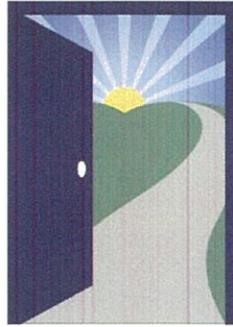
Imagine what it would be like to care for Dory every single day, every day of her life. Imagine if your child lacked the full capacity to understand what is safe and what is not - - when to cross the street and when not to -- who to trust and who not to trust. Imagine if your loved one needed assistance to complete basic tasks, like dressing, bathing, feeding, etc. Does everyone served through the Division of Developmental Disabilities require such an intense level of care? No, the support needs are widely varied, but everyone deserves the opportunity to reach their highest potential for independence and to be treated with dignity.

If this were your situation, who would you want to care for and support your loved one? What type of worker would you want to help them learn more independent skills; prepare them to find and maintain a job or for those with more intense challenges, keep them safe from harm?

Do you want someone who's been adequately trained? Do you want someone who stays in the position long term so as to prevent disruption in your loved one's life? Would you want someone whose earning an adequate salary so that while they're caring for your son or daughter, they don't have to think about the second job they have to go to later that day.

Yes, I believe you would. That's why -- though this legislation will not be approved this year -- it's time for a serious look at the consequences of a \$39 million deficit in funding.

Thank you.



**C·E·R·T·S**

*Collaborative Effort to Reinforce  
Transition Success*

**TESTIMONY OF VIVIAN J. TURNER, MPA  
BEFORE THE JOINT FINANCE COMMITTEE**

**June 22, 2016**

Senator McDowell, Representative Smith and Members of the Committee thank you for allowing me to appear before you regarding House Bill 433.

My name is Vivian Turner, and I am the Executive Director of C.E.R.T.S., Inc. (Collaborative Effort to Reinforce Transition Success, Inc.) a day habilitation program which will celebrate its 10<sup>th</sup> anniversary this coming October. The mission of C.E.R.T.S. is **to enrich the lives of adults with multiple, severe disabilities and, in turn, their families through an active, personalized day program.**

The DDDS report published in 2014 indicated that day programs were funded at 80% of the cost of actual service provision in Delaware. Attached to my testimony today is a spreadsheet outlining how the funding gap is affecting our agency on an annual basis. Should this legislature pass, these funds will be available for the benefit of participants like those served at C.E.R.T.S., Inc.

Our FY2016 budget was \$1.4 million. An additional \$300,000 would be a 21.4% increase in our budget. I can't speak for the other agencies, but the majority of that funding would go to hire additional direct support staff at our agency. The dirty little secret people don't want to discuss is that the difference between what it costs to do business and what we are reimbursed almost always translates into loss of human capital.

The fact is, even though we privately raise 8-9% of our income above the state contract, I had to cut over \$100,000 out of our budget for FY16 just to break even. With the waiver coming, I know that gap will grow. I therefore respectfully ask the JFC to consider this bill.

Vivian J. Turner, MPA  
Executive Director  
C.E.R.T.S., Inc.  
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**What the funding gap looks like at C.E.R.T.S., Inc.**

	No. of People	Current Hourly Rate	Proposed Hourly Rate*	Difference per hour	Deficit per day per person	Annual Deficit per person**	Annual Deficit to agency
Day Program - Facility Based***	35	\$24.85	\$31.03	\$6.18	\$ 42.95	8,453	\$ 295,846
Day Program - Community Based****	1	\$23.03	\$31.52	\$8.49	\$ 46.70	8,041	\$ 8,041
Total unfunded costs this year							<b>\$ 303,887</b>

**The funding gap is more than \$300,000 in FY2016 alone, but it has been an issue for many years prior.**

**What the lack of funding means for the people we serve:**

1. Fewer staff - this is our biggest need due to the severity of the disabilities of our participants
2. Decreased morale among staff - we weren't able to give raises to our staff last year, no Christmas party or bonus
3. Increased risk of injury due to fewer staff or staff turnover
4. Inability to purchase needed equipment - such as assistive technology and mobility items

\*From January 2014 DDDS commissioned study on the cost to provide this service in Delaware.

\*\*Assuming 80% attendance facility based, 70% for community based, from experience

\*\*\*The Facility based program has an average ICAP rate of 6.95 hours/day/person

\*\*\*\*This is a pilot program we are trying with one individual and a 1:1 staff person at 5.5 hr ICAP rate