



SPONSOR: Rep. Ennis & Rep. Wagner & Sen. Vaughn ;  
Reps. Blakey, Brady, Carey, Ewing, Johnson, Keeley,  
Kowalko, Longhurst, Manolakos, McWilliams, Mitchell,  
Mulrooney, Outten, Plant, Schooley, Schwartzkopf, B.  
Short, D. Short, Stone, Thornburg, Viola, Walls,  
Williams; Sens. Peterson, Simpson, Still

HOUSE OF REPRESENTATIVES  
144th GENERAL ASSEMBLY

HOUSE BILL NO. 251

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO VOLUNTEER FIREFIGHTERS.

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

1 Section 1. Amend Chapter 66, Title 16 of the Delaware Code by adding thereto a new subchapter to read:

2 "Subchapter IV. Volunteer Firefighters

3 §6646. Definitions.

4 'Member' means a volunteer firefighter of a Delaware volunteer fire department, as certified by the Delaware State  
5 Fire Prevention Commission.

6 §6647. Membership requirements for volunteer firefighters.

7 (a) An applicant for membership in a Delaware volunteer fire department who has been convicted of or, had he  
8 or she been charged as a juvenile, adjudicated delinquent of any of the following crimes is prohibited from serving as a  
9 firefighter in this State:

10 (1) a felony involving sexual misconduct where the victim's failure to affirmatively consent is an  
11 element of the crime, such as forcible rape;

12 (2) a felony involving the sexual or physical abuse of a child or of an elderly or infirm person, such as  
13 sexual misconduct with a child, sexual exploitation of a child, making or distributing child  
14 pornography, incest involving a child, or assault on an elderly or infirm person;

15 (3) a crime in which the victim is an out-of-hospital patient or a patient or resident of a healthcare  
16 facility, including abuse, neglect, or theft from or financial exploitation of a person entrusted to the  
17 care or protection of the applicant;

18 (4) arson in the third, second, or first degree; reckless burning or exploding; cross or religious symbol  
19 burning; or any crime in which the applicant intentionally or recklessly started a fire or caused an  
20 explosion, or attempted or conspired to do so;

21 (5) a law of another state, territory, or jurisdiction which is the same or equivalent to the offenses  
22 described in paragraphs (1) through (4) of this subsection.

23 (b) Membership in a Delaware volunteer fire department must be denied if the applicant has been convicted or,  
24 if he or she was charged as a juvenile, has been adjudicated delinquent of any of the following crimes, except in  
25 extraordinary circumstances:

26 (1) any crime for which the applicant is currently incarcerated, on work release, on probation, or on  
27 parole;

28 (2) any crime in the following categories, unless at least 5 years have passed since the applicant's  
29 conviction or at least 5 years have passed since the applicant was released from custodial  
30 confinement, whichever occurs later:

31 a. a serious crime of violence against a person, such as assault with a dangerous weapon,  
32 aggravated assault, murder or attempted murder, manslaughter (other than involuntary  
33 manslaughter), kidnapping, or robbery of any degree;

34 b. a crime involving a controlled substance or designer drug, including unlawful possession or  
35 distribution of, or intent to unlawfully possess or distribute, a controlled substance in  
36 Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

37 c. a serious crime involving property, such as burglary, embezzlement, or insurance fraud;

38 d. any crime involving sexual misconduct;

39 e. a crime of another state, territory, or jurisdiction which is the same or equivalent to the  
40 offenses described in subparagraphs a. through d. of this paragraph.

41 (3) In extraordinary circumstances, membership may be granted under subsection (b) of this section only  
42 if the applicant establishes by clear and convincing evidence that his or her membership will not  
43 jeopardize public health or safety.

44 (c) An applicant for membership in a Delaware volunteer fire department who knowingly provides false,  
45 incomplete, or inaccurate criminal history information, or who otherwise knowingly violates a provision of this subchapter,  
46 is guilty of a class G felony. In addition to a term of imprisonment of up to 2 years, the Court shall impose a fine of no less  
47 than \$1,000 which may not be suspended.

48 (d) The State Fire Prevention Commission shall adopt regulations to implement the provisions of this  
49 subchapter. The regulations must include, as part of the application form for membership in a Delaware volunteer fire

50 department, a dated and signed statement by the applicant swearing to or affirming the following, if the following is true. If  
51 it is not true, the applicant must explain in writing what is not true and why it is not true.

52 I have never been convicted of an offense that constitutes any of the crimes set forth in 16 Del. C.  
53 §6647 or any similar offense under any federal, State, or local law. I hereby certify that the  
54 statements contained in this application are true and correct to the best of my knowledge and belief.  
55 I understand that if I knowingly make any false statement in this application, I am subject to penalties  
56 prescribed by law, including denial or revocation of membership in the volunteer fire department and  
57 a mandatory fine of at least \$1,000 or a term of imprisonment of up to 2 years, or both.’

58 (e) An applicant for membership in a Delaware volunteer fire department who is denied membership or whose  
59 membership is revoked because of the requirements of this subchapter may appeal the denial or revocation to the State Fire  
60 Prevention Commission within 15 days of written notification of the denial or revocation by the volunteer fire department.  
61 An appeal under this subsection must be held in accordance with the appropriate provisions of the Administrative  
62 Procedures Act, Chapter 101 of Title 29, and is subject to judicial review under Subchapter V of Chapter 101.”

63 Section 2. This Act becomes effective 60 days after its enactment into law.

#### SYNOPSIS

This bill prohibits a person who has committed certain designated crimes from becoming a volunteer firefighter. There is an “extraordinary-circumstances exception” for some of the designated crimes. Denial of membership in a volunteer fire department may be appealed to the State Fire Prevention Commission and is also subject to judicial review. This bill is supported by the State Fire Prevention Commission and the officers of the Delaware Volunteer Firemen's Association.