

SDARJ 2019 General Assembly Legislative Agenda

Bail Reform

Issues: Legislation enacted in 2018 would be a first step in eliminating cash bail for most offenses and significantly reducing the pre-trial prison population using algorithms to assess risk and to determine who can be released and who must be confined pending trial. Concern that the algorithms may reinforce racial stereotypes resulted in failure to enact additional bills needed to update the state Constitution to enable the elimination of cash bail.

SDARJ: Work with others to support continued legislative action to correct imperfections in the current law and achieve the necessary Constitutional amendments.

This needs constitutional amendment and approval in two consecutive new Sessions. Therefore, deferral until 2020 is recommended. Mitch McConnell recently introduced federal legislation in the Senate making such work this reform more likely in Delaware.

Criminal Code Reform

Issues: Legislation will be required to implement the recommendations of Chief Justice Strine and others, who have worked to update and consolidate the current criminal code. The new Attorney General has indicated she will support these efforts in contrast to her predecessor and to many members of the legislature.

SDARJ: Support Criminal Code revision. Plans are to host the incoming Attorney General at a spring SDARJ forum

Original 1973 Code, based on a Model Code, was less than 95 pages. In the interim, it has grown 407 pages today with many duplicative, inconsistent, ambiguous and contradictory provisions. Recommendation is to streamline and simplify the code. SDARJ hopes to have Kathy Jennings, DE's new AG, speak in 2019 and detail her support of this issue.

Hate Crime Definition

Issues: Current laws require a hate crime to be directed at a specific individual and do not cover institutions. For example, those responsible for the spray painting of racial epitaphs that occurred at Cape Henlopen High School last year could only be charged with vandalism.

SDARJ: Work with like-minded legislators to initiate amendments to the current hate crime legislation to expand coverage to include crimes against institutions.

This is a brand new item and will take considerable work. SDARJ will need to identify victims, sponsors, and other advocates, build community support, write op-eds, letters to editor, etc. A standard bearer is needed to work on this issue.

Other states could provide examples of how to address this issue. In addition, criminal code reform could incorporate this definition.

Wrongful Imprisonment Insurance

Issues: Unlike some other states, upon release of prisoners who were wrongfully imprisoned in Delaware are not compensated for their lost years.

SDARJ: Work with others to initiate legislation requiring the state to purchase insurance that would provide for compensation to anyone who is wrongfully imprisoned in Delaware.

Like the hate crime bill, this is also a new item and will require similar work. This bill would generate costs for the state – an important detail to address in working on the issue.

Prison rehabilitation services

Issues: Support efforts by CLASI and others to ensure that inmates in Delaware correctional institutions receive rehabilitation as mandated by State Supreme Court decisions.

SDARJ: Work with new Delaware Correctional Reentry Commission established by Governor's Executive order #27 to seek meaningful results.

The new Commission is to have two members of the public. We might consider nominating someone. In addition, SDARJ should monitor the state calendar and aim to have at least one attendee at every meeting who is prepared to speak and make presentations. Someone with incarceration experience would be best

Affordable Housing

Issues: The most practical way to achieve affordable housing is through promotion of manufactured housing, which costs nothing to the state. However, there is no state agency with authority to look out for the interests of the homeowners except the Department of Justice. Attorneys for the large, out-of-state and wealthy local landowners are skilled at finding loopholes in the law and homeowners can rarely afford the legal costs of dealing with them effectively.

SDARJ: Work with the Delaware Manufactured Home Owners' Association (DMHOA) to secure an agency that will look out for homeowners' interests and ensure non-discrimination in operation of manufactured homeowner communities. Also work with county for code revisions that would better enable the offering of truly affordable housing by developers.

DMHOA will be seeking to establish a new agency to work with homeowners. Because this would be a sizeable expense, it may be difficult to achieve. Nonetheless, given the huge need in the state, it seems appropriate. Ms. Spence gave an example of a friend who applied for low-income senior housing and was told something might be available in 5 to 8 years. This issue would be a budget item, therefore, an appropriations committee concern.

Tyler Berl, the Program Manager of Community Development and Advocacy at Housing Alliance Delaware and who was in attendance at the meeting, added that this legislation would benefit more if it addressed the limits on prohibiting previously incarcerated individuals from public housing.

Early Voting

Issues: HB 90 that would have provided for 10 days of early voting, including the Saturday and Sunday before the election failed to be enacted in 2018.

SDARJ: Work with the League of Women Voters and others to get a similar bill enacted.

Delaware rates as one of the top three states by a recent Pew Foundation study of state election systems. But we need to do better regarding early voting. Members of the League of Women Voters Elections Committee met with Jordan Seemans, the Governor's Legislative Liaison to discuss several election bills with this as top priority. Mr. Seemans said to watch for news in this area and that the Governor will be proposing a package of voting initiatives. SDARJ will be active with the LWV, ensuring that any proposals will make it easier for hourly workers and minorities to be able to exercise their right to vote. Minimal work by SDARJ members would be needed to get this legislation enacted.

Minimum Wage

Issues: SB 170, enacted July 1, 2018, raised the minimum wage to \$8.75 as of October 1, 2018 and \$9.25 as of Oct. 1, 2019. HB 483, also enacted July 1, 2018 allows for a training minimum wage and a youth wage that is not more than \$0.50 less than the minimum wage rate as of January 1, 2019.

SDARJ: Work with other advocates for a minimum wage of \$15 per hour.

Getting to \$15/hour is a goal. This effort needs a new legislative lead to overcome very strong employer opposition, including the effect on state workers.

Earned Income Tax Credit (EITC)

Issues: HB 113, passed by significant majorities in the legislature in 2018, but vetoed by the Governor, would have changed the State's Earned Income Tax Credit (EITC) from only a credit against working families' total tax liability (non-refundable) to tax refund eligible, if the amount of the credit is greater than a tax payer's total tax liability.

SDARJ: Work with other advocates to secure a veto-proof bill.

An outstanding economist believes this legislation would have a better impact on reducing poverty than the minimum wage because it is aimed at working families and because it would inform many low income Delawareans about the existence of the federal credit that can amount to \$2,000-3,000. It would encourage more non-profits to work with low income families to help them with the paperwork. Work would need to focus on educating people about the credit and how to calculate it. Surprisingly, Gov. Carney recently vetoed it because:

1. he wants a holistic code that is addressed through “proper” leadership channels (even though it passed the House with a huge bipartisan vote and passed the Senate unanimously).
2. he believes it will have a significant financial impact on the state budget (even though the impact is projected to be ~\$35,000 annually).
3. he does not like that it would take from the poor to help the less poor (not clear why this is an issue).

ACLU Education Lawsuit

Issues: This law suit brought by ACLU on behalf of Delawareans for Educational Opportunity and the Delaware NAACP. It asserts that Delaware’s education system is not providing all students with a meaningful opportunity to obtain an adequate education. The Judge has dismissed two challenges with strong language suggesting his final decisions on three parts will have a major impact on the state. The first issue is related to the counties’ failure to reassess property taxes for decades.

SDARJ: Support efforts to secure reassessment that is expected to correct, at least in part, the harm to disadvantaged students caused by inequities resulting from failure to reassess.

There is little SDARJ can do to affect the outcome of the lawsuit. The important thing is to see what the judge says the state must do and then make sure the state does that. The judge has split the case into two beginning with property tax reassessment. The LWV will be working on that and SDARJ can work with them. The other two parts will be announced later (he legally has 90 days to issue a ruling). This could address the state’s so-called “equalization formula” so that money follows the student rather than the teacher (as it does now).

Clean Water

Issues: The amount of pollution from the chicken industry and other sources in the county results in many areas where clean drinking water is not available.

SDARJ: Work with local advocates to seek ways to ensure clean drinking water, particularly in the areas where racial minorities are most affected.

Sen. Bryan Townsend chaired a task force studying the water issues in the state that resulted in his introduction of SB 270 last year. It failed to be enacted in large part because of the funding proposal that would have charged every taxpayer \$40 per year plus \$45 for every business but failed to charge major corporate polluters anything more than the \$45. A new bill will be introduced in the new session. Hopefully, the funding source will be more equitable. There are some funding sources available including a major new federal law. Ms. Spence and Ms. Powell will keep SDARJ informed on how we can work with others on this legislation. Ms. Spence urged attendance at a DNREC meeting in Dover on December 12, 2108.

