



Legal Protections for Public Health Officials: Threats and Interfering with Government Operations Delaware Fact Sheet

50-State Survey Summary

Nationwide, state and local public health officials working to protect the public from COVID-19 are on the receiving end of threatening and harassing conduct for simply fulfilling their duty to protect the public health. In response, the Network conducted research to examine whether the states and Washington, D.C. have criminal statutes punishing individuals who impede public health officials' duties with such behavior. Our research is presented in this [chart](#). Many states have adopted statutes to protect public officials generally; included here are those with broad enough language to include public health officials. States with laws that cover other public officials, but not public health officials, were not included in this chart. While 35 states and Washington, D.C., have such a statute, the remaining 15 states either do not have a statute protecting government officials in these circumstances or do not have one protecting public health officials. Of the 35 states and Washington, D.C., all but 2, Louisiana and Oklahoma, include protections for state **and** local officials.

Below is more information on Delaware's relevant law.

Terroristic Threatening of Public Officials or Public Servants

Delaware Code, Title 11, Section 1240, Terroristic Threatening of Public Officials or Public Servants

(a) A person is guilty of terroristic threatening of a public official or public servant when the person threatens to commit any crime likely to result in death or in serious injury to a public official or public servant during or because of the public official's or public servant's exercise of the official's or servant's official functions.

(b) "Public official or public servant" includes any elected official, appointed official, officer or employee of the State or any political subdivision thereof, any judge or other judicial officer, any person participating as a juror, or any person acting as an advisor, contractor or consultant in performing a governmental function. "Public official or public servant" shall include persons who are candidates for office or who have been elected to office, but who have not yet assumed office. For the purposes of this section "public official or public servant" also includes any person who formerly held a position as a public official or public servant.

(c) Terroristic threatening of a public official or public servant is a class G felony.



Relevant Definitions

Delaware Code, Title 11, Section 4205

“Public official or public servant” includes any elected official, appointed official, officer or employee of the State or any political subdivision thereof, or any person acting as an advisor, contractor or consultant in performing a governmental function.

Penalties

Delaware Code, Title 11, Section 1240

Up to two years imprisonment and fines are left to judicial discretion

Summary

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Template Response to Violators

Below is a sample template for notifying perpetrators regarding their conduct relative to the code.

Delaware Code, Title 11, Section 1240 protects public officials and servants from terroristic threatening. [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to the Delaware Secretary of Health, threatening her life if she enforced a mask mandate.] *This may constitute a violation of § Title 11, Section 1240. If convicted, you face up to two years imprisonment and/or a potential fine.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*