

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 530 Session of 2019

INTRODUCED BY MARTIN, K. WARD, SCHWANK, MUTH, TARTAGLIONE, KILLION, SANTARSIERO, BROWNE AND ARNOLD, APRIL 5, 2019

AS AMENDED ON THIRD CONSIDERATION, SEPTEMBER 8, 2020

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in pupils and attendance, providing
6 for students convicted or adjudicated delinquent of sexual
7 assault; and, in safe schools, further providing for safe <--
8 schools advocate in school districts of the first class; AND, <--
9 IN EDUCATIONAL TAX CREDITS, FURTHER PROVIDING FOR SCHOOL
10 PARTICIPATION IN PROGRAM.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
14 as the Public School Code of 1949, is amended by adding a
15 section to read:

16 Section 1318.1. Students Convicted or Adjudicated Delinquent
17 of Sexual Assault.--(a) (1) Notwithstanding ~~section 510~~ <--
18 SECTIONS 510 AND 2134, if a student enrolled in a public school <--
19 entity is convicted or adjudicated delinquent of committing a
20 sexual assault upon another student enrolled in the same public
21 school entity, the public school entity shall, pursuant to
22 applicable laws and regulations, take one of the following

1 actions:

2 (i) Expel the convicted or adjudicated student.

3 (ii) Transfer the convicted or adjudicated student to an
4 alternative education program.

5 (iii) Reassign the convicted or adjudicated student to
6 another school or educational program within the public school
7 entity.

8 (2) A public school entity shall ensure that the convicted
9 or adjudicated student is not educated in the same school
10 building, transported on the same school vehicle or allowed to
11 participate in the same school-sponsored activities AT THE SAME <--
12 TIME as the victim.

13 (3) Paragraph (1) shall not require the public school entity <--
14 to take action if: A PUBLIC SCHOOL ENTITY MAY NOT TAKE ACTION <--
15 UNDER PARAGRAPH (1) IF:

16 (i) The public school entity has already expelled,
17 transferred or reassigned the convicted or adjudicated
18 delinquent student for the same sexual assault.

19 (ii) The convicted or adjudicated student does not attend
20 the same school as the victim.

21 (b) The public school entity shall MAY not be prohibited <--
22 from taking action under this section for convictions or
23 adjudications for sexual assaults that occur outside a school
24 setting if the assault was: <--

25 (1) WAS against another student enrolled in the same public <--
26 school entity; and

27 (2) has the effect of:

28 (i) substantially interfering with the victim's education;

29 (ii) creating a threatening or hostile educational
30 environment; or

1 (iii) substantially disrupting the orderly operation of the
2 school.

3 (c) A student expelled, transferred or reassigned under this
4 section may return to the student's originally assigned school
5 only if:

6 (1) the victim ceases to be enrolled in the public school
7 entity from which the convicted or adjudicated delinquent
8 student was expelled, transferred or reassigned; or

9 (2) the conviction or delinquency adjudication on which the
10 expulsion, transfer or reassignment was based is reversed and no
11 appeal is pending.

12 (d) Nothing in this section shall be construed as limiting
13 the authority or duty of a public school entity to make an
14 alternative assignment or provide alternative educational
15 services during OR AFTER the period of expulsion. <--

16 (e) A student convicted of sexual assault UPON ANOTHER <--
17 STUDENT ENROLLED IN THE SAME PUBLIC SCHOOL ENTITY shall notify
18 the PUBLIC school entity of the conviction no later than 72 <--
19 hours after the conviction.

20 (f) A public school entity receiving a student who transfers
21 from a public or nonpublic school during a OR AFTER THE period <--
22 of expulsion for an act or offense involving a sexual assault
23 conviction or adjudication of delinquency may assign that
24 student to an alternative assignment or provide alternative
25 education services, provided that the assignment may not exceed <--
26 the period of expulsion.

27 (g) Prior to admission to a public school entity, the
28 parent, guardian or other person having control or charge of a
29 student shall, upon registration, provide a sworn statement or
30 affirmation stating whether the pupil STUDENT was previously or <--

1 is presently expelled under the provisions of this section. The
2 registration shall include the name of the school from which the
3 student was expelled with the dates of expulsion and shall be
4 maintained as part of the student's disciplinary record. Any
5 wilful false statement made under this subsection shall be
6 subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification
7 to authorities).

8 (h) Each public school entity shall develop or update its
9 written policies to ensure compliance with this section.

10 (i) A public school entity shall, in the case of students
11 with disabilities, take all steps necessary to comply with the
12 Individuals with Disabilities Education Act (Public Law 91-230,
13 20 U.S.C. § 1400 et seq.).

14 (j) As used in this section, the following words and phrases
15 shall have the meanings given to them in this subsection:

16 "CONVICTED" MEANS A FINDING OF GUILTY BY A JUDGE OR A JURY OR <--
17 THE ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE FOR SEXUAL
18 ASSAULT WHETHER OR NOT JUDGMENT OF SENTENCE HAS BEEN IMPOSED.

19 "Public school entity" means a school district, independent
20 school, area career and technical school, intermediate unit,
21 charter school, regional charter school or cyber charter school.

22 "School setting" means in the school, on school grounds, in
23 school vehicles, at a designated bus stop or at any activity
24 sponsored, supervised or sanctioned by the school.

25 "School-sponsored activities" means any assemblies, field
26 trips, class trips, graduation ceremonies, athletics,
27 extracurricular activities, clubs, groups, teams or any
28 activities sponsored, held or approved by the public school
29 entity.

30 "Sexual assault" shall include any of the offenses specified

1 under the following provisions of 18 Pa.C.S. (relating to crimes
2 and offenses):

3 Section 3121 (relating to rape).

4 Section 3122.1 (relating to statutory sexual assault).

5 Section 3123 (relating to involuntary deviate sexual
6 intercourse).

7 Section 3124.1 (relating to sexual assault).

8 Section 3125 (relating to aggravated indecent assault).

9 Section 3126 (relating to indecent assault).

10 ~~Section 2. Section 1310-A(b)(2) of the act is amended to~~ <--
11 ~~read:~~

12 SECTION 2. SECTIONS 1310-A(B)(2) AND 2011-B(D)(1)(I) OF THE <--
13 ACT ARE AMENDED TO READ:

14 Section 1310-A. Safe Schools Advocate in School Districts of
15 the First Class.--* * *

16 (b) The safe schools advocate shall have the power and its
17 duties shall be:

18 * * *

19 (2) To monitor the school district's compliance with the
20 mandatory expulsion requirements of [section] sections 1317.2
21 and 1318.1.

22 * * *

23 SECTION 2011-B. SCHOOL PARTICIPATION IN PROGRAM. <--

24 * * *

25 (D) PARTICIPATING PUBLIC SCHOOL CRITERIA.--THE FOLLOWING
26 CRITERIA APPLY TO A PARTICIPATING PUBLIC SCHOOL:

27 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A
28 SCHOOL DISTRICT SHALL ENROLL STUDENTS IN A PARTICIPATING
29 PUBLIC SCHOOL ON A LOTTERY BASIS FROM A POOL OF RECIPIENTS
30 WHO MEET THE APPLICATION DEADLINE SET BY THE DEPARTMENT OF

1 EDUCATION UNTIL THE PARTICIPATING PUBLIC SCHOOL FILLS THE
2 SCHOOL'S AVAILABLE SEATS. THE POOL MAY NOT INCLUDE A
3 RECIPIENT WHO:

4 (I) HAS BEEN EXPELLED OR IS IN THE PROCESS OF BEING
5 EXPELLED UNDER SECTION 1317.2 [OR] 1318 OR 1318.1 AND
6 APPLICABLE REGULATIONS OF THE STATE BOARD OF EDUCATION.

7 * * *

8 Section 3. This act shall take effect in 60 days.