

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2198 Session of
2012

INTRODUCED BY WATERS, MYERS, CALTAGIRONE, DeLUCA, JOSEPHS,
HARKINS, V. BROWN, HORNAMAN, MURT, QUINN, YOUNGBLOOD, WHITE,
STEPHENS, SWANGER AND DALEY, FEBRUARY 14, 2012

REFERRED TO COMMITTEE ON APPROPRIATIONS, FEBRUARY 14, 2012

AN ACT

1 Prohibiting the use of State funds by institutions of higher
2 education to pay certain legal expenses.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Findings.

6 The General Assembly finds and declares the following:

7 (1) The use of State funds to pay the costs incurred to
8 defend criminal conduct allegedly engaged in by an officer or
9 employee of an institution of higher education serves a
10 private purpose rather than a public purpose and is,
11 therefore, improper.

12 (2) The use of State funds to pay for or reimburse the
13 cost of legal expenses of any officer or employee of an
14 institution of higher education or any other public agency
15 undermines public confidence in government, is not in the
16 public interest and should be prohibited.

17 Section 2. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Branch campus." A unit of an institution of higher
5 education that is distinguished by all of the following
6 characteristics:

7 (1) Provides an academic degree-granting program or
8 organized parts thereof offered on a continuing basis.

9 (2) Has a location separately identifiable from the main
10 campus of the parent institution and provides the services
11 normally associated with the campus.

12 (3) Has legal authority for governance, administration
13 and general operation which is derived from the charter or
14 enabling legislation of the parent institution or from the
15 State System of Higher Education.

16 "Community college." An institution now or hereafter created
17 pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30,
18 No.14), known as the Public School Code of 1949, or the former
19 act of August 24, 1963 (P.L.1132, No.484), known as the
20 Community College Act of 1963.

21 "Criminal conduct." Conduct committed or attempted in this
22 Commonwealth which constitutes a crime under the laws of this
23 Commonwealth.

24 "Independent institution of higher education." An
25 institution of higher education which is operated not for
26 profit, located in and incorporated or chartered by the
27 Commonwealth, entitled to confer degrees as set forth in 24
28 Pa.C.S. § 6505 (relating to power to confer degrees) and
29 entitled to apply to itself the designation "college" or
30 "university" as provided for by standards and qualifications

prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

"Institution of higher education." An independent institution of higher education, a community college, a State-owned institution or a State-related institution, any of which is approved by the Department of Education.

"Institution sanctioned activity." Any academic or athletic program, competition, club, camp, game or other such event, including any precompetition activity, practice session or social program sponsored, organized or authorized by an institution of higher education or an officer or employee of an institution of higher education.

"Minor child." A child who is under 18 years of age.

"Officer or employee." An individual employed by an institution of higher education, including, but not limited to, professors, counselors, administrators, coaches, assistants, students and custodial and support personnel. For the purpose of this act, the term "officer or employee" may include any former officer or employee who has formal access to the facilities of an institution of higher education and any individual who serves as a volunteer, whether compensated or uncompensated, if the nature of the individual's volunteer duties involves contact or interaction, direct or indirect, with a minor child in an institution sanctioned activity.

"State appropriations." Funds, including Federal funds, appropriated to an institution of higher education through acts of the General Assembly.

"State funds." All State appropriations appropriated by the General Assembly to an institution of higher education for a

1 specific project or purpose.

2 "State-owned institutions." Those institutions that are part
3 of the State System of Higher Education pursuant to Article XX-A
4 of the act of March 10, 1949 (P.L.30, No.14), known as the
5 Public School Code of 1949.

6 "State-related institutions." The Pennsylvania State
7 University, the University of Pittsburgh, Temple University and
8 Lincoln University and their branch campuses.

9 Section 3. Prohibition on use of State funds.

10 (a) Unauthorized legal expenditures.--No institution of
11 higher education, including any branch campus, that receives a
12 State appropriation shall directly or indirectly disburse or
13 expend any State funds to do any of the following:

14 (1) Pay claims against any officer or employee that
15 arise out of criminal conduct.

16 (2) Pay the cost or authorize the reimbursement of legal
17 fees of any officer or employee arrested, criminally charged
18 with or indicted for violating any provision of 18 Pa.C.S.
19 (relating to crimes and offenses).

20 (3) Provide legal assistance with respect to any
21 criminal proceeding or litigation that seeks to compel or
22 prevent an officer or employee from testifying or acting as a
23 witness to criminal conduct.

24 (b) Exception.--In any case in which an officer or employee
25 acts in good faith and without gross negligence to report or
26 prevent a violation of any offense enumerated in section 111 of
27 the act of March 10, 1949 (P.L.30, No.14), known as the Public
28 School Code of 1949, and if the officer or employee's judgment
29 as to what constitutes reasonable cause to believe that a child
30 has been a victim of an offense under section 111 of the Public

1 School Code of 1949 is being challenged, the institution of
2 higher education shall provide for legal defense of that officer
3 or employee.

4 (c) Affirmation.--Notwithstanding any other provision of law
5 or regulation to the contrary and except as provided in
6 subsection (b), each institution of higher education that
7 receives a State appropriation shall, as a condition for payment
8 of such appropriation by the State Treasurer, affirm that no
9 State funds disbursed to it in accordance with section 307 of
10 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
11 Code, will be used to pay for or reimburse the costs incurred to
12 defend alleged criminal conduct engaged in by an officer or
13 employee in accordance with subsection (a). Such affirmation
14 shall be made in the manner prescribed by the State Treasurer.

15 (d) Reports--In any year that an institution of higher
16 education receives a State appropriation, a report shall be
17 submitted to the Treasury Department within 14 days of any
18 arrest, charge or criminal indictment of an officer or employee
19 of the institution of higher education for any misdemeanor or
20 felony violation of 18 Pa.C.S., including any offense under
21 section 111 of the Public School Code of 1949. The report may be
22 submitted electronically in such form and manner as the Treasury
23 Department may prescribe.

24 (e) Failure to report.--Notwithstanding any other provision
25 of law or regulation to the contrary, the State Treasurer shall
26 not issue a warrant for the payment, upon requisition, of State
27 funds to any institution of higher education that fails to
28 submit the report of alleged criminal conduct in accordance with
29 subsection (d), until such time that the institution of higher
30 education complies with the requirements of subsection (d) to

1 the satisfaction of the State Treasurer.

2 Section 4. Duties of Treasury Department.

3 The Treasury Department, in consultation with the Department
4 of Education, shall administer the provisions of this act and
5 shall adopt any policy statements, guidelines or regulations
6 necessary and essential to carry out the provisions of this act.
7 The policy statements, guidelines or regulations shall include,
8 but not be limited to, the following:

9 (1) Required content and submission of affirmations and
10 reports from institutions of higher education in accordance
11 with section 3.

12 (2) Procedures to govern the withholding of State funds
13 from an institution of higher education that fails to report
14 any arrest, charge or criminal indictment of an officer or
15 employee in violation of this act.

16 (3) Processes or procedures for restoring payments of
17 State funds to an institution of higher education.

18 Section 5. Effective date.

19 This act shall take effect in 60 days.