

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 357 Session of
2007

INTRODUCED BY GREENLEAF, WOZNIAK, MUSTO, O'PAKE, KITCHEN,
ERICKSON, TARTAGLIONE, STACK AND C. WILLIAMS, MARCH 12, 2007

REFERRED TO EDUCATION, MARCH 12, 2007

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," further providing for defacing,
6 injuring or destroying property used for school purposes and
7 for authority of teachers, vice principals and principals
8 over pupils; providing for school policies for drug or
9 alcohol violations, for conflict resolution training and for
10 the requirements for governing adjudicated delinquents;
11 further providing for the suspension and expulsion of pupils,
12 for exceptional children, their education and training, for
13 reporting of incidents of school violence and for transfer of
14 records; providing for school violence reporting requirements
15 for school employees, for school safety committees and for
16 notification to parents and guardians of victims of school
17 violence; and further defining "school."

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 777 of the act of March 10, 1949 (P.L.30,
21 No.14), known as the Public School Code of 1949, is amended by
22 adding subsections to read:

23 Section 777. Defacing, Injuring or Destroying Property Used
24 for School Purposes; Penalty.--* * *

25 (c) A board of school directors of a school district owning

1 property shall maintain a civil action to recover compensatory
2 damages of up to fifty thousand dollars (\$50,000) plus court
3 costs from the parent or legal guardian of a minor who willfully
4 damages property belonging to the school district or who commits
5 acts against the school district cognizable as an offense under
6 18 Pa.C.S. § 3307 (relating to institutional vandalism). A
7 finding of willful destruction of property or commission of acts
8 cognizable as a theft offense shall not be dependent upon a
9 prior finding that the minor is delinquent or dependent child or
10 upon the minor's conviction of any criminal offense.

11 (d) (1) If a court renders a judgment in favor of a board
12 of school directors of a school district under this section, the
13 court shall order full restitution unless the board and the
14 parent or legal guardian agree that the minor and the parent or
15 legal guardian will perform community service in lieu of full
16 payment of the judgment.

17 (2) If an agreement is reached, the court shall order the
18 minor and the parent or the legal guardian to perform community
19 service in lieu of providing full payment of the judgment. In
20 the order, the court shall specify the amount to be paid by the
21 minor and the parent or legal guardian, the type and number of
22 hours of community service to be performed and any other
23 conditions necessary to carry out the order.

24 Section 2. Section 1317 of the act, amended July 25, 1963
25 (P.L.315, No.169), is amended to read:

26 Section 1317. Authority of Teachers[,] and Vice Principals
27 [and Principals over Pupils].--[Every teacher, vice principal
28 and principal in the public schools shall have the right to
29 exercise the same authority as to conduct and behavior over the
30 pupils attending his school, during the time they are in

attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them.] (a) (1) In all matters relating to the discipline in and conduct of the public schools, public school employees and school administrators shall be in the same relation to pupils as parents and guardians. This relationship shall extend to all activities connected with the public schools, including, but not limited to, any activity conducted during the school day or during the time a pupil is traveling to or from school or traveling to or from a school-sponsored activity or during any academic, athletic or extracurricular activity sponsored by the school district at any time.

(2) Public school employees and administrators shall be immune from civil liability for any action taken in good faith with regard to any pupil at any time for the safety and supervision of the pupil or for the safety and supervision of others, including, but not limited to, pupils, public school employees, visitors or the professional employee or administrator taking such action.

(b) The State Board of Education shall, if necessary, promulgate regulations regarding corporal punishment in a manner which is consistent with this section.

(c) Each public school entity shall provide all public school employees with guidelines and annual training on techniques for safely restraining pupils who are engaged in violent behavior.

Section 3. The act is amended by adding sections to read:

Section 1317.4. School Policies for Drug or Alcohol Violations.--(a) The General Assembly finds a compelling State

interest in ensuring that schools are safe and drug free for all students and school employees.

(b) The State Board of Education shall adopt and each board of school directors shall uniformly enforce drug and alcohol policies that protect all pupils and other members of the school population.

(c) The State Board of Education shall require school districts to modify their policies, practices and procedures to ensure a safe environment free from illegal drugs and alcohol. These modifications shall include the formulation of a discipline plan setting forth policies, practices and procedures dealing with pupils or with other persons who take onto or are in possession of illegal drugs or alcohol on school property, while traveling to or going from school or a school-sponsored activity, including on a public conveyance providing transportation to or from school or a school-sponsored activity. The plan shall include uniform drug-free policies and uniform penalties for violation of the policies mandated by this section.

(d) The superintendent of a school district shall immediately report to the local law enforcement agency a pupil who violates a policy concerning illegal drugs and alcohol adopted by the board of school directors of that school district. If the pupil is enrolled in a public school in this Commonwealth, the board of school directors of that school of the school district shall immediately suspend that pupil from attending regular classes and schedule a hearing to consider the pupil's:

(1) suspension for at least the remainder of the academic year;

1 (2) placement in an alternative education program under this
2 act; or

3 (3) permanent expulsion.

4 (e) (1) If a pupil is suspended, pursuant to a hearing of a
5 board of school directors, for violating a policy mandated by
6 this section, that pupil may not be admitted to any public
7 school in this Commonwealth until the pupil has satisfied each
8 requirement imposed by the board of school directors as a
9 condition for readmission.

10 (2) To comply with the requirements of this subsection, a
11 school superintendent shall review the records of each pupil who
12 transfers into the school district under the jurisdiction of
13 that superintendent to determine whether the pupil is being
14 disciplined pursuant to the policies mandated by this section.

15 (f) Any pupil found by a board of school directors of
16 violating a drug or alcohol policy shall participate in
17 counseling performed by the school psychologist, school guidance
18 counselor or by a psychiatrist hired by the district until such
19 time as the individual who performs the counseling submits a
20 written report to the board of school directors certifying that
21 the pupil does not represent a threat to the safety or security
22 of himself, any other pupil or any other member of the school
23 population of the school district.

24 (g) A school district shall report all new incidents
25 involving violations of policies concerning illegal drugs and
26 alcohol at least twice a year to the Secretary of Education on a
27 form developed and provided by the Department of Education. The
28 form shall include:

29 (1) The age or grade of this pupil.

30 (2) The name and address of this school.

1 (3) The circumstances surrounding the incident.

2 (4) Any sanction imposed by the school.

3 (5) Any notification to a law enforcement agency.

4 (6) Any remedial program involved.

5 (7) The parental involvement required.

6 (8) Any arrest, conviction or adjudication, if known.

7 Section 1317.5. Conflict Resolution Training.--(a) School
8 employees in each school district of this Commonwealth shall
9 receive annual training in conflict resolution from a trainer
10 whom the board of directors of the school district deems
11 qualified in the area of conflict resolution. The training shall
12 include, but not be limited to, a review of the impact of media
13 violence on children.

14 (b) Pupils attending public elementary and secondary schools
15 shall receive regular instruction in conflict resolution. The
16 training shall include, but shall not be limited to, critical
17 thinking instruction about media depiction of violence and shall
18 incorporate instruction in humane education as required pursuant
19 to section 1514. Pupils manifesting difficulty with conflict
20 resolution shall be referred for assistance to qualified and
21 trained guidance counselors.

22 Section 4. Section 1318 of the act, amended February 8, 1980
23 (P.L.3, No.2), is amended to read:

24 Section 1318. Suspension and Expulsion of Pupils.--(a)
25 Every principal or teacher in charge of a public school may
26 temporarily suspend any pupil on account of disruption,
27 disobedience or misconduct or on account of any violent action
28 taken by the pupil which places the pupil or other person in
29 danger of or in reasonable apprehension of serious personal
30 injury, and any principal or teacher suspending any pupil shall

1 promptly notify the district superintendent or secretary of the
2 board of school directors. The board may, after a proper
3 hearing, suspend such child for such time as it may determine,
4 or may permanently expel [him] such pupil. Such hearings,
5 suspension, or expulsion may be delegated to a duly authorized
6 committee of the board, or to a duly qualified hearing examiner,
7 who need not be a member of the board, but whose adjudication
8 must be approved by the board.

9 (b) (1) Notwithstanding the discretion vested in the board
10 by subsection (a) to determine whether to expel or suspend a
11 pupil and to determine the length of a suspension, the board
12 shall suspend a pupil for at least the remainder of the school
13 year, place a pupil in a full-time alternative education program
14 as provided for by law for at least the remainder of the school
15 year or permanently expel the pupil if, after a proper hearing,
16 the board determines that the pupil has taken violent action
17 without good cause which places the pupil or other person in
18 danger of or in reasonable apprehension of serious personal
19 injury or if the board determines that the pupil is a habitually
20 disruptive pupil.

21 (2) (i) The district superintendent shall, prior to
22 admitting a pupil who transfers from another school district,
23 obtain and thoroughly review the pupil's records in order to
24 ascertain whether the pupil has been or is being disciplined
25 under clause (1) or, if the pupil transfers from another state,
26 is being disciplined pursuant to a statutory or regulatory
27 disciplinary provision from the other state. In the event that
28 the pupil's records indicate that the pupil is currently being
29 disciplined under this section or under disciplinary provisions
30 from another state, the superintendent shall continue the terms

1 of the discipline imposed by the pupil's former district.

2 (ii) The district superintendent shall notify other school
3 officials, including employees within the district who have
4 legitimate interest, of the pupil's current or prior discipline
5 record pursuant to this section or pursuant to disciplinary
6 provisions from another state.

7 (iii) Any district superintendent who fails to perform the
8 duties provided in this section shall be personally liable for a
9 fine of not more than two hundred fifty dollars (\$250) for the
10 first offense and not more than one thousand dollars (\$1,000)
11 for any subsequent offense and shall be subject to disciplinary
12 action affecting the commission of the superintendent.

13 (c) Subsections (a) and (b)(1) shall not apply to a pupil
14 classified as an exceptional child when the pupil's actions are
15 a manifestation of the pupil's disability. If the pupil's
16 actions are a manifestation of disability, the board shall
17 comply with the requirements under the Individuals with
18 Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400
19 et seq.).

20 (d) As used in this section, the following words and phrases
21 shall have the meanings given to them in this subsection:

22 "Alternative education program" shall mean a program
23 established pursuant to section 1901-C.

24 "Disruptive pupil" shall have the same meaning the term
25 "disruptive student" is given under section 1901-C.

26 "Legitimate educational interest" shall include, but not be
27 limited to, the interest of officials and school employees who
28 have any responsibility for supervising the pupil who is subject
29 to disciplinary action.

30 "Violent action" shall include, but not be limited to:

1 (i) Improperly using or possessing a weapon on school
2 property or during a school-sponsored activity or while in any
3 conveyance providing public transportation to or from a public
4 school or to or from a public school-sponsored activity. The
5 term "weapon," as used in this definition, shall include, but
6 not be limited to, any knife, cutting instrument, cutting tool,
7 nunchaku, firearm, shotgun, rifle and any other tool, instrument
8 or implement, whether assembled or dismantled, capable of
9 inflicting serious bodily harm. The term "weapon" shall also
10 include look-alikes if a reasonable person would believe that
11 the look-alike is a weapon.

12 (ii) Making terroristic threats whereby the pupil threatens
13 to commit violence with the intent to terrorize another person
14 or to cause the evacuation of school property or other building,
15 place of assembly or conveyance or otherwise to cause serious
16 inconvenience to another person or in reckless disregard of the
17 risk of causing the terror or inconvenience.

18 (iii) Assaulting another person while on school property,
19 while traveling to or from a public school, during a school-
20 sponsored activity or in any conveyance providing public
21 transportation to or from a public school or to or from a public
22 school-sponsored activity or because of an individual's role as
23 a school employe. The term "assault," as used in this
24 definition, shall include simple assault and aggravated assault
25 and shall have the meaning ascribed to those terms under 18
26 Pa.C.S. (relating to crimes and offenses).

27 Section 5. The act is amended by adding sections to read:

28 Section 1318.1. Requirements Governing Adjudicated
29 Delinquents.--(1) After becoming aware of information under 42
30 Pa.C.S. § 6308 (relating to law enforcement records) or upon

receipt of information under 42 Pa.C.S. § 6341(b.1) (relating to adjudication), the principal shall provide the information to the superintendent for the school district, and the superintendent shall determine whether the pupil has exhibited behavior which may be detrimental to the safety or welfare of other pupils or of other members of the school population and whether educating the pupil in the regular school environment may disrupt learning in the school or create a dangerous or unsafe environment for other pupils or for school employees.

(2) If the superintendent determines that the pupil's presence may be disruptive or create a dangerous or unsafe environment, the superintendent shall place the pupil in an alternative learning environment pursuant to procedures set forth in section 1902-C(2), until the board concludes that the pupil's presence in the regular school environment will not be disruptive or create a dangerous or unsafe environment. Such a placement shall not be deemed a disciplinary action pursuant to 42 Pa.C.S. § 6341(b.1)(4).

(3) The superintendent shall provide the information concerning the pupil's record identified in this subsection to all school officials, including school employees who have a legitimate educational interest in the records.

(4) As used in this subsection, the term "legitimate educational interest" includes the interests of officials and school employees who have any responsibility for supervising a pupil.

Section 1371.1. Legislative Intent.--It is the intent of the General Assembly to ensure that the safety and welfare of children with disabilities and of others is protected through the prompt and appropriate response of boards of school

1 directors to actions which place children with disabilities or
2 others in serious danger in the school setting. It is further
3 the intent of the General Assembly that nothing in this
4 subdivision shall deprive children with disabilities of any
5 rights which such students may have under any other act or
6 regulation.

7 Section 6. Section 1372 of the act is amended by adding a
8 paragraph to read:

9 Section 1372. Exceptional Children; Education and
10 Training.--* * *

11 (7.1) Changing Educational Placement. (i) It shall be the
12 duty of the board of directors of every school district to
13 promptly seek parental consent for implementing an appropriate
14 change in educational placement of an exceptional student,
15 including, but not limited to, placement in an alternative
16 education program, when the board has determined that the
17 violent action of the student has placed the student or other
18 persons in danger of or in reasonable apprehension of serious
19 personal injury. If the parents of the student fail to approve
20 the change in placement, it shall be the duty of the board of
21 school directors, in addition to placing the student in an
22 interim alternative education setting, when so authorized under
23 the Individuals with Disabilities Education Act (Public Law 91-
24 230, 20 U.S.C. 1400 et. seq.), to promptly seek approval for an
25 appropriate change through a due process hearing, court action,
26 or both.

27 (ii) As used in this paragraph, the term "violent action"
28 includes, but is not limited to:

29 (A) Improperly using or possessing a weapon on school
30 property or during a school-sponsored activity or while in any

1 conveyance providing public transportation to or from a public
2 school or a public school-sponsored activity. The term "weapon"
3 shall include, but not be limited to, any knife, cutting
4 instrument, cutting tool, nunchaku, firearm, shotgun, rifle, any
5 other tool, instrument or implement capable of inflicting
6 serious bodily harm, and any look-alike weapon if a reasonable
7 person would believe that the look-alike is a weapon.

8 (B) Making terrorist threats whereby the student threatens
9 to commit violence with the intent to terrorize another person
10 or to cause the evacuation of school property or other building,
11 place of assembly or conveyance or otherwise to cause serious
12 inconvenience to another person or in reckless disregard of the
13 risk of causing such terror or inconvenience.

14 (C) Assaulting another person while on school property,
15 during a school-sponsored activity or in any conveyance
16 providing public transportation or from a public school or to or
17 from a public school-sponsored activity or because of the other
18 person's capacity as a school employe. An "assault" shall
19 include simple assault and aggravated assault and shall have the
20 meaning ascribed to such terms under 18 Pa.C.S. (relating to
21 crimes and offenses).

22 (iii) As used in this paragraph, the term "promptly" means
23 as soon as in practicable but in no event later than thirty (30)
24 days from the date of the violent action referenced in subclause
25 (ii).

26 * * *

27 Section 7. Section 1303-A of the act is amended by adding a
28 subsection to read:

29 Section 1303-A. Reporting.--* * *

30 (d) In developing forms under this section, the Department

1 of Education shall include uniform definitions of violent acts.

2 Section 8. Section 1305-A of the act, added June 30, 1995
3 (P.L.220, No.26), is amended to read:

4 Section 1305-A. Transfer of Records.--Whenever a pupil
5 transfers to another school entity, a certified copy of the
6 student's disciplinary record shall be transmitted to the school
7 entity to which the pupil has transferred. The school entity to
8 which the student has transferred should request the record. The
9 sending school entity shall have ten (10) days from receipt of
10 the request to supply a certified copy of the student's
11 disciplinary record. For purposes of this section, sending
12 school entities include private elementary and secondary
13 schools.

14 Section 9. The act is amended by adding sections to read:

15 Section 1314-A. Reporting Requirements for School
16 Employes.--(a) In any instance where an employe of a public
17 school district has a reasonable suspicion that any student or
18 visitor has committed or intends to commit a criminal act on
19 school property, during a school-sponsored activity, on the way
20 to or from school or to or from a school-sponsored activity,
21 such employe shall immediately notify the employe's supervisor,
22 who shall immediately investigate the suspected criminal
23 activity. If upon such investigation the supervisor determines
24 that reasonable suspicion exists that any student or visitor has
25 committed or intends to commit a criminal act, the supervisor
26 shall immediately report the incident to the local police agency
27 and to the school district superintendent. The superintendent
28 shall immediately file a written report with the Secretary of
29 Education and shall, without unreasonable delay, file the
30 appropriate charge against the individual or individuals

1 suspected of criminal activity or intention to commit criminal
2 activity.

3 (b) Any public school employe who violates this section
4 commits a summary offense and shall, upon conviction, be
5 sentenced to pay a fine of not more than two hundred fifty
6 dollars (\$250) for the first offense and not more than one
7 thousand dollars (\$1,000) for each subsequent offense.

8 (c) Any public school employe who is required to make a
9 report under this section shall be immune from civil liability
10 for filing the report.

11 (d) Whenever any public school employe is asked to testify
12 in a criminal proceeding based upon the employe's report filed
13 under this section, the public school employer shall reimburse
14 the employe for travel expenses and shall provide the employe
15 with paid leave or with the regular per diem rate if the employe
16 is called to testify in a criminal proceeding after school hours
17 or at a time when school is not in session.

18 Section 1315-A. School Safety Committees.--(a) Each school
19 entity shall create a school safety committee comprised of at
20 least one school nurse, one school guidance counselor, one
21 school psychologist, one school social worker, one
22 administrator, one local law enforcement officer and others at
23 the discretion of the school entity.

24 (b) The school safety committee shall be responsible for
25 reviewing and making recommendations regarding issues relating
26 to school violence, including, but not limited to, prevention,
27 identification of potential problems, communications between the
28 entity and local law enforcement and reentry procedures for
29 violent students who are returning from hospital, mental health
30 or juvenile placements.

1 Section 1316-A. Notification to Parents and Guardians.--Upon
2 receipt of information from a school entity indicating that a
3 student has been the victim of violent behavior, the local law
4 enforcement agency shall notify the parent or the legal guardian
5 of the victim about the circumstances surrounding the violent
6 incident.

7 Section 10. Section 1901-C(6) of the act, added June 25,
8 1997 (P.L.297, No.30), is amended to read:

9 Section 1901-C. Definitions.--For purposes of this article,
10 the following terms shall have the following meanings:

11 * * *

12 (6) "School." Any school classified by the Department of
13 Education as an elementary school, a middle school, junior high
14 school, senior high school or area vocational-technical school.

15 * * *

16 Section 11. This amendatory act shall be known and may be
17 cited as the Schools Are for Education Act.

18 Section 12. This act shall take effect in 60 days.