AN ACT

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," providing for student well-being.

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

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

ARTICLE XIV-C

STUDENT WELL-BEING

Section 1401-C. Scope of article.

This article provides for parental notifications regarding a student's mental, emotional or physical health or well-being.

Section 1402-C. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Abandoned." As defined in 23 Pa.C.S. § 5402 (relating to definitions).

"Child abuse." As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

"Pre-kindergarten program." As defined in section 2002-B.

"School entity." A school district, intermediate unit, joint school district, area career and technical school, charter school, regional charter school or cyber charter school.

Section 1403-C. Parental notification.

(a) Required procedure.--A governing body of a school entity shall adopt a policy or modify an existing policy, for the 2022-2023 school year and each school year thereafter, for notifying a student's parent or legal guardian when there is a change in the student's services or monitoring related to the student's mental, emotional or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. School entity procedures must reinforce the fundamental right of the parent or legal guardian to make decisions regarding the parent or legal guardian's child and encourage a student to discuss issues relating to the student's well-being with the parent or legal guardian. The procedures may not:

(1) Prohibit a student's parent or legal guardian from accessing any of the student's education and health records created, maintained or used by the school entity unless prohibited by law or court order.

(2) Prohibit school personnel from notifying a student's parent or legal guardian about the student's mental, emotional or physical health or well-being, or a change in
related services or monitoring, or that encourage or have the
effect of encouraging a student to withhold from a parent or
legal guardian the information.

(b) Withholding information.--Subsection (a) may not
prohibit a school entity from adopting procedures that permit
school personnel to withhold this information from a parent or
legal guardian if a reasonably prudent person would believe,
based on the documented testimony of the student or a history of
documented incidents, that disclosure would result in child
abuse or the child being abandoned.

Section 1404-C. Government endorsement prohibited and speech
protected.

(a) Neutrality.--School personnel must remain neutral and
use existing, familiar and well-defined constitutional framework
applicable to religious beliefs in public schools for matters
relating to sexual orientation and gender identity to prevent
government endorsement of beliefs about sexual orientation and
gender identity in public schools. First amendment speech
protections for students and public employees applicable to
religious speech shall be applied identically to protections for
speech regarding sexual orientation and gender identity.

(b) Age appropriateness.--Classroom instruction by school
personnel or third parties on sexual orientation or gender
identity:

(1) is not age-appropriate for students in a pre-
kindergarten program or in kindergarten through fifth grade
and therefore may not occur; and

(2) may not occur in sixth through twelfth grade in a
manner that is not age-appropriate or developmentally
appropriate in accordance with State standards.
(c) Limitations on restriction.--Nothing in this section shall be construed to restrict school personnel from providing support services to a student who has initiated communication with school personnel related to sexual orientation or gender identity if the school personnel has received permission from the parent or legal guardian of the student, unless the student is subject to section 1403-C(b).

Section 1405-C. Health care services notice and opt-out.

At the beginning of the school year, each school entity shall notify parents and legal guardians of each health care service offered at the student's school and the option to withhold consent or decline any specific service. Parent or legal guardian consent to a health care service does not waive the parent or legal guardian's right to access the student's educational or health records or be notified about a change in the student's services or monitoring.

Section 1406-C. Surveys.

At least seven days before administering a student well-being questionnaire, survey or health screening form to a student, the school entity must provide all of the following:

(1) Notice to the parent or legal guardian.

(2) The questionnaire, survey or health screening form electronically on the school entity's publicly accessible Internet website or as a hard copy upon request.

(3) The option for a parent or legal guardian to opt the child out of participating in the questionnaire, survey or screening.

Section 1407-C. Cause of action.

(a) Private right of action.--A resident student through their parent or guardian may bring a cause of action for...
injunctive relief for a violation of section 1404-C, any
 damages, attorney fees and costs and any other relief available
under law against the school entity.

(b) Retaliation.--A student who is subject to retaliation or
other adverse action by a school entity as a result of reporting
a violation of section 1404-C to an employee or representative
of the school entity or to any Federal or State agency with
oversight of school entities in this Commonwealth, may bring a
cause of action for injunctive relief, damages, attorney fees
and costs and any other relief available under law against the
school entity.

(c) Limitation.--A person may not bring a civil action under
this section later than two years after the day on which the
harm underlying the cause of action occurs.

Section 2. If a part of this act is found invalid, all valid
parts that are severable from the invalid part shall remain in
effect. If a part of this act is invalid in one or more of its
applications, the part remains in effect in all valid
applications that are severable from the invalid applications.

Section 3. This act shall take effect July 1, 2022, or
immediately, whichever is later.