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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1935 Session of  
2019

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INTRODUCED BY BURNS, KINSEY, ROTHMAN, McCLINTON, HILL-EVANS,  
READSHAW, CALTAGIRONE, HOWARD, OTTEN, DeLUCA, FRANKEL AND  
ROEBUCK, OCTOBER 15, 2019

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REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 15, 2019

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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 safe schools, further providing  
6 for definitions, for reporting, for policy relating to  
7 bullying and for maintenance of records; and, in Safe2Say  
8 Program, further providing for intent, for definitions and  
9 for Safe2Say Program and providing for reporting and  
10 remediating bullying.

11 This act may be referred to as the Anti-bullying Bill of  
12 Rights Act.

13 The General Assembly finds and declares as follows:

14 (1) Students in this Commonwealth have a right to learn  
15 in a safe space, free from bullying at school, at school  
16 activities or on the school bus and to communicate  
17 electronically with classmates without harassment.

18 (2) Students and parents have a right to report acts of  
19 bullying in a convenient and anonymous manner without the  
20 fear of retaliation.

21 (3) Parents have a right to know if their child is a

1 victim of bullying, to receive regular updates about bullying  
2 investigations involving their child, to participate in the  
3 resolution of bullying and to expect school officials to take  
4 meaningful action until the bullying behavior stops.

5 (4) School entities have a right to develop strong anti-  
6 bullying policies, to use data to reduce and resolve bullying  
7 incidents and to require students and parents to play an  
8 active role in eliminating bullying within the school  
9 entities.

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

12 Section 1. Section 1301-A of the act of March 10, 1949  
13 (P.L.30, No.14), known as the Public School Code of 1949, is  
14 amended by adding definitions to read:

15 Section 1301-A. Definitions.--As used in this article,  
16 "Bullying" shall mean the following:

17 (1) An intentional electronic, written, verbal or physical  
18 act, or a series of acts by a student directed at another  
19 student or students that:

20 (i) Is reasonably perceived as being motivated by an actual  
21 or perceived characteristic, such as:

22 (A) race, color, religion, ancestry, national origin,  
23 gender, sexual orientation, gender identity and expression;

24 (B) a mental, physical or sensory disability; or

25 (C) any other distinguishing characteristic.

26 (ii) Satisfies the following conditions:

27 (A) Occurs in a school setting.

28 (B) Is severe, persistent or pervasive.

29 (C) Has the effect of doing any of the following:

30 (I) substantially interferes with a student's education;

1 (II) creates a threatening environment; or  
2 (III) substantially disrupts the orderly operation of the  
3 school.

4 (2) Retaliation against a student or school employe by  
5 another student or school employe for asserting or alleging an  
6 act of bullying.

7 \* \* \*

8 "School setting" shall mean a school, on school grounds, in a  
9 school vehicle, at a designated bus stop or at an activity  
10 sponsored, supervised or sanctioned by a school.

11 \* \* \*

12 Section 2. Section 1303-A(b) introductory paragraph, (4.1)  
13 and (e) of the act are amended and the section is amended by  
14 adding subsections to read:

15 Section 1303-A. Reporting.--\* \* \*

16 (b) [Each] Except as provided under subsections (b.2) and  
17 (b.3) (1) and (2), each chief school administrator shall report  
18 to the office by July 31 of each year all new incidents  
19 involving acts of violence, possession of a weapon or  
20 possession, use or sale of controlled substances as defined in  
21 the act of April 14, 1972 (P.L.233, No.64), known as "The  
22 Controlled Substance, Drug, Device and Cosmetic Act," or  
23 possession, use or sale of alcohol or tobacco by any person on  
24 school property. The incidents to be reported to the office  
25 shall include all incidents involving conduct that constitutes a  
26 criminal offense listed under paragraphs (4.1) and (4.2).  
27 Reports on a form to be developed and provided by the office  
28 shall include:

29 \* \* \*

30 (4.1) A list of criminal offenses which shall, at a minimum,

1 include:

2 (i) The following offenses under 18 Pa.C.S. (relating to  
3 crimes and offenses):

4 Section 908 (relating to prohibited offensive weapons).

5 Section 912 (relating to possession of weapon on school  
6 property).

7 Chapter 25 (relating to criminal homicide).

8 Section 2702 (relating to aggravated assault).

9 Section 2709(a.1) (relating to harassment).

10 Section 2709.1 (relating to stalking).

11 Section 2901 (relating to kidnapping).

12 Section 2902 (relating to unlawful restraint).

13 Section 3121 (relating to rape).

14 Section 3122.1 (relating to statutory sexual assault).

15 Section 3123 (relating to involuntary deviate sexual  
16 intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3124.2 (relating to institutional sexual assault).

19 Section 3125 (relating to aggravated indecent assault).

20 Section 3126 (relating to indecent assault).

21 Section 3301 (relating to arson and related offenses).

22 Section 3307 (relating to institutional vandalism) when the  
23 penalty is a felony of the third degree.

24 Section 3502 (relating to burglary).

25 Section 3503(a) and (b)(1)(v) (relating to criminal  
26 trespass).

27 Section 5501 (relating to riot).

28 Section 6110.1 (relating to possession of firearm by minor).

29 (ii) The possession, use or sale of a controlled substance  
30 or drug paraphernalia as defined in "The Controlled Substance,

1 Drug, Device and Cosmetic Act."

2 (iii) Attempts, solicitation or conspiracy to commit any of  
3 the offenses listed in subclauses (i) and (ii).

4 (iv) An offense for which registration is required under 42  
5 Pa.C.S. § 9795.1 (relating to registration).

6 \* \* \*

7 (b.2) All new incidents involving cyber harassment of a  
8 child shall be reported to the office by the chief school  
9 administrator within thirty (30) days of the initial claim and  
10 shall be included in the online database as provided in  
11 subsection (b.3)(2).

12 (b.3) (1) The designated anti-bullying specialist for each  
13 school entity shall report to the office all new incidents  
14 involving acts of bullying reported to school officials that  
15 meet the definition of bullying under section 1301-A within  
16 thirty (30) days of the initial claim. Reports, on a form to be  
17 developed and provided by the office, shall include the  
18 following information for both the victim of an incident  
19 involving an act of bullying and the perpetrator of the act of  
20 bullying:

21 (i) Age or grade of the student.

22 (ii) Name and address of the school.

23 (iii) Circumstances surrounding the incident, including, but  
24 not limited to, the date, time and location of the incident,  
25 other students who were involved and details of the incident.

26 (iv) Race of the student.

27 (v) Whether the student has an Individualized Education Plan  
28 under the Individuals with Disabilities Education Act (Public  
29 Law 91-230, 20 U.S.C. § 1400 et seq.), and if so, the type of  
30 disability.

1 (vi) Sanction imposed by the school.

2 (vii) Parental notification.

3 (viii) Remedial programs involved, including a written  
4 bullying action plan.

5 (ix) Prior incidents of bullying or cyber harassment by the  
6 student within the same academic year.

7 (2) Incidents reported to the office under this subsection  
8 shall be recorded monthly with aggregate data per school entity  
9 made available in an online bullying reports database on the  
10 office's and school entity's publicly accessible Internet  
11 websites.

12 (3) Incidents reported under this subsection and subsection  
13 (b.2) shall be reported annually with the criminal offenses as  
14 provided in subsection (b).

15 \* \* \*

16 (e) (1) Notwithstanding any provision of law to the  
17 contrary, the Department of Education may initiate disciplinary  
18 action before the Professional Standards and Practices  
19 Commission pursuant to the act of December 12, 1973 (P.L.397,  
20 No.141), known as the "Professional Educator Discipline Act,"  
21 against a chief school administrator, designated anti-bullying  
22 specialist or principal of a school entity who intentionally  
23 fails to submit the report as required under subsection (b)  
24 [or], (b.2) or (b.3) or fails to enter into the memorandum of  
25 understanding with the police department with jurisdiction over  
26 the relevant school property, report an incident involving an  
27 act of violence, possession of a weapon or an offense listed  
28 under subsection (b) (4.1) that occurs on school property to a  
29 police department or submit a copy of the memorandum of  
30 understanding to the office as required under subsection (c) or

1 who intentionally falsifies a report submitted as required under  
2 this section.

3 (2) In addition to any other disciplinary actions set forth  
4 in the "Professional Educator Discipline Act," a chief school  
5 administrator, designated anti-bullying specialist or principal  
6 of a school entity who intentionally fails to submit the report  
7 as required under subsection (b) [or], (b.2) or (b.3) or fails  
8 to enter into the memorandum of understanding with the police  
9 department with jurisdiction over the relevant school property,  
10 report an incident involving an act of violence, possession of a  
11 weapon or an offense cited under subsection (b) (4.1) that occurs  
12 on school property to a police department or submit a copy of  
13 the memorandum of understanding to the office as required under  
14 subsection (c) or who intentionally falsifies a report submitted  
15 as required under this section shall be subject to prosecution  
16 for violation of 18 Pa.C.S. § 4904 (relating to unsworn  
17 falsification to authorities). The following civil penalties may  
18 be imposed by the Professional Standards and Practices  
19 Commission for violations of this article:

- 20 (i) for a first violation, \$2,500;
- 21 (ii) for a second violation, \$3,500; or
- 22 (iii) for a third or subsequent violation, \$5,000.

23 Any penalty imposed under this paragraph shall be paid to the  
24 Department of Education and used for the support of the office.

25 (f) For the purpose of this section, "cyber harassment"  
26 shall mean activity that constitutes an offense under 18 Pa.C.S.  
27 § 2709(a.1).

28 Section 3. Sections 1303.1-A(a), (d) and (e) and 1307-A of  
29 the act are amended to read:

30 Section 1303.1-A. Policy Relating to Bullying.--(a) No

1 later than January 1, 2009, each school entity shall adopt a  
2 policy or amend its existing policy relating to bullying and  
3 incorporate the policy into the school entity's code of student  
4 conduct required under 22 Pa. Code § 12.3(c) (relating to school  
5 rules). The policy shall [delineate]:

6 (1) Delineate disciplinary consequences for bullying and may  
7 provide for prevention, intervention and education programs,  
8 provided that no school entity shall be required to establish a  
9 new policy under this section if one currently exists and  
10 reasonably fulfills the requirements of this section. [The  
11 policy shall identify]

12 (2) Identify the appropriate school staff person to serve as  
13 the designated anti-bullying specialist and to receive reports  
14 of incidents of alleged bullying.

15 (3) Explain the ways in which bullying can be reported by  
16 students or parents and the phases of verification and  
17 investigation that the school will follow.

18 (4) Outline the procedure that the appropriate staff member  
19 will use to track verified acts of bullying and transmit reports  
20 to the office.

21 \* \* \*

22 (d) In its policy relating to bullying adopted or maintained  
23 under subsection (a), a school entity shall not be prohibited  
24 from defining bullying in such a way as to encompass acts that  
25 occur outside a school setting if those acts meet the  
26 requirements contained in [subsection (e) (1), (3) and (4).]  
27 paragraph (1) (ii) (B) or (C) or (2) of the definition of  
28 "bullying" in section 1301-A. If a school entity reports acts of  
29 bullying to the office in accordance with section 1303-A(b), it  
30 shall report all incidents that qualify as bullying under the

1 entity's adopted definition of that term.

2 [(e) For purposes of this article, "bullying" shall mean an  
3 intentional electronic, written, verbal or physical act, or a  
4 series of acts:

5 (1) directed at another student or students;

6 (2) which occurs in a school setting;

7 (3) that is severe, persistent or pervasive; and

8 (4) that has the effect of doing any of the following:

9 (i) substantially interfering with a student's education;

10 (ii) creating a threatening environment; or

11 (iii) substantially disrupting the orderly operation of the  
12 school; and

13 "school setting" shall mean in the school, on school grounds,  
14 in school vehicles, at a designated bus stop or at any activity  
15 sponsored, supervised or sanctioned by the school.]

16 Section 1307-A. Maintenance of Records.--All school entities  
17 and private schools within this Commonwealth shall maintain  
18 updated records of all incidents of violence, incidents  
19 involving possession of a weapon, incidents of bullying or cyber  
20 harassment and convictions or adjudications of delinquency for  
21 acts committed on school property by students enrolled therein  
22 on both a district-wide and school-by-school basis. Records  
23 maintained under this section shall be contained in a format  
24 developed by the Pennsylvania State Police in cooperation with  
25 the office within ninety (90) days of the effective date of this  
26 section. A statistical summary of these records shall be made  
27 accessible to the public for examination by the public during  
28 regular business hours.

29 Section 4. Section 1301-D(3) of the act, added June 22, 2018  
30 (P.L.327, No.44), is amended and the section is amended by

1 adding a paragraph to read:

2 Section 1301-D. Intent.

3 The General Assembly finds and declares as follows:

4 \* \* \*

5 (1.1) Incidents of bullying impact students' ability to  
6 learn, socialize and thrive. The severity of bullying and  
7 cyber harassment can provoke those affected to threaten to  
8 take action against themselves or others.

9 \* \* \*

10 (3) It is the intent of the General Assembly that the  
11 Safe2Say Program be a one-stop shop for students, teachers  
12 and community members to report behavior, including bullying  
13 or cyber harassment, perceived to be threatening to an  
14 individual or a school entity. Reports made through the  
15 anonymous reporting system will be referred to local schools,  
16 law enforcement and/or organizations.

17 \* \* \*

18 Section 5. Section 1302-D of the act is amended by adding a  
19 definition to read:

20 Section 1302-D. Definitions.

21 The following words and phrases when used in this article  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 \* \* \*

25 "Cyber harassment." An activity that constitutes an offense  
26 under 18 Pa.C.S. § 2709(a.1) (relating to harassment).

27 \* \* \*

28 Section 6. Section 1303-D(c)(1) of the act, added June 22,  
29 2018 (P.L.327, No.44), is amended to read:

30 Section 1303-D. Safe2Say Program.

1 \* \* \*

2 (c) Program requirements.--Beginning January 14, 2019, the  
3 program shall be responsible for the following:

4 (1) To ensure anonymous reporting concerning bullying or  
5 unsafe, potentially harmful, dangerous, violent, intimidating  
6 or criminal activities in a school entity or the threat of  
7 the activities in a school entity.

8 \* \* \*

9 Section 7. The act is amended by adding a section to read:

10 Section 1303.1-D. Reporting and remediating bullying.

11 (a) Information.--School entities shall gather and maintain  
12 the following information on all reported incidents of bullying  
13 or cyber harassment:

14 (1) The names of the students involved.

15 (2) The ages and grades of the students involved.

16 (3) The name of the school where the students are  
17 enrolled.

18 (4) The address and description of the location of the  
19 incident.

20 (5) Details of the incidents, including dates, times,  
21 actions and the form of bullying or cyber harassment.

22 (6) Action taken to remediate or resolve the situation.

23 (7) Disciplinary action taken by the school.

24 (8) Either the name of the individual reporting the  
25 incident or a placeholder designating an anonymous reporter.

26 (b) Duties.--On receipt of a report of bullying or cyber  
27 harassment, the school shall:

28 (1) Promptly investigate the incident and develop a  
29 bullying action plan identifying the actions to be taken to  
30 remedy and prevent further incidents, provided an

1 investigation and development of a bullying action plan have  
2 not already occurred.

3 (2) Notify the parents or guardians of all students  
4 involved in the incident and provide a copy of the written  
5 bullying action plan.

6 (3) Provide a copy of the bullying action plan to the  
7 office within 10 school days.

8 (c) Review.--The office shall review the bullying action  
9 plan for an incident reported to the office within 30 days of  
10 receipt of the plan to determine whether the parties involved  
11 are in compliance with the terms of the plan.

12 (d) Disciplinary action.--Notwithstanding any provision of  
13 law to the contrary, the office may initiate disciplinary action  
14 before the Professional Standards and Practices Commission under  
15 the act of December 12, 1973 (P.L.397, No.141), known as the  
16 Educator Discipline Act, against a chief school administrator or  
17 principal of a school entity who fails to institute or implement  
18 a bullying action plan, or impedes the implementation of a plan  
19 under subsection (b).

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