

PUBLIC SCHOOL CODE OF 1949 - OMNIBUS AMENDMENTS

Act of Nov. 3, 2016, P.L. 1061, No. 138

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Session of 2016

No. 2016-138

HB 1907

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," in pupils and attendance, providing for purpose, further providing for definitions, providing for attendance policy at charter, regional charter and cyber charter schools, further providing for excuses from attending school and for penalties for violation of compulsory attendance requirements, providing for procedure by school when child habitually truant, for procedure upon filing of citation, for penalties for violating compulsory school attendance requirements and for study of truancy procedure and repealing provisions relating to suspension of operating privilege; in charter schools, further providing for provisions applicable to charter schools and for applicability of other provisions of this act and of other acts and regulations; and, in disruptive student programs, further providing for definitions.

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 a section after Article XIII, subdivision (b) heading to read:

Section 1325. Purpose.--The purpose of this subdivision is to improve school attendance and deter truancy through a comprehensive approach to consistently identify and address attendance issues as early as possible with credible intervention techniques in order to:

(1) Preserve the unity of the family whenever possible as the underlying issues of truancy are addressed.

(2) Avoid the loss of housing, the possible entry of a child to foster care and other unintended consequences of disruption of an intact family unit.

(3) Confine a person in parental relation to a child who is habitually truant only as a last resort and for a minimum amount of time.

Section 2. Section 1326 of the act is amended to read:

Section 1326. Definitions.--[The term "compulsory school age," as hereinafter used, shall mean the period of a child's life from the time the child's parents elect to have the child enter school, which shall be not later than at the age of eight (8) years, until the age of seventeen (17) years. The term shall not include any child who holds a certificate of graduation from a regularly accredited senior high school.

The term "migratory child," wherever used in this subdivision of this article, shall include any child domiciled temporarily in any school district for the purpose of seasonal employment, but not acquiring residence therein, and any child accompanying his parent or guardian who is so domiciled.] **When used in this**

article, the following words and phrases shall have the following meanings:

"Citation" shall mean a nontraffic citation or private criminal complaint.

"Compulsory school age" shall mean the period of a child's life from the time the child's parents elect to have the child enter school and which shall be no later than eight (8) years of age until the child reaches seventeen (17) years of age. The term does not include a child who holds a certificate of graduation from a regularly accredited, licensed, registered or approved high school.

"Conviction" shall mean a conviction under section 1333.2 for violation of the requirement for compulsory school attendance.

"Court" shall mean a magisterial district court, the Philadelphia Municipal Court or a court of common pleas.

"Department" shall mean the Department of Education of the Commonwealth.

"Educational entity" shall mean a public school district, nonpublic school or area vocational-technical school.

"Excused absence" shall mean an absence from school which is permitted under section 1329.

"Governing body" shall mean the board of school directors of a school district or any other governing entity of a school.

"Habitually truant" shall mean six (6) or more school days of unexcused absences during the current school year by a child subject to compulsory school attendance under this article.

"Judge" shall mean a magisterial district judge, a municipal court judge or a judge of a court of common pleas.

"Juvenile act" shall mean the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

"Migratory child" shall mean a child domiciled temporarily in a school district for the purpose of seasonal employment, but not acquiring residence therein, and a child accompanying his or her person in parental relation who is so domiciled.

"Offense" shall mean each citation filed under section 1333.1 for a violation of the requirement for compulsory school attendance under this article regardless of the number of unexcused absences alleged in the citation.

"Person in parental relation" shall mean a:

- (1) Custodial biological or adoptive parent.
- (2) Noncustodial biological or adoptive parent.
- (3) Guardian of the person of a child.
- (4) Person with whom a child lives and who is acting in a

parental role of a child.

This definition shall not include any county agency or person acting as an agent of the county agency in the jurisdiction of a dependent child defined under 42 Pa.C.S. § 6302 (relating to definitions). This definition shall not expand the right of a child under any other section of this act.

"School" shall mean the educational entity in which the child is enrolled.

"School attendance improvement conference" shall mean a conference where the child's absences and reasons for the absences are examined in an effort to improve attendance, with or without additional services. The following individuals shall be invited to the conference:

- (1) The child.
- (2) The child's person in parental relation.
- (3) Other individuals identified by the person in parental relation who may be a resource.
- (4) Appropriate school personnel.

(5) Recommended service providers.

"School day" shall mean the length of time that a child subject to compulsory school attendance is expected to be receiving instruction during a calendar day, as determined by the governing body.

"School year" shall have the same meaning as "school term" as defined in section 102, as applicable to a school district, and as further defined in section 1327(b) for a day school which is operated by a bona fide church or other religious body, section 1327.1(c) for a day school or boarding school accredited by an accrediting association which is approved by the State Board of Education, section 1327.1(d) for a home education program, sections 1501 and 1504 for a public school or a school district, section 1715-A(9) for a charter school, section 1749-A(a)(1) for a cyber charter school and section 1718-A(c) for a regional charter school.

"School-based or community-based attendance improvement program" shall mean a program designed to improve school attendance by seeking to identify and address the underlying reasons for a child's absences. The term may include an educational assignment in an alternative education program, provided the program does not include a program for disruptive youth established pursuant to Article XIX-C.

"Truant" shall mean having incurred three (3) or more school days of unexcused absences during the current school year by a child subject to compulsory school attendance under this article.

"Unexcused absence" shall mean an absence from school which is not permitted by the provisions of section 1329 and for which an approved explanation has not been submitted within the time period and in the manner prescribed by the governing body. An out-of-school suspension may not be considered an unexcused absence.

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

Section 1327.2. Attendance Policy at Charter, Regional Charter and Cyber Charter Schools.--(a) Each charter, regional charter and cyber charter school shall establish an attendance policy designed to accurately determine when a child who is enrolled in a charter, regional charter or cyber charter school has an unexcused absence, which may differ from the policy of the school district in which the child resides. The policy must conform to the provisions of this act relating to compulsory attendance.

(b) Notwithstanding section 1333.2(a), in the case of a child enrolled in a cyber charter school the venue for the filing of a citation under section 1333.1 shall be based upon the residence of the child. A cyber charter school may participate in a proceeding under sections 1333.1, 1333.2 and 1333.3 in person, by telephone conferencing, by video conferencing or by any other electronic means.

(c) Charter, regional charter and cyber charter schools shall report unexcused absences directly to the department annually through the Pennsylvania Information Management System (PIMS).

Section 4. Section 1329 of the act is amended by adding subsections to read:

Section 1329. Excuses from Attending School.--* * *

(c) If a student is dismissed from school during school hours for health-related reasons by a certified school nurse, registered nurse, licensed practical nurse or a school administrator or designee employed by the school district, the student's absence from school shall be deemed excused.

(d) Notwithstanding any provision of law to the contrary, a student shall be excused during school hours for the purpose of obtaining professional health care or therapy service rendered by a licensed practitioner of the healing arts in any state, commonwealth or territory.

(e) The Department of Education shall provide guidance, resources and strategies for families, schools and students related to students with chronic health conditions which shall be posted on the department's publicly accessible Internet website.

Section 5. Section 1333 of the act, amended November 17, 1995 (1st Sp.Sess. P.L.1110, No.29), is amended to read:

Section 1333. [Penalties for Violation of Compulsory Attendance Requirements.--(a) (1) Every parent, guardian, or person in parental relation, having control or charge of any child or children of compulsory school age, who shall fail to comply with the provisions of this act regarding compulsory attendance, shall on summary conviction thereof, be sentenced to pay a fine, for the benefit of the school district in which such offending person resides, not exceeding three hundred dollars (\$300) and to pay court costs or be sentenced to complete a parenting education program offered and operated by a local school district, medical institution or other community resources, and, in default of the payment of such fine and costs or completion of the parenting program by the person so offending, shall be sentenced to the county jail for a period not exceeding five (5) days. Any person sentenced to pay any such fine may appeal to the court of common pleas of the proper county, upon entering into a recognizance, with one or more proper sureties, in double the amount of penalty and costs. Before any proceedings are instituted against any parent, guardian, or person in parental relation, for failure to comply with the provisions of this act, the district superintendent, attendance officer, or secretary of the board of school directors, shall give the offending person three (3) days' written notice of such violation. If, after such notice has been given, the provisions of this act regarding compulsory attendance are again violated by the persons so notified, at any time during the term of compulsory attendance, such person, so again offending, shall be liable under the provisions of this section without further notice.

(2) The child and every parent, guardian or person in parental relation must appear at a hearing established by the district justice. If the parent, guardian or person in parental relation charged with a summary offense under this subsection shows that he or she took every reasonable step to insure attendance of the child at school, he or she shall not be convicted of the summary offense.

(3) Upon a summary conviction, the district justice may suspend, in whole or in part, a sentence in which a parent, guardian or person in parental relation is summoned to pay as required under this section: Provided, That the child no longer is habitually truant from school without justification.

(4) In lieu of or in addition to any other sentence imposed under this section, the district justice may order the parent, guardian or person in parental relation to perform community service in the school district in which the offending child resides for a period not to exceed six (6) months.

(b) (1) If the parent, guardian or person in parental relation is not convicted of a summary offense because he or she took every reasonable step to insure attendance of the child at school, a child of compulsory school age who has attained

the age of thirteen (13) years and fails to comply with the provisions of this act regarding compulsory attendance or who is habitually truant from school without justification commits a summary offense and except as provided in clause (4) shall, upon conviction, be sentenced to pay a fine not exceeding three hundred dollars (\$300) for each offense for the benefit of the school district in which such offending child resides or shall be assigned to an adjudication alternative program pursuant to 42 Pa.C.S. § 1520 (relating to adjudication alternative program).

(2) For any child who has attained the age of thirteen (13) years who fails to pay the fine under clause (1) or to comply with the adjudication alternative program, the district justice may allege the child to be dependent under 42 Pa.C.S. § 6303(a)(1) (relating to scope of chapter). The failure by the child to pay a fine or comply with the adjudication alternative program shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(3) Upon a summary conviction or assignment to an adjudication alternative program, the district justice may suspend, in whole or in part, a sentence or an adjudication alternative program in which a child who has attained the age of thirteen (13) years must pay or comply with the adjudication alternative program: Provided, That the child no longer is habitually truant from school without justification.

(4) Any child who has not attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant shall be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302 (relating to definitions). Any child who has attained the age of thirteen (13) years who fails to comply with the compulsory attendance provisions of this act and is habitually truant may, in lieu of a prosecution under clause (1), be referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302.

(5) The following words, when used in this subsection, shall have the following meaning, except where the context clearly indicates or requires a different meaning:

"Community resources" shall mean those agencies and services for children and youth provided by the juvenile court, the county, the Department of Health, the Department of Public Welfare and other public or private institutions.

"District justice" shall mean such court as the court of common pleas shall direct in counties not having district justices.

"Habitually truant" shall mean absence for more than three (3) school days or their equivalent following the first notice of truancy given under section 1354. A person may be habitually truant after such notice.

"Offense" shall mean each citation which goes before a district justice or court of common pleas.

"Person in parental relation" shall not include any county agency or person acting as an agent of the county agency in the jurisdiction of a dependent child defined under 42 Pa.C.S. § 6302 (relating to definitions).

(c) If a child is convicted for a violation of this section, the court, including a court not of record, shall send to the Department of Transportation a certified record of the conviction or other disposition on a form prescribed by the department.

(d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.] **Procedure When Child is Truant.--(a) When a child is truant, the school shall notify in writing the person in parental relation with the child who resides in the same household as the child of the child's violation of compulsory school attendance within ten (10) school days of the child's third unexcused absence. The notice:**

(1) shall include a description of the consequences that will follow if the child becomes habitually truant;

(2) shall be in the mode and language of communication preferred by the person in parental relation;

(3) may include the offer of a school attendance improvement conference; or

(4) when transmitted to a person who is not the biological or adoptive parent, shall also be provided to the child's biological or adoptive parent if the parent's mailing address is on file with the school and the parent is not precluded from receiving the information by court order.

(b) If the child continues to incur unexcused absences after the school has issued the notice under subsection (a), the school shall then offer by advance written notice a school attendance improvement conference to the child and the person in parental relation, unless a conference was previously held following the notice provided under subsection (a). The following shall apply:

(1) This subsection does not place a legal requirement upon the child or person in parental relation to attend the conference. The conference shall occur even if the person in parental relation declines to participate or fails to attend the scheduled conference after advance written notice and attempts to communicate via telephone.

(2) The outcome of the conference shall be documented in a written school attendance improvement plan. The department shall develop a form to be used for this purpose, and each school shall use a form substantially similar to the form developed by the department.

(3) Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed.

(c) Schools shall not expel or impose out-of-school suspension, disciplinary reassignment or transfer for truant behavior.

(d) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

Section 6. The act is amended by adding sections to read:

Section 1333.1. Procedure By School When Child Habitually Truant.--(a) When a child is habitually truant and under fifteen (15) years of age at the time of referral, the school:

(1) Shall refer the child to either of the following:

(i) A school-based or community-based attendance improvement program.

(ii) The county children and youth agency for services or for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(2) May file a citation in the office of the appropriate judge against the person in parental relation who resides in the same household as the child.

(b) When a child is habitually truant and fifteen (15) years of age or older at the time of referral, the school shall either:

(1) Refer the child to a school-based or community-based attendance improvement program or service.

(2) File a citation in the office of the appropriate judge against the child or the person in parental relation who resides in the same household as the child.

(c) If a child who is fifteen (15) years of age or older continues to incur additional unexcused absences after being referred to a school-based or community-based attendance improvement program or refuses to participate in a school-based or community-based attendance improvement program as recommended through the school attendance improvement conference, the school may refer the child to the county children and youth agency for possible disposition as a dependent child under the provisions of 42 Pa.C.S. Ch. 63.

(d) When referring a habitually truant child to the county children and youth agency or filing a citation with the court because a child has been habitually truant, the school shall provide verification that a school attendance improvement conference was held.

(e) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

Section 1333.2. Procedure Upon Filing of Citation.--(a)

The venue for the filing of a citation under section 1333.1 shall be based on the location of the school in which the child is enrolled or shall be enrolled except where section 1327.2(b) applies.

(b) When a citation is filed against a child or a person in parental relation who resides in the same household as the child under the provisions of section 1333.1, the judge shall provide the following notices:

(1) Written notice of the hearing with respect to the citation to the school, the person in parental relation, the child and the county children and youth agency.

(2) Notice to the child or person in parental relation who resides in the same household as the child of the availability of a preconviction diversionary program authorized under 42 Pa.C.S. § 1520 (relating to adjudication alternative program).

(c) At the hearing with respect to the citation, the burden is on the school to prove beyond a reasonable doubt that, while subject to compulsory school attendance, the child was habitually and without justification truant from school.

(d) It shall be an affirmative defense to a citation filed under this subdivision of this article against a person in parental relation to the child who resides in the same household as the child if the person in parental relation to the child who resides in the same household as the child took every reasonable step to ensure attendance of the child at school.

(e) An affirmative defense under subsection (d) must be proven by a preponderance of the evidence.

(f) The court shall determine whether the evidence has established that a child or person in parental relation has violated the compulsory school attendance requirements of this article and shall enter that verdict on the record.

(g) The school shall, to the extent possible, inform the court of any prior conviction of the child or person in parental relation who resides in the same household as the child for a

violation of the compulsory school attendance requirement of this article.

(h) Before entering a sentence the judge shall permit the school, person in parental relation or child to present relevant information that will assist the judge in making an informed decision regarding the appropriate sentence. The child's school attendance after the citation has been filed and while the proceeding is pending may be considered for the purpose of imposing a sentence.

Section 1333.3. Penalties for Violating Compulsory School Attendance Requirements.--(a) A person convicted of an offense under this article may be:

(1) sentenced to pay a fine for the benefit of the school that is responsible for the truancy proceedings in an amount not exceeding three hundred dollars (\$300) together with court costs except that, in the case of a second offense, the maximum fine for a person in parental relation may be a higher amount within their ability to pay not exceeding five hundred dollars (\$500) together with court costs and, in the case of a third or subsequent offense, the maximum fine for a person in parental relation may be a higher amount within their ability to pay not exceeding seven hundred and fifty dollars (\$750) together with court costs;

(2) sentenced to perform community service; or

(3) required to complete an appropriate course or program designed to improve school attendance which has been approved by the president judge of the judicial district.

(b) The court may suspend the sentence of a person convicted of an offense and may remit or waive fines and costs if the child attends school in accordance with a plan devised by the court.

(c) A person convicted of an offense under this article shall have a right to appeal de novo to a court of common pleas of the proper county within thirty (30) days of the conviction. After thirty (30) days, the appeal shall proceed similar to other appeals of summary convictions.

(d) No citation may be filed against a child or a person in parental relation with the child who resides in the same household as the child for a subsequent violation of compulsory school attendance if any of the following circumstances apply:

(1) A proceeding is already pending under sections 1333.1 and 1333.2 against the child or a person in parental relation with the child who resides in the same household as the child and judgment in the first proceeding has not yet been entered, unless a warrant has been issued for failure of the child or person in parental relation to appear before the court and the warrant has not yet been served.

(2) A referral for services has been made to the county children and youth agency under this subdivision and the agency has not closed the case.

(3) A petition has been filed alleging the child is dependent due to being habitually truant under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) and the case remains under the jurisdiction of the juvenile court.

(e) Upon a second or subsequent conviction of a child or a person in parental relation with the child who resides in the same household as the child for a violation of the requirements of compulsory school attendance in a court within this Commonwealth within a three-year period, the court shall refer the child for services or possible disposition as a dependent child under 42 Pa.C.S. Ch. 63.

(f) Upon failure of a person to satisfy the penalty imposed by the court under subsection (a), the person in parental relation may be found in contempt of court and, upon conviction, may be sentenced to the county jail for a period not to exceed three (3) days in any one case. The court shall make such a determination based on specific finding that the person in parental relation had reasonable ability to comply with the penalty imposed and that noncompliance was willful. The following shall apply:

(1) In the case of a child, the failure to satisfy a fine or costs imposed under this section shall not be considered a delinquent act.

(2) The president judge of a judicial district may adopt a local policy under 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers) and the Pennsylvania Rules of Juvenile Court Procedure to provide that a juvenile probation officer may receive allegations that the child who fails to satisfy a fine or costs imposed under this section is dependent for the purpose of considering the commencement of proceedings under 42 Pa.C.S. Ch. 63.

(g) (1) If a child is convicted of a violation of the compulsory school attendance requirements of this article, the court may send the Department of Transportation a certified record of the conviction on a form prescribed by the department only if the child fails to comply with a lawful sentence entered for the violation and is not subject to an exception to compulsory attendance under section 1330.

(2) The Department of Transportation shall suspend for ninety (90) days the operating privilege of a child upon receiving a certified record that the child was convicted of a summary offense under the compulsory school attendance requirements of this article. If the Department of Transportation receives a certified record of a second or subsequent conviction of a child pursuant to this section, the department shall suspend the child's operating privilege for six (6) months.

(3) A child whose record is received by the Department of Transportation under this section and who does not have a driver's license shall be ineligible to apply for a driver's license under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time period specified in paragraph (2). If the child is under sixteen (16) years of age when convicted, suspension of operating privileges shall commence in accordance with 75 Pa.C.S. § 1541 (relating to period of disqualification, revocation or suspension of operating privilege) for the time specified in paragraph (2).

(4) A child whose driving privileges have been suspended or whose eligibility for a permit or license is delayed under this section may have that license or eligibility restored by providing the Department of Transportation with a form developed by the Department of Transportation containing the following information in the form of a certified record from the child's school that the child:

(i) has attended school for a period of at least two (2) months after the first conviction or four (4) months after the second conviction without an unexcused absence or unexcused tardy;

(ii) is subject to an exception to compulsory attendance under section 1330; or

(iii) graduates, withdraws from school pursuant to compulsory attendance requirements under section 1327, receives a general education diploma or enlists in the military.

(5) An insurer may not increase premiums, impose a surcharge or rate penalty, make a driver record point assignment for automobile insurance or cancel or refuse to renew an automobile insurance policy on account of a suspension under this section.

(6) Nothing in this section shall prohibit a child who is convicted of a violation of the compulsory school attendance requirements of this article from being eligible for an occupational limited license under 75 Pa.C.S. § 1553 (relating to occupational limited license).

(h) (1) Upon application from a child who has a conviction of a summary offense under section 1333.2, the court shall grant an expungement of the conviction from the child's record if all of the following apply:

(i) The child has earned a high school diploma, a Commonwealth secondary school diploma or another Department of Education-approved equivalent or is subject to an exception to compulsory attendance under section 1330.

(ii) The child has satisfied any sentence imposed by the court with respect to the conviction, including payment of fines and costs.

(2) If the court grants an expungement under paragraph (1), the court shall order the Department of Transportation to expunge all administrative records related to the convictions.

(i) Nothing in this section shall be construed to apply to a parent, guardian or person in parental relation whose child or children are in a home education program under section 1327.1.

(ii) (Reserved)

Section 1333.4. Study of Truancy Procedure.--(a) Five (5) years after commencement of the first school year to which section 1333 applies, the Joint State Government Commission shall undertake a study of the procedures for how a school handles children who are truant and habitually truant and evaluate the effectiveness of the procedures in improving school attendance and whether the procedures should be revised, including to require court involvement sooner in certain truancy cases.

(b) The Joint State Government Commission shall establish an advisory committee that may include representatives of the Department of Education, educational entities and organizations, the judiciary, district attorneys, law enforcement, public organizations involved in truancy issues, representatives of county children and youth agencies and juvenile justice agencies and other organizations selected by the Joint State Government Commission to consult with the Joint State Government Commission in conducting the study.

(c) The Joint State Government Commission shall hold informational meetings to receive testimony from professionals or organizations with expertise in truancy and truancy prevention.

(d) The Joint State Government Commission shall issue a report of its findings and recommendations to the Education Committee of the Senate and the Education Committee of the House of Representatives not later than twelve (12) months after undertaking the study.

Section 7. Section 1338.1 of the act is repealed:

[Section 1338.1. Suspension of Operating Privilege.--(a) The Department of Transportation shall suspend for 90 days the operating privilege of any child upon receiving a certified

record that the child was convicted of violating section 1333. If the department receives a second or subsequent conviction for a child's violation of section 1333, the department shall suspend the child's operating privilege for six months.

(b) Any child whose record is received by the department under section 1333(c) and who does not have a driver's license shall be ineligible to apply for a driver's license under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time periods specified in subsection (a). If the child is under sixteen (16) years of age when convicted, suspension of operating privileges shall commence in accordance with 75 Pa.C.S. § 1541 (relating to period of revocation or suspension of operating privilege) for the time specified in subsection (a).

(c) An insurer may not increase premiums, impose any surcharge or rate penalty or make any driver record point assignment for automobile insurance, nor shall an insurer cancel or refuse to renew an automobile insurance policy on account of a suspension under this section.]

Section 8. Sections 1732-A(a) and 1749-A(a)(1) of the act, amended or added June 29, 2002 (P.L.524, No.88), are amended to read:

Section 1732-A. Provisions Applicable to Charter Schools.--(a) Charter schools shall be subject to the following:

Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1301, 1310, 1317, 1317.1, 1317.2, 1318, **1326**, 1327, **1327.2**, **1329**, 1330, 1332, **1333**, **1333.1**, **1333.2**, **1333.3**, 1303-A, 1513, 1517, 1518, 1521, 1523, 1531, 1547, 2014-A, Article XIII-A and Article XIV.

Act of July 17, 1961 (P.L.776, No.341), known as the "Pennsylvania Fair Educational Opportunities Act."

Act of July 19, 1965 (P.L.215, No.116), entitled "An act providing for the use of eye protective devices by persons engaged in hazardous activities or exposed to known dangers in schools, colleges and universities."

Section 4 of the act of January 25, 1966 (1965 P.L.1546, No.541), entitled "An act providing scholarships and providing funds to secure Federal funds for qualified students of the Commonwealth of Pennsylvania who need financial assistance to attend postsecondary institutions of higher learning, making an appropriation, and providing for the administration of this act."

Act of July 12, 1972 (P.L.765, No.181), entitled "An act relating to drugs and alcohol and their abuse, providing for projects and programs and grants to educational agencies, other public or private agencies, institutions or organizations."

Act of December 15, 1986 (P.L.1595, No.175), known as the "Antihazing Law."

* * *

Section 1749-A. Applicability of other provisions of this act and of other acts and regulations.

(a) General requirements.--Cyber charter schools shall be subject to the following:

(1) Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443, 510, 518, 527, 708, 752, 753, 755, 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1205.1, 1205.2, 1301, 1302, 1310, 1317.2, 1318, **1326**, **1327**, **1327.2**, **1329**, 1330, 1332, **1333**, **1333.1**, **1333.2**, **1333.3**, 1303-A, 1518, 1521, 1523,

1531, 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-A, 1719-A, 1721-A, 1722-A, 1723-A(a) and (b), 1724-A, 1725-A, 1727-A, 1729-A, 1730-A, 1731-A(a)(1) and (b) and 2014-A and Articles XII-A, XIII-A and XIV.

* * *

Section 9. Section 1901-C(5) of the act, added June 25, 1997 (P.L.297, No.30), is amended to read:

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

* * *

(5) "Disruptive student." A student who poses a clear threat to the safety and welfare of other students or the school staff, who creates an unsafe school environment or whose behavior materially interferes with the learning of other students or disrupts the overall educational process. The disruptive student exhibits to a marked degree any or all of the following conditions:

(i) Disregard for school authority, including persistent violation of school policy and rules.

(ii) Display or use of controlled substances on school property or during school-affiliated activities.

(iii) Violent or threatening behavior on school property or during school-affiliated activities.

(iv) Possession of a weapon on school property, as defined under 18 Pa.C.S. § 912 (relating to possession of weapon on school property).

(v) Commission of a criminal act on school property or during school-affiliated activities.

(vi) Misconduct that would merit suspension or expulsion under school policy.

[(vii) Habitual truancy.]

No student who is eligible for special education services pursuant to the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) shall be deemed a disruptive student for the purposes of this act, except as provided for in 22 Pa. Code § 14.35 (relating to discipline).

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Section 10. This act shall apply to the 2017-2018 school year and each school year thereafter.

Section 11. This act shall take effect immediately.

APPROVED--The 3rd day of November, A.D. 2016.

TOM WOLF