

PUBLIC SCHOOL CODE OF 1949 - STUDENTS CONVICTED OR ADJUDICATED  
DELINQUENT OF SEXUAL ASSAULT, SAFE SCHOOLS ADVOCATE IN SCHOOL  
DISTRICTS OF THE FIRST CLASS AND SCHOOL PARTICIPATION IN PROGRAM

Act of Nov. 3, 2020, P.L. 1087, No. 110

Cl. 24

Session of 2020

No. 2020-110

SB 530

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 students convicted or adjudicated delinquent of sexual assault; in safe schools, further providing for safe schools advocate in school districts of the first class; and, in educational tax credits, further providing for school participation in program.

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 to read:

**Section 1318.1. Students Convicted or Adjudicated Delinquent of Sexual Assault.--(a) (1)** Notwithstanding sections 510 and 2134, if a student enrolled in a public school entity is convicted or adjudicated delinquent of committing a sexual assault upon another student enrolled in the same public school entity, the public school entity shall, pursuant to applicable laws and regulations, take one of the following actions:

(i) Expel the convicted or adjudicated student.

(ii) Transfer the convicted or adjudicated student to an alternative education program.

(iii) Reassign the convicted or adjudicated student to another school or educational program within the public school entity.

(2) A public school entity shall ensure that the convicted or adjudicated student is not educated in the same school building, transported on the same school vehicle or allowed to participate in the same school-sponsored activities at the same time as the victim.

(3) A public school entity may not take action under paragraph (1) if:

(i) The public school entity has already expelled, transferred or reassigned the convicted or adjudicated delinquent student for the same sexual assault.

(ii) The convicted or adjudicated student does not attend the same school as the victim.

(b) The public school entity may not be prohibited from taking action under this section for convictions or adjudications for sexual assaults that occur outside a school setting if the assault:

(1) was against another student enrolled in the same public school entity; and

(2) has the effect of:

(i) substantially interfering with the victim's education;

(ii) creating a threatening or hostile educational environment; or

(iii) substantially disrupting the orderly operation of the school.

(c) A student expelled, transferred or reassigned under this section may return to the student's originally assigned school only if:

(1) the victim ceases to be enrolled in the public school entity from which the convicted or adjudicated delinquent student was expelled, transferred or reassigned; or

(2) the conviction or delinquency adjudication on which the expulsion, transfer or reassignment was based is reversed and no appeal is pending.

(d) Nothing in this section shall be construed as limiting the authority or duty of a public school entity to make an alternative assignment or provide alternative educational services during or after the period of expulsion.

(e) A student convicted of sexual assault upon another student enrolled in the same public school entity shall notify the public school entity of the conviction no later than 72 hours after the conviction.

(f) A public school entity receiving a student who transfers from a public or nonpublic school during or after the period of expulsion for an act or offense involving a sexual assault conviction or adjudication of delinquency may assign that student to an alternative assignment or provide alternative education services.

(g) Prior to admission to a public school entity, the parent, guardian or other person having control or charge of a student shall, upon registration, provide a sworn statement or affirmation stating whether the student was previously or is presently expelled under the provisions of this section. The registration shall include the name of the school from which the student was expelled with the dates of expulsion and shall be maintained as part of the student's disciplinary record. Any willful false statement made under this subsection shall be subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(h) Each public school entity shall develop or update its written policies to ensure compliance with this section.

(i) A public school entity shall, in the case of students with disabilities, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

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

"Convicted" means a finding of guilty by a judge or a jury or the entry of a plea of guilty or nolo contendere for sexual assault whether or not judgment of sentence has been imposed.

"Public school entity" means a school district, independent school, area career and technical school, intermediate unit, charter school, regional charter school or cyber charter school.

"School setting" means in the school, on school grounds, in school vehicles, at a designated bus stop or at any activity sponsored, supervised or sanctioned by the school.

"School-sponsored activities" means any assemblies, field trips, class trips, graduation ceremonies, athletics, extracurricular activities, clubs, groups, teams or any activities sponsored, held or approved by the public school entity.

"Sexual assault" shall include any of the offenses specified under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 2. Sections 1310-A(b)(2) and 2011-B(d)(1)(i) of the act are amended to read:

Section 1310-A. Safe Schools Advocate in School Districts of the First Class.--\* \* \*

(b) The safe schools advocate shall have the power and its duties shall be:

\* \* \*

(2) To monitor the school district's compliance with the mandatory expulsion requirements of [section] **sections 1317.2 and 1318.1.**

\* \* \*

Section 2011-B. School participation in program.

\* \* \*

(d) Participating public school criteria.--The following criteria apply to a participating public school:

(1) Except as otherwise provided in this article, a school district shall enroll students in a participating public school on a lottery basis from a pool of recipients who meet the application deadline set by the Department of Education until the participating public school fills the school's available seats. The pool may not include a recipient who:

(i) Has been expelled or is in the process of being expelled under section 1317.2 [or], 1318 **or 1318.1** and applicable regulations of the State Board of Education.

\* \* \*

Section 3. This act shall take effect in 60 days.

APPROVED--The 3rd day of November, A.D. 2020.

TOM WOLF