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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1272 Session of  
1997

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INTRODUCED BY OLIVER, GODSHALL, CALTAGIRONE, REBER, DONATUCCI,  
McCALL, BISHOP, RIEGER, L. I. COHEN, YOUNGBLOOD, CURRY,  
PETRONE, STABACK, TRELLO, ITKIN, JOSEPHS, LEDERER, MELIO,  
M. COHEN, GIGLIOTTI, WASHINGTON, ROEBUCK, SHANER, BUNT,  
RAYMOND, TRICH, PRESTON, A. H. WILLIAMS AND SAINATO,  
APRIL 9, 1997

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SENATE AMENDMENTS TO HOUSE AMENDMENTS, NOVEMBER 24, 1998

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing ~~for the possession~~ <—  
3 ~~of weapons on school property,~~ for aggravated assault; AND <—  
4 ~~for terroristic threats and for institutional vandalism;~~ <—  
5 providing for retaliation against prosecutor or judicial  
6 official. ~~and further providing for restriction on operating~~ <—  
7 ~~privileges.~~

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

10 Section 1. ~~Sections 912 and~~ SECTION 2702(a)(5) and (c) of <—  
11 Title 18 of the Pennsylvania Consolidated Statutes ~~are~~ IS <—  
12 amended to read:

13 ~~§ 912. Possession of weapon on school property.~~ <—

14 ~~(a) Definition. Notwithstanding the definition of "weapon"~~  
15 ~~in section 907 (relating to possessing instruments of crime),~~  
16 ~~"weapon" for purposes of this section shall include but not be~~  
17 ~~limited to any knife, cutting instrument, cutting tool, nun-~~

1 ~~chuck stick, firearm, shotgun, rifle and any other tool,~~  
2 ~~instrument or implement capable of inflicting serious bodily~~  
3 ~~injury.~~

4 ~~(b) Offense defined. A person commits a misdemeanor of the~~  
5 ~~first degree if he possesses a weapon in the buildings of, on~~  
6 ~~the grounds of, or in any conveyance providing transportation to~~  
7 ~~or from any elementary or secondary publicly funded educational~~  
8 ~~institution, any elementary or secondary private school licensed~~  
9 ~~by the Department of Education or any elementary or secondary~~  
10 ~~parochial school.~~

11 ~~(b.1) Firearms.~~

12 ~~(1) Except as provided in paragraph (2), a person who~~  
13 ~~commits an offense under subsection (b) while in the~~  
14 ~~possession of a firearm as defined in section 6102 (relating~~  
15 ~~to definitions), commits a felony of the third degree.~~

16 ~~(2) A person who commits an offense under subsection (b)~~  
17 ~~while in the possession of a firearm as defined in section~~  
18 ~~6102 and who is otherwise eligible to possess a valid license~~  
19 ~~as defined in section 6109 (relating to licenses), commits a~~  
20 ~~misdemeanor of the first degree.~~

21 ~~(c) Defense. It shall be a defense that the weapon is~~  
22 ~~possessed and used in conjunction with a lawful supervised~~  
23 ~~school activity or course or is possessed for other lawful~~  
24 ~~purpose.~~

25 § 2702. Aggravated assault.

26 (a) Offense defined.--A person is guilty of aggravated  
27 assault if he:

28 \* \* \*

29 (5) attempts to cause or intentionally or knowingly  
30 causes bodily injury to a {teaching staff member,} school

<—

1 board member[, ] OR other employee [or student], INCLUDING A  
2 STUDENT EMPLOYEE, of any elementary or secondary publicly-  
3 funded educational institution, any elementary or secondary  
4 private school licensed by the Department of Education or any  
5 elementary or secondary parochial school while acting in the  
6 scope of his or her employment or because of his or her  
7 employment relationship to the school; or

8 \* \* \*

9 (c) Officers, employees, etc., enumerated.--The officers,  
10 agents, employees and other persons referred to in subsection  
11 (a) shall be as follows:

- 12 (1) Police officer.
- 13 (2) Firefighter.
- 14 (3) County adult probation or parole officer.
- 15 (4) County juvenile probation or parole officer.
- 16 (5) An agent of the Pennsylvania Board of Probation and  
17 Parole.
- 18 (6) Sheriff.
- 19 (7) Deputy sheriff.
- 20 (8) Liquor control enforcement agent.
- 21 (9) Officer or employee of a correctional institution,  
22 county jail or prison, juvenile detention center or any other  
23 facility to which the person has been ordered by the court  
24 pursuant to a petition alleging delinquency under 42 Pa.C.S.  
25 Ch. 63 (relating to juvenile matters).
- 26 (10) Judge of any court in the unified judicial system.
- 27 (11) The Attorney General.
- 28 (12) A deputy attorney general.
- 29 (13) A district attorney.
- 30 (14) An assistant district attorney.

- 1 (15) A public defender.
- 2 (16) An assistant public defender.
- 3 (17) A Federal law enforcement official.
- 4 (18) A State law enforcement official.
- 5 (19) A local law enforcement official.
- 6 (20) Any person employed to assist or who assists any  
7 Federal, State or local law enforcement official.
- 8 (21) Emergency medical services personnel.
- 9 (22) Parking enforcement officer.
- 10 (23) A district justice.
- 11 (24) A constable.
- 12 (25) A deputy constable.
- 13 (26) A psychiatric aide.

14 (27) A teaching staff member, A SCHOOL BOARD MEMBER OR <—  
15 OTHER EMPLOYEE, INCLUDING A STUDENT EMPLOYEE, OF ANY  
16 ELEMENTARY OR SECONDARY PUBLICLY FUNDED EDUCATIONAL  
17 INSTITUTION, ANY ELEMENTARY OR SECONDARY PRIVATE SCHOOL  
18 LICENSED BY THE DEPARTMENT OF EDUCATION OR ANY ELEMENTARY OR  
19 SECONDARY PAROCHIAL SCHOOL WHILE ACTING IN THE SCOPE OF HIS  
20 OR HER EMPLOYMENT OR BECAUSE OF HIS OR HER EMPLOYMENT  
21 RELATIONSHIP TO THE SCHOOL.

22 \* \* \*

23 ~~Section 2. Sections 2706 and 3307 of Title 18 are amended by~~ <—  
24 ~~adding subsections to read:~~

25 ~~§ 2706. Terroristic threats.~~

26 \* \* \*

27 ~~(d) School terroristic threats. The school superintendent~~  
28 ~~or chief administrator shall report terroristic threats of~~  
29 ~~violent acts occurring within school grounds to local law~~  
30 ~~enforcement officers.~~

1 ~~§ 3307. Institutional vandalism.~~

2 \* \* \*

3 ~~(c) Action to recover damages.—~~

4 ~~(1) Where the damages to school property exceed \$1,000~~  
5 ~~from an incident of vandalism and if the offender has~~  
6 ~~willfully or recklessly damaged school district property or~~  
7 ~~has willfully or recklessly committed acts against school~~  
8 ~~district property cognizable as an offense under subsection~~  
9 ~~(a)(3), as it relates to a school or educational facility,~~  
10 ~~then unless a legally binding settlement agreement has been~~  
11 ~~entered into between the parties assuring that restitution~~  
12 ~~will be made, the board of school directors of the school~~  
13 ~~district owning the damaged property shall institute a civil~~  
14 ~~action to recover compensatory damages not exceeding \$50,000~~  
15 ~~plus court costs and attorney fees from the offender or from~~  
16 ~~the parents or legal guardian of the offender if the offender~~  
17 ~~is a minor. A finding of willful damage shall not be~~  
18 ~~dependent upon:~~

19 ~~(i) a prior finding that the offender, if a minor,~~  
20 ~~is delinquent or is a dependent child; or~~

21 ~~(ii) the offender's conviction of any prior criminal~~  
22 ~~offense.~~

23 ~~(2) If a court renders a judgment under this subsection~~  
24 ~~in favor of a board of school directors of a school district,~~  
25 ~~the court shall order full restitution unless the board and~~  
26 ~~the offender or the parent or legal guardian of the minor~~  
27 ~~agree that the offender, or the minor and the parent or legal~~  
28 ~~guardian, will perform community service in lieu of full~~  
29 ~~payment of the judgment.~~

30 ~~(3) If an agreement for community service is reached~~

1 under paragraph (2), the court shall order the offender, and  
2 in the case of a minor offender may also order the parents or  
3 legal guardian of the minor offender, to make payment of  
4 money and to perform such community service as has been  
5 agreed to by the parties as equating to full restitution. In  
6 the order, the court:

7 (i) shall specify the amount to be paid by the  
8 offender, or by the minor offender and the parents or  
9 legal guardian, and the number of hours of community  
10 service to be performed;

11 (ii) may designate a specific type of community  
12 service or delegate the service to an established  
13 community service program; and

14 (iii) may specify any other conditions necessary to  
15 carry out the order.

16 (4) Where the damages to school property are \$1,000 or  
17 less, the board of school directors of the school district  
18 owning the damaged property may institute a civil action to  
19 recover compensatory damages and the liability of a parent or  
20 legal guardian for the actions of a minor offender shall be  
21 premised upon the provisions of 23 Pa.C.S. Ch. 55 (relating  
22 to liability for tortious acts of children). Notwithstanding  
23 the provisions of 23 Pa.C.S. § 5505(b) (relating to monetary  
24 limits of liability), for amounts in excess of \$1,000, the  
25 liability of a parent or legal guardian for the actions of a  
26 minor offender shall be premised upon a finding that the  
27 parent or legal guardian failed to exercise reasonable and  
28 diligent supervision of the minor, which would likely have  
29 prevented the occurrence of the damage.

30 Section 3 2. Title 18 is amended by adding a section to

<—

1 read:

2 § 4953.1. Retaliation against prosecutor or judicial official.

3 (a) Offense defined.--A person commits an offense if he  
4 harms or attempts to harm another or the tangible property of  
5 another by any unlawful act in retaliation for anything lawfully  
6 done in the official capacity of a prosecutor or judicial  
7 official.

8 (b) Grading.--The offense is a felony of the second degree  
9 if:

10 (1) The actor employs force, violence or deception, or  
11 attempts or threatens to employ force, violence or deception,  
12 upon the prosecutor or judicial official or, with the  
13 requisite intent or knowledge, upon any other person.

14 (2) The actor's conduct is in furtherance of a  
15 conspiracy to retaliate against a prosecutor or judicial  
16 official.

17 (3) The actor solicits another to or accepts or agrees  
18 to accept any pecuniary or other benefit to retaliate against  
19 a prosecutor or judicial official.

20 (4) The actor has suffered any prior conviction for any  
21 violation of this title or any predecessor law hereto, or has  
22 been convicted, under any Federal statute or statute of any  
23 other state, of an act which would be a violation of this  
24 title if committed in this Commonwealth.

25 (5) The actor causes property damage or loss in excess  
26 of \$1,000.

27 Otherwise the offense is a misdemeanor of the first degree.

28 (c) Definitions.--As used in this section, the following  
29 words and phrases shall have the meanings given to them in this  
30 subsection:

1 "Judicial official." Any person who is a:

2 (1) judge of the court of common pleas;

3 (2) judge of the Commonwealth Court;

4 (3) judge of the Superior Court;

5 (4) justice of the Supreme Court;

6 (5) district justice;

7 (6) judge of the Pittsburgh Magistrate's Court;

8 (7) judge of the Philadelphia Municipal Court;

9 (8) judge of the Traffic Court of Philadelphia; or

10 (9) master appointed by a judge of a court of common

11 pleas.

12 "Prosecutor." Any person who is:

13 (1) an Attorney General;

14 (2) a deputy attorney general;

15 (3) a district attorney; or

16 (4) an assistant district attorney.

17 ~~Section 4. Section 6310.4(a) of Title 18 is amended to read: <—~~

18 ~~§ 6310.4. Restriction of operating privileges.~~

19 ~~(a) General rule. Whenever a person is convicted or is~~  
20 ~~adjudicated delinquent or is admitted to any preadjudication~~  
21 ~~program for a violation of section 2706 (relating to terroristic~~  
22 ~~threats), 3307 (relating to institutional vandalism), 6307~~  
23 ~~(relating to misrepresentation of age to secure liquor or malt~~  
24 ~~or brewed beverages), 6308 (relating to purchase, consumption,~~  
25 ~~possession or transportation of liquor or malt or brewed~~  
26 ~~beverages) or 6310.3 (relating to carrying a false~~  
27 ~~identification card), the court, including a court not of record~~  
28 ~~if it is exercising jurisdiction pursuant to 42 Pa.C.S. §~~  
29 ~~1515(a) (relating to jurisdiction and venue), shall order the~~  
30 ~~operating privilege of the person suspended. A copy of the order~~

1 ~~shall be transmitted to the Department of Transportation.~~

2 \* \* \*

3 ~~Section 5. This act shall take effect as follows:~~

4 ~~(1) The amendment of 18 Pa.C.S. §§ 2702, 2706, 3307 and~~  
5 ~~6310.4 shall take effect in 60 days.~~

6 ~~(2) The remainder of this act shall take effect~~  
7 ~~immediately.~~

8 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.

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