
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1988 Session of
1999

INTRODUCED BY BUTKOVITZ, PERZEL, KELLER, EVANS, WOGAN,
TANGRETTI, LEDERER, McGEEHAN, KENNEY, SANTONI, CALTAGIRONE,
BATTISTO, CORRIGAN, LUCYK, WOJNAROSKI, PISTELLA, LAWLESS,
KREBS, CAWLEY, CAPPABIANCA, BROWNE, ADOLPH, BARRAR, MAYERNIK,
BUNT, PESCI, GIGLIOTTI, GRUITZA, E. Z. TAYLOR, TRUE,
READSHAW, TRELLO, MARKOSEK, LaGROTTA, HARHAI, YUDICHAK,
ROBINSON, SOLOBAY, MANN, MICOZZIE, FLICK, CIVERA, HARHART,
DALLY AND GLADECK, OCTOBER 20, 1999

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 20, 1999

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," further providing for the prohibition
6 against possession of weapons.

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

9 Section 1. Section 1317.2 of the act of March 10, 1949
10 (P.L.30, No.14), known as the Public School Code of 1949,
11 amended June 25, 1997 (P.L.297, No.30), is amended to read:

12 Section 1317.2. Possession of Weapons Prohibited.--(a)
13 Except as otherwise provided in this section, a school district
14 or area vocational-technical school shall expel, for a period of
15 not less than one year, any student who is determined to have
16 brought onto or is in possession of a weapon on any school
17 property, any school-sponsored activity or any public conveyance

1 providing transportation to a school or school-sponsored
2 activity.

3 (b) Every school district and area vocational-technical
4 school shall develop a written policy regarding expulsions for
5 possession of a weapon as required under this section.
6 Expulsions shall be conducted pursuant to all applicable
7 regulations.

8 (c) The superintendent of a school district or an
9 administrative director of an area vocational-technical school
10 may recommend modifications of such expulsion requirements for a
11 student on a case-by-case basis. The superintendent or other
12 chief administrative officer of a school entity shall, in the
13 case of an exceptional student, take all steps necessary to
14 comply with the Individuals with Disabilities Education Act
15 (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

16 (c.1) Any school superintendent, chief administrator or
17 designee of a superintendent or administrator who makes a
18 negligent recommendation that significantly contributes to a
19 decision against an expulsion of a student who violates this
20 section shall be liable for damages to any person who is
21 subsequently injured by such student using a weapon on school
22 property within a one-year period from the time of the initial
23 recommendation against expulsion. A negligent recommendation
24 against expulsion shall mean a recommendation which fails to
25 give sufficient weight to:

- 26 (1) the nature of the weapon possessed;
27 (2) the student's prior disciplinary history; and
28 (3) the student's juvenile or criminal history.

29 When the essential elements of an action brought pursuant to
30 this subsection have been established, the injured party shall

1 be entitled to recover for the following: compensatory damages;
2 punitive damages in appropriate cases; and legal expenses,
3 including any reasonable attorney fees. Such liability shall
4 accrue solely to the school superintendent, chief administrator
5 or designee of a superintendent or administrator found liable
6 for making such negligent recommendation and shall not extend to
7 the board of school directors, the board of an area vocational-
8 technical school, the school district or the area vocational-
9 technical school. The school district or area vocational-
10 technical school shall be prohibited from providing
11 indemnification or insurance coverage for any liability arising
12 out of this subsection for the school superintendent, the chief
13 administrator or designee of a superintendent or administrator
14 for damages awarded pursuant to this section.

15 (d) The provisions of this section shall not apply to the
16 following:

17 (1) a weapon being used as part of a program approved by a
18 school by an individual who is participating in the program; or

19 (2) a weapon that is unloaded and is possessed by an
20 individual while traversing school property for the purpose of
21 obtaining access to public or private lands used for lawful
22 hunting, if the entry on school premises is authorized by school
23 authorities.

24 (e) Nothing in this section shall be construed as limiting
25 the authority or duty of a school or area vocational-technical
26 school to make an alternative assignment or provide alternative
27 educational services during the period of expulsion.

28 (e.1) A school district receiving a student who transfers
29 from a public or private school during a period of expulsion for
30 an act or offense involving a weapon may assign that student to

1 an alternative assignment or provide alternative education
2 services, provided that the assignment may not exceed the period
3 of expulsion.

4 (f) All school districts and area vocational-technical
5 schools shall report all incidents involving possession of a
6 weapon prohibited by this section as follows:

7 (1) The school superintendent or chief administrator shall
8 report the discovery of any weapon prohibited by this section to
9 local law enforcement officials.

10 (2) The school superintendent or chief administrator shall
11 report to the Department of Education all incidents relating to
12 expulsions for possession of a weapon on school grounds, school-
13 sponsored activities or public conveyances providing
14 transportation to a school or school-sponsored activity. Reports
15 shall include all information as required under section 1303-A.

16 (g) As used in this section, the term "weapon" shall
17 include, but not be limited to, any knife, cutting instrument,
18 cutting tool, nunchaku, firearm, shotgun, rifle and any other
19 tool, instrument or implement capable of inflicting serious
20 bodily injury.

21 Section 2. 42 Pa.C.S. Ch. 85 Subch. C is repealed to the
22 extent it is inconsistent with the provisions of this act.

23 Section 3. This act shall take effect immediately.