

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 355 Session of
2005

INTRODUCED BY GREENLEAF, ORIE, C. WILLIAMS, LEMMOND, COSTA,
STACK, KITCHEN, RAFFERTY, O'PAKE AND TARTAGLIONE,
MARCH 4, 2005

REFERRED TO EDUCATION, MARCH 4, 2005

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 defacing,
6 injuring or destroying property used for school purposes and
7 for authority of teachers, vice principals and principals
8 over pupils; providing for school policies for drug or
9 alcohol violations, for conflict resolution training and for
10 the requirements for governing adjudicated delinquents;
11 further providing for the suspension and expulsion of pupils,
12 for exceptional children, their education and training, for
13 reporting of incidents of school violence and for transfer of
14 records; providing for school violence reporting requirements
15 for school employees, for school safety committees and for
16 notification to parents and guardians of victims of school
17 violence; and further defining "school."

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 777 of the act of March 10, 1949 (P.L.30,
21 No.14), known as the Public School Code of 1949, is amended by
22 adding subsections to read:

23 Section 777. Defacing, Injuring or Destroying Property Used
24 for School Purposes; Penalty.--* * *

25 (c) A board of school directors of a school district owning

1 property shall maintain a civil action to recover compensatory
2 damages not exceeding fifty thousand dollars (\$50,000) plus
3 court costs from the parent or legal guardian of a minor who
4 willfully damages property belonging to the school district or
5 who commits acts against the school district cognizable as an
6 offense under 18 Pa.C.S. § 3307 (relating to institutional
7 vandalism). A finding of willful destruction of property or
8 commission of acts cognizable as a theft offense shall not be
9 dependent upon a prior finding that the minor is delinquent or
10 dependent child or upon the minor's conviction of any criminal
11 offense.

12 (d) (1) If a court renders a judgment in favor of a board
13 of school directors of a school district under this section, the
14 court shall order full restitution unless the board and the
15 parent or legal guardian agree that the minor and the parent or
16 legal guardian will perform community service in lieu of full
17 payment of the judgment.

18 (2) If an agreement is reached, the court shall order the
19 minor and the parent or the legal guardian to perform community
20 service in lieu of providing full payment of the judgment. In
21 the order, the court shall specify the amount to be paid by the
22 minor and the parent or legal guardian, the type and number of
23 hours of community service to be performed and any other
24 conditions necessary to carry out the order.

25 Section 2. Section 1317 of the act, amended July 25, 1963
26 (P.L.315, No.169), is amended to read:

27 Section 1317. Authority of Teachers[,] and Vice Principals
28 [and Principals over Pupils].--[Every teacher, vice principal
29 and principal in the public schools shall have the right to
30 exercise the same authority as to conduct and behavior over the

pupils attending his school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardians or persons in parental relation to such pupils may exercise over them.] (a) (1) In all matters relating to the discipline in and conduct of the public schools, public school employes and school administrators shall be in the same relation to pupils as parents and guardians. This relationship shall extend to all activities connected with the public schools, including, but not limited to, any activity conducted during the school day or during the time a pupil is traveling to or from school or traveling to or from a school-sponsored activity or during any academic, athletic or extracurricular activity sponsored by the school district at any time.

(2) Public school employes and administrators shall be immune from civil liability for any action taken in good faith with regard to any pupil at any time for the safety and supervision of the pupil or for the safety and supervision of others, including, but not limited to, pupils, public school employes, visitors or the professional employe or administrator taking such action.

(b) The State Board of Education shall, if necessary, promulgate regulations regarding corporal punishment in a manner which is consistent with this section.

(c) Each public school entity shall provide all public school employes with guidelines and annual training on techniques for safely restraining pupils who are engaged in violent behavior.

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

Section 1317.4. School Policies for Drug or Alcohol

1 Violations.--(a) The General Assembly finds a compelling public
2 interest in ensuring that schools are safe and drug free for all
3 students and school employes.

4 (b) The State Board of Education shall adopt and each board
5 of school directors shall uniformly enforce drug and alcohol
6 policies that protect all pupils and other members of the school
7 population.

8 (c) The State Board of Education shall require school
9 districts to modify their policies, practices and procedures to
10 ensure a safe environment free from illegal drugs and alcohol.
11 These modifications shall include the formulation of a
12 discipline plan setting forth policies, practices and procedures
13 dealing with pupils or with other persons who take onto or are
14 in possession of illegal drugs or alcohol on school property,
15 while traveling to or going from school or a school-sponsored
16 activity, including on a public conveyance providing
17 transportation to or from school or a school-sponsored activity.
18 The plan shall include uniform drug-free policies and uniform
19 penalties for violation of the policies mandated by this
20 section.

21 (d) The superintendent of a school district shall
22 immediately report to the local law enforcement agency a pupil
23 who violates a policy concerning illegal drugs and alcohol
24 adopted by the board of school directors of that school
25 district. If the pupil is enrolled in a public school in this
26 Commonwealth, the board of school directors of that school of
27 the school district shall immediately suspend that pupil from
28 attending regular classes and schedule a hearing to consider the
29 pupil's:

30 (1) suspension for at least the remainder of the academic

1 year;

2 (2) placement in an alternative education program under this
3 act; or

4 (3) permanent expulsion.

5 (e) If a pupil is suspended, pursuant to a hearing of a
6 board of school directors, for violating a policy mandated by
7 this section, that pupil may not be admitted to any public
8 school in this Commonwealth until the pupil has satisfied each
9 requirement imposed by the board of school directors as a
10 condition for readmission. To comply with the requirements of
11 this subsection, a school superintendent shall review the
12 records of each pupil who transfers into the school district
13 under the jurisdiction of that superintendent to determine
14 whether the pupil is being disciplined pursuant to the policies
15 mandated by this section.

16 (f) Any pupil found by a board of school directors of
17 violating a drug or alcohol policy shall be required to
18 participate in counseling performed by the school psychologist,
19 school guidance counselor or by a psychiatrist hired by the
20 district until such time as the individual who is performing the
21 counseling submits a written report to the board of school
22 directors certifying that the pupil does not represent a threat
23 to the safety or security of himself, any other pupil or any
24 other member of the school population of the school district.

25 (g) A school district shall report all new incidents
26 involving violations of policies concerning illegal drugs and
27 alcohol at least twice a year to the Secretary of Education on a
28 form developed and provided by the Department of Education. The
29 form shall include:

30 (1) The age or grade of this pupil.

1 (2) The name and address of this school.

2 (3) The circumstances surrounding the incident.

3 (4) Any sanction imposed by the school.

4 (5) Any notification to a law enforcement agency.

5 (6) Any remedial program involved.

6 (7) The parental involvement required.

7 (8) Any arrest, conviction or adjudication, if known.

8 Section 1317.5. Conflict Resolution Training.--(a) School
9 employees in each school district of this Commonwealth shall
10 receive annual training in conflict resolution from a trainer
11 whom the board of directors of the school district deems
12 qualified in the area of conflict resolution. The training shall
13 include, but not be limited to, a review of the impact of media
14 violence upon children.

15 (b) Pupils attending public elementary and secondary schools
16 shall receive regular instruction in conflict resolution. Such
17 training shall include, but shall not be limited to, critical
18 thinking instruction about media depiction of violence and shall
19 incorporate instruction in humane education as required pursuant
20 to section 1514. Pupils manifesting difficulty with conflict
21 resolution shall be referred for assistance to qualified and
22 trained guidance counselors.

23 Section 4. Section 1318 of the act, amended February 8, 1980
24 (P.L.3, No.2), is amended to read:

25 Section 1318. Suspension and Expulsion of Pupils.--(a)
26 Every principal or teacher in charge of a public school may
27 temporarily suspend any pupil on account of disruption,
28 disobedience or misconduct or on account of any violent action
29 taken by the pupil which places the pupil or other person in
30 danger of or in reasonable apprehension of serious personal

1 injury, and any principal or teacher suspending any pupil shall
2 promptly notify the district superintendent or secretary of the
3 board of school directors. The board may, after a proper
4 hearing, suspend such child for such time as it may determine,
5 or may permanently expel [him] such pupil. Such hearings,
6 suspension, or expulsion may be delegated to a duly authorized
7 committee of the board, or to a duly qualified hearing examiner,
8 who need not be a member of the board, but whose adjudication
9 must be approved by the board.

10 (b) (1) Notwithstanding the discretion vested in the board
11 by subsection (a) to determine whether to expel or suspend a
12 pupil and to determine the length of a suspension, the board
13 shall suspend a pupil for at least the remainder of the school
14 year, place a pupil in a full-time alternative education program
15 as provided for by law for at least the remainder of the school
16 year or permanently expel the pupil if, after a proper hearing,
17 the board determines that the pupil has taken violent action
18 without good cause which places the pupil or other person in
19 danger of or in reasonable apprehension of serious personal
20 injury or if the board determines that the pupil is a habitually
21 disruptive pupil.

22 (2) (i) It shall be the duty of the district
23 superintendent, prior to admitting a pupil who is transferring
24 from another school district, to obtain and to thoroughly review
25 the pupil's records in order to ascertain whether the pupil has
26 been or is being disciplined under clause (1) or, if the pupil
27 is transferring from another state, is being disciplined
28 pursuant to a statutory or regulatory disciplinary provision
29 from the other state. In the event that the pupil's records
30 indicate that the pupil is currently being disciplined under

this section or under disciplinary provisions from another state, the superintendent shall continue the terms of the discipline imposed by the pupil's former district.

(ii) It shall further be the duty of the district superintendent to notify other school officials, including employes within the district who have legitimate interest, of this pupil's current or prior discipline record pursuant to this section or pursuant to disciplinary provisions from another state.

(iii) Any district superintendent who fails to perform the duties provided in this section shall be personally liable for a fine of not more than two hundred fifty dollars (\$250) for the first offense and not more than one thousand dollars (\$1,000) for any subsequent offense and shall be subject to disciplinary action affecting the commission of the superintendent.

(c) Subsections (a) and (b)(1) shall not apply to a pupil classified as an exceptional child when the pupil's actions are a manifestation of the pupil's disability. If the pupil's actions are a manifestation of disability, the board must comply with the requirements under the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

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

"Alternative education program" shall mean a program established pursuant to section 1901-C.

"Disruptive pupil" shall have the same meaning the term "disruptive student" is given under section 1901-C.

"Legitimate educational interest" shall include, but not be limited to, the interest of officials and school employes who have any responsibility for supervising the pupil who is subject

1 to disciplinary action.

2 "Violent action" shall include, but not be limited to:

3 (i) Improperly using or possessing a weapon on school
4 property or during a school-sponsored activity or while in any
5 conveyance providing public transportation to or from a public
6 school or to or from a public school-sponsored activity. The
7 term "weapon," as used in this definition, shall include, but
8 not be limited to, any knife, cutting instrument, cutting tool,
9 nunchaku, firearm, shotgun, rifle and any other tool, instrument
10 or implement, whether assembled or dismantled, capable of
11 inflicting serious bodily harm. The term "weapon" shall also
12 include look-alikes if a reasonable person would believe that
13 the look-alike is a weapon.

14 (ii) Making terroristic threats whereby the pupil threatens
15 to commit violence with the intent to terrorize another person
16 or to cause the evacuation of school property or other building,
17 place of assembly or conveyance or otherwise to cause serious
18 inconvenience to another person or in reckless disregard of the
19 risk of causing the terror or inconvenience.

20 (iii) Assaulting another person while on school property,
21 while traveling to or from a public school, during a school-
22 sponsored activity or in any conveyance providing public
23 transportation to or from a public school or to or from a public
24 school-sponsored activity or because of an individual's role as
25 a school employe. The term "assault," as used in this
26 definition, shall include simple assault and aggravated assault
27 and shall have the meaning ascribed to those terms under 18
28 Pa.C.S. (relating to crimes and offenses).

29 Section 5. The act is amended by adding sections to read:

30 Section 1318.1. Requirements Governing Adjudicated

Delinquents.--(1) Upon becoming aware of information under 42 Pa.C.S. § 6308 (relating to law enforcement records) or upon receipt of information under 42 Pa.C.S. § 6341(b.1) (relating to adjudication), the principal shall provide such information to the superintendent for the school district, and the superintendent shall determine whether the pupil has exhibited behavior which may be detrimental to the safety or welfare of other pupils or of other members of the school population and whether educating the pupil in the regular school environment may disrupt learning in the school or create a dangerous or unsafe environment for other pupils or for school employees.

(2) If the superintendent determines that the pupil's presence may be disruptive or create a dangerous or unsafe environment, the superintendent shall place the pupil in an alternative learning environment pursuant to procedures set forth in section 1902-C(2), until the board concludes that the pupil's presence in the regular school environment will not be disruptive or create a dangerous or unsafe environment. Such a placement shall not be deemed a disciplinary action pursuant to 42 Pa.C.S. § 6341(b.1)(4).

(3) The superintendent shall provide the information concerning the pupil's record identified in this subsection to all school officials, including school employees who have a legitimate educational interest in the records.

(4) As used in this subsection, the term "legitimate educational interest" includes the interests of officials and school employees who have any responsibility for supervising a pupil.

Section 1371.1. Legislative Intent.--It is the intent of the General Assembly to ensure that the safety and welfare of

1 children with disabilities and of others is protected through
2 the prompt and appropriate response of boards of school
3 directors to actions which place children with disabilities or
4 others in serious danger in the school setting. It is further
5 the intent of the General Assembly that nothing in this
6 subdivision shall deprive children with disabilities of any
7 rights which such students may have under any other act or
8 regulation.

9 Section 6. Section 1372 of the act is amended by adding a
10 paragraph to read:

11 Section 1372. Exceptional Children; Education and
12 Training.--* * *

13 (7.1) Changing Educational Placement. (i) It shall be the
14 duty of the board of directors of every school district to
15 promptly seek parental consent for implementing an appropriate
16 change in educational placement of an exceptional student,
17 including, but not limited to, placement in an alternative
18 education program, when the board has determined that the
19 violent action of the student has placed the student or other
20 persons in danger of or in reasonable apprehension of serious
21 personal injury. If the parents of the student fail to approve
22 the change in placement, it shall be the duty of the board of
23 school directors, in addition to placing the student in an
24 interim alternative education setting, when so authorized under
25 the Individuals with Disabilities Education Act (Public Law 91-
26 230, 20 U.S.C. 1400 et. seq.), to promptly seek approval for an
27 appropriate change through a due process hearing, court action,
28 or both.

29 (ii) As used in this paragraph, the term "violent action"
30 includes, but is not limited to:

1 (A) Improperly using or possessing a weapon on school
2 property or during a school-sponsored activity or while in any
3 conveyance providing public transportation to or from a public
4 school or a public school-sponsored activity. The term "weapon"
5 shall include, but not be limited to, any knife, cutting
6 instrument, cutting tool, nunchaku, firearm, shotgun, rifle, any
7 other tool, instrument or implement capable of inflicting
8 serious bodily harm, and any look-alike weapon if a reasonable
9 person would believe that the look-alike is a weapon.

10 (B) Making terrorist threats whereby the student threatens
11 to commit violence with the intent to terrorize another person
12 or to cause the evacuation of school property or other building,
13 place of assembly or conveyance or otherwise to cause serious
14 inconvenience to another person or in reckless disregard of the
15 risk of causing such terror or inconvenience.

16 (C) Assaulting another person while on school property,
17 during a school-sponsored activity or in any conveyance
18 providing public transportation or from a public school or to or
19 from a public school-sponsored activity or because of the other
20 person's capacity as a school employee. An "assault" shall
21 include simple assault and aggravated assault and shall have the
22 meaning ascribed to such terms under 18 Pa.C.S. (relating to
23 crimes and offenses).

24 (iii) As used in this paragraph, the term "promptly" means
25 as soon as in practicable but in no event later than thirty (30)
26 days from the date of the violent action referenced in subclause
27 (ii).

28 * * *

29 Section 7. Section 1303-A of the act is amended by adding a
30 subsection to read:

1 Section 1303-A. Reporting.--* * *

2 (d) In developing forms under this section, the Department
3 of Education shall include uniform definitions of violent acts.

4 Section 8. Section 1305-A of the act, added June 30, 1995
5 (P.L.220, No.26), is amended to read:

6 Section 1305-A. Transfer of Records.--Whenever a pupil
7 transfers to another school entity, a certified copy of the
8 student's disciplinary record shall be transmitted to the school
9 entity to which the pupil has transferred. The school entity to
10 which the student has transferred should request the record. The
11 sending school entity shall have ten (10) days from receipt of
12 the request to supply a certified copy of the student's
13 disciplinary record. For purposes of this section, sending
14 school entities include private elementary and secondary
15 schools.

16 Section 9. The act is amended by adding sections to read:

17 Section 1314-A. Reporting Requirements for School
18 Employes.--(a) In any instance where an employe of a public
19 school district has a reasonable suspicion that any student or
20 visitor has committed or intends to commit a criminal act on
21 school property, during a school-sponsored activity, on the way
22 to or from school or to or from a school-sponsored activity,
23 such employe shall immediately notify the employe's supervisor,
24 who shall immediately investigate the suspected criminal
25 activity. If upon such investigation the supervisor determines
26 that reasonable suspicion exists that any student or visitor has
27 committed or intends to commit a criminal act, the supervisor
28 shall immediately report the incident to the local policy agency
29 and to the school district superintendent. The superintendent
30 shall immediately file a written report with the Secretary of

1 Education and shall, without unreasonable delay, file the
2 appropriate charge against the individual or individuals
3 suspected of criminal activity or intention to commit criminal
4 activity.

5 (b) Any public school employe who violates this section,
6 commits a summary offense and shall, upon conviction, be
7 sentenced to pay a fine of not more than two hundred fifty
8 dollars (\$250) for the first offense and not more than one
9 thousand dollars (\$1,000) for each subsequent offense.

10 (c) Any public school employe who is required to make a
11 report under this section shall be immune from civil liability
12 for filing the report.

13 (d) Whenever any public school employe is asked to testify
14 in a criminal proceeding based upon the employe's report filed
15 under this section, the public school employer shall reimburse
16 the employe for travel expenses and shall provide the employe
17 with paid leave or with the regular per diem rate if the employe
18 is called to testify in a criminal proceeding after school hours
19 or at a time when school is not in session.

20 Section 1315-A. School Safety Committees.--(a) Each school
21 entity shall create a school safety committee comprised of at
22 least one school nurse, one school guidance counselor, one
23 school psychologist, one school social worker, one
24 administrator, one local law enforcement officer and others at
25 the discretion of the school entity.

26 (b) The school safety committee shall be responsible for
27 reviewing and making recommendations regarding issues relating
28 to school violence, including, but not limited to, prevention,
29 identification of potential problems, communications between the
30 entity and local law enforcement and reentry procedures for

1 violent students who are returning from hospital, mental health
2 or juvenile placements.

3 Section 1316-A. Notification to Parents and Guardians.--Upon
4 receipt of information from a school entity indicating that a
5 student has been the victim of violent behavior, the local law
6 enforcement agency shall notify the parent or the legal guardian
7 of the victim about the circumstances surrounding the violent
8 incident.

9 Section 10. Section 1901-C(6) of the act, added June 25,
10 1997 (P.L.297, No.30), is amended to read:

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

13 * * *

14 (6) "School." Any school classified by the Department of
15 Education as an elementary school, a middle school, junior high
16 school, senior high school or area vocational-technical school.

17 * * *

18 Section 11. This amendatory act shall be known and may be
19 cited as the Schools Are for Education Act.

20 Section 12. This act shall take effect in 60 days.