

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1134 Session of  
2011

INTRODUCED BY CORMAN, SCARNATI, BROWNE, BRUBAKER, ERICKSON,  
FOLMER, ORIE, RAFFERTY, SOLOBAY, TOMLINSON, WAUGH, KASUNIC,  
ROBBINS, PICCOLA, D. WHITE AND MENSCH, JUNE 14, 2011

SENATOR PICCOLA, EDUCATION, AS AMENDED, JUNE 19, 2012

## 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," in pupils and attendance, ~~further~~ ←  
6 ~~providing for compulsory school attendance; providing for the~~  
7 ~~regulation of religious child care facilities and religious~~  
8 ~~child development facilities; and imposing penalties~~  
9 PROVIDING FOR RELIGIOUS EDUCATIONAL FACILITIES. ←

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 ~~Section 1. Section 1327(b) of the act of March 10, 1949~~ ←  
13 ~~(P.L.30, No.14), known as the Public School Code of 1949,~~  
14 ~~amended December 15, 1986 (P.L.1602, No.178), is amended to~~  
15 ~~read:~~

16 ~~Section 1327. Compulsory School Attendance. \* \* \*~~

17 ~~(b) A child enrolled in a day school which is operated by a~~  
18 ~~bona fide church or other religious body, and the parent,~~  
19 ~~guardian or other person having control or charge of any such~~  
20 ~~child or children of compulsory school age shall be deemed to~~  
21 ~~have met the requirements of this section if that school~~

~~provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level or nine hundred ninety (990) hours per year of instruction at the secondary level and:~~

~~(1) At the elementary school level, the following courses are taught: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics; safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.~~

~~(2) At the secondary school level, the following courses are offered: English, to include language, literature, speech and composition; science, to include biology and chemistry; geography; social studies, to include civics, economics, world history, history of the United States and Pennsylvania; a foreign language; mathematics, to include general mathematics and statistics, algebra and geometry; art; music; physical education; health and physiology; and safety education, including regular and continuous instruction in the dangers and prevention of fires.~~

~~The requirements contained in sections 1511 and 1605 of this act shall not apply to such schools. The notarized affidavit of the principal of any such school, filed with the Department of Education and setting forth that such subjects are offered in the English language in such school, whether it is a nonprofit organization, and that such school is otherwise in compliance with the provisions of this act, shall be satisfactory and sufficient evidence thereof. It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to~~

~~a child, to choose the education and training for such child.~~  
~~Nothing contained in this act or any law of this Commonwealth~~  
~~shall empower the Commonwealth, any of its officers, agencies or~~  
~~subdivisions to mandate or approve the course or program~~  
~~content, faculty, staff or disciplinary requirements of any~~  
~~religious school referred to in this section or religious pre~~  
~~kindergarten, pre school, nursery school, before school or~~  
~~after school program or summer school program without the~~  
~~consent of said school or religious entity; Provided, however,~~  
~~that all such religious schools or entities shall be subject to~~  
~~the applicable background check requirements of this act and 23~~  
~~Pa.C.S. Ch. 63 (relating to child protective services).~~

~~\* \* \*~~

~~Section 2. The act is amended by adding an article to read:~~

~~ARTICLE XIII B~~

~~RELIGIOUS CHILD CARE FACILITIES AND~~

~~RELIGIOUS CHILD DEVELOPMENT FACILITIES~~

~~Section 1301 B. Declaration of policy.~~

~~The General Assembly finds and declares as follows:~~

~~(1) A significant number of parents choose to enroll~~  
~~their children in religious child care facilities and~~  
~~religious child development facilities where education,~~  
~~training, values and guidance that are consistent with the~~  
~~religious views and beliefs of the parents will be imparted~~  
~~to their children.~~

~~(2) It is the policy of the Commonwealth to preserve the~~  
~~primary right of parents to choose the education, training~~  
~~and care of their children.~~

~~(3) Nonprofit religious child care facilities and~~  
~~religious child development facilities believe the provision~~

~~of child care and development services at a reasonable cost to parents to be part of their religious mission to assist parents in the care and upbringing of their children.~~

~~(4) Because of the religious nature of such facilities, it is the policy of the Commonwealth to refrain from subjecting them to unnecessary regulation and undue governmental intrusion, particularly in religiously sensitive areas relating to the selection of employees, program content and guidance.~~

~~(5) At the same time, the Commonwealth has a duty to protect the health and safety of children whose parents choose to utilize religious child care and child development services by assuring that religious child care and child development providers comply with minimum health and safety requirements.~~

~~(6) It is the intent of the General Assembly to balance these interests in protecting parental choice, religious freedom and child safety at religious child care facilities and religious child development facilities by enacting the provisions of this article to govern the operation of religious child care facilities and religious child development facilities.~~

#### ~~Section 1302 B. Definitions.~~

~~The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Aide." An individual who:~~

~~(1) Assists in the provision of care for children at a facility.~~

~~(2) Is at least 16 years of age.~~

~~(3) Has had at least 12 hours of orientation on facility procedures.~~

~~(4) Has completed general first aid and fire safety training.~~

~~(5) Is directly supervised by a primary caregiver or director.~~

~~"Caregiver." An individual who provides child care services to children at a religious child care facility.~~

~~"Child care." Care in lieu of parental care given for part of the 24 hour day to children under 16 years of age away from their own homes other than at religious child development facilities.~~

~~"Department." The Department of Education of the Commonwealth.~~

~~"Direct supervision." Oversight of a caregiver by a supervisor who:~~

~~(1) is onsite;~~

~~(2) knows the whereabouts of the supervised caregiver; and~~

~~(3) is responsible for the proper execution of the supervised caregiver's duties, regardless of whether the supervisor is physically present with the supervised caregiver at all times.~~

~~"Director." An individual who:~~

~~(1) Is in charge of a religious child care facility.~~

~~(2) Is at least 21 years of age.~~

~~(3) Has completed a program of instruction in general first aid training, including instruction in childhood injury prevention and infectious diseases.~~

~~(4) Has had fire safety training and at least 1,000~~

~~hours of experience in teaching or working with children.~~

~~"Primary caregiver." An individual who:~~

~~(1) Is responsible for the care of children at a facility.~~

~~(2) Is at least 18 years of age.~~

~~(3) Has had general first aid and fire safety training.~~

~~(4) Has had at least 200 hours of experience in teaching or working with children.~~

~~"Religious child care facility." A premises, other than a religious child development facility, in which care in lieu of parental care is given for part of the 24 hour day to children under 16 years of age away from their own homes:~~

~~(1) That is operated or controlled or supervised by, or is affiliated with, a bona fide church, association of churches or other religious body that is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).~~

~~(2) In which child care is provided as part of the religious mission of the church, association of churches or other religious body.~~

~~"Religious child development facility." A prekindergarten, preschool, nursery school, before school program, after school program or summer school program that is operated, supervised or controlled by, or is affiliated with a bona fide church, association of churches or other religious body that is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), and which enrolls children who are two years four months of age and older.~~

~~"Staff person." An individual who may be counted for~~

~~purposes of compliance with the staff to child ratios required by this article. The term includes a director, primary caregiver or aide and may also include an individual who meets those qualifications but does not receive compensation for the individual's services.~~

~~Section 1303 B. Duties of religious child development facilities.~~

~~(a) Child protective services law. A religious child development facility shall comply with applicable provisions of this act and of 23 Pa.C.S. Ch. 63 (relating to child protective services) relating to obtaining criminal background and child abuse checks for employees and for reporting child abuse.~~

~~(b) Health and safety requirements. A religious child development facility shall comply with all laws relating to the health and safety of the children enrolled therein that are applicable to those nonpublic, nonlicensed religious schools that are described in section 1327(b).~~

~~(c) Affidavit. The administrator or chief executive officer of a religious child development facility shall file an initial affidavit with the department attesting to the facility's compliance with the requirements of this section and shall file a supplemental affidavit for any change or amendment to the initial filing.~~

~~Section 1304 B. Duties of religious child care facilities.~~

~~(a) Child protective services law. A religious child care facility shall comply with applicable provisions of 23 Pa.C.S. Ch. 63 (relating to child protective services), including requirements for obtaining criminal background and child abuse checks for employees and for reporting child abuse.~~

~~(b) Staffing.~~

1       ~~(1) A religious child care facility shall be supervised~~  
2 ~~by a director and shall have:~~

3           ~~(i) One or more persons who hold a current~~  
4 ~~certificate of completion of pediatric first aid training~~  
5 ~~at the facility when children are in care.~~

6           ~~(ii) At least one person at the facility who holds a~~  
7 ~~current certificate of completion of training in infant~~  
8 ~~and child cardiopulmonary resuscitation (CPR) when a~~  
9 ~~child, whose physician has determined that the child is~~  
10 ~~at increased risk for needing heart resuscitation, is in~~  
11 ~~care at the facility.~~

12       ~~(2) All children shall be directly supervised by a staff~~  
13 ~~person. With respect to children under five years of age,~~  
14 ~~direct supervision requires that staff be in the same room or~~  
15 ~~child care area with the children and be able to see, hear~~  
16 ~~and assess the supervised children without use of a~~  
17 ~~monitoring device. While such children are using the toilet,~~  
18 ~~direct supervision shall be satisfied if staff is able to~~  
19 ~~hear the children.~~

20       ~~(3) A religious child care facility shall provide one~~  
21 ~~staff person for every four children who are from birth to~~  
22 ~~one year of age; one staff person for every five children who~~  
23 ~~are between one and two years of age; and one staff person~~  
24 ~~for every six children between two and three years of age.~~  
25 ~~All children shall be directly supervised by a staff person.~~

26       ~~(4) (i) When children are swimming or wading, the~~  
27 ~~religious child care facility shall provide one staff~~  
28 ~~person for every child from birth to one year of age; one~~  
29 ~~staff person for every two children who are between one~~  
30 ~~and three years of age; one staff person for every five~~



~~children between three and six years of age; and one staff person for every eight school age children.~~

~~(ii) If children are in mixed age groups with no children younger than three years of age in care, the staff ratio applicable for the majority of children at the same age in care shall apply.~~

~~(iii) Parents and adult volunteers who are present where the swimming or wading occurs may be counted for purposes of determining water safety ratios.~~

~~(iv) At least one person certified in lifeguard training must be present when children are swimming.~~

~~(5) When children above the age of 12 months are napping, a staff person may provide care for twice the number of such children which would otherwise be allowed by the ratio applicable to them.~~

~~(c) Affidavit from facility.~~

~~(1) A religious child care facility shall annually file an affidavit with the department which states the following:~~

~~(i) The name, address and telephone number of the facility.~~

~~(ii) The name and address of the religious entity or entities that control, operate or supervise the facility, or with which the facility is affiliated.~~

~~(iii) The name of the director or chief administrator of the facility.~~

~~(iv) That the facility is in compliance with applicable Federal and State civil rights statutes.~~

~~(2) A religious child care facility shall file an amended affidavit with the department within 30 days if any information contained in the affidavit, which previously was~~

1 ~~submitted, changes.~~

2 ~~(3) The department may not charge religious child care~~  
3 ~~facilities a fee for filing the affidavit required under this~~  
4 ~~section.~~

5 ~~Section 1305-B. Autonomy of religious child care and child~~  
6 ~~development facilities.~~

7 ~~(a) Department. Except as set forth in this article, the~~  
8 ~~department has no authority over, nor shall it attempt to~~  
9 ~~exercise authority over, a religious child care facility or~~  
10 ~~religious child development facility.~~

11 ~~(b) Commonwealth and political subdivisions. Except as set~~  
12 ~~forth in this article, neither the Commonwealth nor any~~  
13 ~~political subdivision has authority over, nor shall either~~  
14 ~~attempt to exercise authority over, the program, curriculum,~~  
15 ~~ministry, staff qualifications, staffing requirements,~~  
16 ~~disciplinary requirements, teaching or instruction offered in a~~  
17 ~~religious child care facility or religious child development~~  
18 ~~facility.~~

19 ~~(c) Employment and admissions. Neither the Commonwealth nor~~  
20 ~~any political subdivision may interfere with the liberty of a~~  
21 ~~religious child care facility or religious child development~~  
22 ~~facility to apply religious criteria in the employment or~~  
23 ~~selection of individuals who serve as staff or administrators in~~  
24 ~~the facility or with the liberty of a religious child care~~  
25 ~~facility or religious child development facility to establish~~  
26 ~~and apply religious criteria in the admission to, or the~~  
27 ~~retention of, children in the facility's program.~~

28 ~~(d) Preemption.~~

29 ~~(1) A religious child care facility or religious child~~  
30 ~~development facility shall not be subject to any requirements~~

1 ~~of, or regulations issued under, the act of June 13, 1967~~  
2 ~~(P.L.31, No.21), known as the Public Welfare Code, relating~~  
3 ~~to child care facilities. Nor shall a religious child care~~  
4 ~~facility or religious child development facility that is~~  
5 ~~subject to this article be subject to any ordinances or~~  
6 ~~regulations adopted by any political subdivision relating to~~  
7 ~~the operation of child care facilities.~~

8 ~~(2) A religious child care facility or religious child~~  
9 ~~development facility shall comply with generally applicable~~  
10 ~~State statutes and regulations relating to health and safety~~  
11 ~~promulgated by the Department of Agriculture, the Department~~  
12 ~~of Environmental Protection, the Department of Health, the~~  
13 ~~Department of Labor and Industry, the Department of~~  
14 ~~Transportation or by any political subdivision, and with~~  
15 ~~generally applicable health and safety requirements or~~  
16 ~~generally applicable building and zoning requirements adopted~~  
17 ~~by a political subdivision.~~

18 ~~(3) (i) A religious child care facility or religious~~  
19 ~~child development facility shall comply with applicable~~  
20 ~~regulations promulgated by the department relating to~~  
21 ~~inspection and compliance with the provisions of this~~  
22 ~~article.~~

23 ~~(ii) Nothing in this article shall be construed to~~  
24 ~~grant the department the authority to require a religious~~  
25 ~~child care facility or religious child development~~  
26 ~~facility to obtain a license or other form of~~  
27 ~~certification as a precondition to its operation or its~~  
28 ~~continued operation.~~

29 ~~(4) Nothing in this article shall be construed to~~  
30 ~~prevent a religious child care facility or religious child~~

~~development facility from voluntarily obtaining a certificate  
of compliance or license from the Department of Public  
Welfare under the Public Welfare Code in lieu of filing  
pursuant to this article and of complying with this article.~~

~~Section 1306 B. Penalties.~~

~~A person commits a misdemeanor of the second degree if, with  
intent to mislead a public servant in performing his official  
function, the person makes a knowingly false statement in an  
affidavit required to be filed by this article.~~

~~Section 1307 B. Eligibility for governmental assistance.~~

~~(a) General rule. A religious child care facility or  
religious child development facility that files an affidavit  
under this article and is in substantial compliance with this  
act shall be deemed an eligible provider of child care services  
for which Federal, State or local assistance is available to  
parents; Provided, however, that no such assistance shall be  
deemed to be assistance to the facility itself.~~

~~(b) Limitation. No agency of the Commonwealth may submit  
any State plan to the Federal Government for funding of child  
care services which would limit the ability of religious child  
care facility or religious child development facilities to  
accept certificates, vouchers or other forms of disbursement  
provided to parents for child care services unless such limits  
are expressly required by Federal law.~~

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 1338.3. RELIGIOUS EDUCATIONAL FACILITIES.--(A) IT  
IS THE POLICY OF THE COMMONWEALTH TO PRESERVE THE PRIMARY RIGHT  
AND THE OBLIGATION OF THE PARENT OR PARENTS, OR PERSON OR



1 PERSONS IN LOCO PARENTIS TO A CHILD, TO CHOOSE THE EDUCATION AND  
2 TRAINING FOR SUCH CHILD.

3 (B) NOTHING CONTAINED IN THIS ACT OR ANY LAW OF THIS  
4 COMMONWEALTH SHALL EMPOWER THE COMMONWEALTH OR ANY OF ITS  
5 OFFICERS, AGENCIES OR SUBDIVISIONS TO MANDATE OR APPROVE THE  
6 COURSE OR PROGRAM CONTENT, CURRICULUM, FACULTY, STAFF, TRAINING  
7 OR PRINCIPLES OF RELIGIOUS DEVELOPMENT OR SPIRITUAL FORMATION OF  
8 ANY RELIGIOUS PRE-KINDERGARTEN, PRE-SCHOOL, NURSERY SCHOOL,  
9 BEFORE-SCHOOL OR AFTER-SCHOOL PROGRAM OR SUMMER SCHOOL PROGRAM,  
10 FOR CHILDREN AGED TWO AND ONE-HALF YEARS AND OLDER, OPERATED BY  
11 ANY CHURCH, ASSOCIATION OF CHURCHES OR OTHER RELIGIOUS ORDER,  
12 BODY OR INSTITUTION WHICH QUALIFIES FOR EXEMPTION FROM TAXATION  
13 UNDER SECTION 501(C)(3) OR (D) OF THE INTERNAL REVENUE CODE OF  
14 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501) WITHOUT THE CONSENT OF  
15 THE RELIGIOUS ENTITY.

16 (C) THE RELIGIOUS ENTITIES REFERRED TO IN SUBSECTION (B)  
17 SHALL BE SUBJECT TO THE APPLICABLE BACKGROUND CHECK AND CHILD  
18 ABUSE REPORTING REQUIREMENTS OF THIS ACT AND 23 PA.C.S. CH. 63  
19 (RELATING TO CHILD PROTECTIVE SERVICES).

20 (D) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO  
21 PREVENT THE COMMONWEALTH FROM:

22 (1) ADOPTING OR ENFORCING ANY RULES WHICH PREVENT PHYSICAL  
23 THREATS TO THE HEALTH OR SAFETY OF INDIVIDUALS OR UNSANITARY OR  
24 DANGEROUS CONDITIONS IN FACILITIES WHICH ARE LICENSED OR  
25 SUPERVISED UNDER THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN  
26 AS THE PUBLIC WELFARE CODE.

27 (2) IMPOSING ANY STAFF-CHILD RATIO REQUIREMENTS OR STAFF  
28 TRAINING REQUIREMENTS THAT ARE REQUIRED TO PREVENT PHYSICAL  
29 THREATS TO THE HEALTH OR SAFETY OF INDIVIDUALS OR UNSANITARY OR  
30 DANGEROUS CONDITIONS IN FACILITIES WHICH ARE LICENSED OR

1 SUPERVISED UNDER THE PUBLIC WELFARE CODE.

2 Section 3 2. This act shall take effect in 60 days.

