

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 359 Session of 2015

INTRODUCED BY GREENLEAF, SCHWANK, KITCHEN, AUMENT, VANCE, COSTA, HUGHES, RAFFERTY, BAKER, FONTANA, MENSCH AND VOGEL, JANUARY 30, 2015

AS AMENDED ON SECOND CONSIDERATION, APRIL 12, 2016

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 enforcing attendance, further
6 providing for definitions; providing for attendance policy at
7 charter and cyber charter schools; further providing for
8 reports of enrollments, attendance and withdrawals and public
9 and private schools, and for penalties for violation of
10 compulsory attendance requirements; providing for procedure
11 by school when child habitually truant, for procedure upon
12 filing of citation and for penalties for violating compulsory
13 school attendance requirements; and repealing provisions <--
14 relating to suspension of operating privilege; IN CHARTER <--
15 SCHOOLS, FURTHER PROVIDING FOR PROVISIONS APPLICABLE TO
16 CHARTER SCHOOLS AND FOR APPLICABILITY OF OTHER PROVISIONS OF
17 THIS ACT AND OF OTHER ACTS AND REGULATIONS; AND, IN
18 DISRUPTIVE STUDENT PROGRAMS, FURTHER PROVIDING FOR
19 DEFINITIONS.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. Section 1326 of the act of March 10, 1949
23 (P.L.30, No.14), known as the Public School Code of 1949, is
24 amended to read:

25 Section 1326. Definitions.--When used in this subdivision,
26 the following words and phrases shall have the following

1 meanings:

2 The term "citation" shall mean a non-traffic citation or
3 private criminal complaint.

4 The term ["compulsory school age," as hereinafter used,]
5 "compulsory school age" shall mean the period of a child's life
6 from the time the child's parents elect to have the child enter
7 school, which shall be not later than at the age of eight (8)
8 years, until the age of seventeen (17) years. The term shall not
9 include any child who holds a certificate of graduation from a
10 regularly accredited licensed, registered or approved senior
11 high school.

12 The term "conviction" shall mean a conviction under section
13 1333, 1333.1, 1333.2 or 1333.3 for violation of the compulsory
14 school attendance requirements.

15 The term "court" shall mean a magisterial district court, A <--
16 MUNICIPAL COURT OF PHILADELPHIA or a court of common pleas.

17 THE TERM "EDUCATIONAL ENTITY" SHALL MEAN A PUBLIC SCHOOL <--
18 DISTRICT, CHARTER SCHOOL, REGIONAL CHARTER SCHOOL, CYBER CHARTER
19 SCHOOL, NONPUBLIC SCHOOL OR AREA VOCATIONAL-TECHNICAL SCHOOL.

20 The term "excused absence" shall mean an absence from school
21 which is permitted under section 1329.

22 The term "habitually truant" shall mean having incurred
23 unexcused absences for six (6) or more days during the current
24 school year by a child subject to compulsory school attendance.

25 The term "judge" shall mean a magisterial district judge, A <--
26 MUNICIPAL COURT JUDGE or judge of a court of common pleas.

27 The term ["migratory child," wherever used in this
28 subdivision of this article,] "migratory child" shall include
29 any child domiciled temporarily in any school district for the
30 purpose of seasonal employment, but not acquiring residence

1 therein, and any child accompanying his [parent or guardian] or
2 her person in parental relation who is so domiciled.

3 The term "offense" shall mean each citation filed under
4 section 1333, 1333.1, 1333.2 or 1333.3 for a violation of the
5 compulsory school attendance requirement regardless of the
6 number of unexcused absences averred in the citation.

7 The term "person in parental relation" shall mean a:

8 (1) biological or adoptive parent;

9 (2) noncustodial biological or adoptive parent;

10 (3) guardian of the person of the child; or

11 (4) person with whom the child lives and who is acting
12 in a parental role for a child of compulsory school age.

13 The term does not include a county agency or person acting as
14 an agent of the county agency in the jurisdiction of a dependent
15 child as defined under 42 Pa.C.S. § 6302 (relating to
16 definitions). This definition shall not be construed to expand
17 the right of a child under any other provision of this act.

18 The term "school" shall mean the educational entity in which
19 the child is enrolled.

20 The term "school attendance improvement conference" shall
21 mean a conference where the child's absences and the reasons for
22 the absences are examined in an effort to improve attendance,
23 with or without additional services. The following individuals
24 shall be invited:

25 (1) The child.

26 (2) The child's person in parental relation.

27 (3) Other individuals identified by the person in parental
28 relation who may be a resource.

29 (4) Appropriate school personnel.

30 (5) Recommended service providers.

1 The term "school day" shall mean the length of time that a
2 child subject to compulsory attendance is expected to be
3 receiving instruction during a calendar day, as determined by
4 the school.

5 The term "school or community-based attendance improvement
6 program" shall mean any program designed to improve school
7 attendance by seeking to identify and address the underlying
8 reasons for a child's absences.

9 The term "school year" shall have the same meaning as the
10 term "school year" as defined in section 102 and as further
11 defined in section 1327(b) for parochial schools, section
12 1327.1(c) for home education programs, sections 1501 and 1504
13 for all public schools, section 1715-A(9) for charter schools
14 and section 1749-(A) (a) (1) for cyber charter schools.

15 The term "truant" shall mean having incurred unexcused
16 absences of three (3) or more school days during the current
17 school year by a child subject to compulsory school attendance.

18 The term "unexcused absence" shall mean an absence from
19 school which is not permitted under section 1329 and where an
20 approved explanation has not been submitted within the time
21 period specified. An out-of-school suspension may not be
22 considered an unexcused absence.

23 Section 2. The act is amended by adding a section to read:

24 Section 1327.2. Attendance Policy at Charter and Cyber
25 Charter Schools.--(a) Each charter and cyber charter school
26 shall establish an attendance policy designed to accurately
27 determine when a child who is enrolled in a charter or cyber
28 charter school has an unexcused absence, which may differ from
29 the policy of the home school district of the child. The policy
30 must conform to the provisions of this act relating to

1 compulsory attendance.

2 (b) The department shall, in consultation with cyber charter
3 schools, develop guidelines setting forth alternative methods of
4 calculating unexcused absences for the purposes of determining
5 whether a child enrolled in a cyber charter school has an
6 unexcused absence.

7 (c) When proceeding under section 1333.2 for the filing of a
8 citation, venue shall be based upon the residence of the child.
9 Participation by any cyber charter school in the proceedings may
10 be conducted in person, VIA PHONE CONFERENCING or via video <--
11 conferencing.

12 Section 3. Section 1332 of the act, amended January 14, 1970
13 (1969 P.L.468, No.192), is amended to read:

14 Section 1332. Reports of Enrollments; Attendance and
15 Withdrawals; Public and Private Schools.--Every principal or
16 teacher in every public school, and every principal, teacher or
17 tutor in every school other than a public school, and in every
18 institution for children, and every private teacher in every
19 school district, shall, immediately after their admission to
20 such school or institution, or at the beginning of such private
21 teaching, furnish to the district superintendents, attendance
22 officers, home and school visitors, or secretaries of the boards
23 of school directors of the districts wherein the parents or
24 guardians of such children reside, lists of the names and
25 residences of all children between ~~six (6)~~ ~~eight (8)~~ and <--
26 eighteen (18) years of age enrolled in such school or
27 institution, or taught by such private teachers; and shall
28 further report at once to such district superintendent, or
29 secretary of the board of school directors, the name and date of
30 withdrawal of any such pupil withdrawing from any such school or

1 institution, or from such private instruction, if such
2 withdrawal occurs during the period of compulsory attendance in
3 said district. Every principal or teacher in a school other than
4 a public school, and every private teacher, shall also report at
5 once to the superintendent, attendance officer, home and school
6 visitor, or secretary of the board of school directors of the
7 district, any such child who has been absent three (3) days, or
8 their equivalent, during the term of compulsory attendance,
9 without lawful excuse. Charter and cyber charter schools shall
10 report unexcused absences directly to the Department of
11 Education via the annual Pennsylvania Information Management
12 System (PIMS) in accordance with policies and guidelines
13 established under section 1327.2.

14 Section 4. Section 1333 of the act, amended November 17,
15 1995 (1st Sp.Sess., P.L.1110, No.29), is amended to read:

16 Section 1333. [Penalties for Violation of Compulsory
17 Attendance Requirements.--(a) (1) Every parent, guardian, or
18 person in parental relation, having control or charge of any
19 child or children of compulsory school age, who shall fail to
20 comply with the provisions of this act regarding compulsory
21 attendance, shall on summary conviction thereof, be sentenced to
22 pay a fine, for the benefit of the school district in which such
23 offending person resides, not exceeding three hundred dollars
24 (\$300) and to pay court costs or be sentenced to complete a
25 parenting education program offered and operated by a local
26 school district, medical institution or other community
27 resources, and, in default of the payment of such fine and costs
28 or completion of the parenting program by the person so
29 offending, shall be sentenced to the county jail for a period
30 not exceeding five (5) days. Any person sentenced to pay any

1 such fine may appeal to the court of common pleas of the proper
2 county, upon entering into a recognizance, with one or more
3 proper sureties, in double the amount of penalty and costs.
4 Before any proceedings are instituted against any parent,
5 guardian, or person in parental relation, for failure to comply
6 with the provisions of this act, the district superintendent,
7 attendance officer, or secretary of the board of school
8 directors, shall give the offending person three (3) days'
9 written notice of such violation. If, after such notice has been
10 given, the provisions of this act regarding compulsory
11 attendance are again violated by the persons so notified, at any
12 time during the term of compulsory attendance, such person, so
13 again offending, shall be liable under the provisions of this
14 section without further notice.

15 (2) The child and every parent, guardian or person in
16 parental relation must appear at a hearing established by the
17 district justice. If the parent, guardian or person in parental
18 relation charged with a summary offense under this subsection
19 shows that he or she took every reasonable step to insure
20 attendance of the child at school, he or she shall not be
21 convicted of the summary offense.

22 (3) Upon a summary conviction, the district justice may
23 suspend, in whole or in part, a sentence in which a parent,
24 guardian or person in parental relation is summoned to pay as
25 required under this section: Provided, That the child no longer
26 is habitually truant from school without justification.

27 (4) In lieu of or in addition to any other sentence imposed
28 under this section, the district justice may order the parent,
29 guardian or person in parental relation to perform community
30 service in the school district in which the offending child

1 resides for a period not to exceed six (6) months.

2 (b) (1) If the parent, guardian or person in parental
3 relation is not convicted of a summary offense because he or she
4 took every reasonable step to insure attendance of the child at
5 school, a child of compulsory school age who has attained the
6 age of thirteen (13) years and fails to comply with the
7 provisions of this act regarding compulsory attendance or who is
8 habitually truant from school without justification commits a
9 summary offense and except as provided in clause (4) shall, upon
10 conviction, be sentenced to pay a fine not exceeding three
11 hundred dollars (\$300) for each offense for the benefit of the
12 school district in which such offending child resides or shall
13 be assigned to an adjudication alternative program pursuant to
14 42 Pa.C.S. § 1520 (relating to adjudication alternative
15 program).

16 (2) For any child who has attained the age of thirteen (13)
17 years who fails to pay the fine under clause (1) or to comply
18 with the adjudication alternative program, the district justice
19 may allege the child to be dependent under 42 Pa.C.S. § 6303(a)
20 (1) (relating to scope of chapter). The failure by the child to
21 pay a fine or comply with the adjudication alternative program
22 shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63
23 (relating to juvenile matters).

24 (3) Upon a summary conviction or assignment to an
25 adjudication alternative program, the district justice may
26 suspend, in whole or in part, a sentence or an adjudication
27 alternative program in which a child who has attained the age of
28 thirteen (13) years must pay or comply with the adjudication
29 alternative program: Provided, That the child no longer is
30 habitually truant from school without justification.

1 (4) Any child who has not attained the age of thirteen (13)
2 years who fails to comply with the compulsory attendance
3 provisions of this act and is habitually truant shall be
4 referred by the school district for services or possible
5 disposition as a dependent child as defined under 42 Pa.C.S. §
6 6302 (relating to definitions). Any child who has attained the
7 age of thirteen (13) years who fails to comply with the
8 compulsory attendance provisions of this act and is habitually
9 truant may, in lieu of a prosecution under clause (1), be
10 referred by the school district for services or possible
11 disposition as a dependent child as defined under 42 Pa.C.S. §
12 6302.

13 (5) The following words, when used in this subsection, shall
14 have the following meaning, except where the context clearly
15 indicates or requires a different meaning:

16 "Community resources" shall mean those agencies and services
17 for children and youth provided by the juvenile court, the
18 county, the Department of Health, the Department of Public
19 Welfare and other public or private institutions.

20 "District justice" shall mean such court as the court of
21 common pleas shall direct in counties not having district
22 justices.

23 "Habitually truant" shall mean absence for more than three
24 (3) school days or their equivalent following the first notice
25 of truancy given under section 1354. A person may be habitually
26 truant after such notice.

27 "Offense" shall mean each citation which goes before a
28 district justice or court of common pleas.

29 "Person in parental relation" shall not include any county
30 agency or person acting as an agent of the county agency in the

1 jurisdiction of a dependent child defined under 42 Pa.C.S. §
2 6302 (relating to definitions).

3 (c) If a child is convicted for a violation of this section,
4 the court, including a court not of record, shall send to the
5 Department of Transportation a certified record of the
6 conviction or other disposition on a form prescribed by the
7 department.

8 (d) Nothing in this section shall be construed to apply to a
9 parent, guardian or person in parental relation whose child or
10 children are in a home education program under section 1327.1.]

11 Procedure When Child is Truant.--(a) When a child is truant,
12 the school shall notify in writing the person in parental
13 relation with the child who resides in the same household as the
14 child of the child's violation of compulsory school attendance
15 within ten (10) school days of the child's third unexcused
16 absence. The notice:

17 (1) shall include a description of the consequences that
18 will follow if the child becomes habitually truant;

19 (2) shall be in a form and use language that would be <--
20 considered reasonably understandable THE MODE AND LANGUAGE OF <--
21 COMMUNICATION PREFERRED by the person in parental relation;

22 (3) may include the offer of a school attendance improvement
23 conference; or

24 (4) when transmitted to a person who is not the biological
25 or adoptive parent, shall also be provided to the child's
26 biological or adoptive parent if the parent's mailing address is
27 on file with the school and the parent is not precluded from
28 receiving the information by court order.

29 (b) If the child continues to incur unexcused absences after
30 the school has issued the notice under subsection (a), the

1 school shall then offer by advance written notice a school
2 attendance improvement conference, unless previously held
3 following the notice provided under subsection (a). The
4 following shall apply:

5 (1) This subsection does not place a legal requirement upon
6 the child or person in parental relation to attend the
7 conference. The conference ~~may~~ SHALL occur if the person in <--
8 parental relation declines to participate OR FAILS TO ATTEND THE <--
9 SCHEDULED CONFERENCE AFTER ADVANCE WRITTEN NOTICE AND ATTEMPTS
10 TO COMMUNICATE VIA TELEPHONE.

11 (2) The outcome of the conference shall be documented in a
12 written school attendance improvement plan. The department shall
13 develop a form to be used for this purpose, and each school
14 shall use a form substantially similar to the form developed by
15 the department.

16 (3) Further legal action may not be taken by the school to
17 address unexcused absences by the child until after the date for
18 the scheduled school attendance improvement conference has
19 passed.

20 (C) SCHOOLS SHALL NOT EXPEL OR IMPOSE OUT-OF-SCHOOL <--
21 SUSPENSION, DISCIPLINARY REASSIGNMENT OR TRANSFER FOR TRUANT
22 BEHAVIOR.

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

24 Section 1333.1. Procedure By School When Child Habitually
25 Truant.--(a) When a child is habitually truant and is under
26 fifteen (15) years of age at the time of referral, the school:

27 (1) Shall refer the child to either of the following:

28 (i) a school or community-based attendance improvement
29 program; or

30 (ii) the county children and youth agency for services or

1 for possible disposition as a dependent child under the
2 provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

3 (2) May file a citation in the office of the appropriate
4 ~~magisterial district~~ judge against the person in parental <--
5 relation with the child who resides in the same household as the
6 child.

7 (b) When a child is habitually truant and is fifteen (15)
8 years of age or older at the time of referral, the school shall
9 either:

10 (1) refer the child to a school or community-based
11 attendance improvement program; or

12 (2) file a citation in the office of the appropriate
13 ~~magisterial district~~ judge against the child or the person in <--
14 parental relation with the child who resides in the same
15 household as the child. Jurisdiction shall be based on the
16 residence of the child.

17 (c) If a child continues to incur additional unexcused
18 absences after being referred to a school or community-based
19 attendance improvement program or refuses to participate in a
20 school or community-based attendance improvement program as
21 recommended through the school attendance improvement
22 conference, the school may refer the child to the county
23 children and youth agency for possible disposition as a
24 dependent child under the provisions of 42 Pa.C.S. Ch. 63 if the
25 child is fifteen (15) years of age or older.

26 (d) When referring a case to the county children and youth
27 agency or the ~~magisterial district court~~ OFFICE OF THE <--
28 APPROPRIATE JUDGE because the child has been habitually truant,
29 the school shall provide verification that a school attendance
30 improvement conference was ~~offered~~ HELD. <--

1 Section 1333.2. Procedure Upon Filing of Citation.--(a) The
2 venue for the filing of a citation shall be the location of the
3 school in which the child is enrolled or should be enrolled
4 except where section 1327.2(c) applies.

5 (b) When a citation is filed against a child or a person in
6 parental relation with the child who resides in the same
7 household as the child under section 1333.1, the magisterial <--
8 district judge shall provide the following notices:

9 (1) notice of the hearing in writing to the school, the
10 person in parental relation, the child and the county children
11 and youth agency; and

12 (2) notice to the child or person in parental relation with
13 the child who resides in the same household as the child of the
14 availability of a preconviction diversionary program authorized
15 under 42 Pa.C.S. § 1520 (relating to adjudication alternative
16 program).

17 (c) At the hearing the burden is on the school to prove
18 beyond a reasonable doubt that the child was habitually truant <--
19 in noncompliance with the compulsory school attendance
20 requirements, WHILE SUBJECT TO COMPULSORY SCHOOL ATTENDANCE, THE <--
21 CHILD WAS HABITUALLY AND WITHOUT JUSTIFICATION TRUANT FROM
22 SCHOOL.

23 (d) The following affirmative defense to a citation filed
24 under this subdivision of this article against a person in
25 parental relation to the child who resides in the same household
26 as the child is available:

27 (1) The person in parental relation to the child who resides
28 in the same household as the child took every reasonable step to
29 ensure attendance of the child at school.

30 (2) An affirmative defense under this subsection must be

1 proven by a preponderance of the evidence.

2 (E) THE COURT SHALL DETERMINE WHETHER THE EVIDENCE HAS <--
3 ESTABLISHED THAT A CHILD OR PERSON IN PARENTAL RELATION HAS
4 VIOLATED THE COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS OF THIS
5 ARTICLE AND SHALL ENTER THAT VERDICT ON THE RECORD.

6 ~~(e)~~ (F) Before entering a sentence the judge shall permit <--
7 the school, person in parental relation or child to present
8 relevant information that will assist the judge in making an
9 informed decision regarding the appropriate sentence. The
10 child's school attendance after the citation has been filed and
11 while the proceeding is pending may be considered for the
12 purpose of imposing a sentence.

13 Section 1333.3. Penalties for Violating Compulsory School
14 Attendance Requirements.--(a) A person convicted of an offense
15 may be:

16 (1) sentenced to pay a fine for the benefit of the school
17 that is responsible for the truancy proceedings in an amount not
18 exceeding three hundred dollars (\$300) for each citation
19 together with court costs;

20 (2) sentenced to perform community service; or

21 (3) required to complete an appropriate course or program
22 designed to improve school attendance which has been approved by
23 the president judge of the judicial district.

24 (b) The court may suspend the sentence of a person convicted
25 of an offense and may remit or waive fines and costs if the
26 child attends school in accordance with a plan devised by the
27 court.

28 (c) A person convicted of an offense shall have a right to
29 appeal de novo to a court of common pleas of the proper county
30 within thirty (30) days of the conviction. After thirty (30)

1 days, the appeal shall proceed as any other appeal of a summary
2 conviction.

3 (d) No citation may be filed against a child or a person in
4 parental relation with the child who resides in the same
5 household as the child for a subsequent violation of compulsory
6 school attendance if any of the following circumstances apply:

7 (1) A proceeding is already pending under sections 1333.1
8 and 1333.2 against the child or a person in parental relation
9 with the child who resides in the same household as the child
10 and judgment in the first proceeding has not yet been entered,
11 unless a warrant has been issued for failure of the child or
12 person in parental relation to appear before the court and the
13 warrant has not yet been served.

14 (2) A referral for services has been made to the county
15 children and youth agency under this subdivision of this article
16 and the agency has not closed the case.

17 (3) A petition has been filed alleging the child is
18 dependent due to being habitually truant under 42 Pa.C.S. Ch. 63
19 (relating to juvenile matters) and the case remains under the
20 jurisdiction of the juvenile court.

21 (e) Upon a second or subsequent conviction of a child or a
22 person in parental relation with the child who resides in the
23 same household as the child for a violation of the requirements
24 of compulsory school attendance in a court within this
25 Commonwealth within a three year period, the court shall refer
26 the child for services or possible disposition as a dependent
27 child under 42 Pa.C.S. Ch. 63.

28 (f) Upon the willful failure of a person to satisfy a fine
29 or costs imposed under this section or upon willful failure to
30 comply with a payment plan, the court may, after finding that

1 the person has the ability to pay the financial obligation
2 imposed, impose community service. The following shall apply:

3 (1) In the case of a child, the failure to satisfy a fine or
4 costs imposed under this section shall not be considered a
5 delinquent act.

6 (2) The president judge of a judicial district may adopt a
7 local policy under 42 Pa.C.S. § 6304 (relating to powers and
8 duties of probation officers) and the Pennsylvania Rules of
9 Juvenile Court Procedure to provide that a juvenile probation
10 officer may receive allegations that the child who fails to
11 satisfy a fine or costs imposed under this section is dependent
12 for the purpose of considering the commencement of proceedings
13 under 42 Pa.C.S. Ch. 63.

14 (g) If a child is convicted of a violation of this section,
15 the following may occur:

16 (1) The court may transmit to the Department of
17 Transportation a certified record of the conviction on a form
18 prescribed by the department only if the child fails to comply
19 with a lawful sentence entered for the violation.

20 (2) The Department of Transportation shall suspend for
21 ninety (90) days the operating privilege of a child upon
22 receiving a certified record that the child was convicted of an
23 offense under this section. The Department of Transportation
24 shall suspend the child's operating privileges for six (6)
25 months upon receiving a certified record that the child was
26 convicted of a second or subsequent offense under this section.

27 (3) A child whose record is received by the Department of
28 Transportation under this section and who does not have a
29 driver's license shall be ineligible to apply for a driver's
30 license under 75 Pa.C.S. §§ 1505 (relating to learners' permits)

1 and 1507 (relating to application for driver's license or
2 learner's permit by minor) for the time period specified in
3 clause (2). If the child is under sixteen (16) years of age when
4 convicted, suspension of operating privileges shall commence in
5 accordance with 75 Pa.C.S. § 1541 (relating to period of
6 disqualification, revocation or suspension of operating
7 privilege) for the time specified in clause (2).

8 (4) The Department of Transportation may restore the license
9 or eligibility of a child whose driving privilege has been
10 suspended or whose eligibility for a permit or license is
11 delayed under this section. The Department of Transportation
12 shall make this restoration with a form that it develops. The
13 form shall contain certifications provided by the child's school
14 in the form of a certified record that the child: <--

15 ~~(i) Has CHILD HAS attended school without an unexcused~~ <--
16 absence or an unexcused tardy for a period of at least two (2)
17 months after the first conviction or four (4) months after the
18 second or subsequent conviction.

19 ~~(ii) Has no school disciplinary actions pending and has been~~ <--
20 subject to no disciplinary sanction during the period described
21 under subclause (i).

22 ~~(iii) Is attending and passing all classes.~~

23 (5) An insurer may not increase premiums, impose a surcharge
24 or rate penalty, make a driver record point assignment for
25 automobile insurance or cancel or refuse to renew an automobile
26 insurance policy because of a suspension under this section.

27 (H) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO APPLY TO A <--
28 PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION WHOSE CHILD OR
29 CHILDREN ARE IN A HOME EDUCATION PROGRAM UNDER SECTION 1327.1.

30 Section 6. Section 1338.1 of the act is repealed:

1 [Section 1338.1. Suspension of Operating Privilege.--(a)
2 The Department of Transportation shall suspend for 90 days the
3 operating privilege of any child upon receiving a certified
4 record that the child was convicted of violating section 1333.
5 If the department receives a second or subsequent conviction for
6 a child's violation of section 1333, the department shall
7 suspend the child's operating privilege for six months.

8 (b) Any child whose record is received by the department
9 under section 1333(c) and who does not have a driver's license
10 shall be ineligible to apply for a driver's license under 75
11 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507
12 (relating to application for driver's license or learner's
13 permit by minor) for the time periods specified in subsection
14 (a). If the child is under sixteen (16) years of age when
15 convicted, suspension of operating privileges shall commence in
16 accordance with 75 Pa.C.S. § 1541 (relating to period of
17 revocation or suspension of operating privilege) for the time
18 specified in subsection (a).

19 (c) An insurer may not increase premiums, impose any
20 surcharge or rate penalty or make any driver record point
21 assignment for automobile insurance, nor shall an insurer cancel
22 or refuse to renew an automobile insurance policy on account of
23 a suspension under this section.]

24 SECTION 7. SECTIONS 1732-A(A) AND 1749-A(A) (1) OF THE ACT, <--
25 AMENDED OR ADDED JUNE 29, 2002 (P.L.524, NO.88), ARE AMENDED TO
26 READ:

27 SECTION 1732-A. PROVISIONS APPLICABLE TO CHARTER SCHOOLS.--

28 (A) CHARTER SCHOOLS SHALL BE SUBJECT TO THE FOLLOWING:

29 SECTIONS 108, 110, 111, 321, 325, 326, 327, 431, 436, 443,
30 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755,

1 771, 776, 777, 808, 809, 810, 1109, 1111, 1112(A), 1301, 1310,
2 1317, 1317.1, 1317.2, 1318, 1326, 1327, 1327.2, 1330, 1332,
3 1333, 1333.1, 1333.2, 1333.3, 1303-A, 1513, 1517, 1518, 1521,
4 1523, 1531, 1547, 2014-A, ARTICLE XIII-A AND ARTICLE XIV.

5 ACT OF JULY 17, 1961 (P.L.776, NO.341), KNOWN AS THE
6 "PENNSYLVANIA FAIR EDUCATIONAL OPPORTUNITIES ACT."

7 ACT OF JULY 19, 1965 (P.L.215, NO.116), ENTITLED "AN ACT
8 PROVIDING FOR THE USE OF EYE PROTECTIVE DEVICES BY PERSONS
9 ENGAGED IN HAZARDOUS ACTIVITIES OR EXPOSED TO KNOWN DANGERS IN
10 SCHOOLS, COLLEGES AND UNIVERSITIES."

11 SECTION 4 OF THE ACT OF JANUARY 25, 1966 (1965 P.L.1546,
12 NO.541), ENTITLED "AN ACT PROVIDING SCHOLARSHIPS AND PROVIDING
13 FUNDS TO SECURE FEDERAL FUNDS FOR QUALIFIED STUDENTS OF THE
14 COMMONWEALTH OF PENNSYLVANIA WHO NEED FINANCIAL ASSISTANCE TO
15 ATTEND POSTSECONDARY INSTITUTIONS OF HIGHER LEARNING, MAKING AN
16 APPROPRIATION, AND PROVIDING FOR THE ADMINISTRATION OF THIS
17 ACT."

18 ACT OF JULY 12, 1972 (P.L.765, NO.181), ENTITLED "AN ACT
19 RELATING TO DRUGS AND ALCOHOL AND THEIR ABUSE, PROVIDING FOR
20 PROJECTS AND PROGRAMS AND GRANTS TO EDUCATIONAL AGENCIES, OTHER
21 PUBLIC OR PRIVATE AGENCIES, INSTITUTIONS OR ORGANIZATIONS."

22 ACT OF DECEMBER 15, 1986 (P.L.1595, NO.175), KNOWN AS THE
23 "ANTIHAZING LAW."

24 * * *

25 SECTION 1749-A. APPLICABILITY OF OTHER PROVISIONS OF THIS ACT
26 AND OF OTHER ACTS AND REGULATIONS.

27 (A) GENERAL REQUIREMENTS.--CYBER CHARTER SCHOOLS SHALL BE
28 SUBJECT TO THE FOLLOWING:

29 (1) SECTIONS 108, 110, 111, 321, 325, 326, 327, 431,
30 436, 443, 510, 518, 527, 708, 752, 753, 755, 771, 776, 777,

1 808, 809, 810, 1109, 1111, 1112(A), 1205.1, 1205.2, 1301,
2 1302, 1310, 1317.2, 1318, 1326, 1327, 1327.2, 1330, 1332,
3 1333, 1333.1, 1333.2, 1333.3, 1303-A, 1518, 1521, 1523, 1531,
4 1547, 1702-A, 1703-A, 1714-A, 1715-A, 1716-A, 1719-A, 1721-A,
5 1722-A, 1723-A(A) AND (B), 1724-A, 1725-A, 1727-A, 1729-A,
6 1730-A, 1731-A(A) (1) AND (B) AND 2014-A AND ARTICLES XII-A,
7 XIII-A AND XIV.

8 * * *

9 SECTION 8. THE DEFINITION OF "DISRUPTIVE STUDENT" IN SECTION
10 1901-C OF THE ACT, ADDED JUNE 25, 1997 (P.L.297, NO.30), IS
11 AMENDED TO READ:

12 SECTION 1901-C. DEFINITIONS.--FOR PURPOSES OF THIS ARTICLE,
13 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

14 * * *

15 (5) "DISRUPTIVE STUDENT." A STUDENT WHO POSES A CLEAR
16 THREAT TO THE SAFETY AND WELFARE OF OTHER STUDENTS OR THE SCHOOL
17 STAFF, WHO CREATES AN UNSAFE SCHOOL ENVIRONMENT OR WHOSE
18 BEHAVIOR MATERIALLY INTERFERES WITH THE LEARNING OF OTHER
19 STUDENTS OR DISRUPTS THE OVERALL EDUCATIONAL PROCESS. THE
20 DISRUPTIVE STUDENT EXHIBITS TO A MARKED DEGREE ANY OR ALL OF THE
21 FOLLOWING CONDITIONS:

22 (I) DISREGARD FOR SCHOOL AUTHORITY, INCLUDING PERSISTENT
23 VIOLATION OF SCHOOL POLICY AND RULES.

24 (II) DISPLAY OR USE OF CONTROLLED SUBSTANCES ON SCHOOL
25 PROPERTY OR DURING SCHOOL-AFFILIATED ACTIVITIES.

26 (III) VIOLENT OR THREATENING BEHAVIOR ON SCHOOL PROPERTY OR
27 DURING SCHOOL-AFFILIATED ACTIVITIES.

28 (IV) POSSESSION OF A WEAPON ON SCHOOL PROPERTY, AS DEFINED
29 UNDER 18 PA.C.S. § 912 (RELATING TO POSSESSION OF WEAPON ON
30 SCHOOL PROPERTY).

1 (V) COMMISSION OF A CRIMINAL ACT ON SCHOOL PROPERTY OR
2 DURING SCHOOL-AFFILIATED ACTIVITIES.

3 (VI) MISCONDUCT THAT WOULD MERIT SUSPENSION OR EXPULSION
4 UNDER SCHOOL POLICY.

5 [(VII) HABITUAL TRUANCY.]

6 NO STUDENT WHO IS ELIGIBLE FOR SPECIAL EDUCATION SERVICES
7 PURSUANT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT
8 (PUBLIC LAW 91-230, 20 U.S.C. § 1400 ET SEQ.) SHALL BE DEEMED A
9 DISRUPTIVE STUDENT FOR THE PURPOSES OF THIS ACT, EXCEPT AS
10 PROVIDED FOR IN 22 PA. CODE § 14.35 (RELATING TO DISCIPLINE).

11 * * *

12 Section 7 9. The amendment, addition or repeal of the <--
13 following provisions shall apply to school years which begin at
14 least nine months following the effective date of this section:

15 (1) Section 1326 of the act.

16 (2) Section 1327.2 of the act.

17 (3) Section 1332 of the act.

18 (4) Section 1333 of the act.

19 (5) Section 1333.1 of the act.

20 (6) Section 1333.2 of the act.

21 (7) Section 1338.1 of the act.

22 Section 8 10. This act shall take effect immediately. <--