

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1921 Session of
2017

INTRODUCED BY DALEY, DERMODY, DEAN, DAVIS, THOMAS, KINSEY,
BOBACK, ROTHMAN, FRANKEL, SCHWEYER, SCHLOSSBERG, HILL-EVANS,
CALTAGIRONE, ROZZI, O'NEILL, WARREN, MURT, ROEBUCK, MADDEN,
McCARTER, NEUMAN, YOUNGBLOOD, D. COSTA, TOPPER, WATSON AND
McCLINTON, NOVEMBER 15, 2017

REFERRED TO COMMITTEE ON EDUCATION, NOVEMBER 15, 2017

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 sexual violence education at
6 institutions of higher education, further providing for scope
7 of article, providing for affirmative consent to sexual
8 activity and making an editorial change.

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

11 Section 1. Article XX-G heading and section 2001-G of the
12 act of March 10, 1949 (P.L.30, No.14), known as the Public
13 School Code of 1949, are amended to read:

14 ARTICLE XX-G

15 SEXUAL VIOLENCE EDUCATION AND PREVENTION AT

16 INSTITUTIONS OF HIGHER EDUCATION

17 Section 2001-G. Scope of article.

18 This article relates to college and university sexual
19 violence education and prevention.

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

2 Section 2007-G. Affirmative consent to sexual activity.

3 (a) General rule.--Each institution of higher education
4 shall adopt the following definition of affirmative consent as
5 part of the institution's code of conduct: "Affirmative consent
6 is a conscious, voluntary and mutual agreement among all
7 participants to engage in sexual activity. Words or actions may
8 constitute affirmative consent as long as those words or actions
9 convey clear permission regarding willingness to engage in the
10 sexual activity. Silence or lack of protest does not demonstrate
11 affirmative consent in and of itself. The definition of
12 affirmative consent does not vary based upon a participant's
13 sex, sexual orientation, gender identity or gender expression,
14 nor based on the existence of a present or past romantic,
15 intimate or dating relationship between the individuals
16 involved."

17 (b) Conduct.--Each institution of higher education's code of
18 conduct shall reflect the following principles as guidance for
19 the institution's community:

20 (1) It is the responsibility of each individual who
21 wants to engage in sexual activity with another individual to
22 obtain affirmative consent from the other individual.

23 (2) Affirmative consent to a sexual act does not imply
24 affirmative consent to other sexual acts or other forms of
25 sexual activity.

26 (3) Affirmative consent is required regardless of
27 whether the person initiating the act is under the influence
28 of drugs or alcohol.

29 (4) Affirmative consent may be withdrawn at any time.

30 (5) Affirmative consent cannot be given when an

1 individual is incapacitated. For purposes of this paragraph,
2 incapacitation occurs when an individual lacks the ability to
3 knowingly choose to participate in sexual activity.

4 Incapacitation may be caused by the lack of consciousness or
5 by being asleep, being involuntarily restrained or if an
6 individual otherwise cannot give affirmative consent, such as
7 an individual who is physically or mentally impaired.

8 Depending on the degree of intoxication, someone who is under
9 the influence of alcohol, drugs or other intoxicants may be
10 incapacitated and unable to give affirmative consent.

11 (6) Affirmative consent cannot be given when it is the
12 result of coercion, intimidation, force or threat of harm.

13 (7) When affirmative consent is withdrawn or can no
14 longer be given, sexual activity must cease.

15 Section 3. The addition of section 2007-G of the act shall
16 apply to school years that begin after the effective date of
17 this section.

18 Section 4. This act shall take effect August 1, 2019.