

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 530 Session of 2019

INTRODUCED BY MARTIN, K. WARD, SCHWANK, MUTH, TARTAGLIONE, KILLION, SANTARSIERO AND BROWNE, APRIL 5, 2019

SENATOR LANGERHOLC, EDUCATION, AS AMENDED, OCTOBER 29, 2019

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 duties and powers of boards of <--
6 school directors, further providing for establishment of
7 independent schools; in pupils and attendance, providing for
8 expulsion of students convicted or adjudicated delinquent of
9 sexual assault; in safe schools, further providing for safe
10 schools advocate in school districts of the first class; and,
11 in charter schools, further providing for provisions
12 applicable to charter schools. IN PUPILS AND ATTENDANCE, <--
13 PROVIDING FOR STUDENTS CONVICTED OR ADJUDICATED DELINQUENT OF
14 SEXUAL ASSAULT; AND, IN SAFE SCHOOLS, FURTHER PROVIDING FOR
15 SAFE SCHOOLS ADVOCATE IN SCHOOL DISTRICTS OF THE FIRST CLASS.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 502.1(d) of the act of March 10, 1949 <--
19 (P.L.30, No.14), known as the Public School Code of 1949, is
20 amended to read:

21 Section 502.1. Establishment of Independent Schools. \* \* \*

22 (d) Independent schools shall be subject to the following:

23 Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443,
24 510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 771,

1 ~~776, 777, 808, 809, 810, 1006, 1109, 1111, 1112(a), 1310, 1317,~~  
2 ~~1317.1, 1317.2, 1318, 1318.1, 1327, 1330, 1332, 1303 A, 1513,~~  
3 ~~1517, 1518, 1521, 1523, 1547, 2014 A, 2513, Article XI except as~~  
4 ~~limited by subsection (b) (6), Article XII except as limited by~~  
5 ~~subsection (b) (6), and Articles XIII A and XIV.~~

6 ~~18 Pa.C.S. Ch. 28 (relating to antihazing).~~

7 ~~Act of July 17, 1961 (P.L.776, No.341), known as the~~  
8 ~~"Pennsylvania Fair Educational Opportunities Act."~~

9 ~~Act of July 19, 1965 (P.L.215, No.116), entitled "An act~~  
10 ~~providing for the use of eye protective devices by persons~~  
11 ~~engaged in hazardous activities or exposed to known dangers in~~  
12 ~~schools, colleges and universities."~~

13 ~~Section 4 of the act of January 25, 1966 (1965 P.L.1546,~~  
14 ~~No.541), referred to as the Higher Education Scholarship Law.~~

15 ~~Act of July 12, 1972 (P.L.765, No.181), entitled "An act~~  
16 ~~relating to drugs and alcohol and their abuse, providing for~~  
17 ~~projects and programs and grants to educational agencies, other~~  
18 ~~public or private agencies, institutions or organizations."~~

19 ~~{Act of December 15, 1986 (P.L.1595, No.175), known as the~~  
20 ~~"Antihazing Law."}~~

21 ~~The following provisions of 22 Pa. Code:~~

22 ~~Chapter 4 (relating to academic standards and assessment).~~

23 ~~Section 4.4 (relating to general policies).~~

24 ~~Section 4.26 (relating to ESOL).~~

25 ~~Chapter 11 (relating to [pupil] student attendance).~~

26 ~~Chapter 12 (relating to students and student services).~~

27 ~~Chapter 14 (relating to special education services and~~  
28 ~~programs).~~

29 ~~Chapter 16 (relating to special education for gifted~~  
30 ~~students).~~

1 ~~Section 32.3 (relating to assurances).~~

2 ~~Section 121.3 (relating to discrimination prohibited).~~

3 ~~Section 235.4 (relating to practices).~~

4 ~~Section 235.8 (relating to civil rights).~~

5 ~~\* \* \*~~

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

7 ~~Section 1318.1. Expulsion of Students Convicted or~~

8 ~~Adjudicated Delinquent of Sexual Assault. (a) A school~~

9 ~~district or area vocational technical school shall expel, at the~~

10 ~~request of a victim of sexual assault, the student convicted or~~

11 ~~adjudicated delinquent of the sexual assault, if the victim is~~

12 ~~enrolled in the same school district or area vocational~~

13 ~~technical school as the student convicted or adjudicated~~

14 ~~delinquent.~~

15 ~~The decision of the victim must be made in writing to the~~

16 ~~chief school administrator within ten (10) business days of the~~

17 ~~conviction or adjudication of delinquency. The victim's decision~~

18 ~~is irrevocable.~~

19 ~~(b) The expelled student may re enroll in the school~~

20 ~~district or area vocational technical school:~~

21 ~~(1) if the victim ceases to be enrolled in the school~~

22 ~~district or area vocational technical school from which the~~

23 ~~student was expelled; or~~

24 ~~(2) the conviction or delinquency adjudication on which the~~

25 ~~expulsion was based is reversed and no appeal is pending.~~

26 ~~(c) Nothing in this section shall be construed as limiting~~

27 ~~the authority or duty of a school district or area vocational~~

28 ~~technical school to make an alternative assignment or provide~~

29 ~~alternative educational services during the period of expulsion.~~

30 ~~(d) A school district or area vocational technical school~~

1 ~~receiving a student who transfers from a public or private~~  
2 ~~school during a period of expulsion for an act or offense~~  
3 ~~involving a sexual assault conviction or adjudication of~~  
4 ~~delinquency may assign that student to an alternative assignment~~  
5 ~~or provide alternative education services, provided that the~~  
6 ~~assignment may not exceed the period of expulsion.~~

7 ~~(e) Prior to admission to a school district or area~~  
8 ~~vocational technical school, the parent, guardian or other~~  
9 ~~person having control or charge of a student shall, upon~~  
10 ~~registration, provide a sworn statement or affirmation stating~~  
11 ~~whether the pupil was previously or is presently expelled at the~~  
12 ~~request of a victim of sexual assault, or the victim's parent or~~  
13 ~~guardian, under the provisions of this section. The registration~~  
14 ~~shall include the name of the school from which the student was~~  
15 ~~expelled with the dates of expulsion and shall be maintained as~~  
16 ~~part of the student's disciplinary record. Any wilful false~~  
17 ~~statement made under this subsection shall be a misdemeanor of~~  
18 ~~the third degree.~~

19 ~~(f) If the student convicted or adjudicated delinquent of~~  
20 ~~sexual assault is not expelled following the request of the~~  
21 ~~victim under subsection (a), the parent or guardian of the~~  
22 ~~victim shall have standing to institute a legal proceeding to~~  
23 ~~obtain expulsion of the student.~~

24 ~~(g) Every school district and area vocational technical~~  
25 ~~school shall develop a written policy regarding expulsions~~  
26 ~~required under this section. Expulsions shall be conducted~~  
27 ~~pursuant to all applicable regulations.~~

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

30 ~~"Chief school administrator" means the superintendent of a~~

1 ~~school district, administrative director of an area vocational-~~  
2 ~~technical school or chief executive officer of a charter school.~~

3 ~~"Sexual assault" shall include any of the offenses specified~~  
4 ~~under the following provisions of 18 Pa.C.S. (relating to crimes~~  
5 ~~and offenses):~~

6 ~~Section 3121 (relating to rape).~~

7 ~~Section 3122.1 (relating to statutory sexual assault).~~

8 ~~Section 3123 (relating to involuntary deviate sexual~~  
9 ~~intercourse).~~

10 ~~Section 3124.1 (relating to sexual assault).~~

11 ~~Section 3125 (relating to aggravated indecent assault).~~

12 ~~Section 3126 (relating to indecent assault).~~

13 ~~Section 3. Sections 1310 A(b) (2) and 1732 A(a) of the act~~  
14 ~~are amended to read:~~

15 ~~Section 1310 A. Safe Schools Advocate in School Districts of~~  
16 ~~the First Class. \* \* \*~~

17 ~~(b) The safe schools advocate shall have the power and its~~  
18 ~~duties shall be:~~

19 ~~\* \* \*~~

20 ~~(2) To monitor the school district's compliance with the~~  
21 ~~mandatory expulsion requirements of [section] sections 1317.2-~~  
22 ~~and 1318.1.~~

23 ~~\* \* \*~~

24 ~~Section 1732 A. Provisions Applicable to Charter Schools.~~

25 ~~(a) Charter schools shall be subject to the following:~~

26 ~~Sections 108, 110, 111, 321, 325, 326, 327, 431, 436, 443,~~  
27 ~~510, 518, 527, 708, 736, 737, 738, 739, 740, 741, 752, 753, 755,~~  
28 ~~771, 776, 777, 808, 809, 810, 1109, 1111, 1112(a), 1301, 1310,~~  
29 ~~1317, 1317.1, 1317.2, 1318, 1318.1, 1326, 1327, 1327.2, 1329,~~  
30 ~~1330, 1332, 1333, 1333.1, 1333.2, 1333.3, 1303 A, 1513, 1517,~~

1 ~~1518, 1521, 1523, 1531, 1547, 2014 A, Article XIII A and Article~~  
2 ~~XIV.~~

3 ~~18 Pa.C.S. Ch. 28 (relating to antihazing).~~

4 ~~Act of July 17, 1961 (P.L.776, No.341), known as the~~  
5 ~~"Pennsylvania Fair Educational Opportunities Act."~~

6 ~~Act of July 19, 1965 (P.L.215, No.116), entitled "An act~~  
7 ~~providing for the use of eye protective devices by persons~~  
8 ~~engaged in hazardous activities or exposed to known dangers in~~  
9 ~~schools, colleges and universities."~~

10 ~~Section 4 of the act of January 25, 1966 (1965 P.L.1546,~~  
11 ~~No.541), entitled "An act providing scholarships and providing~~  
12 ~~funds to secure Federal funds for qualified students of the~~  
13 ~~Commonwealth of Pennsylvania who need financial assistance to~~  
14 ~~attend postsecondary institutions of higher learning, making an~~  
15 ~~appropriation, and providing for the administration of this~~  
16 ~~act."~~

17 ~~Act of July 12, 1972 (P.L.765, No.181), entitled "An act~~  
18 ~~relating to drugs and alcohol and their abuse, providing for~~  
19 ~~projects and programs and grants to educational agencies, other~~  
20 ~~public or private agencies, institutions or organizations."~~

21 ~~{Act of December 15, 1986 (P.L.1595, No.175), known as the~~  
22 ~~"Antihazing Law."}~~

23 ~~\* \* \*~~

24 ~~Section 4. This act shall take effect in 60 days.~~

25 SECTION 1. THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN <--  
26 AS THE PUBLIC SCHOOL CODE OF 1949, IS AMENDED BY ADDING A  
27 SECTION TO READ:

28 SECTION 1318.1. STUDENTS CONVICTED OR ADJUDICATED DELINQUENT  
29 OF SEXUAL ASSAULT.--(A) (1) NOTWITHSTANDING SECTION 510, IF A  
30 STUDENT ENROLLED IN A PUBLIC SCHOOL ENTITY IS CONVICTED OR

1 ADJUDICATED DELINQUENT OF COMMITTING A SEXUAL ASSAULT UPON  
2 ANOTHER STUDENT ENROLLED IN THE SAME PUBLIC SCHOOL ENTITY, THE  
3 PUBLIC SCHOOL ENTITY SHALL, PURSUANT TO APPLICABLE LAWS AND  
4 REGULATIONS, TAKE ONE OF THE FOLLOWING ACTIONS:

5 (I) EXPEL THE CONVICTED OR ADJUDICATED STUDENT.

6 (II) TRANSFER THE CONVICTED OR ADJUDICATED STUDENT TO AN  
7 ALTERNATIVE EDUCATION PROGRAM.

8 (III) REASSIGN THE CONVICTED OR ADJUDICATED STUDENT TO  
9 ANOTHER SCHOOL OR EDUCATIONAL PROGRAM WITHIN THE PUBLIC SCHOOL  
10 ENTITY.

11 (2) A PUBLIC SCHOOL ENTITY SHALL ENSURE THAT THE CONVICTED  
12 OR ADJUDICATED STUDENT IS NOT EDUCATED IN THE SAME SCHOOL  
13 BUILDING, TRANSPORTED ON THE SAME SCHOOL VEHICLE OR ALLOWED TO  
14 PARTICIPATE IN THE SAME SCHOOL-SPONSORED ACTIVITIES AS THE  
15 VICTIM.

16 (3) PARAGRAPH (1) SHALL NOT REQUIRE THE PUBLIC SCHOOL ENTITY  
17 TO TAKE ACTION IF:

18 (I) THE PUBLIC SCHOOL ENTITY HAS ALREADY EXPELLED,  
19 TRANSFERRED OR REASSIGNED THE CONVICTED OR ADJUDICATED  
20 DELINQUENT STUDENT FOR THE SAME SEXUAL ASSAULT.

21 (II) THE CONVICTED OR ADJUDICATED STUDENT DOES NOT ATTEND  
22 THE SAME SCHOOL AS THE VICTIM.

23 (B) THE PUBLIC SCHOOL ENTITY SHALL NOT BE PROHIBITED FROM  
24 TAKING ACTION UNDER THIS SECTION FOR CONVICTIONS OR  
25 ADJUDICATIONS FOR SEXUAL ASSAULTS THAT OCCUR OUTSIDE A SCHOOL  
26 SETTING IF THE ASSAULT WAS:

27 (1) AGAINST ANOTHER STUDENT ENROLLED IN THE SAME PUBLIC  
28 SCHOOL ENTITY; AND

29 (2) HAS THE EFFECT OF:

30 (I) SUBSTANTIALLY INTERFERING WITH THE VICTIM'S EDUCATION;

1 (II) CREATING A THREATENING OR HOSTILE EDUCATIONAL  
2 ENVIRONMENT; OR

3 (III) SUBSTANTIALLY DISRUPTING THE ORDERLY OPERATION OF THE  
4 SCHOOL.

5 (C) A STUDENT EXPELLED, TRANSFERRED OR REASSIGNED UNDER THIS  
6 SECTION MAY RETURN TO THE STUDENT'S ORIGINALLY ASSIGNED SCHOOL  
7 ONLY IF:

8 (1) THE VICTIM CEASES TO BE ENROLLED IN THE PUBLIC SCHOOL  
9 ENTITY FROM WHICH THE CONVICTED OR ADJUDICATED DELINQUENT  
10 STUDENT WAS EXPELLED, TRANSFERRED OR REASSIGNED; OR

11 (2) THE CONVICTION OR DELINQUENCY ADJUDICATION ON WHICH THE  
12 EXPULSION, TRANSFER OR REASSIGNMENT WAS BASED IS REVERSED AND NO  
13 APPEAL IS PENDING.

14 (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING  
15 THE AUTHORITY OR DUTY OF A PUBLIC SCHOOL ENTITY TO MAKE AN  
16 ALTERNATIVE ASSIGNMENT OR PROVIDE ALTERNATIVE EDUCATIONAL  
17 SERVICES DURING THE PERIOD OF EXPULSION.

18 (E) A STUDENT CONVICTED OF SEXUAL ASSAULT SHALL NOTIFY THE  
19 SCHOOL ENTITY OF THE CONVICTION NO LATER THAN 72 HOURS AFTER THE  
20 CONVICTION.

21 (F) A PUBLIC SCHOOL ENTITY RECEIVING A STUDENT WHO TRANSFERS  
22 FROM A PUBLIC OR NONPUBLIC SCHOOL DURING A PERIOD OF EXPULSION  
23 FOR AN ACT OR OFFENSE INVOLVING A SEXUAL ASSAULT CONVICTION OR  
24 ADJUDICATION OF DELINQUENCY MAY ASSIGN THAT STUDENT TO AN  
25 ALTERNATIVE ASSIGNMENT OR PROVIDE ALTERNATIVE EDUCATION  
26 SERVICES, PROVIDED THAT THE ASSIGNMENT MAY NOT EXCEED THE PERIOD  
27 OF EXPULSION.

28 (G) PRIOR TO ADMISSION TO A PUBLIC SCHOOL ENTITY, THE  
29 PARENT, GUARDIAN OR OTHER PERSON HAVING CONTROL OR CHARGE OF A  
30 STUDENT SHALL, UPON REGISTRATION, PROVIDE A SWORN STATEMENT OR



1 AFFIRMATION STATING WHETHER THE PUPIL WAS PREVIOUSLY OR IS  
2 PRESENTLY EXPELLED UNDER THE PROVISIONS OF THIS SECTION. THE  
3 REGISTRATION SHALL INCLUDE THE NAME OF THE SCHOOL FROM WHICH THE  
4 STUDENT WAS EXPELLED WITH THE DATES OF EXPULSION AND SHALL BE  
5 MAINTAINED AS PART OF THE STUDENT'S DISCIPLINARY RECORD. ANY  
6 WILFUL FALSE STATEMENT MADE UNDER THIS SUBSECTION SHALL BE  
7 SUBJECT TO 18 PA.C.S. § 4904 (RELATING TO UNSWORN FALSIFICATION  
8 TO AUTHORITIES).

9 (H) EACH PUBLIC SCHOOL ENTITY SHALL DEVELOP OR UPDATE ITS  
10 WRITTEN POLICIES TO ENSURE COMPLIANCE WITH THIS SECTION.

11 (I) A PUBLIC SCHOOL ENTITY SHALL, IN THE CASE OF STUDENTS  
12 WITH DISABILITIES, TAKE ALL STEPS NECESSARY TO COMPLY WITH THE  
13 INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PUBLIC LAW 91-230,  
14 20 U.S.C. § 1400 ET SEQ.).

15 (J) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

17 "PUBLIC SCHOOL ENTITY" MEANS A SCHOOL DISTRICT, INDEPENDENT  
18 SCHOOL, AREA CAREER AND TECHNICAL SCHOOL, INTERMEDIATE UNIT,  
19 CHARTER SCHOOL, REGIONAL CHARTER SCHOOL OR CYBER CHARTER SCHOOL.

20 "SCHOOL SETTING" MEANS IN THE SCHOOL, ON SCHOOL GROUNDS, IN  
21 SCHOOL VEHICLES, AT A DESIGNATED BUS STOP OR AT ANY ACTIVITY  
22 SPONSORED, SUPERVISED OR SANCTIONED BY THE SCHOOL.

23 "SCHOOL-SPONSORED ACTIVITIES" MEANS ANY ASSEMBLIES, FIELD  
24 TRIPS, CLASS TRIPS, GRADUATION CEREMONIES, ATHLETICS,  
25 EXTRACURRICULAR ACTIVITIES, CLUBS, GROUPS, TEAMS OR ANY  
26 ACTIVITIES SPONSORED, HELD OR APPROVED BY THE PUBLIC SCHOOL  
27 ENTITY.

28 "SEXUAL ASSAULT" SHALL INCLUDE ANY OF THE OFFENSES SPECIFIED  
29 UNDER THE FOLLOWING PROVISIONS OF 18 PA.C.S. (RELATING TO CRIMES  
30 AND OFFENSES):

1       SECTION 3121 (RELATING TO RAPE) .

2       SECTION 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT) .

3       SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL  
4 INTERCOURSE) .

5       SECTION 3124.1 (RELATING TO SEXUAL ASSAULT) .

6       SECTION 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT) .

7       SECTION 3126 (RELATING TO INDECENT ASSAULT) .

8       SECTION 2.   SECTION 1310-A(B) (2) OF THE ACT IS AMENDED TO  
9 READ:

10       SECTION 1310-A.   SAFE SCHOOLS ADVOCATE IN SCHOOL DISTRICTS OF  
11 THE FIRST CLASS.--\* \* \*

12       (B)   THE SAFE SCHOOLS ADVOCATE SHALL HAVE THE POWER AND ITS  
13 DUTIES SHALL BE:

14       \* \* \*

15       (2)   TO MONITOR THE SCHOOL DISTRICT'S COMPLIANCE WITH THE  
16 MANDATORY EXPULSION REQUIREMENTS OF [SECTION] SECTIONS 1317.2  
17 AND 1318.1.

18       \* \* \*

19       SECTION 3.   THIS ACT SHALL TAKE EFFECT IN 60 DAYS.