

Veto No. 1978-10

SB 1204

July 1, 1978

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1204, Printer's No. 1962, entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'Public School Code of 1949,' providing for diagnostic and evaluative psychological services for the benefit of children attending nonpublic schools in the Commonwealth."

The purpose of this bill is to characterize diagnostic and evaluative psychological services for children as health services and allow them to be furnished free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. This is a valid purpose which my administration wholeheartedly supports. Unfortunately, the bill contains a number of technical flaws which could impede rather than speed the delivery of psychological services to the school children of Pennsylvania.

First, the bill transfers the existing duty to provide psychological services to nonpublic school students from the intermediate units to the Secretary of Education directly or through the intermediate units. Although there is an existing allocation to the intermediate units to provide these services, there is no similar allocation to the Secretary of Education. Thus, a responsibility is placed on the Secretary which the Secretary has no capacity to fulfill.

Second, this bill requires that diagnostic and evaluative psychological services be provided free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. However, the bill neither amends nor repeals Section 922.1-A of the Public School Code of 1949 which specifically states, "Such services shall not be provided in a church or in any facility under the control of a sectarian school." Thus, if enacted, the bill would be in direct conflict with existing provisions of State law.

Third, there is very broad and unsubstantiated language in the legislative finding and declaration of policy to the effect that, "Diagnostic and evaluative psychological services to children can best be rendered upon the premises of the school which the child regularly attends, and forcing children to go to other premises in order to have such needed services is found by the General Assembly to be both inadequate and harmful." This legislative finding overlooks the fact that in many circumstances both public and nonpublic school children receive such services through the existing county mental health and mental retardation base service units funded by the Department of Public Welfare. It is conceivable that this finding and declaration of purpose could be construed as prohibiting the delivery of these types of psychological services by the existing mental health system to school children and requiring the Secretary of Education to establish a duplicative system. Assuredly, such result was not intended by the General Assembly.

The proper response to the perceived problem of the statutory prohibition on psychological services being provided by the public school system on the premises of nonpublic schools is to amend that specific section of the statute which contains that prohibition. Such an amendment can be made without producing the various problems contained in Senate Bill No. 1204, which problems would actually curtail the delivery of psychological services to school children. I am hereby directing the Justice Department to work with the General Assembly in drafting the appropriate amendment to effect the end which the General Assembly wishes to achieve.

For these reasons, the bill is not approved.

MILTON J. SHAPP