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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 851 Session of  
2019

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INTRODUCED BY WHEATLEY, HARRIS, HILL-EVANS, RABB, SCHLOSSBERG,  
CALTAGIRONE, A. DAVIS, KINSEY, KIRKLAND AND BULLOCK,  
MARCH 18, 2019

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REFERRED TO COMMITTEE ON EDUCATION, MARCH 18, 2019

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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 possession of weapons prohibited and for  
7 suspension and expulsion of pupils.

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

10 Section 1. Sections 1317.2 and 1318 of the act of March 10,  
11 1949 (P.L.30, No.14), known as the Public School Code of 1949,  
12 are amended to read:

13 Section 1317.2. Possession of [Weapons] Firearms  
14 Prohibited.--(a) Except as otherwise provided in this section,  
15 a school district or area vocational-technical school [shall]  
16 may expel, for a period of not less than one year, any student  
17 who is determined to have brought onto or is in possession of a  
18 [weapon] firearm on any school property, any school-sponsored  
19 activity or any public conveyance providing transportation to a  
20 school or school-sponsored activity.

1 (b) Every school district and area vocational-technical  
2 school shall develop a written policy regarding expulsions for  
3 possession of a [weapon] firearm as required under this section.  
4 Expulsions shall [be conducted pursuant to] comply with all  
5 applicable regulations.

6 (c) The school board, superintendent of a school district or  
7 an administrative director of an area vocational-technical  
8 school may recommend modifications of such expulsion  
9 requirements for a student on a case-by-case basis.  
10 Modifications shall be in writing and may include the duration  
11 of the expulsion or an explanation of the decision not to expel.

12 The superintendent or other chief administrative officer of a  
13 school entity shall, in the case of an exceptional student, take  
14 all steps necessary to comply with the Individuals with  
15 Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400  
16 et seq.).

17 (d) The provisions of this section shall not apply to the  
18 following:

19 (1) a [weapon] firearm being used as part of a program  
20 approved by a school by an individual who is participating in  
21 the program; or

22 (2) a [weapon] firearm that is unloaded and is possessed by  
23 an individual while traversing school property for the purpose  
24 of obtaining access to public or private lands used for lawful  
25 hunting, if the entry on school premises is authorized by school  
26 authorities.

27 (e) Nothing in this section shall be construed as limiting  
28 the authority or duty of a school or area vocational-technical  
29 school to [make]:

30 (1) Make an alternative assignment or provide alternative

1 educational services during the period of expulsion.

2 (2) Provide for other less exclusionary discipline or no  
3 discipline for a student who is determined to have brought onto  
4 or is in possession of a firearm on any school property, any  
5 school-sponsored activity or any public conveyance providing  
6 transportation to a school or school-sponsored activity.

7 (e.1) A school district receiving a student who transfers  
8 from a public or private school during a period of expulsion for  
9 an act or offense involving a [weapon] firearm may assign that  
10 student to an alternative assignment or provide alternative  
11 education services, provided that the assignment may not exceed  
12 the period of expulsion.

13 (f) All school districts and area vocational-technical  
14 schools shall report all incidents involving possession of a  
15 [weapon] firearm prohibited by this section as follows:

16 (1) The school superintendent or chief administrator shall  
17 report the discovery of any [weapon] firearm prohibited by this  
18 section to local law enforcement officials.

19 (2) The school superintendent or chief administrator shall  
20 report to the Department of Education all incidents relating to  
21 expulsions for possession of a [weapon] firearm on school  
22 grounds, school-sponsored activities or public conveyances  
23 providing transportation to a school or school-sponsored  
24 activity. Reports shall include all information as required  
25 under section 1303-A.

26 (g) As used in this section, the term ["weapon" shall  
27 include, but not be limited to, any knife, cutting instrument,  
28 cutting tool, nunchaku, firearm, shotgun, rifle and any other  
29 tool, instrument or implement capable of inflicting serious  
30 bodily injury] "firearm" shall have the meaning given to it

1 under 18 U.S.C. § 921(a)(3) (relating to definitions).

2 Section 1318. Suspension and Expulsion of Pupils.--(a)

3 Every principal or teacher in charge of a public school may

4 temporarily suspend any pupil on account of disobedience or

5 misconduct, and any principal or teacher suspending any pupil

6 shall promptly notify the district superintendent or secretary

7 of the board of school directors. The board may, after a proper

8 hearing, suspend such child for such time as it may determine,

9 or may [permanently] expel him for no longer than one year. Such

10 hearings, suspension, or expulsion may be delegated to a duly

11 authorized committee of the board, or to a duly qualified

12 hearing examiner, who need not be a member of the board, but

13 whose adjudication must be approved by the board.

14 (b) (1) A student in grades six through twelve may be

15 subject to:

16 (i) Out-of-school suspension for only the most serious

17 offenses and only after other documented behavioral supports and

18 interventions have failed.

19 (ii) Expulsion only for offenses involving a firearm,

20 distribution of alcohol or drugs or for the willful infliction

21 of serious bodily injury to another person.

22 (2) The Department of Education shall provide technical

23 assistance to school districts in developing student codes of

24 conduct that reflect best practices to reduce the overuse of

25 discipline that removes a student from the classroom.

26 (3) A student in grades six through twelve who receives

27 discipline under this subsection must be offered an alternative

28 educational setting to continue the student's education during

29 the pendency of the classroom removal. The alternative

30 educational setting shall include at least 20 hours of grade-

1 level instruction per week. A plan of supportive services must  
2 be in place prior to the student's return to the regular  
3 classroom.

4 (c) (1) A student in grades kindergarten through five may  
5 not receive an out-of-school suspension or expulsion except  
6 under circumstances where the discipline is based on conduct  
7 that is of a violent or sexual nature that endangers others.

8 (2) A student who receives discipline under paragraph (1)  
9 must be offered an alternative educational setting to continue  
10 the student's education during the pendency of the classroom  
11 removal. The alternative educational setting shall include at  
12 least 20 hours of grade-level instruction per week. A plan of  
13 supportive services must be in place prior to the child's return  
14 to the regular classroom.

15 (3) As used in this subsection, the following terms shall  
16 have the meanings given to them in this paragraph:

17 "Sexual" shall mean any prohibited sexual contact that causes  
18 harm as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse  
19 of children).

20 "Violent" shall mean having caused serious bodily injury as  
21 defined in 42 Pa.C.S. § 6302 (relating to definitions).

22 (d) School districts shall utilize evidence-based or  
23 research-based behavioral supports and interventions and other  
24 appropriate remedial measures, including restorative justice  
25 practices, to prevent the recurrence of the behavior that led to  
26 the student's out-of-school suspension or expulsion. Any  
27 intervention shall be designed to assist the return of the  
28 student to a classroom setting to minimize disruption of the  
29 student's academic instruction.

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