
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1708 Session of
2023

INTRODUCED BY HILL-EVANS, MIHALEK, MADDEN, HOHENSTEIN, BRIGGS,
KINSEY, KHAN, SANCHEZ AND HOWARD, SEPTEMBER 22, 2023

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 22, 2023

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 preliminary provisions, further
6 providing for definitions; in pupils and attendance,
7 providing for educational oversight for students in
8 facilities, further providing for possession of weapons
9 prohibited and providing for school stability for certain
10 students; in safe schools, further providing for definitions
11 and for reporting and establishing the School-Based Diversion
12 Programs Fund; in school security, further providing for
13 powers and duties and providing for limitations on
14 proceedings and arrest; and, in school districts of the first
15 class, repealing provisions relating to placement of certain
16 adjudicated students.

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

19 Section 1. Section 102 of the act of March 10, 1949 (P.L.30,
20 No.14), known as the Public School Code of 1949, is amended by
21 adding a definition to read:

22 Section 102. Definitions.--When used in this act, the
23 following words and phrases shall have the following meanings:

24 * * *

25 "Weapon." A firearm which is designed to, or may readily be

1 converted to, expel a projectile capable of a lethal outcome by
2 the action of an explosive. The term includes a firearm which is
3 not loaded or lacks a clip or other component required to render
4 the firearm immediately operable and components which can
5 readily be assembled into a weapon, including the frame or
6 receiver of a firearm.

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

8 Section 1306.3. Educational Oversight for Students in

9 Facilities.--(a) No later than January 1, 2025, the department

10 shall develop a licensing, oversight and monitoring process for

11 education programs in facilities to ensure that students

12 receiving education services in a facility receive the same

13 academic instruction required for public schools under 22 Pa.

14 Code Ch. 4 (relating to academic standards and assessment). The

15 licensing process shall include:

16 (1) Annual site visits to all providers of educational
17 services in facilities.

18 (2) Data collection and annual reporting requirements for
19 all providers of educational services in facilities. Reporting
20 shall include documentation of all educational programming
21 provided and relevant student outcomes by race and ethnicity,
22 gender and disability status.

23 (3) An annual report sent to the General Assembly and posted
24 on a publicly accessible Internet website that aggregates
25 relevant student outcomes and makes recommendations for
26 improvements to educational programming in facilities.

27 (b) The department shall provide support to a student who
28 is:

29 (i) transitioning from the student's school of origin to a
30 facility;

1 (ii) not enrolled in the student's school of origin as a
2 result of placement in a facility; and
3 (iii) transitioning from a facility back to the student's
4 school of origin or to another school.

5 (c) The Department of Human Services, as a component of its
6 licensing obligations of residential placements, shall adopt a
7 process to promptly refer any complaints or concerns regarding
8 education in facilities to the department.

9 (d) For purposes of this section:

10 "Department" shall mean the Department of Education of the
11 Commonwealth.

12 "Facility" shall mean a setting, including a children's
13 institution, youth development center, camp or other facility at
14 which a child is held as a result of the child's alleged or
15 actual dependency or delinquency under 42 Pa.C.S. Ch. 63
16 (relating to juvenile matters).

17 "Relevant student outcomes" shall include:

18 (1) For students receiving educational services in
19 facilities, total credits earned, credits earned in areas
20 necessary for graduation, assessment tests in reading and
21 mathematics, grade-level promotion and graduation rates.

22 (2) For students exiting facilities, prompt enrollment,
23 appropriate school placement, including the percentage of
24 students returned to the students' school of origin, transfer of
25 credits earned and on-time graduation rates.

26 "Support" shall mean the requirements for a school entity
27 under section 1331.1.

28 Section 3. Section 1317.2(g) of the act is amended to read:

29 Section 1317.2. Possession of Weapons Prohibited.--* * *

30 [(g) As used in this section, the term "weapon" shall

1 include, but not be limited to, any knife, cutting instrument,
2 cutting tool, nunchaku, firearm, shotgun, rifle and any other
3 tool, instrument or implement capable of inflicting serious
4 bodily injury.]

5 Section 4. The act is amended by adding a section to read:

6 Section 1318.2. School Stability for Certain Students.--(a)

7 Before the court makes an order under 42 Pa.C.S. Ch. 63

8 (relating to juvenile matters) or because the student has been

9 adjudged to have committed a crime under an adult criminal

10 proceeding that is likely to affect the student's school

11 placement, the court shall consider the student's educational

12 needs and stability. The court shall determine on the record the

13 school placement that is in the student's best interest and

14 protective of the community, prioritizing in order:

15 (1) The student remaining in the student's school of origin

16 in the community.

17 (2) The student attending the least restrictive school

18 setting that is in the student's best interest and protective of

19 the community.

20 (3) The student participating virtually in the student's

21 school of origin if the student is able to make meaningful

22 progress through virtual learning.

23 (b) In making the best interest determination under

24 subsection (a), the court shall consider how the school

25 placement will address the student's needs, including any needs

26 identified as part of an agreement under section 504 of the

27 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701

28 et seq.) or an individualized education plan developed in 20

29 U.S.C. Ch. 33 (relating to education of individuals with

30 disabilities).

1 (c) Except as provided in subsection (d), at least 14 days
2 prior to a student who is in out-of-home placement as a result
3 of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 or
4 adjudged to have committed a crime under an adult criminal
5 proceeding is released from such placement, the following shall
6 occur:

7 (1) The student, the student's parent, guardian, caregiver
8 or educational decision maker, the student's attorney, a
9 representative of the student's school of origin and a
10 representative of probation shall participate in a best interest
11 determination meeting to discuss school placement options and
12 make a recommendation to the court that prioritizes education in
13 the least restrictive setting with appropriate support.
14 Additional interested parties to the student's case, including,
15 if applicable, a victim or victim's representative and any other
16 advocates for the student, may also provide input.

17 (2) The student's school of origin shall develop a
18 transition and graduation plan for the student, subject to the
19 requirements of section 1331.1 and any individualized education
20 plan developed in accordance with 22 Pa. Code § 14.131 (relating
21 to IEP) and 20 U.S.C. Ch. 33, that includes academic goals and
22 information on credit transfers, identifies school and community
23 services appropriate to the needs of the student and establishes
24 remaining graduation requirements.

25 (3) The court shall hold a hearing to determine the
26 appropriate educational placement for the student upon the
27 student's release from out-of-home placement, subject to the
28 requirements under subsection (e).

29 (d) The inability to complete the requirements under
30 subsection (c) shall not delay the release of a student from

1 out-of-home placement. If such requirements cannot be met at
2 least fourteen (14) days prior to release, the requirements must
3 be completed as soon as practical but no later than seven (7)
4 days after release from placement.

5 (e) Except as provided under section 1318.1, a student
6 returning from placement as a result of being adjudicated
7 delinquent under 42 Pa.C.S. Ch. 63 or who has been adjudged to
8 have committed a crime under an adult criminal proceeding shall
9 be returned directly to the student's school of origin unless
10 the court finds, by clear and convincing evidence, and enters
11 those findings in the record orally and in writing, that
12 returning to the school of origin is not in the best interest of
13 the student or protective of the community. If the court finds
14 that the return of the student to the student's school of origin
15 is not in the best interest of the student or protection of the
16 community, the court shall order the student to be enrolled in
17 the least restrictive school setting that best meets the
18 student's needs, prioritizing placement in the school district
19 where the student resides. The student is entitled to attend a
20 public school if the student so chooses. Factors guiding a
21 determination regarding school placement under this section
22 shall include:

23 (1) The recommendation resulting from the best interest
24 determination meeting under subsection (c)(1).

25 (2) The transition and graduation plans developed under
26 subsection (c)(2).

27 (3) The appropriateness of the current educational setting
28 considering the student's needs, including any needs identified
29 as part of an agreement under section 504 of the Rehabilitation
30 Act of 1973 or an individualized education plan developed in

1 accordance with 22 Pa. Code § 14.131 and 20 U.S.C. Ch. 33.

2 (4) The proximity of the school of origin relative to the
3 location of the student's residence after returning from
4 placement.

5 (5) The protection of the community.

6 (f) A student may not be subject to any school disciplinary
7 action upon returning to the student's school of origin for any
8 conduct that occurred prior to the student entering placement.

9 Section 5. The definition of "weapon" in section 1301-A of
10 the act is amended to read:

11 Section 1301-A. Definitions.--* * *

12 ["Weapon" shall include, but not be limited to, any knife,
13 cutting instrument, cutting tool, nunchaku, firearm, shotgun,
14 rifle and any other tool, instrument or implement capable of
15 inflicting serious bodily injury.]

16 Section 6. Section 1303-A(b) (3.1), (4.1) (i) and (ii) and
17 (4.2) of the act are amended to read:

18 Section 1303-A. Reporting.--* * *

19 (b) Each chief school administrator shall report to the
20 office by July 31 of each year all new incidents involving acts
21 of violence, possession of a weapon or possession, use or sale
22 of controlled substances as defined in the act of April 14, 1972
23 (P.L.233, No.64), known as "The Controlled Substance, Drug,
24 Device and Cosmetic Act," or possession, use or sale of alcohol
25 or tobacco by any person on school property. The incidents to be
26 reported to the office shall include all incidents involving
27 conduct that constitutes a criminal offense listed under
28 paragraphs (4.1) and (4.2). Reports on a form to be developed
29 and provided by the office shall include:

30 * * *

1 (3.1) Race, ethnicity and gender of student.

2 * * *

3 (4.1) A list of criminal offenses which shall[, at a
4 minimum,] include:

5 (i) The following offenses under 18 Pa.C.S. (relating to
6 crimes and offenses):

7 Section 908 (relating to prohibited offensive weapons) if the
8 weapon is a firearm.

9 Section 912 (relating to possession of weapon on school
10 property) if the weapon is a firearm.

11 Chapter 25 (relating to criminal homicide).

12 Section 2702 (relating to aggravated assault).

13 Section 2709.1 (relating to stalking).

14 Section 2901 (relating to kidnapping).

15 Section 2902 (relating to unlawful restraint).

16 Section 3121 (relating to rape).

17 Section 3122.1 (relating to statutory sexual assault).

18 Section 3123 (relating to involuntary deviate sexual
19 intercourse).

20 Section 3124.1 (relating to sexual assault).

21 Section 3124.2 (relating to institutional sexual assault).

22 Section 3125 (relating to aggravated indecent assault).

23 Section 3126 (relating to indecent assault).

24 Section 3301 (relating to arson and related offenses).

25 Section 3307 (relating to institutional vandalism) when the
26 penalty is a felony of the third degree.

27 Section 3502 (relating to burglary).

28 Section 3503(a) and (b) (1) (v) (relating to criminal
29 trespass).

30 Section 5501 (relating to riot).

1 Section 6110.1 (relating to possession of firearm by minor).
2 (ii) The possession, use or sale of a controlled substance
3 [or drug paraphernalia], except a small amount of marihuana as
4 defined in "The Controlled Substance, Drug, Device and Cosmetic
5 Act."

6 * * *

7 (4.2) The following offenses under 18 Pa.C.S., and any
8 attempt, solicitation or conspiracy to commit any of these
9 offenses:

10 Section 2701 (relating to simple assault).

11 Section 2705 (relating to recklessly endangering another
12 person).

13 Section 2706 (relating to terroristic threats).

14 Section 2709 (relating to harassment).

15 Section 3127 (relating to indecent exposure).

16 Section 3307 (relating to institutional vandalism) when the
17 penalty is a misdemeanor of the second degree.

18 Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2)
19 (relating to criminal trespass).

20 Chapter 39 (relating to theft and related offenses).

21 Section 5502 (relating to failure of disorderly persons to
22 disperse upon official order).

23 [Section 5503 (relating to disorderly conduct).

24 Section 6305 (relating to sale of tobacco).

25 Section 6306.1 (relating to use of tobacco in schools
26 prohibited).

27 Section 6308 (relating to purchase, consumption, possession
28 or transportation of liquor or malt or brewed beverages).]

29 * * *

30 Section 7. The act is amended by adding a section to read:

1 Section 1314-A. School-Based Diversion Programs Fund.--(a)
2 The School-Based Diversion Programs Fund is established as a
3 separate fund in the State Treasury.

4 (b) The sources of money for the fund are as follows:

5 (1) Appropriations.

6 (2) Money from any other source.

7 (3) Return on the money in the fund.

8 (c) The money in the fund shall be appropriated on a
9 continuing basis to the Pennsylvania Commission on Crime and
10 Delinquency for the purposes under subsection (d).

11 (d) The fund shall be administered by the Pennsylvania
12 Commission on Crime and Delinquency as follows:

13 (1) The Pennsylvania Commission on Crime and Delinquency may
14 hire one full-time staff member to administer the fund.

15 (2) The money in the fund shall be used solely to expand
16 nonresidential school-based diversion programs.

17 (3) The Pennsylvania Commission on Crime and Delinquency
18 shall set eligibility criteria for school entities to apply for
19 funding from the fund.

20 (e) As used in this section:

21 (1) The term "fund" shall mean the School-Based Diversion
22 Programs Fund established under subsection (a).

23 (2) The term "school-based diversion program" shall mean a
24 prearrest, pre-court program administered by a school entity, or
25 based at a school and administered by a contracted third-party
26 entity, that does the following:

27 (i) Provides an alternative to arrest or court referral for
28 students who have engaged in behavior that could otherwise be
29 charged as a delinquent or summary offense on any public school
30 grounds, at a school-sponsored activity or on a conveyance

1 providing transportation to a school entity or school-sponsored
2 activity.

3 (ii) Keeps a student in school and community prevention
4 services while supporting the students in taking accountability
5 for the student's behavior and meeting the underlying needs
6 contributing to such behavior.

7 (iii) Does not interfere with or substitute for the regular
8 classroom instruction of students or penalize students for
9 participation in any way.

10 Section 8. Section 1306-C(a)(3) and (b) of the act are
11 amended to read:

12 Section 1306-C. Powers and duties.

13 (a) General rule.--A school police officer appointed under
14 section 1302-C(b) shall possess and exercise all the following
15 powers and duties:

16 * * *

17 (3) [If] Except as provided in section 1306.1-C, if
18 authorized by the court, to issue summary citations or to
19 detain individuals who are in school buildings, on school
20 buses and on school grounds in the respective school entities
21 or nonpublic schools until local law enforcement is notified.

22 (b) Specific powers.--[If] Except as provided in section
23 1306.1-C, if authorized by the court, a school police officer
24 who is a law enforcement officer employed by a school entity or
25 nonpublic school whose responsibilities, including work hours,
26 are established by the school entity or nonpublic school, may
27 exercise the same powers as exercised under authority of law or
28 ordinance by the police of the municipality in which the school
29 property is located.

30 Section 9. The act is amended by adding a section to read:

1 Section 1306.1-C. Limitations on proceedings and arrest.

2 (a) Proceedings.--A proceeding may not be commenced nor may
3 a petition or citation be filed by a school entity, or a
4 representative of a school entity, for a delinquent or summary
5 act alleged to be committed by a student in a school building,
6 on a school bus or on school grounds in the respective school
7 entity, for the following acts:

8 (1) A violation of one of the following offenses under
9 18 Pa.C.S. (relating to crimes and offenses):

10 (i) Section 2701 (relating to simple assault).

11 (ii) Section 2706 (relating to terrorist threats).

12 (iii) Section 5503 (relating to disorderly conduct).

13 (iv) Section 6305 (relating to sale of tobacco
14 products).

15 (v) Section 6306.1 (relating to use of tobacco
16 products in schools prohibited).

17 (vi) Section 6308 (relating to purchase,
18 consumption, possession or transportation of liquor or
19 malt or brewed beverages).

20 (2) The possession of drug paraphernalia or a small
21 amount of marihuana as defined in the act of April 14, 1972
22 (P.L.233, No.64), known as The Controlled Substance, Drug,
23 Device and Cosmetic Act.

24 (3) Any other misdemeanor or summary act, unless the
25 student has participated in a school-based diversion program
26 in lieu of arrest or court referral at least twice during the
27 current and previous two school years prior to the current
28 violation.

29 (b) Arrest, citation or detainment.--A law enforcement
30 officer, including a school police officer under section 1306-C,

1 may not arrest, cite or detain a student for a delinquent or
2 summary act alleged to be committed by a student in a school
3 building, on a school bus or on school grounds in the respective
4 school entity, if the alleged act constitutes any of the
5 following:

6 (1) A violation of one of the following offenses under
7 18 Pa.C.S.:

8 (i) Section 2701.

9 (ii) Section 2706.

10 (iii) Section 5503.

11 (iv) Section 6305.

12 (v) Section 6306.1.

13 (vi) Section 6308.

14 (2) The possession of drug paraphernalia or a small
15 amount of marihuana as defined in The Controlled Substance,
16 Drug, Device and Cosmetic Act.

17 (3) Any other misdemeanor or summary act, unless the
18 student has participated in a school-based diversion program
19 in lieu of arrest or court referral at least twice during the
20 current and previous two school years prior to the current
21 violation.

22 (c) Diversion encouraged.--Arrest, citation and petition
23 shall not be required, even if permitted under subsections (a)
24 and (b). Use of a school-based diversion program in lieu of
25 arrest, citation or petition is encouraged whenever safe and
26 appropriate.

27 (d) Code of conduct.--Notwithstanding section 510, a school
28 entity's code of student conduct required under 22 Pa. Code §
29 12.3(c) (relating to school rules) may not include a requirement
30 of arrest, citation or petition for any offense committed by a

1 student in a school building, on a school bus or on school
2 grounds.

3 (e) Definition.--For purposes of this section, the term
4 "school-based diversion program" is defined in section 1314-A.

5 Section 10. Section 2134 of the act is repealed:

6 [~~Section 2134. Placement of Certain Adjudicated Students.--~~

7 (a) No student returning from placement as a result of being
8 adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to
9 juvenile matters) or who has been adjudged to have committed a
10 crime under an adult criminal proceeding shall be returned
11 directly to the regular classroom.

12 (b) Prior to returning such student to the regular
13 classroom, the school district shall:

14 (1) Place the student in a transition center operated by the
15 school district for a period not to exceed four (4) weeks.

16 (2) Develop a transition plan for the student that includes
17 academic goals, identifies school and community services
18 appropriate to the needs of the student and establishes terms
19 and conditions the student must meet prior to returning to the
20 regular classroom.

21 (c) The transition plan developed under subsection (b) (2)
22 may provide for the student's direct return to a regular
23 classroom where the underlying offense did not involve any of
24 the following:

25 (i) Possession of a weapon.

26 (ii) Possession, use or sale of controlled substances as
27 defined in the act of April 14, 1972 (P.L.233, No.64), known as
28 "The Controlled Substance, Drug, Device and Cosmetic Act."

29 (iii) Possession, use or sale of alcohol or tobacco by any
30 person on school property.

1 (iv) An act of violence as defined in section 1310-A(h).

2 (d) In the case of a student whose transition plan does not
3 include immediate return to the regular classroom, the student
4 shall be placed in one of the following as provided for in the
5 student's transition plan:

6 (1) An alternative education program as defined in Article
7 XIX-C.

8 (2) A private alternative education institution as defined
9 in Article XIX-E.

10 (3) A general education development program.

11 (4) A program operating after the traditional school day.

12 (e) (1) Prior to the release of a student subject to this
13 section from a residential or day treatment placement as a
14 result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63
15 (relating to juvenile matters) or returning from incarceration
16 as a result of having been adjudged to have committed a crime
17 under an adult criminal proceeding, the court shall provide to
18 the person designated in charge of the school district's
19 transition center the information required in the school
20 notification provision under 42 Pa.C.S. § 6341(b.1) (relating to
21 adjudication).

22 (2) The information shall be updated by the court with
23 information pertaining to treatment reports and supervision
24 plans or any other information deemed necessary by the
25 transition plan and assure appropriate placement of the
26 student.]

27 Section 11. This act shall take effect in 60 days.