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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 945 Session of  
2019

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INTRODUCED BY COSTA, FONTANA, MUTH, HUGHES, L. WILLIAMS,  
SANTARSIERO, FARNESE, KEARNEY, TARTAGLIONE, SCHWANK, STREET,  
DINNIMAN, SABATINA, BREWSTER, COLLETT, BROWNE AND HAYWOOD,  
NOVEMBER 15, 2019

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REFERRED TO EDUCATION, NOVEMBER 15, 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 Safe2Say Program, further  
6 providing for definitions and for Safe2Say Program; in  
7 postsecondary institution sexual harassment and sexual  
8 violence policy and online reporting system, further  
9 providing for definitions, for policy for postsecondary  
10 institution sexual harassment and sexual violence and for  
11 online reporting system; and making an editorial change.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Section 1302-D of the act of March 10, 1949  
15 (P.L.30, No.14), known as the Public School Code of 1949, is  
16 amended by adding a definition to read:

17 Section 1302-D. Definitions.

18 The following words and phrases when used in this article  
19 shall have the meanings given to them in this section unless the  
20 context clearly indicates otherwise:

21 \* \* \*

1 "Hate-based intimidation." A threat of physical injury, harm  
2 to property or other type of injury motivated by hatred toward  
3 an individual's or group of individuals' actual or perceived:

4 (1) race;

5 (2) color;

6 (3) religion;

7 (4) national origin;

8 (5) ancestry;

9 (6) sex;

10 (7) gender or gender identity;

11 (8) sexual orientation;

12 (9) intellectual disability;

13 (10) physical or sensory disability; or

14 (11) behavioral or mental health.

15 \* \* \*

16 Section 2. Section 1303-D(c)(1) and (2) and (d) of the act,  
17 added June 22, 2018 (P.L.327, No.44), are amended and subsection  
18 (c) is amended by adding a paragraph to read:

19 Section 1303-D. Safe2Say Program.

20 \* \* \*

21 (c) Program requirements.--Beginning January 14, 2019, the  
22 program shall be responsible for the following:

23 (1) To ensure anonymous reporting concerning unsafe,  
24 potentially harmful, dangerous, violent or criminal  
25 activities, including, but not limited to, the reporting of  
26 hate-based intimidation, in a school entity or the threat of  
27 the activities in a school entity.

28 (2) To establish protocols and procedures to promptly  
29 notify the appropriate law enforcement agency via 911 centers  
30 and the Pennsylvania State Police when the program receives

1 an anonymous report of violent or criminal activities,    
2 including an anonymous report of hate-based intimidation, in  
3 a school entity that poses an immediate threat of violence or  
4 criminal activity.

5 \* \* \*

6 (11) To train and provide instruction to employees of  
7 school entities on how to recognize and report hate-based  
8 intimidation.

9 (d) School entity.--Each school entity shall:

10 (1) develop procedures for assessing and responding to  
11 reports received from the program[.]; and

12 (2) require each school in the school entity to  
13 incorporate into periodic in-service training sessions  
14 appropriate instruction in recognizing and reporting  
15 behavior, including hate-based intimidation, that could pose  
16 an immediate threat of violence or harm to students, a school  
17 or the community.

18 Section 3. Article XX-J heading, added June 28, 2019

19 (P.L.117, No.16), is amended to read:

20 ARTICLE XX-J

21 POSTSECONDARY INSTITUTION SEXUAL HARASSMENT AND SEXUAL

22 VIOLENCE AND HATE-BASED INTIMIDATION POLICY AND

23 ONLINE REPORTING SYSTEM

24 Section 4. Section 2001-J of the act is amended by adding a  
25 definition to read:

26 Section 2001-J. Definitions.

27 The following words and phrases when used in this article  
28 shall have the meanings given to them in this section unless the  
29 context clearly indicates otherwise:

30 "Hate-based intimidation." A threat of physical injury, harm

1 to property or other type of injury motivated by hatred toward  
2 an individual's or group of individuals' actual or perceived:

- 3 (1) race;
- 4 (2) color;
- 5 (3) religion;
- 6 (4) national origin;
- 7 (5) ancestry;
- 8 (6) sex;
- 9 (7) gender or gender identity;
- 10 (8) sexual orientation;
- 11 (9) intellectual disability;
- 12 (10) physical or sensory disability; or
- 13 (11) behavioral or mental health.

14 \* \* \*

15 Section 5. Sections 2002-J and 2003-J of the act, added June  
16 28, 2019 (P.L.117, No.16), are amended to read:

17 Section 2002-J. Policy for postsecondary institution sexual  
18 harassment [and], sexual violence and hate-based  
19 intimidation.

20 (a) Adoption.--A postsecondary institution shall adopt a  
21 clear, understandable written policy on sexual harassment [and],  
22 sexual violence and hate-based intimidation that informs victims  
23 and students of their rights under Federal and State law,  
24 including the crime victims bill of rights. No later than June  
25 30, 2020, a postsecondary institution shall amend its current  
26 policy on sexual harassment and sexual violence to include  
27 provisions to govern hate-based intimidation.

28 (b) Report.--

29 (1) The sexual harassment [and], sexual violence and  
30 hate-based intimidation policy under subsection (a) shall

1 include a provision that a witness or victim of an incident  
2 of sexual harassment [or], sexual violence or hate-based  
3 intimidation who reports the incident in good faith will not  
4 be sanctioned by the institution for admitting in the report  
5 to a violation of the institution's student conduct policy on  
6 the personal use of drugs or alcohol.

7 (2) Nothing in this chapter may be construed to prohibit  
8 a postsecondary institution from including a provision in its  
9 sexual harassment, sexual violence and hate-based  
10 intimidation policy to govern the receipt of reports from the  
11 general public, provided that the public reports involve a  
12 student of the postsecondary institution.

13 (c) Model policy.--The Department of Education shall develop  
14 a model policy and make the model policy available to  
15 postsecondary institutions. A postsecondary institution may  
16 adopt the model policy as the policy of the institution on  
17 sexual harassment [and], sexual violence and hate-based  
18 intimidation.

19 Section 2003-J. Online reporting system.

20 (a) Establishment of online reporting system.--A  
21 postsecondary institution shall establish and maintain an online  
22 reporting system to receive complaints of sexual harassment  
23 [and], sexual violence and hate-based intimidation from students  
24 and employees. A report shall be investigated through the  
25 process established in the postsecondary institution's sexual  
26 harassment [and], sexual violence and hate-based intimidation  
27 policy. A postsecondary institution may not fail or refuse to  
28 investigate an anonymous report because it is anonymous.

29 (b) Anonymous reports.--The online reporting system shall  
30 permit anonymous reports, which shall be investigated in

1 accordance with subsection (a).

2 (c) Required information.--A postsecondary institution shall  
3 provide students and employees making reports under this section  
4 with the following:

5 (1) Information regarding who will receive and have  
6 access to the reports filed.

7 (2) How information gathered through the online  
8 reporting system will be used.

9 (3) Contact information for on-campus and off-campus  
10 organizations serving victims of sexual harassment [and],  
11 sexual violence and hate-based intimidation.

12 (d) Statement.--The online reporting system shall  
13 prominently post the online system's policy regarding reports  
14 and investigations of sexual harassment [and], sexual violence  
15 and hate-based intimidation and shall encourage individuals to  
16 review the policy for more information about procedures and  
17 resources.

18 (e) Access to data.--A postsecondary institution shall limit  
19 access to the data collected, created or maintained under  
20 subsection (a) to only the data subject and as follows:

21 (1) Only individuals with explicit authorization from a  
22 postsecondary institution may enter, update, access, share or  
23 disseminate electronic data related to an incident of sexual  
24 harassment [or], sexual violence and hate-based intimidation  
25 collected, created or maintained under this section.

26 (2) The ability of an authorized individual to enter,  
27 update, access, share or disseminate data must be limited  
28 through the use of role-based access that corresponds to the  
29 official duties or training level of the individual and the  
30 institutional authorization that grants access for that

1 purpose.

2 (3) Actions in which the data related to an incident of  
3 sexual harassment [~~or~~], sexual violence or hate-based  
4 intimidation are entered, updated, accessed, shared or  
5 disseminated outside the postsecondary institution must be  
6 recorded in a data audit trail.

7 (4) An institution shall immediately and permanently  
8 revoke the authorization of an individual determined to have  
9 willfully entered, updated, accessed, shared or disseminated  
10 data in violation of this section.

11 (5) An institution or individual implementing, operating  
12 or working for the program may not be compelled to produce a  
13 record except pursuant to a court order.

14 Section 6. This act shall take effect immediately.