

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2560 Session of
2002

INTRODUCED BY ROHRER, PETRARCA, ARMSTRONG, E. Z. TAYLOR,
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CREIGHTON, CRUZ, DAILEY, EGOLF, FEESE, FICHTER, FORCIER,
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WILT, YEWIC, YOUNGBLOOD, ALLEN, T. STEVENSON AND PISTELLA,
MAY 1, 2002

REFERRED TO COMMITTEE ON EDUCATION, MAY 1, 2002

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," further providing for compulsory
6 school attendance and for a home education program.

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

9 Section 1. Sections 1327(d) and 1327.1 of the act of March
10 10, 1949 (P.L.30, No.14), known as the Public School Code of
11 1949, added December 21, 1988 (P.L.1321, No.169), are amended to
12 read:

13 Section 1327. Compulsory School Attendance.--* * *

14 (d) Instruction to children of compulsory school age
15 provided in a home education program, as provided for in section
16 1327.1 of this act, shall be considered as complying with the
17 provisions of this section[, except that any student who has

1 been identified pursuant to the provisions of the Education of
2 the Handicapped Act (Public Law 91-230, 20 U.S.C. § 1401 et
3 seq.) as needing special education services, excluding those
4 students identified as gifted and/or talented, shall be in
5 compliance with the requirements of compulsory attendance by
6 participating in a home education program, as defined in section
7 1327.1, when the program addresses the specific needs of the
8 exceptional student and is approved by a teacher with a valid
9 certificate from the Commonwealth to teach special education or
10 a licensed clinical or certified school psychologist, and
11 written notification of such approval is submitted with the
12 notarized affidavit required under section 1327.1(b)]. The
13 supervisor of a home education program may request that the
14 school district or intermediate unit of residence provide
15 special education and related services that address the specific
16 needs of the exceptional student in the home education program.
17 When the provision of services is agreed to by [both] the
18 supervisor [and the school district or intermediate unit], all
19 services shall be provided in the public schools or in a private
20 school licensed to provide such programs and services.

21 Section 1327.1. Home Education Program.--[(a) The following
22 words and phrases when used in this section shall have the
23 meanings given to them in this subsection:

24 "Appropriate education" shall mean a program consisting of
25 instruction in the required subjects for the time required in
26 this act and in which the student demonstrates sustained
27 progress in the overall program.

28 "Hearing examiner" shall not be an officer, employe or agent
29 of the Department of Education or of the school district or
30 intermediate unit of residence of the child in the home

1 education program.

2 "Home education program" shall mean a program conducted, in
3 compliance with this section, by the parent or guardian or such
4 person having legal custody of the child or children.

5 "Supervisor" shall mean the parent or guardian or such person
6 having legal custody of the child or children who shall be
7 responsible for the provision of instruction, provided that such
8 person has a high school diploma or its equivalent.

9 (b) The requirements contained in sections 1511 and 1511.1,
10 except as provided for in this section, and section 1605 shall
11 not apply to home education programs. A home education program
12 shall not be considered a nonpublic school under the provisions
13 of this act.

14 (1) A notarized affidavit of the parent or guardian or other
15 person having legal custody of the child or children, filed
16 prior to the commencement of the home education program and
17 annually thereafter on August 1 with the superintendent of the
18 school district of residence and which sets forth: the name of
19 the supervisor of the home education program who shall be
20 responsible for the provision of instruction; the name and age
21 of each child who shall participate in the home education
22 program; the address and telephone number of the home education
23 program site; that such subjects as required by law are offered
24 in the English language, including an outline of proposed
25 education objectives by subject area; evidence that the child
26 has been immunized in accordance with the provisions of section
27 1303(a) and has received the health and medical services
28 required for students of the child's age or grade level in
29 Article XIV; and that the home education program shall comply
30 with the provisions of this section and that the notarized

1 affidavit shall be satisfactory evidence thereof. The required
2 outline of proposed education objectives shall not be utilized
3 by the superintendent in determining if the home education
4 program is out of compliance with this section and section 1327.
5 The affidavit shall contain a certification to be signed by the
6 supervisor that the supervisor, all adults living in the home
7 and persons having legal custody of a child or children in a
8 home education program have not been convicted of the criminal
9 offenses enumerated in subsection (e) of section 111 within five
10 years immediately preceding the date of the affidavit.

11 (2) In the event the home education program site is
12 relocating to another school district within this Commonwealth
13 during the course of the public school term or prior to the
14 opening of the public school term in the fall, the supervisor of
15 the home education program must apply, by registered mail,
16 thirty (30) days prior to the relocation, to the superintendent
17 of the district in which he or she currently resides, requesting
18 a letter of transfer for the home education program to the
19 district to which the home education program is relocating. The
20 current superintendent of residence must issue the letter of
21 transfer thirty (30) days after receipt of the registered mail
22 request of the home education program supervisor.

23 (i) If the home education program is not in compliance with
24 the provisions of this section, the superintendent of the
25 current district of residence must inform the home education
26 supervisor and the superintendent of the district to which the
27 home education program is relocating the status of the home
28 education program and the reason for the denial of the letter of
29 transfer.

30 (ii) If the home education program is in hearing procedures,

1 as contained in this section, the superintendent of the current
2 district of residence must inform the home education supervisor,
3 the assigned hearing examiner and the superintendent of the
4 district to which the home education program is relocating the
5 status of the home education program and the reason for the
6 denial of the letter of transfer.

7 (3) The letter of transfer, required by clause (2), must be
8 filed by the supervisor of the home education program with the
9 superintendent of the new district of residence. In the case of
10 pending proceedings, the new district of residence
11 superintendent shall continue the home education program until
12 the appeal process is finalized.

13 (c) A child who is enrolled in a home education program and
14 whose education is therefore under the direct supervision of his
15 parent, guardian or other person having legal custody shall be
16 deemed to have met the requirements of section 1327 if that home
17 education program provides a minimum of one hundred eighty (180)
18 days of instruction or nine hundred (900) hours of instruction
19 per year at the elementary level, or nine hundred ninety (990)
20 hours per year at the secondary level:

21 (1) At the elementary school level, the following courses
22 shall be taught: English, to include spelling, reading and
23 writing; arithmetic; science; geography; history of the United
24 States and Pennsylvania; civics; safety education, including
25 regular and continuous instruction in the dangers and prevention
26 of fires; health and physiology; physical education; music; and
27 art.

28 (2) At the secondary school level, the following courses
29 shall be taught: English, to include language, literature,
30 speech and composition; science; geography; social studies, to

1 include civics, world history, history of the United States and
2 Pennsylvania; mathematics, to include general mathematics,
3 algebra and geometry; art; music; physical education; health;
4 and safety education, including regular and continuous
5 instruction in the dangers and prevention of fires. Such courses
6 of study may include, at the discretion of the supervisor of the
7 home education program, economics; biology; chemistry; foreign
8 languages; trigonometry; or other age-appropriate courses as
9 contained in Chapter 5 (Curriculum Requirements) of the State
10 Board of Education.

11 (d) The following minimum courses in grades nine through
12 twelve are established as a requirement for graduation in a home
13 education program:

- 14 (1) Four years of English.
- 15 (2) Three years of mathematics.
- 16 (3) Three years of science.
- 17 (4) Three years of social studies.
- 18 (5) Two years of arts and humanities.

19 (e) In order to demonstrate that appropriate education is
20 occurring, the supervisor of the home education program shall
21 provide and maintain on file the following documentation for
22 each student enrolled in the home education program:

- 23 (1) A portfolio of records and materials. The portfolio
24 shall consist of a log, made contemporaneously with the
25 instruction, which designates by title the reading materials
26 used, samples of any writings, worksheets, workbooks or creative
27 materials used or developed by the student and in grades three,
28 five and eight results of nationally normed standardized
29 achievement tests in reading/language arts and mathematics or
30 the results of Statewide tests administered in these grade

1 levels. The department shall establish a list, with a minimum of
2 five tests, of nationally normed standardized tests from which
3 the supervisor of the home education program shall select a test
4 to be administered if the supervisor does not choose the
5 Statewide tests. At the discretion of the supervisor, the
6 portfolio may include the results of nationally normed
7 standardized achievement tests for other subject areas or grade
8 levels. The supervisor shall ensure that the nationally normed
9 standardized tests or the Statewide tests shall not be
10 administered by the child's parent or guardian.

11 (i) A teacher or administrator who evaluates a portfolio at
12 the elementary level (grades kindergarten through six) shall
13 have at least two years of experience in grading any of the
14 following subjects: English, to include spelling, reading and
15 writing; arithmetic; science; geography; history of the United
16 States and Pennsylvania; and civics.

17 (ii) A teacher or administrator who evaluates a portfolio at
18 the secondary level (grades seven through twelve) shall have at
19 least two years of experience in grading any of the following
20 subjects: English, to include language, literature, speech,
21 reading and composition; science, to include biology, chemistry
22 and physics; geography; social studies, to include economics,
23 civics, world history, history of the United States and
24 Pennsylvania; foreign language; and mathematics, to include
25 general mathematics, algebra, trigonometry, calculus and
26 geometry.

27 (iii) As used in this clause, the term "grading" shall mean
28 evaluation of classwork, homework, quizzes, classwork-based
29 tests and prepared tests related to classwork subject matter.

30 (2) An annual written evaluation of the student's

1 educational progress as determined by a licensed clinical or
2 school psychologist or a teacher certified by the Commonwealth
3 or by a nonpublic school teacher or administrator. Any such
4 nonpublic teacher or administrator shall have at least two years
5 of teaching experience in a Pennsylvania public or nonpublic
6 school within the last ten years. Such nonpublic teacher or
7 administrator shall have the required experience at the
8 elementary level to evaluate elementary students or at the
9 secondary level to evaluate secondary students. The certified
10 teacher shall have experience at the elementary level to
11 evaluate elementary students or at the secondary level to
12 evaluate secondary students. The evaluation shall also be based
13 on an interview of the child and a review of the portfolio
14 required in clause (1) and shall certify whether or not an
15 appropriate education is occurring. At the request of the
16 supervisor, persons with other qualifications may conduct the
17 evaluation with the prior consent of the district of residence
18 superintendent. In no event shall the evaluator be the
19 supervisor or their spouse.

20 (f) The school district of residence shall, at the request
21 of the supervisor, lend to the home education program copies of
22 the school district's planned courses, textbooks and other
23 curriculum materials appropriate to the student's age and grade
24 level.

25 (g) When documentation is required by this section to be
26 submitted to the district of residence superintendent or the
27 hearing examiner, the superintendent or the hearing examiner
28 shall return, upon completion of his review, all such
29 documentation to the supervisor of the home education program.
30 The superintendent or hearing examiner may photocopy all or

1 portions of the documentation for his files.

2 (h) Such documentation required by subsection (e)(1) and (2)
3 shall be provided to the public school district of residence
4 superintendent at the conclusion of each public school year. In
5 addition, if the superintendent has a reasonable belief that, at
6 any time during the school year, appropriate education may not
7 be occurring in the home education program, he may, by certified
8 mail, return receipt requested, require documentation pertaining
9 to the portfolio of records and materials required by subsection
10 (e)(1) to be submitted to the district within fifteen (15) days;
11 and documentation pertaining to subsection (e)(2) to be
12 submitted to the district within thirty (30) days. If the tests
13 as required in subsection (e)(1) have not been administered at
14 the time of the receipt of the certified letter by the
15 supervisor, the supervisor shall submit the other required
16 documentation and shall submit the test results with the
17 documentation at the conclusion of the school year.

18 (i) If the superintendent of the public school district
19 determines, based on the documentation provided, at the end of
20 or during the school year, that appropriate education is not
21 taking place for the child in the home education program, the
22 superintendent shall send a letter by certified mail, return
23 receipt requested, to the supervisor of the home education
24 program stating that in his opinion appropriate education is not
25 taking place for the child in the home education program and
26 shall return all documentation, specifying what aspect or
27 aspects of the documentation are inadequate.

28 (j) Upon receipt of the certified letter required by
29 subsection (i), the supervisor of the home education program
30 shall have twenty (20) days to submit additional documentation

1 demonstrating that appropriate education is taking place for the
2 child in the home education program. If documentation is not
3 submitted within that time, the home education program for the
4 child shall be out of compliance with the requirements of this
5 section and section 1327, and the student shall be promptly
6 enrolled in the public school district of residence or a
7 nonpublic school or a licensed private academic school.

8 (k) If the superintendent determines that the additional
9 documentation submitted still does not demonstrate that
10 appropriate education is taking place in the home education
11 program, he shall so notify the supervisor of the home education
12 program by certified mail, return receipt requested, and the
13 board of school directors shall provide for a proper hearing by
14 a duly qualified and impartial hearing examiner within thirty
15 (30) days. The examiner shall render a decision within fifteen
16 (15) days of the hearing except that he may require the
17 establishment of a remedial education plan mutually agreed to by
18 the superintendent and supervisor of the home education program
19 which shall continue the home education program. The decision of
20 the examiner may be appealed by either the supervisor of the
21 home education program or the superintendent to the Secretary of
22 Education or Commonwealth Court.

23 (l) If the hearing examiner finds that the documentation
24 does not indicate that appropriate education is taking place in
25 the home education program, the home education program for the
26 child shall be out of compliance with the requirements of this
27 section and section 1327, and the student shall be promptly
28 enrolled in the public school district of residence or a
29 nonpublic school or a licensed private academic school.

30 (m) At such time as the child's home education program has

1 been determined to be out of compliance with the provisions of
2 this section and section 1327, the supervisor or spouse of the
3 supervisor of the home education program shall not be eligible
4 to supervise a home education program for that child, as
5 provided for in subsection (b)(1) of this section, for a period
6 of twelve (12) months from the date of such determination.]

7 (a) It is the policy of the Commonwealth of Pennsylvania to
8 preserve the primary right and the obligation of parents,
9 guardians or other persons having legal custody of a child to
10 choose the education and training for the child.

11 (b) Nothing in this section shall be construed to grant by
12 implication or otherwise to the Commonwealth of Pennsylvania or
13 any of its officers, agencies or subdivisions any right or
14 authority to control, manage, approve, supervise or make any
15 suggestion, rule, standard, regulation, policy, procedure or
16 requirement as to the control, management or supervision of a
17 home education program.

18 (c) Notwithstanding the subjects enumerated in subsection
19 (f), this section does not require the home education program to
20 include in its curriculum any concept, topic or practice in
21 conflict with a parent's, guardian's or custodian's religious
22 beliefs or to exclude from its curriculum any concept, topic or
23 practice consistent with the parent's, guardian's or custodian's
24 religious beliefs.

25 (d) A home education program shall be defined as instruction
26 primarily supervised by the parent, guardian or custodian of the
27 child. The parent, guardian or custodian shall be the supervisor
28 of the home education program.

29 (e) Each year, a parent, guardian or custodian who elects to
30 supervise instruction in a home education program shall notify

1 in writing the superintendent of the school district of
2 residence within thirty (30) days of establishing the program.
3 The notice need only contain the name, residence address and age
4 of each child who shall be enrolled in the home education
5 program and the name of the supervisor of the home education
6 program who shall be responsible for supervising the
7 instruction. A parent, guardian or custodian shall notify in
8 writing the superintendent within thirty (30) days of the
9 termination of the home education program.

10 (f) A child who is enrolled in a home education program and
11 whose education is therefore under the direct supervision of the
12 child's parent, guardian or other person having legal custody
13 shall be deemed to have met the requirements of section 1327 if
14 the home education program provides a minimum of one hundred
15 eighty (180) days of instruction or nine hundred (900) hours of
16 instruction per year at the elementary level, and one hundred
17 eighty (180) days of instruction or nine hundred ninety (990)
18 hours per year at the secondary level.

19 (1) The following subjects shall be taught each year to
20 every student enrolled in a home education program of compulsory
21 school age through grade eight in the English language and from
22 English texts or resources: English, to include spelling,
23 reading and writing; mathematics; science; health; physical
24 education; art; and music. These subjects may be taught as
25 separate subjects or integrated into other appropriate subjects.
26 The following subjects shall be taught for at least one academic
27 year to every student of compulsory school age through grade
28 eight: history of the United States, history of Pennsylvania,
29 geography, civics and safety education. These subjects may be
30 taught as separate subjects or integrated into other appropriate

1 subjects.

2 (2) At the secondary school level, grade nine through
3 completion, the following courses shall be taught: English, to
4 include language, literature, speech and composition; science;
5 geography; social studies, to include civics, world history,
6 history of the United States and history of Pennsylvania;
7 mathematics; art; music; physical education; health; and safety
8 education. The courses of study may include, at the discretion
9 of the supervisor of the home education program, economics,
10 biology, chemistry, foreign languages, algebra, geometry,
11 trigonometry and other age-appropriate courses. The following
12 minimum courses at the secondary school level, grade nine
13 through completion, are established as a requirement for
14 graduation in a home education program:

15 (i) Four years or equivalent credits of English.

16 (ii) Three years or equivalent credits of mathematics.

17 (iii) Three years or equivalent credits of science.

18 (iv) Three years or equivalent credits of social studies.

19 (v) Two years or equivalent credits of arts and humanities.

20 (g) A student who has completed the graduation requirements
21 set forth in subsection (f) shall no longer be subject to this
22 section or to the compulsory attendance laws of this
23 Commonwealth. Such student shall for all purposes be considered
24 a high school graduate and shall receive all the rights,
25 benefits and privileges pertaining thereto.

26 Section 2. This act shall take effect immediately.