



Delaware House of Representatives House Majority Caucus

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GOVERNOR SIGNS BILL RAISING MINIMUM AGE **FOR MANDATORY REPORTING FOR MISDEMEANORS**

Age that schools must report a misdemeanor to police raised from 9 to 12 by HB 347

NEW CASTLE – With the very students who will be impacted looking on, Governor Jack A. Markell signed legislation on Wednesday raising the minimum age for mandatory reporting of misdemeanor school crimes from 9 to 12.

The legislation, House Bill 347, addresses situations in which young students end up with arrest records because currently Delaware requires school officials to report to police all misdemeanor offenses committed by students over the age of 9. The bill comes from the House School Discipline Task Force, which was formed last year to address concerns about school discipline that had been raised.

“This law gives our schools more flexibility to address disciplinary problems involving some of our young children,” said Governor Markell, who gave a civics lesson to about 100 fifth-grade students at Pleasantville Elementary before signing the legislation. “It gives room for reasonable judgments to be made when it comes to reporting the actions of young children to police officers.”

Currently, if a 9-year-old allegedly committed a misdemeanor – which includes third-degree assault and offensive touching – school officials would be required to report it to the police and, in certain instances, initiate criminal prosecution.

Under HB 347, sponsored by Rep. Michael A. Barbieri, school officials still would be required to file a written report of the incident with the superintendent, who in turn must file a written report with the Department of Education. However, school officials do not have to report the incident to local police if the alleged offender is less than 12 years of age.

“The task force found that, in many cases, by the time an unclassified misdemeanor reaches court, the kids involved aren’t fighting any more and we have used a lot of state and school

resources following this law,” said Rep. Barbieri, D-Newark, and chair of the task force. “We determined that this wasn’t the best use of our resources and that there are better ways to handle some situations rather than requiring law enforcement to get involved.”

Governor Markell and Rep. Barbieri were joined by task force subcommittee chairs Red Clay Consolidated School District Superintendent Mervin Daugherty, Deputy Attorney General Patricia Dailey-Lewis and Deputy Secretary of Education Daniel Cruce. Colonial School District Superintendent Dorothy Linn, school board president Ted Laws and Pleasantville Elementary principal Pete Leida also were on hand.

The School Discipline Task Force was created in May 2009 and was charged with reviewing a more than 15-year-old disciplinary system that mandated reporting of all in-school incidents and set uniform punishments for infractions, then issuing recommendations to more fairly dispense justice without negatively impacting the school environment. The task force members included representatives from the Departments of Justice; Education; Health and Social Services; and Children, Youth and their Families, along with members of the Delaware State Police, Family Court and school districts in all three counties.

The task force’s recommendations included increasing the minimum reporting age, establishing a three-step process for addressing minor school offenses instead of requiring arrest and reviewing alternative placement and in-school suspension programs. Rep. Barbieri said the task force’s recommendations would help place discretion regarding school discipline back into the hands of local district officials while establishing basic procedures to follow while using their expertise.

Rep. Darryl M. Scott, who co-chaired the task force, said that the legislation signed into law on Wednesday will help with the administering of discipline without burdening students.

“You want to be consistent and fair with how you administer discipline, but you also have to want to do the right thing for the student,” said Rep. Scott, D-Dover. “By signing this bill, we are not abdicating our responsibility with school discipline; rather, we are allowing schools to address issues in an appropriate manner without unduly subjecting children to the criminal justice system.”

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