

18A:40A-12

LEGISLATIVE HISTORY CHECKLIST
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(School pupils--reports of
possible drug use--immunity)

NJSA: 18A:40A-12

LAWS OF: 1992 CHAPTER: 158

BILL NO: A534

SPONSOR(S) Farragher and others

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Education
SENATE: Education

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: March 23, 1992
SENATE: October 29, 1992

DATE OF APPROVAL: November 25, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]

ASSEMBLY, No. 534

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblywoman FARRAGHER, Assemblyman ARNONE
and Assemblywoman Heck

1 AN ACT concerning immunity for school employees who report
2 instances of possible drug abuse and amending P.L.1987, c.387
3 and P.L.1971, c.414.
4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 ²[1. Section 5 of P.L.1987, c.387 (C.18A:40A-12) is amended
8 to read as follows:

9 a. Whenever it shall appear to any teaching staff member,
10 school nurse or other educational or noneducational personnel of
11 any public school in this State that a pupil may be under the
12 influence of substances as defined pursuant to section 2 of this
13 act, other than anabolic steroids, that teaching staff member,
14 school nurse or other educational or noneducational personnel
15 shall report the matter as soon as possible to the school nurse or
16 medical inspector, as the case may be, or to a substance
17 awareness coordinator, and to the principal or, in his absence, to
18 his designee. The principal or his designee, shall immediately
19 notify the parent or guardian and the superintendent of schools,
20 if there be one, or the administrative principal and shall arrange
21 for an immediate examination of the pupil by a doctor selected
22 by the parent or guardian, or if that doctor is not immediately
23 available, by the medical inspector, if he is available. If a doctor
24 or medical inspector is not immediately available, the pupil shall
25 be taken to the emergency room of the nearest hospital for
26 examination accompanied by a member of the school staff
27 designated by the principal and a parent or guardian of the pupil
28 if available. The pupil shall be examined as soon as possible for
29 the purpose of diagnosing whether or not the pupil is under such
30 influence. A written report of that examination shall be
31 furnished within 24 hours by the examining physician to the
32 parent or guardian of the pupil and to the superintendent of
33 schools or administrative principal. If it is determined that the
34 pupil was under the influence of a substance, the pupil shall be
35 returned to his or her home as soon as possible and shall not
36 resume attendance at school until the pupil submits to the
37 principal a written report certifying that he or she is physically
38 and mentally able to return thereto, which report shall be
39 prepared by a personal physician, the medical inspector or the
40 physician who examined the pupil pursuant to the provisions of
41 this act.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted March 2, 1992.

² Senate SED committee amendments adopted October 22, 1992.

1 In addition, the pupil shall be interviewed by a substance
2 awareness coordinator or another appropriately trained teaching
3 staff member for the purpose of determining the extent of the
4 pupil's involvement with these substances and possible need for
5 treatment. In order to make this determination the coordinator
6 or other teaching staff member may conduct a reasonable
7 investigation which may include interviews with the pupil's
8 teachers and parents. The coordinator or other teaching staff
9 member may also consult with such experts in the field of
10 substance abuse as may be necessary and appropriate. If it is
11 determined that the pupil's involvement with and use of these
12 substances represents a danger to the pupil's health and
13 well-being, the coordinator or other teaching staff member shall
14 refer the pupil to an appropriate treatment program which has
15 been approved by the Commissioner of Health.

16 b. Whenever any teaching staff member, school nurse or
17 other educational or noneducational personnel of any public
18 school in this State shall have reason to believe that a pupil has
19 used or may be using anabolic steroids, that teaching staff
20 member, school nurse or other educational or noneducational
21 personnel shall report the matter as soon as possible to the
22 school nurse or medical inspector, as the case may be, or to a
23 substance awareness coordinator, and to the principal or, in his
24 absence, to his designee. The principal or his designee, shall
25 immediately notify the parent or guardian and the
26 superintendent of schools, if there be one, or the administrative
27 principal and shall arrange for an examination of the pupil by a
28 doctor selected by the parent or guardian or by the medical
29 inspector. The pupil shall be examined as soon as possible for the
30 purpose of diagnosing whether or not the pupil has been using
31 anabolic steroids. A written report of that examination shall be
32 furnished by the examining physician to the parent or guardian
33 of the pupil and to the superintendent of schools or
34 administrative principal. If it is determined that the pupil has
35 been using anabolic steroids, the pupil shall be interviewed by a
36 substance awareness coordinator or another appropriately
37 trained teaching staff member for the purpose of determining
38 the extent of the pupil's involvement with these substances and
39 possible need for treatment. In order to make this
40 determination the coordinator or other teaching staff member
41 may conduct a reasonable investigation which may include
42 interviews with the pupil's teachers and parents. The coordinator
43 or other teaching staff member may also consult with such
44 experts in the field of substance abuse as may be necessary and
45 appropriate. If it is determined that the pupil's involvement
46 with and use of these substances represents a danger to the
47 pupil's health and well-being, the coordinator or other teaching
48 staff member shall refer the pupil to an appropriate treatment
49 program which has been approved by the Commissioner of
50 Health.¹²

51 (cf: P.L.1989, c.216, s.2)

52 ¹[1.] ²[2.1] ¹₂ Section 6 of P.L.1987, c.387 (C.18A:40A-13) is
53 amended to read as follows:

54 6. No action of any kind in any court of competent

1 jurisdiction shall lie against any teaching staff member,
2 including a substance awareness coordinator, any school nurse or
3 other educational personnel, medical inspector, examining
4 physician or any other officer [or], agent or any employee of the
5 board of education or personnel of the emergency room of a
6 hospital because of any action taken by virtue of the provisions
7 of this act, provided the skill and care given is that ordinarily
8 required and exercised by other such teaching staff members,
9 nurses, educational personnel, medical inspectors, physicians or
10 other officers [or], agents, or any employees of the board of
11 education or emergency room personnel.

12 (cf: P.L.1987, c.387, s.6)

13 ¹[2.] ²[^{3.}¹] ^{2.}² Section 7 of P.L.1987 c.387 (C.18A:40A-14) is
14 amended to read as follows:

15 7. Any teacher, guidance counselor, school psychologist,
16 school nurse, substance awareness coordinator or other
17 educational or noneducational personnel, employed by or in any
18 of the public or private schools of this State, who in good faith
19 reports a pupil to the principal or his designee or to the medical
20 inspector or school physician or school nurse in an attempt to
21 help such pupil cure his abuse of substances as defined in section
22 2 of this act, shall not be liable in civil damages as a result of
23 making any such report.

24 Nothing in this section is intended to preclude the protections
25 provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or
26 otherwise provided by law.

27 (cf: P.L.1987, c.387, s.7)

28 ¹[3.] ²[^{4.}¹] ^{3.}² Section 2 of P.L.1971 c.414 (C.2A:62A-4) is
29 amended to read as follows:

30 2. Any teacher, guidance counselor, psychologist, registered
31 nurse or other educational or noneducational personnel employed
32 by or in any of the public or private schools of this State who in
33 good faith reports a person to the principal or his designee or to
34 the medical inspector or school physician or school nurse in an
35 attempt to help such person cure his dependency upon or illegal
36 use of controlled dangerous substances as defined in P.L.1970,
37 chapter 226, section 2 (C.24:21-2), or such chemical or chemical
38 compound as defined in P.L.1965, chapter 41, section 1
39 (C.2A:170-25.9), shall not be liable in civil damages as a result
40 of making any such report.

41 (cf: P.L.1971, c.414, s.2)

42 ¹[4.] ²[^{5.}¹] ^{4.}² This act shall take effect immediately.

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47 Extends immunity for reporting of drug abuse to any school
48 employee.

1 the medical inspector or school physician or school nurse in an
2 attempt to help such person cure his dependency upon or illegal
3 use of controlled dangerous substances as defined in P.L.1970,
4 chapter 226, section 2 (C.24:21-2), or such chemical or chemical
5 compound as defined in P.L.1965, chapter 41, section 1
6 (C.2A:170-25.9), shall not be liable in civil damages as a result
7 of making any such report.
8 (cf: P.L.1971, c.414, s.2)

9 4. This act shall take effect immediately.

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STATEMENT

This bill amends the statutes that grant immunity to persons who in good faith report suspected drug abuse in schools to extend that immunity to noneducational and noncertificated employees who work in public or private schools.

Current law granting immunity for drug abuse reporting is directed mainly at teaching staff members who are most likely to be the persons reporting suspected cases of drug abuse. However, other school employees who come into regular contact with students may also discover drug abuse, and should be given the same immunity as teaching staff members when reporting in good faith suspicions involving drug abuse in the school in which they are employed.

Extends immunity for reporting of drug abuse to any school employee.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 534

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 1992

The Assembly Education Committee favorably reports Assembly Bill No. 534 as amended.

As amended, this bill includes noneducational employees of a school district among those persons who are required to report when a pupil appears to be under the influence of substances, such as alcoholic beverages, controlled dangerous substances and anabolic steroids, and extends the grant of immunity from suit and civil damages for reporting substance abuse to noneducational personnel in public and private schools.

Current law only requires teaching staff members in public schools to report suspected substance abuse by pupils and only grants to them immunity from suit and civil damages.

The committee amended the bill to require noneducational personnel in public schools to report suspected cases of drug abuse.

This bill was prefiled for introduction in the 1992 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

Representatives of the New Jersey School Boards Association, New Jersey Education Association and New Jersey Department of Education testified in favor of the bill.

SENATE EDUCATION COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 534

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1992

The Senate Education Committee favorably reports this bill with committee amendments.

This bill extends the grant of immunity to noneducational personnel in public and private schools who in good faith report suspected cases of substance abuse.

Current law grants immunity only to personnel who are members of the teaching staff.

The committee amended the bill to make voluntary, rather than mandatory, the reporting by noneducational personnel in public schools of substance abuse.