



SPONSOR: Rep. Lynn

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1  
TO  
HOUSE BILL NO. 277

1 AMEND House Bill No. 277 by deleting lines 1 through 18 and inserting in lieu thereof the following:

2 “Section 1. Amend Subchapter I, Chapter 40, Title 10 of the Delaware Code by making deletions as shown by  
3 strike through and insertions as shown by underline as follows:

4 § 4006. Exclusion on civil liability limits for claims against public schools involving sexual abuse of a child.

5 (a) The privileges and immunities from liability under §§ 4001 and 4003 of this title do not apply to a public  
6 school, or an officer or employee of the public school, in a civil lawsuit for damages based on sexual abuse of a child by an  
7 adult employee or agent of the public school.

8 (b) A civil cause of action for sexual abuse of a child under this section must be based on sexual acts that would  
9 constitute a criminal offense under the Delaware Code.”.

SYNOPSIS

This Amendment amends the State Tort Claims Act to ensure that victims of child sexual abuse by public school employees will have the same legal rights as victims of abuse by private institutions and their employees.

This Amendment effectively changes the standard of culpability for public schools from “gross negligence” to “negligence” in civil claims based on childhood sexual abuse. Under current law, children who are sexually abused by a employees of a private employer (e.g. daycare providers, private schools, etc.) have more protection than children abused by their teachers and coaches at public schools. There should be one standard of care that holds schools and businesses equally accountable when their recklessness, inattention, or failure to act causes a student to be sexually abused.

This Amendment seeks to avoid future instances of courts dismissing childhood sexual abuse cases against public schools after finding that a complaint’s allegations of gross negligence lacked evidentiary support, as occurred in *Bates v. Caesar Rodney Sch. Dist.*, No. 13, 2021, 2021 Del. LEXIS 315 (Del. Oct. 6, 2021) and *Collins v. Dutton*, No. S19C-01-045, 2019 Del. Super. LEXIS 571 (Del. Super Ct. Sussex County, Nov. 19, 2019).