

HOUSE BILL REPORT

HB 1841

As Reported By House Committee On:

Education
Criminal Justice & Corrections

Title: An act relating to school safety.

Brief Description: Adopting provisions to improve school safety.

Sponsors: Representatives Honeyford, Linville, Clements, Carrell, Mielke, Benson, Mitchell, Hickel, Sheahan, Dunn, Skinner, Johnson, L. Thomas and Backlund.

Brief History:

Committee Activity:

Education: 2/18/97, 2/24/97 [DPS];

Criminal Justice & Corrections: 3/5/97 [DP2S(w/o sub ED)].

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Johnson, Chairman; Hickel, Vice Chairman; Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Linville; Quall; Smith; Sterk; Sump and Talcott.

Minority Report: Without recommendation. Signed by 1 member: Representative Veloria.

Staff: Pat Shelledy (786-7149).

Background: School Safety. A school district has a duty to exercise reasonable care to protect students from reasonably foreseeable dangers by controlling the conduct of its students.

Gang Activity. A "gang" is any company of persons who act in concert for criminal purposes.

Trespassing on School Grounds. A special statute applicable to public schools provides that a person is guilty of a misdemeanor if the person willfully disobeys an order to leave the school grounds under certain circumstances.

Students' Criminal History. School districts may participate in the exchange of information with law enforcement and juvenile court officials to a certain extent.

When a student transfers to another school, the school forwards various records, but the statute governing records transfer does not directly address transferring criminal history information.

Suspension and Expulsion Policies. Several statutes, administrative rules, and cases delineate a school's authority to suspend or expel students.

The United States Supreme Court has ruled that students have procedural due process rights to prevent erroneous deprivation of the right to attend school.

A teacher may exclude any student from class who disrupts the class. The exclusion may be for all or any part of the balance of the school day, or until the principal and teacher have conferred, whichever occurs first. The teacher must attempt one or more alternative forms of corrective action, except in emergencies. A student may be excluded from a classroom for longer periods of time if the student has repeatedly disrupted the classroom.

A student who defaces school property may be suspended and punished. The parent is liable for damages caused by the student. The school may withhold grades, a diploma, and transcripts until the parent has paid. If the parent and student are financially unable to pay, the school must provide a voluntary work program in lieu of payment.

Possession of Weapons on School Grounds. It is unlawful for any person to carry onto school grounds a variety of weapons, such as firearms, spring-blade knives, throwing stars, and nun-chu-ka sticks. A violation is a gross misdemeanor, and if the violator is a student, he or she may be expelled.

A recent Ninth Circuit case has held that a school district's total ban on carrying knives on school grounds was an impermissible violation of the students' exercise of their religion under the Religious Freedoms Restoration Act of 1993. The students carried ceremonial knives at all times as a condition of their religion. The court held that the school district made no showing that a total ban on weapons was the least restrictive alternative available to promote school safety.

Dress Codes. A school board may establish schools or programs that parents may choose for their children to attend which require students to conform to a dress and appearance code if the board accommodates students who may be unable to afford or wear a uniform.

Summary of Substitute Bill: Findings. The Legislature finds that students and staff need to be safe at school and makes various findings about measures to enhance school security.

Provisions Governing Gangs. A student may be suspended or expelled if the student is a member of a criminal street gang and knowingly engages in a pattern of criminal gang activity. Definitions of criminal street gang– and pattern of criminal gang activity– are included.

A person who is of school age as described above, who threatens another person because the other person refuses to join a criminal gang or has attempted to withdraw from a criminal gang, is committing gang intimidation. Gang intimidation is a class C felony.

School Ground Trespass. The crime of willfully refusing to leave school grounds is raised to a gross misdemeanor.

Students' Criminal History. The juvenile court administrator must notify the parents and school principal if an elementary or secondary school student is charged with any of the following offenses: violent or sex offenses, inhaling toxic fumes, violations of the controlled substances provisions, or liquor violations. The administrator must also notify the principal and parents of the disposition of the offense.

The principal must provide the criminal history information to the student's teachers, supervisors, and other personnel who need to know for security reasons. Otherwise the information is confidential except when it may be disseminated pursuant to a statute or federal law.

When a student transfers to another school, the criminal history information must be sent to the new school, as well as immunization, health, and attendance records. If a student is transferring from a private school and did not pay tuition, fees, or fines, the private school may withhold the student's transcript.

Suspension and Expulsion Policies. Schools must adopt policies to restore discipline to the classroom. The policies must allow teachers to take disciplinary action to correct a student who disrupts classroom activities. If a student commits certain offenses, such as an assault against a teacher, the student may not be assigned to the teacher's classroom.

School districts may adopt policies that limit possession of paging telecommunication devices or cellular telephones.

A teacher may suspend a disruptive student from the teacher's classroom for the day of the violation and two more days, or until the principal and teacher have conferred,

whichever occurs first. The student may not return to the classroom without the teacher's consent.

School principals and teachers must confer annually to establish criteria to determine when teachers must complete classes in classroom management skills.

If a student is suspended for damaging property belonging to the school, a contractor, a school employee, or another student, the student may not be readmitted until payment in full has been made for the damage, or until directed by the superintendent of schools. If the property damaged is a school bus, the student may not ride on a school bus until full payment is made or the superintendent of schools readmits the student. The school may still provide a work program in lieu of payment of money.

Restrictions on Carrying Knives on School Grounds. It is unlawful for a person to carry onto or possess on elementary or secondary school premises, any knife capable of being used to inflict serious bodily injury. A knife— is defined and includes pocket knives.

Dress Codes. Dress codes may prohibit wearing gang-related apparel, but the school must notify the students and parents of what clothing and apparel the school considers to be gang related and may not impose disciplinary action against a student without providing the notice.

Substitute Bill Compared to Original Bill: A provision that created the crime of criminal street gang activity— is deleted. A provision is deleted that allowed teachers to suspend or expel students. An alternative disciplinary provision that granted teachers authority to sanction students and remove them from class is deleted.

Knives— are defined. The exemption for carrying knives for religious purposes is deleted. The new proposal on dress codes is deleted and existing law is amended to provide that schools can adopt dress codes to prohibit wearing gang-related apparel but that parents and students must be notified of what constitutes gang-related apparel and no disciplinary action may be taken against a student without such notice.

Appropriation: None.

Fiscal Note: Requested on February 12, 1997.

Effective Date of Substitute Bill: The bill declares an emergency and takes effect immediately.

Testimony For: A large part of the bill is trying to address the gang problem in our schools. Teachers do not know the background of the children who may cause problems. Teachers need additional powers to enforce discipline and increase safety. The bill makes many improvements but may go too far in certain respects, such as

allowing teachers to expel students. The bill could benefit from some technical changes.

Testimony Against: None.

Testified: Representative Honeyford, prime sponsor; Representative Linville, sponsor; Judy Hartmann, Washington Education Association; Rainer Houser, Association of Washington School Principals; and Barbara Mertens, Washington Association of School Administrators.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 13 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Pat Shelledy (786-7149).

Summary of Recommendation of Committee on Criminal Justice & Corrections Compared to Recommendation of Committee on Education: Technical corrections are made. The crime of criminal gang intimidation is narrowed to apply to perpetrators or victims who are in school. Adds a provision that principals must consider long-term suspension or expulsion if a student violates various prohibitions in the act two or more times. Adds a finding that all forms of violence against students and school personnel should be eradicated, not just violence related to gangs or drugs. Adds sanctions if students direct violence towards another student or other school employee, not just teachers.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: None.

Testimony Against: None.

Testified: None.