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**SUBSTITUTE HOUSE BILL 1841**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Education (originally sponsored by Representatives Honeyford, Linville, Clements, Carrell, Mielke, Benson, Mitchell, Hickel, Sheahan, Dunn, Skinner, Johnson, L. Thomas and Backlund)

Read first time 02/24/97.

1 AN ACT Relating to school safety; amending RCW 28A.635.020,  
2 28A.600.020, 28A.635.060, 9.41.280, and 28A.320.140; reenacting and  
3 amending RCW 28A.225.330; adding new sections to chapter 28A.600 RCW;  
4 adding a new section to chapter 9A.46 RCW; adding a new section to  
5 chapter 13.04 RCW; adding a new section to chapter 13.50 RCW; adding a  
6 new section to chapter 28A.320 RCW; creating a new section; prescribing  
7 penalties; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that the children of  
10 this state have the right to an effective public education and that  
11 both students and educators have the need to be safe and secure in the  
12 classroom if learning is to occur. The legislature also finds,  
13 however, that children in many of our public schools are forced to  
14 focus on the threat and message of violence contained in many aspects  
15 of our society and reflected through and in gang violence activities on  
16 school campuses.

17 The legislature recognizes that the prevalence of weapons,  
18 including firearms and dangerous knives, is an increasing problem that  
19 is spreading rapidly even to elementary schools throughout the state.

1 Gang-related apparel and regalia compound the problem by easily  
2 concealing weapons that threaten and intimidate students and school  
3 personnel. These threats have resulted in tragic and unnecessary  
4 bloodshed over the past two years and must be eradicated from the  
5 system if student and staff security is to be restored on school  
6 campuses. Many educators believe that school dress significantly  
7 influences student behavior in both positive and negative ways.  
8 Special school dress up and color days signify school spirit and  
9 provide students with a sense of unity. Schools that have adopted  
10 school uniforms report a feeling of togetherness, greater school pride,  
11 and better student behavior in and out of the classroom. This sense of  
12 unity provides students with the positive attitudes needed to avert the  
13 pressures of gang involvement.

14 The legislature also recognizes there are other more significant  
15 factors that impact school safety such as the pervasive use of drugs  
16 and alcohol in school. In addition to physical safety zones, schools  
17 should also be drug-free zones that expressly prohibit the sale, use,  
18 or possession of illegal drugs on school property. Students involved  
19 in drug-related activity are unable to benefit fully from educational  
20 opportunities and are disruptive to the learning environment of their  
21 fellow students. Schools must be empowered to make decisions that  
22 positively impact student learning by eradicating drug use and  
23 possession on their campuses. This flexibility should also be afforded  
24 to schools as they deal with other harmful substance abuse activities  
25 engaged in by their students.

26 Toward this end, the legislature recognizes the important role of  
27 the classroom teacher who must be empowered to restore discipline and  
28 safety in the classroom. Teachers must have the ability to control the  
29 conduct of students to ensure that their mission of educating students  
30 may be achieved. Disruptive behavior must not be allowed to continue  
31 to divert attention, time, and resources from educational activities.

32 The legislature therefore intends to define gang-related activities  
33 as criminal behavior disruptive not only to the learning environment  
34 but to society as a whole, and to provide educators with the authority  
35 to restore order and safety to the student learning environment,  
36 eliminate the influence of gang activities, and eradicate drug and  
37 substance abuse on school campuses, thus empowering educators to regain  
38 control of our classrooms and provide our students with the best  
39 educational opportunities available in our schools.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 28A.600  
2    RCW to read as follows:

3        (1) A student who is enrolled in a public school or an alternative  
4    school may be suspended or expelled if the student is a member of a  
5    criminal street gang and knowingly engages in a pattern of criminal  
6    gang activity.

7        (2) "Criminal street gang" means an ongoing organization,  
8    association, or group of three or more persons, whether formal or  
9    informal, that has as one of its primary activities the commission of  
10   a criminal act or acts, that has a common name, and whose members  
11   individually or collectively engage in or have engaged in a pattern of  
12   criminal gang activity.

13       (3) "Pattern of criminal gang activity" means the commission,  
14   attempted commission, or solicitation of two or more felony or  
15   misdemeanor offenses under the following conditions: (a) At least one  
16   of the offenses occurred after the effective date of this act; (b) the  
17   last of the offenses occurred within one year after a prior offense;  
18   and (c) the offenses are committed on separate occasions, or by two or  
19   more persons.

20       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 9A.46 RCW  
21   to read as follows:

22        A person commits the offense of criminal gang intimidation if the  
23   person threatens another person because the other person refuses to  
24   join or has attempted to withdraw from a criminal gang, as defined in  
25   section 2 of this act, if the person who threatens the victim attends  
26   or is registered in a public school, attended or was registered in a  
27   public school within the previous two years, or is of compulsory  
28   attendance age. Criminal gang intimidation is a class C felony.

29        **Sec. 4.**    RCW 28A.225.330 and 1995 c 324 s 2 and 1995 c 311 s 25 are  
30   each reenacted and amended to read as follows:

31        (1) When enrolling a student who has attended school in another  
32   school district, the school enrolling the student may request the  
33   parent and the student to briefly indicate in writing whether or not  
34   the student has:

- 35        (a) Any history of placement in special educational programs;  
36        (b) Any past, current, or pending disciplinary action;

1 (c) Any history of violent behavior, or behavior listed in section  
2 6 of this act;

3 (d) Any unpaid fines or fees imposed by other schools; and

4 (e) Any health conditions affecting the student's educational  
5 needs.

6 (2) The school enrolling the student shall request the school the  
7 student previously attended to send the student's permanent record  
8 including records of disciplinary action, attendance, health and  
9 immunization records, and academic performance. If the student has not  
10 paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at  
11 approved private schools the school may withhold the student's official  
12 transcript, but shall transmit information about the student's academic  
13 performance, special placement, health and immunization records, and  
14 records of disciplinary action. If the official transcript is not sent  
15 due to unpaid fees or fines, the enrolling school shall notify both the  
16 student and parent or guardian that the official transcript will not be  
17 sent until the obligation is met, and failure to have an official  
18 transcript may result in exclusion from extracurricular activities or  
19 failure to graduate.

20 (3) If information is requested under subsection (2) of this  
21 section, the information shall be transmitted within two school days  
22 after receiving the request and the records shall be sent as soon as  
23 possible. Any school district or district employee who releases the  
24 information in compliance with this section is immune from civil  
25 liability for damages unless it is shown that the school district  
26 employee acted with gross negligence or in bad faith. The state board  
27 of education shall provide by rule for the discipline under chapter  
28 28A.410 RCW of a school principal or other chief administrator of a  
29 public school building who fails to make a good faith effort to assure  
30 compliance with this subsection.

31 (4) Any school district or district employee who releases the  
32 information in compliance with federal and state law is immune from  
33 civil liability for damages unless it is shown that the school district  
34 or district employee acted with gross negligence or in bad faith.

35 **Sec. 5.** RCW 28A.635.020 and 1981 c 36 s 1 are each amended to read  
36 as follows:

37 (1) It shall be unlawful for any person to willfully disobey the  
38 order of the chief administrative officer of a public school district,

1 or of an authorized designee of any such administrator, to leave any  
2 motor vehicle, building, grounds or other property which is owned,  
3 operated or controlled by the school district if the person so ordered  
4 is under the influence of alcohol or drugs, or is committing, threatens  
5 to imminently commit or incites another to imminently commit any act  
6 which would disturb or interfere with or obstruct any lawful task,  
7 function, process or procedure of the school district or any lawful  
8 task, function, process or procedure of any student, official, employee  
9 or invitee of the school district. The order of a school officer or  
10 designee acting pursuant to this subsection shall be valid if the  
11 officer or designee reasonably believes a person ordered to leave is  
12 under the influence of alcohol or drugs, is committing acts, or is  
13 creating a disturbance as provided in this subsection.

14 (2) It shall be unlawful for any person to refuse to leave public  
15 property immediately adjacent to a building, grounds or property which  
16 is owned, operated or controlled by a school district when ordered to  
17 do so by a law enforcement officer if such person is engaging in  
18 conduct which creates a substantial risk of causing injury to any  
19 person, or substantial harm to property, or such conduct amounts to  
20 disorderly conduct under RCW 9A.84.030.

21 (3) Nothing in this section shall be construed to prohibit or  
22 penalize activity consisting of the lawful exercise of freedom of  
23 speech, freedom of press and the right to peaceably assemble and  
24 petition the government for a redress of grievances: PROVIDED, That  
25 such activity neither does or threatens imminently to materially  
26 disturb or interfere with or obstruct any lawful task, function,  
27 process or procedure of the school district, or any lawful task,  
28 function, process or procedure of any student, official, employee or  
29 invitee of the school district: PROVIDED FURTHER, That such activity  
30 is not conducted in violation of a prohibition or limitation lawfully  
31 imposed by the school district upon entry or use of any motor vehicle,  
32 building, grounds or other property which is owned, operated or  
33 controlled by the school district.

34 (4) Any person guilty of violating this section shall be deemed  
35 guilty of a gross misdemeanor (~~((and, upon conviction therefor, shall be~~  
36 ~~fined not more than five hundred dollars, or imprisoned in jail for not~~  
37 ~~more than six months or both so fined and imprisoned))~~ punishable as  
38 provided in chapter 9A.20 RCW.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 13.04 RCW  
2 to read as follows:

3        (1) Whenever a minor enrolled in any primary or secondary school is  
4 charged with any of the following offenses, the juvenile court  
5 administrator must notify the parents or legal guardian of the student  
6 and the principal of the student's school of the charge and disposition  
7 of the case:

8        (a) A violent offense as defined in RCW 9.94A.030;

9        (b) A sex offense as defined in RCW 9.94A.030;

10       (c) Inhaling toxic fumes under chapter 9.47A RCW;

11       (d) A controlled substances violation under chapter 69.50 RCW;

12       (e) A liquor violation under RCW 66.44.270;

13       (f) An offense of criminal gang activity under section 2 of this  
14 act.

15       (2) The principal must provide the information received under  
16 subsection (1) of this section to every teacher of any student who has  
17 been charged with an offense listed in subsection (1) of this section  
18 and any other personnel who, in the judgment of the principal,  
19 supervises the student or for security purposes should be aware of the  
20 student's record.    The principal must provide the information to  
21 teachers and other personnel based on any written records that the  
22 principal maintains or receives from a juvenile court administrator or  
23 a law enforcement agency regarding the student.

24       (3) Any information received by a principal or school personnel  
25 under this section is confidential and may not be further disseminated  
26 except as provided in RCW 28A.225.330, other statutes or case law, and  
27 the family and educational and privacy rights act of 1994, 20 U.S.C.  
28 Sec. 1232g et seq.

29       NEW SECTION.    **Sec. 7.**    A new section is added to chapter 13.50 RCW  
30 to read as follows:

31       Records of a charge and disposition for a juvenile offense must be  
32 provided to schools as provided in section 6 of this act.

33       NEW SECTION.    **Sec. 8.**    A new section is added to chapter 28A.600  
34 RCW to read as follows:

35       (1) School district boards of directors shall adopt policies that  
36 restore discipline to the classroom.    Such policies must provide for at  
37 least the following:    Allowing each teacher to take disciplinary action

1 to correct a student who disrupts normal classroom activities, abuses  
2 or insults a teacher as prohibited by RCW 28A.635.010, willfully  
3 disobeys a teacher, uses abusive or foul language directed at a teacher  
4 or another student, violates school rules, or who interferes with an  
5 orderly education process. Disciplinary action may include but is not  
6 limited to: Oral or written reprimands; written notification to  
7 parents of disruptive behavior, a copy of which must be provided to the  
8 principal.

9 (2) A student committing an offense under chapter 9A.36, 9A.40, or  
10 9A.48 RCW when the activity is directed toward the teacher, shall not  
11 be assigned to that teacher's classroom for the duration of the  
12 student's attendance at that school or any other school where the  
13 teacher is assigned.

14 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.320  
15 RCW to read as follows:

16 School district boards of directors may adopt policies that limit  
17 the possession of (1) paging telecommunication devices by students that  
18 emit audible signals, vibrate, display a message, or otherwise summons  
19 or delivers a communication to the possessor, and (2) portable or  
20 cellular telephones.

21 **Sec. 10.** RCW 28A.600.020 and 1990 c 33 s 497 are each amended to  
22 read as follows:

23 (1) The rules adopted pursuant to RCW 28A.600.010 shall be  
24 interpreted to insure that the optimum learning atmosphere of the  
25 classroom is maintained, and that the highest consideration is given to  
26 the judgment of qualified certificated educators regarding conditions  
27 necessary to maintain the optimum learning atmosphere.

28 (2) Any student who creates a disruption of the educational process  
29 in violation of the building disciplinary standards while under a  
30 teacher's immediate supervision may be excluded by the teacher from his  
31 or her individual classroom and instructional or activity area for all  
32 or any portion of the balance of the school day, or up to the following  
33 two days, or until the principal or designee and teacher have  
34 conferred, whichever occurs first~~((:—PROVIDED, That))~~. Except in  
35 emergency circumstances, the teacher ~~((shall have))~~ first ~~((attempted))~~  
36 must attempt one or more alternative forms of corrective action~~((:—~~  
37 ~~PROVIDED—FURTHER, That))~~. In no event without the consent of the

1 teacher (~~shall~~) may an excluded student (~~be returned~~) return to  
2 the class during the balance of that class or activity period or up to  
3 the following two days, or until the principal or his or her designee  
4 and the teacher have conferred.

5 (3) In order to preserve a beneficial learning environment for all  
6 students and to maintain good order and discipline in each classroom,  
7 every school district board of directors shall provide that written  
8 procedures are developed for administering discipline at each school  
9 within the district. Such procedures shall be developed with the  
10 participation of parents and the community, and shall provide that the  
11 teacher, principal or designee, and other authorities designated by the  
12 board of directors, make every reasonable attempt to involve the parent  
13 or guardian and the student in the resolution of student discipline  
14 problems. Such procedures shall provide that students may be excluded  
15 from their individual classes or activities for periods of time in  
16 excess of that provided in subsection (2) of this section if such  
17 students have repeatedly disrupted the learning of other students(~~+~~  
18 ~~PROVIDED, That~~). The procedures (~~are~~) must be consistent with the  
19 (~~regulations~~) rules of the state board of education and must provide  
20 for early involvement of parents in attempts to improve the student's  
21 behavior(~~+~~ ~~PROVIDED FURTHER, That pursuant to RCW 28A.400.110,~~).  
22

23 (4) The procedures shall assure, pursuant to RCW 28A.400.110, that  
24 all staff work cooperatively toward consistent enforcement of proper  
25 student behavior throughout each school as well as within each  
26 classroom. School principals and certificated employees shall also  
27 confer annually, as provided in RCW 28A.400.110, to establish criteria  
28 for determining when certificated employees must complete classes to  
improve classroom management skills.

29 **Sec. 11.** RCW 28A.635.060 and 1994 c 304 s 1 are each amended to  
30 read as follows:

31 (1) Any pupil who (~~shall~~) defaces or otherwise injures any school  
32 property, (~~shall be liable~~) or property belonging to a school  
33 contractor, employee, or another student, is subject to suspension and  
34 punishment. If any property of the school district (~~whose property~~),  
35 a contractor of the district, an employee, or another student has been  
36 lost or willfully cut, defaced, or injured, the school district may  
37 withhold the grades, diploma, and transcripts of the pupil responsible  
38 for the damage or loss until the pupil or the pupil's parent or



1 guardian has paid for the damages. If the student is suspended, the  
2 student may not be readmitted until the student or parents or legal  
3 guardian has made payment in full or until directed by the  
4 superintendent of schools. If the property damaged is a school bus  
5 owned and operated by or contracted to any school district, a student  
6 suspended for the damage may not be permitted to enter or ride any  
7 school bus until the student or parent or legal guardian has made  
8 payment in full or until directed by the superintendent. When the  
9 pupil and parent or guardian are unable to pay for the damages, the  
10 school district shall provide a program of voluntary work for the pupil  
11 in lieu of the payment of monetary damages. Upon completion of  
12 voluntary work the grades, diploma, and transcripts of the pupil shall  
13 be released. The parent or guardian of such pupil shall be liable for  
14 damages as otherwise provided by law.

15 (2) Before any penalties are assessed under this section, a school  
16 district board of directors shall adopt procedures which insure that  
17 pupils' rights to due process are protected.

18 (3) If the department of social and health services or a child-  
19 placing agency licensed by the department has been granted custody of  
20 a child, that child's records, if requested by the department or  
21 agency, are not to be withheld for nonpayment of school fees or any  
22 other reason.

23 **Sec. 12.** RCW 9.41.280 and 1996 c 295 s 13 are each amended to read  
24 as follows:

25 (1) It is unlawful for a person to carry onto, or to possess on,  
26 public or private elementary or secondary school premises, school-  
27 provided transportation, or areas of facilities while being used  
28 exclusively by public or private schools:

29 (a) Any firearm;

30 (b) Any other dangerous weapon as defined in RCW 9.41.250;

31 (c) Any device commonly known as "nun-chu-ka sticks", consisting of  
32 two or more lengths of wood, metal, plastic, or similar substance  
33 connected with wire, rope, or other means;

34 (d) Any device, commonly known as "throwing stars", which are  
35 multi-pointed, metal objects designed to embed upon impact from any  
36 aspect; ((or))

1 (e) Any air gun, including any air pistol or air rifle, designed to  
2 propel a BB, pellet, or other projectile by the discharge of compressed  
3 air, carbon dioxide, or other gas; or

4 (f) Any knife, as defined in RCW 9.41.250, or any pocket knife  
5 capable of being used to inflict serious bodily injury.

6 (2) Any such person violating subsection (1) of this section is  
7 guilty of a gross misdemeanor. If any person is convicted of a  
8 violation of subsection (1)(a) of this section, the person shall have  
9 his or her concealed pistol license, if any revoked for a period of  
10 three years. Anyone convicted under this subsection is prohibited from  
11 applying for a concealed pistol license for a period of three years.  
12 The court shall send notice of the revocation to the department of  
13 licensing, and the city, town, or county which issued the license.

14 Any violation of subsection (1) of this section by elementary or  
15 secondary school students constitutes grounds for expulsion from the  
16 state's public schools in accordance with RCW 28A.600.010. An  
17 appropriate school authority shall promptly notify law enforcement and  
18 the student's parent or guardian regarding any allegation or indication  
19 of such violation.

20 (3) Subsection (1) of this section does not apply to:

21 (a) Any student or employee of a private military academy when on  
22 the property of the academy;

23 (b) Any person engaged in military, law enforcement, or school  
24 district security activities;

25 (c) Any person who is involved in a convention, showing,  
26 demonstration, lecture, or firearms safety course authorized by school  
27 authorities in which the firearms of collectors or instructors are  
28 handled or displayed;

29 (d) Any person while the person is participating in a firearms or  
30 air gun competition approved by the school or school district;

31 (e) Any person in possession of a pistol who has been issued a  
32 license under RCW 9.41.070, or is exempt from the licensing requirement  
33 by RCW 9.41.060, while picking up or dropping off a student;

34 (f) Any nonstudent at least eighteen years of age legally in  
35 possession of a firearm or dangerous weapon that is secured within an  
36 attended vehicle or concealed from view within a locked unattended  
37 vehicle while conducting legitimate business at the school;

1 (g) Any nonstudent at least eighteen years of age who is in lawful  
2 possession of an unloaded firearm, secured in a vehicle while  
3 conducting legitimate business at the school; or

4 (h) Any law enforcement officer of the federal, state, or local  
5 government agency.

6 (4) Subsections (1)(c) and (d) of this section do not apply to any  
7 person who possesses nun-chu-ka sticks, throwing stars, or other  
8 dangerous weapons to be used in martial arts classes authorized to be  
9 conducted on the school premises.

10 (5) Except as provided in subsection (3)(b), (c), (f), and (h) of  
11 this section, firearms are not permitted in a public or private school  
12 building.

13 (6) "GUN-FREE ZONE" signs shall be posted around school facilities  
14 giving warning of the prohibition of the possession of firearms on  
15 school grounds.

16 **Sec. 13.** RCW 28A.320.140 and 1994 sp.s. c 7 s 612 are each amended  
17 to read as follows:

18 (1) School district boards of directors may establish schools or  
19 programs which parents may choose for their children to attend in  
20 which: (a) Students are required to conform to dress and grooming  
21 codes, including requiring that students wear uniforms; (b) parents are  
22 required to participate in the student's education; or (c) discipline  
23 requirements are more stringent than in other schools in the district.

24 (2) School district boards of directors may establish schools or  
25 programs in which: (a) Students are required to conform to dress and  
26 grooming codes, including requiring that students wear uniforms; (b)  
27 parents are regularly counseled and encouraged to participate in the  
28 student's education; or (c) discipline requirements are more stringent  
29 than in other schools in the district. School boards may require that  
30 students who are subject to suspension or expulsion attend these  
31 schools or programs as a condition of continued enrollment in the  
32 school district.

33 (3) If students are required to wear uniforms in these programs or  
34 schools, school districts shall accommodate students so that the  
35 uniform requirement is not an unfair barrier to school attendance and  
36 participation.

37 (4) Nothing in this section impairs or reduces in any manner  
38 whatsoever the authority of a board under other law to impose a dress

1 and appearance code. However, if a board requires uniforms under such  
2 other authority, it shall accommodate students so that the uniform  
3 requirement is not an unfair barrier to school attendance and  
4 participation.

5 (5) School district boards of directors may adopt dress and  
6 grooming code policies which prohibit students from wearing gang-  
7 related apparel. If a dress and grooming code policy contains this  
8 provision, the school board must also establish policies to notify  
9 students and parents of what clothing and apparel is considered to be  
10 gang-related apparel. This notice must precede any disciplinary action  
11 resulting from a student wearing gang-related apparel.

12 (6) School district boards of directors may not adopt a dress and  
13 grooming code policy which precludes students who participate in  
14 nationally recognized youth organizations from wearing organization  
15 uniforms on days that the organization has a scheduled activity or  
16 prohibit students from wearing clothing in observance of their  
17 religion.

18 NEW SECTION. Sec. 14. If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

22 NEW SECTION. Sec. 15. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately.

--- END ---