
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1841

State of Washington

55th Legislature

1997 Regular Session

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

Read first time 03/05/97.

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 The legislature also finds that students and school employees have
2 been subjected to violence such as rapes, assaults, or harassment that
3 has not been gang or drug-related criminal activity. The legislature
4 intends that all violence and harassment directed at students and
5 school personnel be eradicated in public schools.

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

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

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

18 (3) "Pattern of criminal gang activity" means the commission,
19 attempted commission, or solicitation of two or more felony or
20 misdemeanor offenses under the following conditions: (a) The offenses
21 occur after the effective date of this section; (b) the last of the
22 offenses occurs within one year after a prior offense; and (c) the
23 offenses are committed on separate occasions.

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

26 A person commits the offense of criminal gang intimidation if the
27 person threatens another person because the other person refuses to
28 join or has attempted to withdraw from a criminal gang, as defined in
29 section 2 of this act, if the person who threatens the victim or the
30 victim attends or is registered in a public or alternative school.
31 Criminal gang intimidation is a class C felony.

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

34 (1) When enrolling a student who has attended school in another
35 school district, the school enrolling the student may request the

1 parent and the student to briefly indicate in writing whether or not
2 the student has:

3 (a) Any history of placement in special educational programs;

4 (b) Any past, current, or pending disciplinary action;

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

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

8 (e) Any health conditions affecting the student's educational
9 needs.

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

24 (3) If information is requested under subsection (2) of this
25 section, the information shall be transmitted within two school days
26 after receiving the request and the records shall be sent as soon as
27 possible. Any school district or district employee who releases the
28 information in compliance with this section is immune from civil
29 liability for damages unless it is shown that the school district
30 employee acted with gross negligence or in bad faith. The state board
31 of education shall provide by rule for the discipline under chapter
32 28A.410 RCW of a school principal or other chief administrator of a
33 public school building who fails to make a good faith effort to assure
34 compliance with this subsection.

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

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

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

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

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

38 (4) Any person guilty of violating this section shall be deemed
39 guilty of a gross misdemeanor (~~(and, upon conviction therefor, shall be~~

1 ~~fined not more than five hundred dollars, or imprisoned in jail for not~~
2 ~~more than six months or both so fined and imprisoned)) punishable as~~
3 ~~provided in chapter 9A.20 RCW.~~

4 NEW SECTION. Sec. 6. A new section is added to chapter 13.04 RCW
5 to read as follows:

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

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

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

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

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

15 (e) A liquor violation under RCW 66.44.270; and

16 (f) Any crime under chapters 9A.36, 9A.40, 9A.46, and 9A.48 RCW.

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

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

31 NEW SECTION. Sec. 7. A new section is added to chapter 13.50 RCW
32 to read as follows:

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

35 NEW SECTION. Sec. 8. A new section is added to chapter 28A.600
36 RCW to read as follows:

1 (1) School district boards of directors shall adopt policies that
2 restore discipline to the classroom. Such policies must provide for at
3 least the following: Allowing each teacher to take disciplinary action
4 to correct a student who disrupts normal classroom activities, abuses
5 or insults a teacher as prohibited by RCW 28A.635.010, willfully
6 disobeys a teacher, uses abusive or foul language directed at a teacher
7 or another student, violates school rules, or who interferes with an
8 orderly education process. Disciplinary action may include but is not
9 limited to: Oral or written reprimands; written notification to
10 parents of disruptive behavior, a copy of which must be provided to the
11 principal.

12 (2) A student committing an offense under chapter 9A.36, 9A.40,
13 9A.46, or 9A.48 RCW when the activity is directed toward the teacher,
14 shall not be assigned to that teacher's classroom for the duration of
15 the student's attendance at that school or any other school where the
16 teacher is assigned.

17 (3) A student who commits an offense under chapter 9A.36, 9A.40,
18 9A.46, or 9A.48 RCW, when directed toward another student, may be
19 removed from the classroom of the victim for the duration of the
20 student's attendance at that school or any other school where the
21 victim is enrolled. A student who commits an offense under one of the
22 chapters enumerated in this section against a student or another school
23 employee, may be expelled or suspended.

24 (4) Nothing in this section is intended to limit the authority of
25 a school under existing law and rules to expel or suspend a student for
26 misconduct or criminal behavior.

27 (5) All school districts must collect data on disciplinary actions
28 taken in each school. The data collected must include information
29 about the grade, gender, ethnicity, race, and age of each child against
30 whom disciplinary action is taken. The information shall be made
31 available to the public upon request.

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

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

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

3 (1) The rules adopted pursuant to RCW 28A.600.010 shall be
4 interpreted to insure that the optimum learning atmosphere of the
5 classroom is maintained, and that the highest consideration is given to
6 the judgment of qualified certificated educators regarding conditions
7 necessary to maintain the optimum learning atmosphere.

8 (2) Any student who creates a disruption of the educational process
9 in violation of the building disciplinary standards while under a
10 teacher's immediate supervision may be excluded by the teacher from his
11 or her individual classroom and instructional or activity area for all
12 or any portion of the balance of the school day, or up to the following
13 two days, or until the principal or designee and teacher have
14 conferred, whichever occurs first~~((:—PROVIDED, That))~~. Except in
15 emergency circumstances, the teacher ~~((shall have))~~ first ~~((attempted))~~
16 must attempt one or more alternative forms of corrective action~~((:—~~
17 ~~PROVIDED FURTHER, That))~~. In no event without the consent of the
18 teacher ~~((shall))~~ may an excluded student ~~((be returned))~~ return to
19 the class during the balance of that class or activity period or up to
20 the following two days, or until the principal or his or her designee
21 and the teacher have conferred.

22 (3) In order to preserve a beneficial learning environment for all
23 students and to maintain good order and discipline in each classroom,
24 every school district board of directors shall provide that written
25 procedures are developed for administering discipline at each school
26 within the district. Such procedures shall be developed with the
27 participation of parents and the community, and shall provide that the
28 teacher, principal or designee, and other authorities designated by the
29 board of directors, make every reasonable attempt to involve the parent
30 or guardian and the student in the resolution of student discipline
31 problems. Such procedures shall provide that students may be excluded
32 from their individual classes or activities for periods of time in
33 excess of that provided in subsection (2) of this section if such
34 students have repeatedly disrupted the learning of other students~~((:—~~
35 ~~PROVIDED, That))~~. The procedures ~~((are))~~ must be consistent with the
36 ~~((regulations))~~ rules of the state board of education and must provide
37 for early involvement of parents in attempts to improve the student's
38 behavior~~((:—PROVIDED FURTHER, That pursuant to RCW 28A.400.110,))~~.

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

8 (5) A principal shall consider imposing long-term suspension or
9 expulsion as a sanction when deciding the appropriate disciplinary
10 action for a student who, after the effective date of this section and
11 within a three-year period, engages in violations of the provisions of
12 section 2, 3, 8, or 9 of this act, RCW 28A.635.020, 28A.600.020,
13 28A.635.060, 9.41.280, or 28A.320.140, or of one or more of the
14 offenses listed in section 6 of this act.

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

17 (1) Any pupil who ~~((shall))~~ defaces or otherwise injures any school
18 property, ~~((shall be liable))~~ or property belonging to a school
19 contractor, employee, or another student, is subject to suspension and
20 punishment. If any property of the school district ~~((whose property)),~~
21 a contractor of the district, an employee, or another student has been
22 lost or willfully cut, defaced, or injured, the school district may
23 withhold the grades, diploma, and transcripts of the pupil responsible
24 for the damage or loss until the pupil or the pupil's parent or
25 guardian has paid for the damages. If the student is suspended, the
26 student may not be readmitted until the student or parents or legal
27 guardian has made payment in full or until directed by the
28 superintendent of schools. If the property damaged is a school bus
29 owned and operated by or contracted to any school district, a student
30 suspended for the damage may not be permitted to enter or ride any
31 school bus until the student or parent or legal guardian has made
32 payment in full or until directed by the superintendent. When the
33 pupil and parent or guardian are unable to pay for the damages, the
34 school district shall provide a program of voluntary work for the pupil
35 in lieu of the payment of monetary damages. Upon completion of
36 voluntary work the grades, diploma, and transcripts of the pupil shall
37 be released. The parent or guardian of such pupil shall be liable for
38 damages as otherwise provided by law.

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

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

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

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

15 (a) Any firearm;

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

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

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

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

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

28 (2) Any such person violating subsection (1) of this section is
29 guilty of a gross misdemeanor. If any person is convicted of a
30 violation of subsection (1)(a) of this section, the person shall have
31 his or her concealed pistol license, if any revoked for a period of
32 three years. Anyone convicted under this subsection is prohibited from
33 applying for a concealed pistol license for a period of three years.
34 The court shall send notice of the revocation to the department of
35 licensing, and the city, town, or county which issued the license.

36 Any violation of subsection (1) of this section by elementary or
37 secondary school students constitutes grounds for expulsion from the
38 state's public schools in accordance with RCW 28A.600.010. An

1 appropriate school authority shall promptly notify law enforcement and
2 the student's parent or guardian regarding any allegation or indication
3 of such violation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) School district boards of directors may establish schools or
8 programs in which: (a) Students are required to conform to dress and
9 grooming codes, including requiring that students wear uniforms; (b)
10 parents are regularly counseled and encouraged to participate in the
11 student's education; or (c) discipline requirements are more stringent
12 than in other schools in the district. School boards may require that
13 students who are subject to suspension or expulsion attend these
14 schools or programs as a condition of continued enrollment in the
15 school district.

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

20 (4) Nothing in this section impairs or reduces in any manner
21 whatsoever the authority of a board under other law to impose a dress
22 and appearance code. However, if a board requires uniforms under such
23 other authority, it shall accommodate students so that the uniform
24 requirement is not an unfair barrier to school attendance and
25 participation.

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

33 (6) School district boards of directors may not adopt a dress and
34 grooming code policy which precludes students who participate in
35 nationally recognized youth organizations from wearing organization
36 uniforms on days that the organization has a scheduled activity or
37 prohibit students from wearing clothing in observance of their
38 religion.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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