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## Education Committee

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### HB 2835

**Brief Description:** Increasing school safety.

**Sponsors:** Representatives Probst, Hurst, Sullivan, Hope, Quall, Chase, Kelley, Wallace, Hunt, Conway, Haigh and Simpson; by request of Superintendent of Public Instruction.

#### Brief Summary of Bill

- Establishes school safety zones within a 1000-foot radius of any public school facility while that facility is being used by students or school staff, and all school properties at all times.
- Authorizes school administrators and designees, as well as law enforcement officers, to exclude persons from public areas within a school safety zone.
- Specifies grounds and procedures for exclusion and establishes an administrative hearing process for appeals from exclusion orders.
- Makes changes to laws regarding disturbances at schools and during school meetings.

**Hearing Date:** 1/22/10

**Staff:** Cece Clynch (786-7195).

#### **Background:**

##### Gangs in Schools Task Force.

In 2007, the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to convene a task force to examine how gangs are affecting school safety and to recommend methods to prevent and eliminate gangs in schools, gather intelligence on gangs, and share information about gangs.

The task force made seven recommendations in 2008 and, in its 2009 Report to the Legislature, reaffirmed these recommendations:

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- Revise the statute regarding suspension and expulsion to include a definition of "gang" consistent with the criminal code definition and a definition of "gang activity" to include intimidation of staff or students.
- Establish 1000-foot "school safety zones" from which gang members can be excluded if they engage in activity that warrants concern for the safety of staff or students.
- Provide grants to districts and communities for prevention and intervention programs.
- Create a dedicated funding formula for support of transition programs to provide educational and intervention services for suspended or expelled students.
- Develop sample anti-gang school policies that include consistent discipline practices, and a mandate that all districts adopt an anti-gang policy.
- Provide support for ongoing in-state training for all agencies and providers serving gang-affected youth.
- Develop a secure information-sharing system for exchange of information on gang activity.

The 2009 Report provided the following updates on gang activity in schools:

- Gang activity in communities and schools is increasing and expanding to areas previously unaffected.
- Many students report being intimidated by gang activity at school.
- Schools report that gang recruitment of middle school students is common, and that gang issues are affecting elementary schools.
- The Healthy Youth Survey indicates that nearly 10 percent of 10th grade students are involved in gang activity, with the estimated number of gang members and associates in Washington schools at 20,000 to 30,000.
- Activity of gang-like security threat groups and extremist groups seems to be increasing, with a corresponding increase in hate group activity in and around schools.
- Students suspended and expelled for gang-associated behaviors are often left without any opportunity to continue their education and without available intervention and alternate placements, schools may have no practical option other than the use of school exclusion.
- Schools continue to report concerns about gang activity near campus, including shootings and gang-related fights and assaults that put students and staff at risk.
- There is a high demand for gang awareness training.
- Anecdotal information seems to indicate that gangs are the most critical safety and security issue that schools are currently facing.

Throughout the Report, the task force advocated for a balanced approach to address gang problems, stating that suppression activities are essentially the treatment of the symptom rather than the causes of youth gangs and that prevention and intervention are also necessary.

#### Grounds and Procedure for Exclusion from School and Adjacent Properties.

A school district chief administrative officer or his or her designee may order an individual to leave any school owned or operated motor vehicle, building, grounds, or other property if the person is: (1) under the influence of alcohol or drugs; or (2) committing, threatening to commit, or inciting another to commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order is valid if the officer or designee reasonably believes that the individual is under the influence of alcohol or drugs, is committing such acts, or is creating such a disturbance.

A law enforcement officer may order an individual to leave public property immediately adjacent to building, grounds, or property owned, operated, or controlled by a school district if the conduct creates a risk of causing injury to person or property or if the conduct rises to the level of disorderly conduct as defined in the criminal code.

It is unlawful to disobey such orders and a person guilty of a violation is deemed guilty of a gross misdemeanor.

Disturbances on School Premises or at School Activities or Meetings.

Willfully creating a disturbance on school premises during school hours or at school activities or school meetings is a misdemeanor, punishable by a fine in an amount not more than 50 dollars.

**Summary of Bill:**

School Safety Zones.

A “school safety zone” is defined as inclusive of all areas within a 1000 foot radius of any public school facility while that facility is being used by students or school staff, and all school properties at all times. Properties of community or technical colleges or educational service districts that are used to provide educational services to students in kindergarten through grade 12 are also included.

It is unlawful for any person to remain on or return to public properties or spaces within a school safety zone or to enter any school properties after being notified by any authorized school administrator, designee, or law enforcement officer that probable cause exists that the person's activities or conduct within the school safety zone constitutes a violation of:

- specified criminal statutes regarding disorderly conduct, harassment, stalking, criminal gang intimidation, malicious mischief, criminal street gang tagging and graffiti, criminal trespass, bomb threats, delivery or possession of a controlled substance, illegal possession or display of a weapon, weapons violations, and certain violent offenses;
- school laws which prohibit disturbing school activities and interfering with, or intimidation of, school administrators, employees, and students;
- reckless driving laws when such act or conduct threatens school employees, students, volunteers, and visitors or threatens or causes damage to school property; or
- state or federal laws related to distribution or delivery of any substance, item, or material to any minor student when possession of that substance, item, or material by the recipient student is prohibited.

Verbal notice of exclusion from the zone is valid for up to 24 hours. After that, written notice is required. Generally, a person may be excluded for a period not exceeding 90 days. An exclusion order may be extended for an additional 90 days if there is good and sufficient cause to believe the person is a continuing threat to the safety of staff or students. An excluded person may request an appeal hearing.

Notice of appeal must be in writing. The school district superintendent must appoint an impartial hearing officer, who cannot be an employee of the district. The hearing officer must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice and must possess the knowledge and ability to render and write decisions in accordance

with appropriate, standard, legal practice. The hearing officer is not an employee of the school district solely because he or she is paid by the district to serve as a hearing officer.

The hearing must be concluded within 15 business days after the notice of appeal, unless the appellant shows good cause for a 15 day extension. Either party may call and cross-examine witnesses, produce documents, and introduce other evidence. A party to a hearing may be advised and represented by counsel, at the party's own expense.

A written decision must issue within three business days of conclusion of the hearing be and delivered by certified mail to the excluded person. The decision is final but the excluded person may seek judicial review of the decision by filing a writ of review in superior court. The exclusion order remains in effect during the pendency of any administrative or judicial proceeding.

Violation of an exclusion order constitutes criminal trespass. Criminal trespass is a misdemeanor or gross misdemeanor depending upon the degree. Violation while illegally in possession of a firearm is a class C felony.

Certain affirmative defenses are recognized for persons having no other reasonable route of travel or whose home is within the zone but these persons may not "loiter" on public property. There is also a recognized exception for being present on school property with the express permission of a school principal.

#### Changes to Other School and Criminal Laws.

A change is made to the law which provides that a person willfully creating a disturbance on school premises during school hours or at school activities is guilty of a misdemeanor. Rather than specify the penalty maximum as \$50, reference is made to the general criminal statute regarding misdemeanor penalties. Pursuant to that statute, the penalty can be no more than 90 days in jail or no more than \$1000 or both.

The misdemeanor offense of "disorderly conduct" currently contains no specific reference to school property or activities but makes it unlawful, among other things, to intentionally disrupt any lawful assembly or meeting of persons without lawful authority. An amendment makes intentionally disrupting the operations of any school or school activity without lawful authority disorderly conduct.

**Appropriation:** None.

**Fiscal Note:** Requested on January 14, 2010.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.