
HOUSE BILL 2835

State of Washington

61st Legislature

2010 Regular Session

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

Read first time 01/14/10. Referred to Committee on Education.

1 AN ACT Relating to school safety zones; amending RCW 28A.635.030
2 and 9A.84.030; adding a new section to chapter 28A.635 RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.635
6 RCW to read as follows:

7 (1) The legislature recognizes that gang activity and other
8 criminal activity in the vicinity of and on school campuses interferes
9 with the safe and orderly operation of public and private schools and
10 the educational rights of the children of the state. For the purpose
11 of promoting the safety of students and staff in the schools of the
12 state and the orderly operation of schools, the legislature intends to
13 designate school properties and adjacent areas as school safety zones.

14 (2) School safety zones are inclusive of all areas within a one
15 thousand-foot radius of any public school facility while that facility
16 is being used by students or school staff, and all school properties at
17 all times.

18 (a) For the purposes of this section, "school properties" includes

1 all real properties owned, operated, or under the control of any school
2 district, and any vehicle owned or operated by a school district; and

3 (b) Those portions of the properties of any community or technical
4 college or educational service district that are used to provide
5 educational services to students in kindergarten through grade twelve.

6 (3) It is unlawful for any person to remain on or return to public
7 properties or spaces within a school safety zone or to enter any school
8 properties:

9 (a) After being properly notified by any authorized school
10 administrator, designee, or law enforcement officer that probable cause
11 exists that the person's activities or conduct within the school safety
12 zone constitute a violation of one or more of the following, whether or
13 not the violation results in arrest, citation, or prosecution:

14 (i) Disorderly conduct under RCW 9A.84.030 or the local county or
15 municipal code;

16 (ii) Malicious harassment under RCW 9A.36.080, when the harassment
17 is aimed at any school employee, volunteer, student, person contracted
18 to the school district, or visitor;

19 (iii) Harassment under RCW 9A.46.020, when the harassment is aimed
20 at any school employee, volunteer, student, person contracted to the
21 school district, or visitor;

22 (iv) Stalking under RCW 9A.46.110 when the stalking is aimed at any
23 school employee, volunteer, student, person contracted to the school
24 district, or visitor;

25 (v) Criminal gang intimidation under RCW 9A.46.120;

26 (vi) Malicious mischief under chapter 9A.48 RCW, when the crime is
27 committed against a student or staff member's property, affects school
28 property, or impairs school operations;

29 (vii) Criminal street gang tagging and graffiti under RCW
30 9A.48.105;

31 (viii) Criminal trespass under chapter 9A.52 RCW, when the trespass
32 occurs on school property including school vehicles;

33 (ix) Threat to bomb or injure property under RCW 9.61.160, when the
34 threat is made against any school building or property, or the property
35 of any school employee, student, volunteer, or person contracted to the
36 school district, when the threat is reasonably related to that person's
37 legitimate school business;

- 1 (x) Delivery or possession with intent to deliver a controlled
2 substance under chapter 69.50 RCW;
- 3 (xi) Illegal possession of any dangerous weapon under RCW 9.41.250;
- 4 (xii) Unlawful display of a weapon under RCW 9.41.270 when the
5 violation places school employees, students, volunteers, persons under
6 contract to the school district, or visitors at risk of harm;
- 7 (xiii) Illegal possession of a firearm or dangerous weapon on
8 school property under RCW 9.41.280;
- 9 (xiv) Any other violation of chapter 9.41 RCW not otherwise
10 enumerated in this section;
- 11 (xv) Any violent offense as defined in RCW 9.94A.030, when that
12 offense is directed at any school employee, volunteer, student, person
13 contracted to the school district, or visitor;
- 14 (xvi) Disturbing school, school activities, or meetings as
15 prohibited under RCW 28A.635.020;
- 16 (xvii) Interfering with any administrator, teacher, classified
17 employee, or student by threat of force or violence under RCW
18 28A.635.100;
- 19 (xviii) Intimidating any administrator, teacher, classified
20 employee, or student by threat of force or violence under RCW
21 28A.635.100;
- 22 (xix) Reckless driving as defined under RCW 46.61.500 when the act
23 endangers school employees, students, volunteers, persons under
24 contract to the school district, or visitors or when the act threatens
25 to or causes significant damage to school property; or
- 26 (xx) The distribution or delivery of any substance, item, or
27 material to any minor student when possession of that substance, item,
28 or material by the recipient student is prohibited by any state or
29 federal law;
- 30 (b) After being properly notified by an authorized school
31 administrator, designee, or law enforcement officer that:
- 32 (i) The person's presence and willful conduct are causing a
33 substantial and material disruption of the educational process; or
- 34 (ii) The person's conduct creates a substantial risk of injury to
35 any person or substantial harm to property;
- 36 (c) If the person has been convicted of any of the following, if
37 the person is notified by the convicting court or the person's

1 probation or parole officer of the requirement to be excluded from the
2 school safety zones:

3 (i) Criminal gang intimidation under RCW 9A.46.120;

4 (ii) Illegal possession of a firearm or dangerous weapon on school
5 property under RCW 9.41.280;

6 (iii) Threat to bomb or injure property under RCW 9.61.160 when
7 that offense was directed at any school building or property or the
8 property of any school employee, volunteer, person contracted to the
9 school district, or student;

10 (iv) Delivery or possession with intent to deliver a controlled
11 substance under chapter 69.50 RCW;

12 (v) Any violent offense as defined in RCW 9.94A.030 when the
13 offense was directed at any school employee, volunteer, student, person
14 contracted to the school district, or visitor;

15 (vi) Any serious violent felony offense as defined in RCW
16 9.94A.030, when the offense was directed at any school employee,
17 volunteer, student, person contracted to the school district, or
18 visitor;

19 (vii) Any criminal street gang-related offense, as defined in RCW
20 9.94A.030, if the offense either occurred within a school safety zone
21 or was directed at a school employee, student, volunteer, person
22 contracted to the school district, or visitor while engaged in school
23 business or under circumstances where it is reasonable to conclude that
24 the offense was connected to legitimate school business.

25 (4)(a) Persons required to be excluded from a school safety zone
26 under subsection (3) of this section are not subject to enforcement
27 action unless they have received prior notice in accordance with this
28 section and reasonable opportunity to vacate the area.

29 (b) A person may be excluded from a school safety zone for a period
30 not to exceed twenty-four hours by verbal notice from an authorized
31 school administrator, designee, or law enforcement officer. Verbal
32 notice must include the reason for the exclusion, the duration of the
33 exclusion, and the penalty for failure to comply.

34 (c)(i) A person may be excluded from a school safety zone for a
35 period not exceeding ninety days if notice is delivered in writing to
36 the subject or delivery has been attempted and documented as provided
37 in this subsection (4)(c). An exclusion order may be extended for an

1 additional ninety days if there is good and sufficient cause to believe
2 the subject of the exclusion order is a continuing threat to the safety
3 of staff or students.

4 (ii) In the case of an exclusion exceeding twenty-four hours,
5 written notice must include the reason for the exclusion, the duration
6 and effective hours of the exclusion imposed, details of permissible
7 presence in the school safety zone or on school property, the penalty
8 for violation of the exclusion order, and the means of appealing the
9 exclusion.

10 (iii) The recipient of the notice under this subsection (4)(c) must
11 acknowledge receipt by his or her signature on the exclusion order and
12 must receive the original copy at the time of notice.

13 (iv) If the subject under this subsection (4)(c) refuses delivery
14 or signature, an exclusion order showing attempted delivery confirmed
15 by two witnesses carries the same weight as an exclusion order executed
16 with the signature of the subject.

17 (v) Exclusion notices imposed under this subsection (4)(c) must be
18 reported to the local law enforcement agency as soon as reasonably
19 possible, but in no case more than forty-eight hours after delivery to
20 the subject.

21 (5)(a) A person excluded from a school safety zone under subsection
22 (3) of this section may request an appeal hearing with the school
23 district superintendent to have the exclusion notice rescinded, the
24 period shortened, or the provisions of the exclusion modified.

25 (b) Notice of appeal must be made in writing unless the
26 superintendent waives this requirement.

27 (c) An appeal hearing under this subsection (5) shall be an
28 adjudicative proceeding conducted by an impartial hearing officer
29 appointed by the school district superintendent. The hearing must be
30 concluded within fifteen business days after the notice of appeal. The
31 hearing examiner may extend this period at the request of the appellant
32 for an additional fifteen days if the appellant shows good cause.

33 (d) A hearing officer:

34 (i) Must not be an employee of the school district;

35 (ii) Must not be a person having a personal or professional
36 interest that conflicts with the person's objectivity in the hearing;

37 (iii) Must possess the knowledge and ability to conduct hearings in
38 accordance with appropriate, standard legal practice; and

1 (iv) Must possess the knowledge and ability to render and write
2 decisions in accordance with appropriate, standard legal practice.

3 (e) A person who otherwise qualifies to conduct an appeal hearing
4 under (d) of this subsection is not an employee of the school district
5 solely because he or she is paid by the school district to serve as a
6 hearing officer.

7 (f) Either party to the appeal hearing may call and cross-examine
8 witnesses, produce documents, or introduce other evidence. Any written
9 or physical material to be introduced must be made available to the
10 opposing party at least twenty-four hours before the scheduled hearing
11 time.

12 (g) A party to an appeal hearing may be advised and represented at
13 the party's own expense by counsel.

14 (h) The hearing officer shall determine whether a preponderance of
15 the evidence supports excluding the appellant under subsection (3) of
16 this section.

17 (i) The hearing officer shall issue a written decision within three
18 business days of the conclusion of the appeal hearing, to be delivered
19 by certified mail to the subject of the exclusion.

20 (j) The decision of the hearing officer is final. An appellant may
21 seek judicial review of the decision by filing a writ of review in
22 superior court.

23 (k) The exclusion order shall remain in full effect during the
24 pendency of any administrative or judicial proceeding.

25 (6)(a) A violation of an exclusion order under subsection (3) of
26 this section constitutes criminal trespass, punishable as provided in
27 RCW 9A.20.021.

28 (b) A person who violates an exclusion order issued under
29 subsection (3) of this section and who is found to be illegally in
30 possession of any firearm defined in chapter 9.41 RCW or in illegal
31 possession of a dangerous weapon as provided under RCW 9.41.250 is
32 guilty of a class C felony.

33 (7) This section does not preclude or prohibit prosecution under
34 any other provision of law.

35 (8)(a) It is an affirmative defense to a prosecution brought under
36 this section that the person who violates an exclusion order issued
37 pursuant to subsection (3) of this section:

1 (i) Was present in a school safety zone for a lawful purpose
2 reasonably requiring the person's presence at that time and location,
3 including legitimate business on school grounds, required commercial
4 business, legitimate employment, or business with a government agency
5 located within the school safety zone;

6 (ii) Was occupying private properties in the school safety zone as
7 an owner or tenant or was present on private properties within a school
8 safety zone when reasonably required for a lawful purpose at that time
9 and location, if the person is in compliance with all pertinent laws;
10 or

11 (iii) Was transiting through a school safety zone on a public
12 thoroughfare while on legitimate business as described in (a)(i) and
13 (ii) of this subsection if there was no other reasonable route of
14 travel, if the person followed the most direct route through the school
15 safety zone.

16 (b) Persons subject to an exclusion order but permitted to be in a
17 school safety zone under (a) of this subsection:

18 (i) May not loiter on public properties within a school safety zone
19 or purposely interact with staff, students, or visitors of a school
20 except when specifically required by legitimate school business; and

21 (ii) May be presumed to not have a legitimate lawful purpose to be
22 present in the school safety zone if they take flight upon the
23 appearance of a law enforcement officer, school administrator, or
24 designee, refuse to identify themselves, or manifestly endeavor to
25 conceal themselves or any object. Unless flight by the person or other
26 circumstance makes it impracticable, a law enforcement officer shall,
27 before any arrest for an offense under this section, afford the person
28 an opportunity to explain how the person's presence in the school
29 safety zone is for a lawful purpose by requesting the person identify
30 himself or herself and explain his or her presence and conduct. No
31 person may be convicted of an offense under this section if the law
32 enforcement officer did not comply with this procedure.

33 (9) This section does not prohibit any person under an exclusion
34 order issued pursuant to subsection (3) of this section from being
35 present on school property for legitimate purposes if the person has
36 the prior express permission of the principal or other authorized
37 school administrator. The parent or legal guardian of a student
38 enrolled in a school shall be assumed to have permission to be on

1 school grounds if he or she has been summoned to the school for a
2 disciplinary incident, medical emergency, scheduled meeting, or family
3 emergency.

4 (10) This section may not be used to impinge upon the lawful
5 exercise of constitutionally protected rights of freedom of speech or
6 assembly, or to prohibit any lawful act, including picketing, strikes,
7 or collective bargaining, nor may this section be used to exclude a
8 person from public properties in a school safety zone solely on the
9 basis of his or her physical appearance.

10 **Sec. 2.** RCW 28A.635.030 and 1984 c 258 s 315 are each amended to
11 read as follows:

12 Any person who shall willfully create a disturbance on school
13 premises during school hours or at school activities or school meetings
14 shall be guilty of a misdemeanor, (~~the penalty for which shall be a~~
15 ~~fine in any sum not more than fifty dollars~~) punishable as provided in
16 RCW 9A.20.021.

17 **Sec. 3.** RCW 9A.84.030 and 2007 c 2 s 1 are each amended to read as
18 follows:

19 (1) A person is guilty of disorderly conduct if the person:

20 (a) Uses abusive language and thereby intentionally creates a risk
21 of assault;

22 (b) Intentionally disrupts any lawful assembly or meeting of
23 persons without lawful authority;

24 (c) Intentionally disrupts any school operations or school activity
25 without lawful authority;

26 (d) Intentionally obstructs vehicular or pedestrian traffic without
27 lawful authority; or

28 (~~(d)~~) (e)(i) Intentionally engages in fighting or in tumultuous
29 conduct or makes unreasonable noise, within five hundred feet of:

30 (A) The location where a funeral or burial is being performed;

31 (B) A funeral home during the viewing of a deceased person;

32 (C) A funeral procession, if the person described in this
33 subsection (1)(~~(d)~~) (e) knows that the funeral procession is taking
34 place; or

35 (D) A building in which a funeral or memorial service is being
36 conducted; and

1 (ii) Knows that the activity adversely affects the funeral, burial,
2 viewing, funeral procession, or memorial service.

3 (2) Disorderly conduct is a misdemeanor, punishable as provided in
4 RCW 9A.20.021.

5 NEW SECTION. **Sec. 4.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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