
SUBSTITUTE SENATE BILL 6512

State of Washington

61st Legislature

2010 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Gordon, Hobbs, King, Marr, Rockefeller, and Kline; by request of Superintendent of Public Instruction)

READ FIRST TIME 02/05/10.

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

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) If the person has been convicted of any of the following, if
31 the person is notified by the convicting court or the person's
32 probation or parole officer of the requirement to be excluded from the
33 school safety zones:
 - 34 (i) Criminal gang intimidation under RCW 9A.46.120;
 - 35 (ii) Illegal possession of a firearm or dangerous weapon on school
36 property under RCW 9.41.280;
 - 37 (iii) Threat to bomb or injure property under RCW 9.61.160 when

1 that offense was directed at any school building or property or the
2 property of any school employee, volunteer, person contracted to the
3 school district, or student;

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

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

9 (vi) Any serious violent felony offense as defined in RCW
10 9.94A.030, when the offense was directed at any school employee,
11 volunteer, student, person contracted to the school district, or
12 visitor;

13 (vii) Any criminal street gang-related offense, as defined in RCW
14 9.94A.030, if the offense either occurred within a school safety zone
15 or was directed at a school employee, student, volunteer, person
16 contracted to the school district, or visitor while engaged in school
17 business or under circumstances where it is reasonable to conclude that
18 the offense was connected to legitimate school business.

19 (4)(a) Persons excluded from a school safety zone pursuant to
20 subsection (3) of this section are not subject to enforcement action
21 unless they have received prior notice in accordance with this section
22 and reasonable opportunity to vacate the area.

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

28 (c)(i) A person may be excluded from a school safety zone for a
29 period not exceeding ninety days if notice is delivered in writing to
30 the subject or delivery has been attempted and documented as provided
31 in this subsection (4)(c). An exclusion order may be extended for an
32 additional ninety days if there is good and sufficient cause to believe
33 the subject of the exclusion order is a continuing threat to the safety
34 of staff or students.

35 (ii) In the case of an exclusion exceeding twenty-four hours,
36 written notice must include the reason for the exclusion, the duration
37 and effective hours of the exclusion imposed, details of permissible

1 presence in the school safety zone or on school property, the penalty
2 for violation of the exclusion order, and the means of appealing the
3 exclusion.

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

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

11 (v) Exclusion orders imposed under this subsection (4)(c) must be
12 reported to the local law enforcement agency as soon as reasonably
13 possible, but in no case more than forty-eight hours after delivery to
14 the subject.

15 (5)(a) A person excluded from a school safety zone under subsection
16 (3) of this section may request an appeal hearing with the school
17 district superintendent to have the exclusion order rescinded, the
18 period shortened, or the provisions of the exclusion modified.

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

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

27 (d) A hearing officer:

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

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

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

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

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

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

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

8 (h) The hearing officer shall determine whether a preponderance of
9 the evidence supports excluding the appellant under subsection (3) of
10 this section.

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

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

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

19 (l) An appeal made under this subsection (5) shall be the exclusive
20 remedy for challenging the validity of an exclusion order issued
21 pursuant to subsection (3) of this section.

22 (6)(a) A violation of an exclusion order under subsection (3) of
23 this section constitutes criminal trespass in the first degree under
24 RCW 9A.52.070, punishable as provided in RCW 9A.20.021.

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

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

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

35 (i) Was present in a school safety zone for a lawful purpose
36 reasonably requiring the person's presence at that time and location,
37 including legitimate business on school grounds, required commercial

1 business, legitimate employment, or business with a government agency
2 located within the school safety zone;

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

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

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

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

18 (ii) May be presumed to not have a legitimate lawful purpose to be
19 present in the school safety zone if they take flight upon the
20 appearance of a law enforcement officer, school administrator, or
21 designee, refuse to identify themselves, or manifestly endeavor to
22 conceal themselves or any object.

23 (c) Any authorized school administrator, designee, or law
24 enforcement officer who has provided a verbal or written exclusion
25 order to a person pursuant to this section shall provide a law
26 enforcement officer, for the purpose of establishing probable cause to
27 arrest a person for an offense under this section, with a signed
28 written statement attesting to the facts giving rise to the exclusion
29 order that the person is properly subject to exclusion from the school
30 safety zone and that the person was properly provided notice of the
31 exclusion order as required in this section.

32 (d) Unless flight by the person or other circumstance makes it
33 impracticable, a law enforcement officer shall, before any arrest for
34 an offense under this section, afford the person an opportunity to
35 explain how the person's presence in the school safety zone is for a
36 lawful purpose by requesting the person identify himself or herself and
37 explain his or her presence and conduct. No person may be convicted of

1 an offense under this section if the law enforcement officer did not
2 comply with this procedure.

3 (9) This section does not prohibit any person under an exclusion
4 order issued pursuant to subsection (3) of this section from being
5 present on school property for legitimate purposes if the person has
6 the prior express permission of the principal or other authorized
7 school administrator. The parent or legal guardian of a student
8 enrolled in a school shall be assumed to have permission to be on
9 school grounds if he or she has been summoned to the school for a
10 disciplinary incident, medical emergency, scheduled meeting, or family
11 emergency.

12 (10) This section shall not be used as a means of student
13 discipline or to prohibit the access of a student to educational or
14 extracurricular opportunities, however a student who has been suspended
15 or expelled from a school district for conduct that satisfies the
16 requirements of subsection (3) of this section may be issued an
17 exclusion order not to exceed the period of the disciplinary suspension
18 or expulsion.

19 (11) This section may not be used to impinge upon the lawful
20 exercise of constitutionally protected rights of freedom of speech or
21 assembly, or to prohibit any lawful act, including picketing, strikes,
22 or collective bargaining, nor may this section be used to exclude a
23 person from public properties in a school safety zone solely on the
24 basis of his or her physical appearance.

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

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

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

- 34 (1) A person is guilty of disorderly conduct if the person:
35 (a) Uses abusive language and thereby intentionally creates a risk
36 of assault;

1 (b) Intentionally disrupts any lawful assembly or meeting of
2 persons without lawful authority;

3 (c) Intentionally disrupts any school operations or school activity
4 without lawful authority;

5 (d) Intentionally obstructs vehicular or pedestrian traffic without
6 lawful authority; or

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

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

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

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

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

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

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

20 NEW SECTION. **Sec. 4.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

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