

SENATE BILL REPORT

E2SSB 5244

As Passed Senate, March 6, 2013

Title: An act relating to school suspensions and expulsions.

Brief Description: Regarding school suspensions and expulsions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Litzow, Dammeier, Ranker, Hobbs, Harper, Hatfield, Delvin, Tom, Hewitt, Schoesler, Smith and Mullet).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/28/13, 2/06/13 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/12/13, 2/20/13 [DP2S, DNP, w/oRec].

Passed Senate: 3/06/13, 48-0.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5244 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill and Rivers.

Minority Report: Do not pass.

Signed by Senator McAuliffe, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Mullet.

Staff: Katherine Taylor (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5244 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Hasegawa, Hatfield, Hewitt, Keiser, Murray, Parlette, Ranker, Rivers, Schoesler and Tom.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.
Signed by Senator Padden.

Minority Report: That it be referred without recommendation.
Signed by Senators Nelson, Assistant Ranking Member; Kohl-Welles.

Staff: Elise Greef (786-7708)

Background: Suspension means a denial of attendance, other than for the balance of the immediate class period for discipline purposes, from any single subject or class, or from any full schedule of subjects or classes for a stated period of time. A suspension also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

Short-term suspension means a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

Long-term suspension means a suspension which exceeds a short-term suspension.

Expulsion means a denial of attendance from any single subject or class or from any full schedule of subjects or classes for an indefinite period of time. An expulsion also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

Every school board of directors must adopt and make available to each pupil, teacher, and parent in the district, reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions and suspensions in excess of ten consecutive days. Such rules must not be inconsistent with any of the following: federal statutes and regulations, state statutes, common law, and the rules of the Superintendent of Public Instruction (SPI). The board's rules must include such substantive and procedural due process guarantees as prescribed by SPI. When such rules are made available to each pupil, teacher, and parent, they must be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, SPI, and the rules of the school district.

Summary of Engrossed Second Substitute Bill: A suspension or expulsion of a student may not last for an indefinite period of time.

An emergency expulsion must end or be converted into another form of corrective action within ten schools days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency expulsion is converted to another form of corrective action.

Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than one calendar year from the time of the corrective action. However, an exemption process on the one-year limit on suspensions or expulsions is created. School districts must make reasonable efforts to assist students and parents in returning suspended or expelled students to an educational setting prior to and no

later than the end date of the corrective action. School districts must conduct a reentry meeting with a disciplined student within 20 days of the start of a long-term suspension or expulsion. In such cases, school districts must develop a reentry and reengagement plan.

A public school district, educational service district, and certain schools may provide educational services to a suspended or expelled student in an alternative setting or modify a suspension or expulsion on a case-by-case basis.

The Office of Superintendent of Public Instruction (OSPI) must disaggregate, cross-tabulate, and make public all discipline data in and by various sub categories.

The K-12 data governance group must create at least four additional behavior infraction codes that are based on the four most commonly reported behaviors that fall under the other behavior infraction subgroup.

Washington State School Directors Association (WSSDA) must develop a model policy and make it public on its website by May 1, 2014.

Nothing in the act supersedes or nullifies laws protecting health and human safety.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): PRO: We support the bill. Suspensions and expulsions are necessary but the reasons are varied. We need to keep staff safe. When students are expelled they may not receive an education. Designating someone to help suspended and expelled students will make a big difference. We do not want to beat students down. There are a lot of misunderstandings that lead to students being suspended or expelled, such as health issues. Too many students of color are suspended or expelled. There are issues of racism in our schools. We need to change how discipline works. No one listens. These bills finally tie discipline to other issues that we previously dealt with in isolation. We need to look at what contributes to suspension and expulsions. We need to gather data about the students who are being suspended and expelled. We need to deal with students whose infractions are classified as other. There is a lack of cultural competency with school staff. We need to help students succeed. Black, male students are disproportionately suspended and expelled. There is a problem with schools being a pipeline to prisons. Good students can get suspended and expelled. We need to invest in our students. The kids are worth it. Kicking kids out of school is a bad idea. African Americans have strong communities. Negative policy is being made. The Legislature needs to work with diverse communities. Minor actions sometimes receive major discipline consequences. We need change. We need to keep students in school. Mentoring helps. Education is a constitutional right. Special education students need a lot of help and excluding them is bad. We need positive, not negative reinforcement

for bad behaviors. We need to train staff better and engage parents more. There is a lack of cultural competency. There is a lack of notice given to parents when their children are suspended or expelled. Earlier intervention is better. We need to get rid of seclusion punishment. Keeping kids of school for a whole year is too long. We need more ombudsmen. The fiscal note is big, but the bill is labor intensive. The timelines are good.

CON: This bill is unrealistic and will create hardships for schools. The Superintendent of Public Instruction used to have education clinics that helped suspended and expelled students. These clinics are no longer funded. Suspensions and expulsions are the tools available to principals and they do not use them lightly. We need to go back to implementing a gangs and schools workforce. We need transition schools for safety. Making the changes to policy in these bills will be costly.

OTHER: Technical concerns. How does the mentoring work? Who do you pick? We appreciate the bill but it creates too many duties without resources. Where are the resources for this? We need more counselors for academics. We want safe schools. We need more funding in general. This is a complicated issue. State law requires due process. We do not like creating an infraction code for cell phone use. Small schools will have a harder time complying with these policies. This bill takes away emergency expulsion as a tool. Ten days is not enough time. Do we have the resources to keep kids safe?

Persons Testifying (Early Learning & K-12 Education): PRO: Lucinda Young, WA Education Assn.; Donna Patrick, Developmental Disabilities Council; Jeannie Nist, Team Child; Alexa Hambry, Ciera Such, students; Kathleen Hambry, Kimberly Mustaffa, Dakota Foxx, Dan Hambry, Karen Horne, parents; Thelma Jackson, WA Alliance of Black Educators, Black Education Strategies Roundtable (BESR); Delois Brown, Tacoma School District, substitute principal and nurse, BESR; Ari Kohn, Post Prison Education Program; Rev. Jimmie James, Dawn Mason, Isa Nichols, Lynda Collie-Johnson, community advocates; Elizabeth Richer, League of Education Voters; Ramona Hattendorf, WA State PTA; Mary Griffin, Seattle Public School Special Education Advocacy and Advisory Council; Gwen Carston-Allen, Kent Black Action Commission; Leslie Hamada, Kent East Hill Boxing, League of Convington Education Voters; Quincy Kendrix, Community Network Council; LaTrez Judkins, Foster Enterprise; Marcia Fromhold, Greg Williamson, OSPI.

CON: Tyson Vogeler, Castle Rock School District.

OTHER: Carlos Chavez, Issaquah School District; Nancy Merrill, Enumclaw School Director; Marie Sullivan, WSSDA; Josh Almy, Liberty High School; Jerry Bender, Assn. of WA School Principals; Dan Steele, WA Assn. of School Administrators.

Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means): PRO: It has been some time since we have rigorously examined our long-term discipline policies. There is interest, nationwide, to re-examine these policies in terms of how they affect student achievement, and whether more can be done to reconnect these students. Separating students from instruction for long periods of time might not be the best approach. Current policies fall disproportionately on male students, and on students of color. Although the exact cost is debatable, there are expenses involved. But there is also a social cost of not intervening because these students are on the fast track to prison and on the fast

track to very bad outcomes. Investments in these students now lead to long-term savings in juvenile justice costs, health care costs, and lead to improved earnings, more tax revenue, and general economic improvements. The economic merits of eliminating exclusionary discipline policies include higher earnings, higher consumer spending, greater home ownership, more employment, and increased state gross domestic product. Eliminating exclusionary policies reduces state spending in Medicaid, juvenile delinquency, and crime. It costs about \$27 per day to educate a student in public school versus about \$200 per day to detain that student. Some schools are managing to contain the use of exclusionary policies within current budget constraints. Some low-cost elements of the bill, such as data collection, would be very useful. Exclusionary discipline policies push students out of the education system and into the justice system, which becomes a default education provider. Time out of school is a risk factor for criminal justice involvement. Positive behavioral support plans can result in significant amounts of recaptured instruction time. Our data systems should help schools improve decision making. Disaggregated data and analysis of that data allow districts to identify system problems. If two-thirds of discipline incidents are occurring in a certain location or at a certain time of day, that is a system problem and knowing about it allows districts to remedy the conditions. We currently do not have access to such disaggregated data. This same analysis helps identify whether schools are applying policies disproportionately to students of certain color or ethnicity, and allows administrators to ensure equity.

OTHER: Section 7 is about providing educational services to students while they are out on suspension or have been expelled. You will not hear school directors say it is not a good idea to provide education to students. However, this is expensive and we believe the fiscal note is low. This is specialized, individualized instruction with no economy of scale. Further, effective programs include other wraparound services but these programs are not cheap. Section 8 requires model policy and it would cost \$25,000 which is not reflected in the fiscal note. The timeline should be extended by two months. We cannot have a zero-tolerance policy for school districts to deal with dangerous or chronic offenders. Districts need to be able to keep the rest of the student population safe as well. This is not a simple problem, districts have a range of resources, and districts must have the ability to respond with some flexibility and have the final say. If you do go forward with the bill, it must be funded. The issue should be rigorously investigated before it is legislated.

Persons Testifying (Ways & Means): PRO: Senator Dammeier, sponsor; Elizabeth Richer, League of Education Voters; Katie Mosehauer, WA Appleseed; Jeannie Nist, TeamChild; Patricia Hagerty Robles, Highline Public Schools.

OTHER: Marie Sullivan, WA State School Directors' Assn.; Patty Wood, Kelso School District.