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HOUSE BILL 2767

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Ortiz-Self, Kagi, Appleton, Jenkins, Pollet, and Frame

Read first time 01/15/18. Referred to Committee on Education.

1 AN ACT Relating to suspension and expulsion of students including  
2 kindergarten and early elementary school students; amending RCW  
3 28A.600.015, 28A.600.020, 28A.600.410, and 28A.600.460; and creating  
4 a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that significant  
7 numbers of Washington kindergarten and elementary school students are  
8 suspended or expelled from school. Research indicates that school  
9 expulsion and suspension practices are associated with negative  
10 educational and life outcomes. Suspension and expulsion remove  
11 children from learning environments where they can develop social-  
12 emotional, behavioral, and academic skills, and they set children on  
13 a negative path early in their school education. Nationwide, students  
14 of color and students with disabilities are more likely to be  
15 suspended or expelled, exacerbating opportunity gaps. The legislature  
16 intends to eliminate the developmentally inappropriate use of  
17 suspension and expulsion as a response to behavior for children in  
18 grades kindergarten through two, and to encourage schools and  
19 districts to adopt evidence-based practices to support students in  
20 meeting behavioral expectations.

1       **Sec. 2.** RCW 28A.600.015 and 2016 c 72 s 105 are each amended to  
2 read as follows:

3       (1) The superintendent of public instruction shall adopt and  
4 distribute to all school districts lawful and reasonable rules  
5 prescribing the substantive and procedural due process guarantees of  
6 pupils in the common schools. Such rules shall authorize a school  
7 district to use informal due process procedures in connection with  
8 the short-term suspension of students to the extent constitutionally  
9 permissible: PROVIDED, That the superintendent of public instruction  
10 deems the interest of students to be adequately protected.

11       (2) When a student suspension or expulsion is appealed, the rules  
12 shall authorize a school district to impose the suspension or  
13 expulsion temporarily after an initial hearing for no more than ten  
14 consecutive school days or until the appeal is decided, whichever is  
15 earlier. Any days that the student is temporarily suspended or  
16 expelled before the appeal is decided shall be applied to the term of  
17 the student suspension or expulsion and shall not limit or extend the  
18 term of the student suspension or expulsion.

19       (3) An expulsion or suspension of a student may not be for an  
20 indefinite period of time.

21       ~~((+2))~~ (4) Short-term suspension procedures may be used for  
22 suspensions of students up to and including, ten consecutive school  
23 days.

24       ~~((+3))~~ (5) Emergency expulsions must end or be converted to  
25 another form of corrective action within ten school days from the  
26 date of the emergency removal from school. Notice and due process  
27 rights must be provided when an emergency expulsion is converted to  
28 another form of corrective action.

29       ~~((+4))~~ (6) School districts may not suspend or expel any student  
30 who is enrolled in grades kindergarten through two, except for a  
31 violation of RCW 28A.600.420, and except that:

32       (a) School districts may remove any student who is enrolled in  
33 grades kindergarten through two from school for the remainder of a  
34 school day if, after consulting with the student's parent or guardian  
35 and the student's teacher or teachers, the local superintendent or  
36 the local superintendent's designee determines that removal would  
37 facilitate the child's successful return to the classroom;

38       (b) School districts may remove any student who is enrolled in  
39 grades kindergarten through two from school for the remainder of a  
40 school day and up to the end of the school day the following day if,

1 after consulting with the student's parent or guardian and the  
2 student's teacher or teachers, the local superintendent or the local  
3 superintendent's designee determines that removal is necessary to  
4 develop a plan to support the student's successful return to the  
5 classroom and:

6 (i) The school takes significant steps to develop and implement a  
7 plan to support the student upon the student's return to school by  
8 the beginning of the first full day of the student's removal; and

9 (ii) The school discusses the plan with the student's parent or  
10 guardian;

11 (c) Removal of any student who is enrolled in grades kindergarten  
12 through two may not be punitive and may be used only for the purposes  
13 of developing and implementing a plan to support the student; and

14 (d) No student may be removed under (a) or (b) of this subsection  
15 for more than a total of three school days during any single semester  
16 or trimester.

17 (7) School districts shall record data on removal under  
18 subsection (6)(a) and (b) of this section in the statewide student  
19 data system, based on the data collection standards established by  
20 the office of the superintendent of public instruction and the K-12  
21 data governance group.

22 (8) School districts may not impose long-term suspension or  
23 expulsion as a form of discretionary discipline.

24 ~~((+5))~~ (9) Any imposition of discretionary and nondiscretionary  
25 discipline is subject to the bar on suspending the provision of  
26 educational services pursuant to subsection ~~((+8))~~ (12) of this  
27 section.

28 ~~((+6))~~ (10) As used in this chapter, "discretionary discipline"  
29 means a disciplinary action taken by a school district for student  
30 behavior that violates rules of student conduct adopted by a school  
31 district board of directors under RCW 28A.600.010 and this section,  
32 but does not constitute action taken in response to any of the  
33 following:

34 (a) A violation of RCW 28A.600.420;

35 (b) An offense in RCW 13.04.155;

36 (c) Two or more violations of RCW 9A.46.120, 9.41.280,  
37 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period;  
38 or

39 (d) Behavior that adversely impacts the health or safety of other  
40 students or educational staff.

1        ~~((7))~~ (11) Except as provided in RCW 28A.600.420, school  
2 districts are not required to impose long-term suspension or  
3 expulsion for behavior that constitutes a violation or offense listed  
4 under subsection ~~((6))~~ (10)(a) through (d) of this section and  
5 should first consider alternative actions.

6        ~~((8))~~ (12) School districts may not suspend the provision of  
7 educational services to a student as a disciplinary action. A student  
8 may be excluded from a particular classroom or instructional or  
9 activity area for the period of suspension or expulsion, but the  
10 school district must provide an opportunity for a student to receive  
11 educational services during a period of suspension or expulsion.

12        ~~((9))~~ (13) Nothing in this section creates any civil liability  
13 for school districts, or creates a new cause of action or new theory  
14 of negligence against a school district board of directors, a school  
15 district, or the state.

16        **Sec. 3.** RCW 28A.600.020 and 2016 c 72 s 106 are each amended to  
17 read as follows:

18        (1) The rules adopted pursuant to RCW 28A.600.010 shall be  
19 interpreted to ensure that the optimum learning atmosphere of the  
20 classroom is maintained, and that the highest consideration is given  
21 to the judgment of qualified certificated educators regarding  
22 conditions necessary to maintain the optimum learning atmosphere.

23        (2) Any student who creates a disruption of the educational  
24 process in violation of the building disciplinary standards while  
25 under a teacher's immediate supervision may be excluded by the  
26 teacher from his or her individual classroom and instructional or  
27 activity area for all or any portion of the balance of the school  
28 day(~~(, or up to the following two days,)~~) or until the principal or  
29 designee and teacher have conferred, whichever occurs first. Except  
30 in emergency circumstances, the teacher first must attempt one or  
31 more alternative forms of corrective action. In no event without the  
32 consent of the teacher may an excluded student return to the class  
33 during the balance of that class or activity period (~~(or up to the~~  
34 ~~following two days,)~~) or until the principal or his or her designee  
35 and the teacher have conferred.

36        (3) In order to preserve a beneficial learning environment for  
37 all students and to maintain good order and discipline in each  
38 classroom, every school district board of directors shall provide  
39 that written procedures are developed for supporting students in

1 meeting behavioral expectations and administering discipline at each  
2 school within the district. Such procedures shall be developed with  
3 the participation of parents and the community, and shall provide  
4 that the teacher, principal or designee, and other authorities  
5 designated by the board of directors, make every reasonable attempt  
6 to involve the parent or guardian and the student in the resolution  
7 of student discipline problems. Such procedures shall provide that  
8 students in grades three through twelve may be excluded from their  
9 individual classes or activities for periods of time in excess of  
10 that provided in subsection (2) of this section if such students have  
11 repeatedly disrupted the learning of other students. The procedures  
12 must be consistent with the rules of the superintendent of public  
13 instruction and must provide for early involvement of parents in  
14 attempts to improve the student's behavior.

15 (4) The procedures shall assure, pursuant to RCW 28A.400.110,  
16 that all staff work cooperatively toward consistent enforcement of  
17 proper student behavior throughout each school as well as within each  
18 classroom.

19 (5)(a) A principal shall consider imposing long-term suspension  
20 or expulsion as a sanction when deciding the appropriate disciplinary  
21 action for a student in grades three through twelve who, after July  
22 27, 1997:

23 (i) Engages in two or more violations within a three-year period  
24 of RCW 9A.46.120, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020,  
25 28A.635.060, or 9.41.280; or

26 (ii) Engages in one or more of the offenses listed in RCW  
27 13.04.155.

28 (b) The principal shall communicate the disciplinary action taken  
29 by the principal to the school personnel who referred the student to  
30 the principal for disciplinary action.

31 (6) Any corrective action involving a suspension or expulsion  
32 from school for more than ten days must have an end date of not more  
33 than the length of an academic term, as defined by the school board,  
34 from the time of corrective action. Districts shall make reasonable  
35 efforts to assist students and parents in returning to an educational  
36 setting prior to and no later than the end date of the corrective  
37 action. Where warranted based on public health or safety, a school  
38 may petition the superintendent of the school district, pursuant to  
39 policies and procedures adopted by the office of the superintendent  
40 of public instruction, for authorization to exceed the academic term

1 limitation provided in this subsection. The superintendent of public  
2 instruction shall adopt rules outlining the limited circumstances in  
3 which a school may petition to exceed the academic term limitation,  
4 including safeguards to ensure that the school district has made  
5 every effort to plan for the student's return to school. School  
6 districts shall report to the office of the superintendent of public  
7 instruction the number of petitions made to the school board and the  
8 number of petitions granted on an annual basis.

9 (7) Nothing in this section prevents a public school district,  
10 educational service district, the Washington state center for  
11 childhood deafness and hearing loss, or the state school for the  
12 blind if it has suspended or expelled a student from the student's  
13 regular school setting from providing educational services to the  
14 student in an alternative setting or modifying the suspension or  
15 expulsion on a case-by-case basis. An alternative setting should be  
16 comparable, equitable, and appropriate to the regular education  
17 services a student would have received without the exclusionary  
18 discipline. Example alternative settings include alternative high  
19 schools, one-on-one tutoring, and online learning.

20 **Sec. 4.** RCW 28A.600.410 and 1992 c 155 s 1 are each amended to  
21 read as follows:

22 (1) School districts are encouraged to find alternatives to  
23 suspension including reducing the length of a student's suspension  
24 conditioned by the commencement of counseling or other treatment  
25 services. Consistent with current law, the conditioning of a  
26 student's suspension does not obligate the school district to pay for  
27 the counseling or other treatment services except for those  
28 stipulated and agreed to by the district at the inception of the  
29 suspension.

30 (2) School districts are encouraged to implement evidence-based  
31 preventative, restorative, or other practices that support students  
32 in meeting behavioral expectations, and to train teachers,  
33 administrators, and student support staff as necessary to implement  
34 those practices. Evidence-based practices may include but are not  
35 limited to positive behavioral interventions and supports, trauma-  
36 informed approaches, social and emotional learning, referral  
37 services, and restorative practices.

1       **Sec. 5.** RCW 28A.600.460 and 2013 2nd sp.s. c 18 s 305 are each  
2 amended to read as follows:

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

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

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

27       (4) Nothing in this section is intended to limit the authority of  
28 a school under existing law and rules to expel or suspend a student  
29 in grades three through twelve for misconduct or criminal behavior.

30       (5) All school districts must collect data on disciplinary  
31 actions taken in each school, including classroom or school removal,  
32 and must record these actions using the statewide student data  
33 system, based on the data collection standards established by the  
34 office of the superintendent of public instruction and the K-12 data  
35 governance group. The information shall be made available to the  
36 public, but public release of the data shall not include personally  
37 identifiable information including, but not limited to, a student's  
38 social security number, name, or address.

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