

ASSEMBLY BILL NO. 178—ASSEMBLYMEN THOMPSON; ARAUJO,
CARRILLO, DIAZ, JOINER, NEAL AND STEWART

FEBRUARY 19, 2015

JOINT SPONSORS: SENATORS FORD AND SPEARMAN

Referred to Committee on Education

SUMMARY—Revises provisions governing the discipline of pupils. (BDR 34-248)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; removing the requirement for a school to deem a pupil a habitual disciplinary problem under certain circumstances; revising provisions governing the notice provided to a parent or legal guardian concerning a pupil who is deemed a habitual disciplinary problem and the discipline imposed on such a pupil; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a school to suspend or expel a pupil for at least one semester if that pupil is deemed a habitual disciplinary problem under certain circumstances, and requires the pupil to enroll in a private school, a program of independent study or be homeschooled for the period of suspension or expulsion. (NRS 392.466) Existing law further requires a school to notify the parent or legal guardian of a pupil when the pupil is suspended for fighting or commits an act that may cause the pupil to be deemed a habitual disciplinary problem. (NRS 392.4655)

Section 2 of this bill removes the requirement that a pupil who is deemed a habitual disciplinary problem be suspended or expelled for at least one semester and instead authorizes the school to suspend the pupil from school for a period not to exceed one semester if the pupil is deemed a habitual disciplinary problem.

Section 2 further requires that a pupil enroll in a private school, a program of independent study or be homeschooled for the period of suspension only if the suspension is for one semester. **Section 1** of this bill revises the requirements of the written notice that a school must provide to the parent or legal guardian of a pupil relating to the possibility of suspension if the pupil is deemed a habitual



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disciplinary problem. **Section 1** also makes the designation of a pupil as a habitual disciplinary problem permissive rather than mandatory when the pupil commits certain acts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 392.4655 is hereby amended to read as follows:

392.4655 1. Except as otherwise provided in this section, a principal of a school ~~shall~~ **may** deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:

(a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school;

(b) The pupil has been suspended for initiating at least two fights on school property, at an activity sponsored by a public school, on a school bus or, if the fight occurs within 1 hour of the beginning or end of a school day, on the pupil's way to or from school; or

(c) The pupil has a record of five suspensions from the school for any reason.

2. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.

3. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives one suspension on the pupil's record, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the acts committed by the pupil and the dates on which those acts were committed;



(b) An explanation that if the pupil is suspended for initiating one additional fight or if the pupil receives five suspensions on his or her record during the current school year, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection 3 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem ~~[must]~~ *may* be suspended ~~[or expelled]~~ from school for a period ~~[equal to at least one school semester;]~~ *not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline;*

(d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(e) If applicable, a summary of the provisions of subsection 4.
↪ A school shall provide the notice required by this subsection for each suspension on the record of a pupil during a school year. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

4. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives four suspensions on the pupil's record within 1 school year, the school in which the pupil is enrolled may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

↪ If the pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of



behavior, the pupil ~~[shall]~~ *may* be deemed a habitual disciplinary problem.

5. If a pupil commits an act the commission of which qualifies the pupil to be deemed a habitual disciplinary problem pursuant to subsection 1, the school shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the qualifying act and any previous such acts committed by the pupil and the dates on which those acts were committed;

(b) An explanation that pursuant to subsection 3 of NRS 392.466, a pupil who is a habitual disciplinary problem ~~[must]~~ *may* be suspended ~~[or expelled]~~ from *that* school for a period ~~[equal to at least one school semester;]~~ *not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline;*

(c) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from *that* school in the same manner as a pupil without a disability; and

(d) If applicable, a summary of the provisions of subsection 6.
➤ The school shall provide the notice at least 7 days before the school deems the pupil a habitual disciplinary problem. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

6. Before a school deems a pupil a habitual disciplinary problem and suspends ~~[or expels]~~ the pupil, the school may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend *that* school with his or her child.

(b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.



➡ If the pupil violates the conditions of the plan or commits the same act for which notice was provided pursuant to subsection 5 after he or she enters into a plan of behavior, the pupil ~~[shall]~~ **may** be deemed a habitual disciplinary problem.

7. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

8. The parent or legal guardian of a pupil who has entered into a plan of behavior with a school pursuant to this section may appeal to the board of trustees of the school district a determination made by the school concerning the contents of the plan of behavior or action taken by the school pursuant to the plan of behavior. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

Sec. 2. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled



1 from public school or a program of distance education provided
2 pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
3 for enrollment and is accepted for enrollment in accordance with the
4 requirements of the applicable program.

5 ➤ The superintendent of schools of a school district may, for good
6 cause shown in a particular case in that school district, allow a
7 modification to the expulsion requirement of this subsection if such
8 modification is set forth in writing.

9 3. Except as otherwise provided in this section, if a pupil is
10 deemed a habitual disciplinary problem pursuant to NRS 392.4655,
11 the pupil ~~[must]~~ *may* be suspended ~~[or expelled]~~ from the school for
12 a period ~~[equal to at least one semester for that school. For]~~ *not to*
13 *exceed one school semester as determined by the seriousness of*
14 *the acts which were the basis for the discipline. If* the period of the
15 pupil's suspension ~~[or expulsion,]~~ *is for one school semester,* the
16 pupil must:

17 (a) Enroll in a private school pursuant to chapter 394 of NRS or
18 be homeschooled; or

19 (b) Enroll in a program of independent study provided pursuant
20 to NRS 389.155 for pupils who have been suspended or expelled
21 from public school or a program of distance education provided
22 pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
23 for enrollment and is accepted for enrollment in accordance with the
24 requirements of the applicable program.

25 4. This section does not prohibit a pupil from having in his or
26 her possession a knife or firearm with the approval of the principal
27 of the school. A principal may grant such approval only in
28 accordance with the policies or regulations adopted by the board of
29 trustees of the school district.

30 5. Any pupil in grades 1 to 6, inclusive, except a pupil who has
31 been found to have possessed a firearm in violation of subsection 2,
32 may be suspended from school or permanently expelled from school
33 pursuant to this section only after the board of trustees of the school
34 district has reviewed the circumstances and approved this action in
35 accordance with the procedural policy adopted by the board for such
36 issues.

37 6. A pupil who is participating in a program of special
38 education pursuant to NRS 388.520, other than a pupil who is gifted
39 and talented or who receives early intervening services, may, in
40 accordance with the procedural policy adopted by the board of
41 trustees of the school district for such matters, be:

42 (a) Suspended from school pursuant to this section for not
43 more than 10 days. Such a suspension may be imposed pursuant to
44 this paragraph for each occurrence of conduct proscribed by
45 subsection 1.



(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

