

Assembly Bill No. 178—Assemblymen Thompson; Araujo,
Carrillo, Diaz, Joiner, Neal and Stewart

Joint Sponsors: Senators Ford and Spearman

CHAPTER.....

AN ACT relating to education; revising the circumstances under which a school is required to deem a pupil a habitual disciplinary problem; 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; requiring such notice to be provided each time a pupil is suspended; revising provisions relating to a plan of behavior for 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 1** of this bill instead requires a school to notify the parent or legal guardian of a pupil when the pupil is suspended for any reason. **Section 1** also revises the requirements of such notice.

Existing law authorizes a school to develop a plan of behavior for a pupil who may be deemed a habitual disciplinary problem. (NRS 392.4655) **Section 1** authorizes a school to develop such a plan of behavior if a pupil is suspended for any reason.

Existing law requires a principal of a school to deem a pupil enrolled in the school a habitual disciplinary problem if the pupil: (1) has threatened or extorted, or attempted to threaten or extort, another pupil or employee of the school; (2) has been suspended for initiating at least two fights on school property or in certain other circumstances; or (3) has a record of five suspensions from the school. (NRS 392.4655) **Section 1** instead requires the principal of a school to designate a pupil as a habitual disciplinary problem if: (1) the pupil has threatened or extorted, or attempted to threaten or extort, another pupil or employee of the school two or more times, or the pupil has a record of five suspensions from the school; and (2) the pupil has not entered into and participated in a plan of behavior.

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 or expel the pupil from school under extraordinary circumstances. **Section 2** further requires that a pupil enroll in a private school, a program of independent study or be homeschooled if the pupil is expelled or for the period of suspension only if the suspension is for one semester.



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 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~~ *two or more times or the* pupil has a record of five suspensions from the school for any reason ~~;~~ *;* ~~and~~

(b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 5.

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 ~~facts~~ *act* committed by the pupil and the ~~dates~~ *date* on which ~~those acts were~~ *the act was* 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 ~~and has not entered into and participated in a plan of behavior pursuant to subsection 5,~~ 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~~ :

(1) *Suspended* 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; or*

(2) *Expelled from school under extraordinary circumstances as determined by the principal of the school;*

(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~~ *7* 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~~ *A* summary of the provisions of subsection ~~4~~ *5*.
~~→~~

4. A school shall provide the notice required by ~~this~~ subsection *3* 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.~~ *Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.*

5. 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]]~~ *A plan for graduating if the pupil is deficient in credits and not likely to graduate according to schedule.*

(b) *Information regarding schools with a mission to serve pupils who have been:*

(1) *Expelled or suspended from a public school, including, without limitation, a charter school; or*

(2) *Deemed to be a habitual disciplinary problem pursuant to this section.*

(c) *A voluntary agreement by the* parent or legal guardian to attend school with his or her child.

~~[[b)]~~

(d) *A voluntary agreement by the* pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.

~~[[c)]~~

(e) *A voluntary agreement by 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.

~~[[]]~~

6. If ~~[[the]]~~ a pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of behavior ~~[[]]~~ *pursuant to subsection 5, the pupil shall be deemed to have not successfully completed the plan of behavior and 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 be suspended or expelled from school for a period equal to at least one school semester;~~

~~—(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 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 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 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 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.

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

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil ~~must~~ *may* be ~~suspended or expelled~~ :

(a) Suspended from the school for a period ~~equal to at least one semester for that school. For~~ not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(b) Expelled from school under extraordinary circumstances as determined by the principal of the school.



4. If the *pupil is expelled, or the* period of the pupil's suspension ~~for expulsion,~~ *is for one school semester,* the pupil must:

(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.

~~14.1~~ 5. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

~~15.1~~ 6. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

~~16.1~~ 7. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

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

~~17.1~~ 8. 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.

~~18.1~~ 9. 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.

