

SENATE BILL NO. 354—COMMITTEE ON EDUCATION

MARCH 25, 2021

Referred to Committee on Education

SUMMARY—Revises provisions relating to education.
(BDR 34-842)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 3, 5, 6, 12)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing for the inclusion of data to recognize public schools that reduce the frequency of suspension, expulsion or removal of pupils from school in the statewide system of accountability; requiring the Department of Education to develop a statewide framework for restorative justice; providing for the inclusion of unaccompanied pupils and pupils in foster care in certain procedures related to the discipline of pupils; providing for the consideration of homelessness and being in foster care in the discipline of pupils; extending the requirement to establish a plan of action based on restorative justice to the suspension and removal of pupils from public school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a statewide system of accountability for public schools. (NRS 385A.600) **Section 1** of this bill requires the Department of Education to include in the statewide system of accountability for public schools data to recognize public schools that reduce the frequency of suspension, expulsion or removal of pupils from school.

Existing law establishes provisions related to the discipline of pupils, including, without limitation, suspending, expelling or removing a pupil from school. (NRS 392.461-392.472) Existing law prohibits a public school from expelling a pupil from school without first providing a plan of action based on restorative justice.

Under existing law, the Department must develop one or more examples of a plan



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of action based on restorative justice. (NRS 392.472) **Section 12** of this bill additionally prohibits a public school from suspending or removing a pupil from school without first providing a plan of action based on restorative justice.

Existing law creates the Office for a Safe and Respectful Learning Environment within the Department. (NRS 388.1323) Existing law requires the Department to develop a policy to provide a safe and respectful learning environment that is free of bullying and cyber-bullying. (NRS 388.133) **Section 2** of this bill requires the Department to develop a statewide framework for restorative justice. **Section 2** sets forth various requirements for the statewide framework. **Section 2.3** of this bill makes a conforming change to indicate the placement of **section 2** within the Nevada Revised Statutes. **Section 2.7** of this bill requires the policy to provide a safe and respectful learning environment to include requirements and methods for restorative disciplinary practices that are in alignment with the statewide framework for restorative justice.

Existing law requires each public school to collect data on the discipline of pupils. (NRS 392.462) **Section 3** of this bill requires the data to be disaggregated by certain subgroups of pupils and types of offense and, to the extent allowed under federal law, be posted on the Internet website of the school.

Under existing law, the board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils, which must be developed with the input of certain school personnel and the parents and guardians of pupils. (NRS 392.4644) Existing law requires the plan to provide for the restorative discipline of pupils to also provide for the temporary removal of a pupil from a classroom or other premises of a public school. (NRS 392.4645) **Section 5** of this bill requires the board of trustees of each school district to also obtain input from pupils who are enrolled in schools in the school district and requires that the plan to provide for the restorative discipline of pupils align with the statewide framework for restorative justice developed pursuant to **section 2**. **Section 6** of this bill requires that a public school must offer certain services to a pupil who is temporarily removed from school.

Existing law provides for the suspension or expulsion of a pupil from a public school in certain circumstances. (NRS 392.466, 392.467) Existing law establishes various provisions related to the procedure for suspending, expelling or removing a pupil from school. (NRS 392.4646, 392.4655, 392.4657) **Sections 6-9** of this bill revise provisions relating to the participation of unaccompanied pupils and, in certain instances, pupils in foster care in any procedures related to the suspension, expulsion or removal of the pupil from school. **Sections 6-8** of this bill require the consideration of the effects of homelessness in suspending, expelling or removing a pupil from school. **Sections 10 and 11** of this bill prohibit a pupil from being suspended or expelled from school unless it has been determined that the behavior of the pupil was not caused by homelessness or being in foster care.

Section 4 of this bill makes a conforming change related to the reference of subsection numbers changed in **section 10**.

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

Section 1. Chapter 385A of NRS is hereby amended by adding thereto a new section to read as follows:

The Department shall include in the statewide system of accountability for public schools data to recognize public schools that reduce the frequency of the suspension, expulsion or removal



of pupils from school as a means of discipline, including, without limitation, a reduction in the occurrences of the suspension, expulsion or removal of pupils that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. To the extent that money is available, the Department shall develop a statewide framework for restorative justice. The statewide framework must, without limitation:

(a) In accordance with NRS 392.472, establish standards for a plan of action based on restorative justice to enable a public school to address the unique needs of pupils enrolled in the school;

(b) Provide for the identification of and address the needs of homeless pupils, unaccompanied pupils or pupils in foster care;

(c) Address the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;

(d) Provide for the improvement of school climate, culture and safety and pupil outcomes by providing information on, without limitation:

(1) Multi-tiered systems of support;

(2) Early warning systems;

(3) Positive behavioral interventions and support;

(4) The provision of school social workers;

(5) Curriculum on social and emotional learning; and

(6) Trauma-informed practices; and

(e) Provide for training for teachers, administrators and other school staff in:

(1) Child and adolescent development;

(2) Restorative justice, including, without limitation, positive behavioral interventions and support, conflict resolution and de-escalation techniques; and

(3) Psychology, trauma and chronic stress, the effect of trauma and chronic stress on pupils and learning and effective responses to trauma and chronic stress.

2. The Department may apply for grants, gifts and donations of money to carry out the objectives of the statewide framework for restorative justice.

3. As used in this section:

(a) "Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.



(b) *“Homeless pupil” has the meaning ascribed to the term “homeless children and youths” in 42 U.S.C. § 11434a(2).*

(c) *“Restorative justice” has the meaning ascribed to it in NRS 392.472.*

(d) *“Unaccompanied pupil” has the meaning ascribed to the term “unaccompanied youth” in 42 U.S.C. § 11434a(6).*

Sec. 2.3. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.1395, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.1215 to 388.127, inclusive, have the meanings ascribed to them in those sections.

Sec. 2.7. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the governing bodies, educational personnel, local associations and organizations of parents whose children are enrolled in schools throughout this State, and individual parents and legal guardians whose children are enrolled in schools throughout this State, prescribe by regulation a policy for all school districts and schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135, including, without limitation, violations among teachers and violations between teachers and administrators, coaches and other personnel of a school district or school;

(b) Requirements and methods for addressing the rights and needs of persons with diverse gender identities or expressions;

(c) Requirements and methods for restorative disciplinary practices *that align with the statewide framework for restorative justice if such a framework is developed pursuant to section 2 of this act;* and

(d) A policy for use by school districts and schools to train members of the governing body and all administrators, teachers and all other personnel employed by the governing body. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of bullying and cyber-bullying so that pupils may realize their full academic and personal potential;

(2) Training in methods to prevent, identify and report incidents of bullying and cyber-bullying;

(3) Training concerning the needs of persons with diverse gender identities or expressions;

(4) Training concerning the needs of pupils with disabilities and pupils with autism spectrum disorder;



(5) Methods to promote a positive learning environment;
(6) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(7) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Sec. 3. NRS 392.462 is hereby amended to read as follows:

392.462 Each public school shall collect data on the discipline of pupils. Such data must include, without limitation, the number of expulsions and suspensions of pupils and the number of placements of pupils in another school. Such data must be disaggregated into *the* subgroups of pupils *listed in subsection 2 of NRS 385A.250* and the types of offense. The principal of each public school shall:

1. Review the data and take appropriate action; ~~and~~

2. Report the data to the board of trustees of the school district each quarter ~~H~~; *and*

3. To the extent allowed by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, post the data on the Internet website maintained by the public school.

Sec. 4. NRS 392.4634 is hereby amended to read as follows:

392.4634 1. Except as otherwise provided in subsection 3, a pupil enrolled in kindergarten or grades 1 to 8, inclusive, may not be disciplined, including, without limitation, pursuant to NRS 392.466, for:

(a) Simulating a firearm or dangerous weapon while playing; or

(b) Wearing clothing or accessories that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, unless it substantially disrupts the educational environment.

2. Simulating a firearm or dangerous weapon includes, without limitation:

(a) Brandishing a partially consumed pastry or other food item to simulate a firearm or dangerous weapon;

(b) Possessing a toy firearm or toy dangerous weapon that is 2 inches or less in length;

(c) Possessing a toy firearm or toy dangerous weapon made of plastic building blocks which snap together;

(d) Using a finger or hand to simulate a firearm or dangerous weapon;

(e) Drawing a picture or possessing an image of a firearm or dangerous weapon; and

(f) Using a pencil, pen or other writing or drawing implement to simulate a firearm or dangerous weapon.

3. A pupil who simulates a firearm or dangerous weapon may be disciplined when disciplinary action is consistent with a policy



adopted by the board of trustees of the school district and such simulation:

(a) Substantially disrupts learning by pupils or substantially disrupts the educational environment at the school;

(b) Causes bodily harm to another person; or

(c) Places another person in reasonable fear of bodily harm.

4. Except as otherwise provided in subsection 5, a school, school district, board of trustees of a school district or other entity shall not adopt any policy, ordinance or regulation which conflicts with this section.

5. The provisions of this section shall not be construed to prohibit a school from establishing and enforcing a policy requiring pupils to wear a school uniform as authorized pursuant to NRS 386.855.

6. As used in this section:

(a) "Dangerous weapon" has the meaning ascribed to it in ~~paragraph (b) of subsection 11 of~~ NRS 392.466.

(b) "Firearm" has the meaning ascribed to it in ~~paragraph (c) of subsection 11 of~~ NRS 392.466.

Sec. 5. NRS 392.4644 is hereby amended to read as follows:

392.4644 1. The board of trustees of each school district shall establish a plan to provide for the restorative discipline of pupils and on-site review of disciplinary decisions. The plan must:

(a) Be developed with the input and participation of teachers, school administrators and other educational personnel and support personnel who are employed by the school district, *pupils who are enrolled in schools within the school district* and the parents and guardians of pupils who are enrolled in schools within the school district.

(b) Be consistent with the written rules of behavior prescribed in accordance with NRS 392.463.

(c) Include, without limitation, provisions designed to address the specific disciplinary needs and concerns of each school within the school district.

(d) Provide restorative disciplinary practices which include, without limitation:

(1) Holding a pupil accountable for his or her behavior;

(2) Restoration or remedies related to the behavior of the pupil;

(3) Relief for any victim of the pupil; and

(4) Changing the behavior of the pupil.

(e) Provide for the temporary removal of a pupil from a classroom or other premises of a public school in accordance with NRS 392.4645.



(f) Provide for the placement of a pupil in a different school within the school district in accordance with NRS 392.466.

(g) Include the names of any members of a committee to review the temporary alternative placement of pupils required by NRS 392.4647.

(h) *Be in accordance with the statewide framework for restorative justice developed pursuant to section 2 of this act, including, without limitation, by addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250.*

(i) Be posted on the Internet website maintained by the school district.

2. On or before September 15 of each year, the principal of each public school shall:

(a) Review the plan established by subsection 1 in consultation with the teachers, school administrators and other educational personnel and support personnel who are employed at the school and the parents and guardians of pupils and the pupils who are enrolled in the school;

(b) *Determine whether and to what extent the occurrences of the suspension, expulsion or removal of pupils from school disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;*

(c) Based upon the review, recommend to the board of trustees of the school district revisions to the plan, as recommended by the teachers, school administrators and other educational personnel and support personnel and the parents and guardians of pupils and the pupils who are enrolled in the school, if necessary;

~~(e)~~ (d) Post a copy of the plan or the revised plan, as provided by the school district, on the Internet website maintained by the school; and

~~(d)~~ (e) Distribute to each teacher, school administrator and all educational support personnel who are employed at or assigned to the school a written or electronic copy of the plan or the revised plan, as provided by the school district.

3. On or before November 15 of each year, the board of trustees of each school district shall:

(a) Submit a written report to the Superintendent of Public Instruction that reports the progress of each school within the district in complying with the requirements of this section ~~H~~ , *including, without limitation, addressing the occurrences of the suspension, expulsion or removal of pupils from school that disproportionately affect pupils who belong to a group of pupils listed in subsection 2 of NRS 385A.250;* and



(b) Post a copy of the report on the Internet website maintained by the school district.

4. As used in this section, “restorative justice” has the meaning ascribed to it in NRS 392.472.

Sec. 6. NRS 392.4645 is hereby amended to read as follows:

392.4645 1. ~~The~~ ***Except as otherwise provided in subsection 5, the*** plan established pursuant to NRS 392.4644 must provide for the temporary removal of a pupil from a classroom or other premises of a public school if, in the judgment of the teacher or other staff member responsible for the classroom or other premises, as applicable, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn or with the ability of the staff member to discharge his or her duties. The plan must provide that, upon the removal of a pupil from a classroom or any other premises of a public school pursuant to this section, the principal of the school shall provide an explanation of the reason for the removal of the pupil to the pupil and offer the pupil an opportunity to respond to the explanation. Within 24 hours after the removal of a pupil pursuant to this section, the principal of the school shall notify the parent or legal guardian of the pupil of the removal.

2. Except as otherwise provided in subsection 3, a pupil who is removed from a classroom or any other premises of a public school pursuant to this section may be assigned to a temporary alternative placement pursuant to which the pupil:

(a) Is separated, to the extent practicable, from pupils who are not assigned to a temporary alternative placement;

(b) Studies or remains under the supervision of appropriate personnel of the school district; and

(c) Is prohibited from engaging in any extracurricular activity sponsored by the school.

3. The principal shall not assign a pupil to a temporary alternative placement if the suspension or expulsion of a pupil who is removed from the classroom pursuant to this section is:

(a) Required by NRS 392.466; or

(b) Authorized by NRS 392.467 and the principal decides to proceed in accordance with that section.

➡ If the principal proceeds in accordance with NRS 392.466 or 392.467, the pupil must be removed from school in accordance with those sections and the provisions of NRS 392.4642 to 392.4648, inclusive, do not apply to the pupil.

4. A public school must offer a pupil who is removed from a classroom or any other premises of the public school pursuant to this section for more than 2 school days:



(a) Education services to prevent the pupil from losing academic credit or becoming disengaged from school during the period the pupil is removed from a classroom or any other premises of the public school; and

(b) Appropriate positive behavioral interventions and support, trauma-informed support and a referral to a school social worker or school counselor.

5. Before removing a pupil from a classroom or any other premises of a public school pursuant to this section for more than 1 school day, the principal of the school must contact the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker, to make a determination of whether the pupil is a homeless pupil.

6. As used in this section, "homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).

Sec. 7. NRS 392.4646 is hereby amended to read as follows:

392.4646 1. Except as otherwise provided in this section, not later than 3 school days after a pupil is removed from a classroom or any other premises of a public school pursuant to NRS 392.4645, a conference must be held with:

(a) The pupil;

(b) A parent or legal guardian of the pupil ~~to~~, **unless the pupil is an unaccompanied pupil;**

(c) The principal of the school; and

(d) The teacher or other staff member who removed the pupil.

➤ The principal shall give an oral ~~to~~ **and** written notice of the conference ~~to, as appropriate,~~ to each person who is required to participate.

2. After receipt of the notice required pursuant to subsection 1, the parent or legal guardian of the pupil may, not later than 3 school days after the removal of the pupil, request that the date of the conference be postponed. The principal shall accommodate such a request. If the date of the conference is postponed pursuant to this subsection, the principal shall send written notice to the parent or legal guardian confirming that the conference has been postponed at the request of the parent or legal guardian.

3. If a parent or legal guardian of a pupil refuses to attend a conference, the principal of the school shall send a written notice to the parent or legal guardian confirming that the parent or legal guardian has waived the right to a conference provided by this



section and authorized the principal to recommend the placement of the pupil pursuant to subsection 6.

4. Except as otherwise provided in this subsection, a pupil must not return to the classroom or other premises of the public school from which the pupil was removed before the conference is held. If the conference is not held within 3 school days after the removal of the pupil, the pupil , *including, without limitation, an unaccompanied pupil or a pupil in foster care*, must be allowed to return to the classroom or other premises unless:

(a) The parent or legal guardian of the pupil refuses to attend the conference;

(b) The failure to hold a conference is attributed to the action or inaction of the pupil , *including, without limitation, an unaccompanied pupil or a pupil in foster care*, or the parent or legal guardian of the pupil; or

(c) The parent or legal guardian requested that the date of the conference be postponed.

5. During the conference, the teacher who removed the pupil from the classroom, the staff member who removed the pupil from the other premises of the public school or the principal shall provide the pupil and , *if the pupil is not an unaccompanied pupil*, the pupil's parent or legal guardian with an explanation of the reason for the removal of the pupil from the classroom or other premises. The pupil and , *if the pupil is not an unaccompanied pupil*, the pupil's parent or legal guardian must be granted an opportunity to respond to the explanation of the pupil's behavior and to indicate whether the removal of the pupil from the classroom or other premises was appropriate in their opinion based upon the behavior of the pupil. *If the pupil is a homeless pupil, the conference must include consideration of and interventions to mitigate the impact of homelessness on the behavior of the pupil.*

6. Upon conclusion of the conference or, if a conference is not held pursuant to subsection 3 not later than 3 school days after the removal of a pupil from a classroom or other premises of a public school, the principal shall recommend whether to return the pupil to the classroom or other premises or continue the temporary alternative placement of the pupil if the pupil has been assigned to a temporary alternative placement.

7. *As used in this section:*

(a) *"Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.*

(b) *"Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).*

(c) *"Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).*



Sec. 8. 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 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 ~~1~~ 6; and

(c) The behavior of the pupil was not caused by homelessness, as determined in consultation with the local educational agency liaison for homeless pupils designated in accordance with the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school, including, without limitation, a school counselor or school social worker.

2. *A principal of a school shall presume that the behavior of the pupil was caused by homelessness unless the principal determines the behavior was not caused by homelessness pursuant to subsection 1.*

3. 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.

~~13~~ 4. If a pupil is suspended, the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil *or, if the pupil is an unaccompanied pupil, the pupil* that contains:

(a) A description of the act committed by the pupil and the date on which the act was committed;

(b) An explanation that 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 ~~15~~ 6, the pupil will be deemed a habitual disciplinary problem;



(c) An explanation that, pursuant to subsection 5 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:

(1) Suspended from school for a period 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 388.419, an explanation of the effect of subsection 10 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) A summary of the provisions of subsection ~~15.1~~ 6.

~~14.1~~ 5. A school shall provide the notice required by subsection ~~13.1~~ 4 for each suspension on the record of a pupil during a school year. Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.

~~15.1~~ 6. If a pupil is suspended, the school in which the pupil is enrolled shall develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. The parent or legal guardian of the pupil *or, if the pupil is an unaccompanied pupil, the pupil* may choose for the pupil not to participate in the plan of behavior. If the parent or legal guardian of the pupil *or the pupil* chooses for the pupil not to participate, the school shall inform the parent or legal guardian *or the pupil* of the consequences of not participating in the plan of behavior. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation:

(a) 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.

(d) A voluntary agreement by the pupil and *, if the pupil is not an unaccompanied pupil,* the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.



(e) A voluntary agreement by the pupil and , *if the pupil is not an unaccompanied pupil*, 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-]~~ 7. If a pupil commits the same act for which notice was provided pursuant to subsection ~~[3-]~~ 4 after he or she enters into a plan of behavior pursuant to subsection ~~[5-]~~ 6, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.

~~[7-]~~ 8. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

~~[8-]~~ 9. The parent or legal guardian of a pupil *or, if the pupil is an unaccompanied pupil, 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.

10. *As used in this section, "unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).*

Sec. 9. NRS 392.4657 is hereby amended to read as follows:

392.4657 1. A pupil shall be deemed suspended from school if the school in which the pupil is enrolled:

~~[1-]~~ (a) Prohibits the pupil from attending school for 3 or more consecutive days; and

~~[2-]~~ (b) Requires a conference or some other form of communication with the parent or legal guardian of the pupil *or, if the pupil is an unaccompanied pupil, the pupil* before the pupil is allowed to return to school.

2. *As used in this section "unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).*

Sec. 10. 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 and who is at least 11 years of age shall meet with the school and his or her parent or legal guardian. The school shall provide a plan of action based on restorative justice to the parent or legal guardian of the pupil ~~[1-]~~ *or,*



if the pupil is an unaccompanied pupil, the pupil. The pupil may be expelled from the school, in which case the pupil shall:

(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. An employee who is a victim of a battery which results in the bodily injury of an employee of the school may appeal to the school the plan of action provided pursuant to subsection 1 if:

(a) The employee feels any actions taken pursuant to such plan are inappropriate; and

(b) For a pupil who committed the battery and is participating in a program of special education pursuant to NRS 388.419, the board of trustees of the school district has reviewed the circumstances and determined that such an appeal is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

3. 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.

4. If a school is unable to retain a pupil in the school pursuant to subsection 1 for the safety of any person or because doing so would not be in the best interest of the pupil, the pupil may be suspended, expelled or placed in another school. If a pupil is placed in another school, the current school of the pupil shall explain what services will be provided to the pupil at the new school that the current school is unable to provide to address the specific needs and behaviors of the pupil. The school district of the current school of



1 the pupil shall coordinate with the new school or the board of
2 trustees of the school district of the new school to create a plan of
3 action based on restorative justice for the pupil and to ensure that
4 any resources required to execute the plan of action based on
5 restorative justice are available at the new school.

6 5. Except as otherwise provided in this section, if a pupil is
7 deemed a habitual disciplinary problem pursuant to NRS 392.4655,
8 the pupil is at least 11 years of age and the school has made a
9 reasonable effort to complete a plan of action based on restorative
10 justice with the pupil, the pupil may be:

11 (a) Suspended from the school for a period not to exceed one
12 school semester as determined by the seriousness of the acts which
13 were the basis for the discipline; or

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

16 6. If the pupil is expelled, or the period of the pupil's
17 suspension is for one school semester, the pupil must:

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

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

26 7. The superintendent of schools of a school district may, for
27 good cause shown in a particular case in that school district, allow a
28 modification to a suspension or expulsion pursuant to subsections 1
29 to 5, inclusive, if such modification is set forth in writing. The
30 superintendent shall allow such a modification if the superintendent
31 determines that a plan of action based on restorative justice may be
32 used successfully.

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

38 9. Except as otherwise provided in this section, a pupil who is
39 not more than 10 years of age must not be permanently expelled
40 from school. In extraordinary circumstances, a school may request
41 an exception to this subsection from the board of trustees of the
42 school district. A pupil who is at least 11 years of age may be
43 suspended from school or permanently expelled from school
44 pursuant to this section only after the board of trustees of the school
45 district has reviewed the circumstances and approved this action in



1 accordance with the procedural policy adopted by the board for such
2 issues.

3 10. A pupil who is at least 11 years of age and who is
4 participating in a program of special education pursuant to NRS
5 388.419 may, in accordance with the procedural policy adopted by
6 the board of trustees of the school district for such matters and only
7 after the board of trustees of the school district has reviewed the
8 circumstances and determined that the action is in compliance with
9 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
10 et seq., be:

11 (a) Suspended from school pursuant to this section for not
12 more than 5 days. Such a suspension may be imposed pursuant to
13 this paragraph for each occurrence of conduct proscribed by
14 subsection 1.

15 (b) Permanently expelled from school pursuant to this section.

16 11. *A homeless pupil or a pupil in foster care who is at least*
17 *11 years of age may be suspended or expelled from school*
18 *pursuant to this section only if a determination is made that the*
19 *behavior that led to the consideration for suspension or expulsion*
20 *was not caused by homelessness or being in foster care. The*
21 *person responsible for making a determination of whether or not*
22 *the behavior was caused by homelessness or being in foster care*
23 *shall presume that the behavior was caused by homelessness or*
24 *being in foster care unless the person determines that the behavior*
25 *was not caused by homelessness or being in foster care pursuant*
26 *to this subsection. A determination that the behavior was not*
27 *caused by homelessness must be made in consultation with the*
28 *local educational agency liaison for homeless pupils designated in*
29 *accordance with the McKinney-Vento Homeless Assistance Act of*
30 *1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school,*
31 *including, without limitation, a school counselor or school social*
32 *worker. A determination that the behavior was not caused by*
33 *being in foster care must be made in consultation with an*
34 *advocate for pupils in foster care at the school in which the pupil*
35 *is in enrolled or the school counselor of the pupil.*

36 12. As used in this section:

37 (a) “Battery” has the meaning ascribed to it in paragraph (a) of
38 subsection 1 of NRS 200.481.

39 (b) “Dangerous weapon” includes, without limitation, a
40 blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
41 or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a
42 butterfly knife or any other knife described in NRS 202.350, a
43 switchblade knife as defined in NRS 202.265, or any other object
44 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.

(d) *"Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.*

(e) *"Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).*

(f) "Restorative justice" has the meaning ascribed to it in subsection 6 of NRS 392.472.

(g) *"Unaccompanied pupil" has the meaning ascribed to the term "unaccompanied youth" in 42 U.S.C. § 11434a(6).*

~~112-1~~ 13. 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 388A.453 or 388A.456. 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.

Sec. 11. NRS 392.467 is hereby amended to read as follows:

392.467 1. Except as otherwise provided in subsections 5 and 6 and NRS 392.466, the board of trustees of a school district may authorize the suspension or expulsion of any pupil who is at least 11 years of age from any public school within the school district. Except as otherwise provided in NRS 392.466, a pupil who is not more than 10 years of age must not be permanently expelled from school.

2. Except as otherwise provided in subsection 6, no pupil may be suspended or expelled until the pupil has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing, except that a pupil who is found to be in possession of a firearm or a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, to be conducted as soon as practicable after removal, for the pupil's suspension or expulsion.

3. The board of trustees of a school district may authorize the expulsion, suspension or removal of a pupil who has been charged with a crime from the school at which the pupil is enrolled



1 regardless of the outcome of any criminal or delinquency
2 proceedings brought against the pupil only if the school:

3 (a) Conducts an independent investigation of the conduct of the
4 pupil; and

5 (b) Gives notice of the charges brought against the pupil by the
6 school to the pupil.

7 4. The provisions of chapter 241 of NRS do not apply to any
8 hearing conducted pursuant to this section. Such hearings must be
9 closed to the public.

10 5. The board of trustees of a school district shall not authorize
11 the expulsion, suspension or removal of any pupil from the public
12 school system solely for offenses related to attendance or because
13 the pupil is declared a truant or habitual truant in accordance with
14 NRS 392.130 or 392.140.

15 6. A pupil who is participating in a program of special
16 education pursuant to NRS 388.419, other than a pupil who receives
17 early intervening services, may, in accordance with the procedural
18 policy adopted by the board of trustees of the school district for such
19 matters and only after the board of trustees of the school district has
20 reviewed the circumstances and determined that the action is in
21 compliance with the Individuals with Disabilities Education Act, 20
22 U.S.C. §§ 1400 et seq., be:

23 (a) Suspended from school pursuant to this section for not more
24 than 5 days for each occurrence.

25 (b) Permanently expelled from school pursuant to this section.

26 *7. A homeless pupil or a pupil in foster care who is at least 11*
27 *years of age may be suspended or expelled from school pursuant*
28 *to this section only if a determination is made that the behavior*
29 *that led to the consideration for suspension or expulsion was not*
30 *caused by homelessness or being in foster care. The person*
31 *responsible for making a determination of whether or not the*
32 *behavior was caused by homelessness or being in foster care shall*
33 *presume that the behavior was caused by homelessness or being in*
34 *foster care unless the person determines that the behavior was not*
35 *caused by homelessness or being in foster care pursuant to this*
36 *subsection. A determination that the behavior was not caused by*
37 *homelessness must be made in consultation with the local*
38 *educational agency liaison for homeless pupils designated in*
39 *accordance with the McKinney-Vento Homeless Assistance Act of*
40 *1987, 42 U.S.C. §§ 11301 et seq., or a contact person at a school,*
41 *including, without limitation, a school counselor or school social*
42 *worker. A determination that the behavior was not caused by*
43 *being in foster care must be made in consultation with an*
44 *advocate for pupils in foster care at the school in which the pupil*
45 *is in enrolled or the school counselor of the pupil.*



8. *As used in this section:*

(a) *"Foster care" has the meaning ascribed to it in 45 C.F.R. § 1355.20.*

(b) *"Homeless pupil" has the meaning ascribed to the term "homeless children and youths" in 42 U.S.C. § 11434a(2).*

Sec. 12. NRS 392.472 is hereby amended to read as follows:

392.472 1. Except as otherwise provided in NRS 392.466 and to the extent practicable, a public school shall provide a plan of action based on restorative justice before *removing a pupil from a classroom or other premises of the public school or suspending or expelling a pupil from school.*

2. The Department shall develop one or more examples of a plan of action which may include, without limitation:

- (a) Positive behavioral interventions and support;
- (b) A plan for behavioral intervention;
- (c) A referral to a team of student support;
- (d) A referral to an individualized education program team;
- (e) A referral to appropriate community-based services; and
- (f) A conference with the principal of the school or his or her designee and any other appropriate personnel.

3. The Department may approve a plan of action based on restorative justice that meets the requirements of this section submitted by a public school.

4. The Department shall post on its Internet website a guidance document that includes, without limitation:

(a) A description of the *statewide framework for restorative justice developed pursuant to section 2 of this act and the* requirements of this section and NRS 392.462;

(b) A timeline for implementation of the requirements of this section and NRS 392.462 by a public school;

(c) One or more models of restorative justice and best practices relating to restorative justice;

(d) A curriculum for professional development relating to restorative justice and references for one or more consultants or presenters qualified to provide additional information or training relating to restorative justice; and

(e) One or more examples of a plan of action based on restorative justice developed pursuant to subsection 2.

5. The Department shall adopt regulations necessary to carry out the provisions of this section.

6. *As used in this section:*

(a) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).



(b) “Restorative justice” means nonpunitive intervention and support provided by the school to a pupil to improve the behavior of the pupil and remedy any harm caused by the pupil.

Sec. 13. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 14. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2022, for all other purposes.

