

ASSEMBLY BILL NO. 194—ASSEMBLYMEN HANSEN, HARDY,
KASAMA, DICKMAN, TORRES; DELONG, GALLANT, GRAY,
GURR, KOENIG, MCARTHUR, O’NEILL, TAYLOR AND
YUREK

FEBRUARY 20, 2023

JOINT SPONSOR: SENATOR HANSEN

Referred to Committee on Education

SUMMARY—Revises provisions governing the discipline of
pupils. (BDR 34-199)

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

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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; revising provisions governing the
suspension, expulsion or permanent expulsion of a pupil
from a public school in certain circumstances; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the suspension or expulsion of a pupil who commits a battery which results in the bodily injury of an employee of a 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. (NRS 392.466) Existing law provides that a pupil who is less than 11 years of age must not be permanently expelled from a public school, except in certain circumstances. (NRS 392.466, 392.467)

Section 2 of this bill authorizes the suspension, expulsion or permanent expulsion of a pupil of any age who commits a battery or assault against an employee of a school or another pupil while on the premises of any public school, at an activity sponsored by a public school or on a school bus. **Section 2** also authorizes the permanent expulsion of a pupil who is at least 11 years of age 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 a school bus.

Existing law authorizes the suspension, expulsion or permanent expulsion of a pupil with a disability if the pupil is at least 11 years of age and subject to the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq. (NRS 392.466, 392.467) **Section 2** authorizes the suspension,



expulsion or permanent expulsion of a pupil with a disability who is less than 11 years of age if the pupil commits a battery or assault against an employee of a school or another pupil, subject to the requirements of the federal Individuals with Disabilities Education Act.

Section 1 of this bill makes conforming changes to reflect a change in numbering made by **section 2**. **Section 3** of this bill makes conforming changes to reflect that a pupil who is less than 11 years of age may be permanently expelled under certain circumstances.

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

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

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 significant 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 6, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection ~~5~~ 6 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem may be:

(1) Suspended from school; or

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

(d) If the pupil is a pupil with a disability, an explanation of the effect of subsection ~~10~~ 11 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 6.

5. A school shall provide the notice required by subsection 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.

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) A explanation 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.

7. If a pupil commits the same act for which notice was provided pursuant to subsection 4 after he or she enters into a plan of behavior pursuant to subsection 6, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.

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

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:

(a) "Significant suspension" means the school in which the pupil is enrolled:

(1) Prohibits the pupil from attending school for 3 or more consecutive days; and

(2) Requires a conference or some other form of communication with the parent or legal guardian of the pupil before the pupil is allowed to return to school.

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

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 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 or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be suspended, *expelled* or *permanently* 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. *Except as otherwise provided in this section, a pupil of any age who commits an act of violence against an employee of the school or another pupil while on the premises of any public school, at an activity sponsored by a public school or on any school bus 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 or, if the pupil is an unaccompanied pupil, the pupil. The pupil may be suspended, expelled or permanently expelled from the school.*

3. An employee *of the school* who is a victim of ~~a battery which results in the bodily injury of an employee of the school]~~ *an act of violence* may appeal to the school the plan of action provided pursuant to subsection ~~[1]~~ 2 if:

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

(b) For a pupil with a disability who committed the ~~[battery,]~~ *act of violence*, the board of trustees of the school district or its designee 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-]~~ 4. Except as otherwise provided in this section, any pupil of any age, including, without limitation, a pupil with a disability, 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.



~~14.1~~ 5. If a school is unable to retain a pupil in the school pursuant to subsection 1 ~~or~~ 2 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 the pupil shall coordinate with the new school to create a plan of action based on restorative justice for the pupil and to ensure that any resources required to execute the plan of action based on restorative justice are available at the new school.

~~15.1~~ 6. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil is at least 11 years of age and the school has made a reasonable effort to complete a plan of action based on restorative justice with the pupil, based on the seriousness of the acts which were the basis for the discipline, the pupil may be:

(a) Suspended from the school; or

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

~~16.1~~ 7. If ~~the~~, pursuant to this section, a pupil is expelled, *permanently expelled* or the period of the pupil's suspension 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.

~~17.1~~ 8. 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 a suspension or expulsion pursuant to subsections 1 to ~~15.1~~ 6, inclusive, if such modification is set forth in writing. The superintendent shall allow such a modification if the superintendent determines that a plan of action based on restorative justice may be used successfully.

~~18.1~~ 9. 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.



~~19.1~~ 10. Except as otherwise provided in this subsection and ~~subsection 3.1~~ *subsections 2 and 4*, a pupil who is less than 11 years of age must not be permanently expelled from school. In extraordinary circumstances, a school may request an exception to this subsection from the board of trustees of the school district. A pupil who is at least 11 years of age may be suspended, expelled or permanently expelled from school pursuant to this section only after the board of trustees of the school district or its designee has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

~~110.1~~ 11. Except as otherwise provided in subsection ~~13.1~~ 4, a pupil with a disability who is at least 11 years of age *or, if a pupil has committed an act of violence proscribed by subsection 2, a pupil with a disability of any age*, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters and only after the board of trustees of the school district or its designee 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., be:

(a) Suspended from school pursuant to this section for not more than 5 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection ~~1~~ *or 2*.

(b) Expelled from school pursuant to this section.

(c) Permanently expelled from school pursuant to this section.

~~111.1~~ 12. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made 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. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is enrolled or the school counselor of the pupil.



~~112-1~~ 13. The provisions of chapter 241 of NRS do not apply to any hearing or proceeding conducted pursuant to this section. Such hearings or proceedings must be closed to the public.

~~113-1~~ 14. As used in this section:

(a) *“Act of violence” means an assault or a battery.*

(b) *“Assault” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.471.*

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

~~114-1~~ (d) “Dangerous weapon” includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, 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.

~~115-1~~ (e) “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.

~~116-1~~ (f) “Foster care” has the meaning ascribed to it in 45 C.F.R. § 1355.20.

~~117-1~~ (g) “Homeless pupil” has the meaning ascribed to the term “homeless children and youths” in 42 U.S.C. § 11434a(2).

~~118-1~~ (h) “Permanently expelled” means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled:

(1) Except as otherwise provided in subparagraph (2), without the possibility of returning to the school in which the pupil is currently enrolled or another public school within the school district; and

(2) With the possibility of enrolling in a program or public school for alternative education for pupils who are expelled or permanently expelled after being permanently expelled.

~~119-1~~ (i) “Restorative justice” has the meaning ascribed to it in NRS 392.472.

~~120-1~~ (j) “Unaccompanied pupil” has the meaning ascribed to the term “unaccompanied youth” in 42 U.S.C. § 11434a(6).

~~121-1~~ 15. 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



1 the records of the pupil relating to the pupil's suspension or
2 expulsion in accordance with applicable federal and state law before
3 the governing body makes a decision concerning the enrollment of
4 the pupil.

5 **Sec. 3.** NRS 392.467 is hereby amended to read as follows:

6 392.467 1. Except as otherwise provided in subsections 5 and
7 6 and NRS 392.466, the board of trustees of a school district or its
8 designee may authorize the suspension , *expulsion* or *permanent*
9 expulsion of any pupil who is at least 11 years of age from any
10 public school within the school district. Except as otherwise
11 provided in this subsection and ~~subsection 3~~ *subsections 2 and 4*
12 of NRS 392.466, a pupil who is less than 11 years of age must not
13 be permanently expelled from school. In extraordinary
14 circumstances, a school may request an exception to the prohibition
15 set forth in this subsection against permanently expelling a pupil
16 who is less than 11 years of age from school from the board of
17 trustees of the school district.

18 2. Except as otherwise provided in subsection 6, no pupil may
19 be suspended or expelled until the pupil has been given notice of the
20 charges against him or her, an explanation of the evidence and an
21 opportunity for a hearing, except that a pupil who is found to be in
22 possession of a firearm or a dangerous weapon as provided in NRS
23 392.466 may be removed from the school immediately upon being
24 given an explanation of the reasons for his or her removal and
25 pending proceedings, to be conducted as soon as practicable after
26 removal, for the pupil's suspension or expulsion.

27 3. The board of trustees of a school district or its designee may
28 authorize the expulsion, suspension or removal of a pupil who has
29 been charged with a crime from the school at which the pupil is
30 enrolled regardless of the outcome of any criminal or delinquency
31 proceedings brought against the pupil only if the school:

32 (a) Conducts an independent investigation of the conduct of the
33 pupil; and

34 (b) Gives notice of the charges brought against the pupil by the
35 school to the pupil.

36 4. The provisions of chapter 241 of NRS do not apply to any
37 hearing or proceeding conducted pursuant to this section. Such
38 hearings or proceedings must be closed to the public.

39 5. The board of trustees of a school district or its designee shall
40 not authorize the expulsion, suspension or removal of any pupil
41 from the public school system solely for offenses related to
42 attendance or because the pupil is declared a truant or habitual truant
43 in accordance with NRS 392.130 or 392.140.

44 6. A pupil with a disability may, in accordance with the
45 procedural policy adopted by the board of trustees of the school



district for such matters and only after the board of trustees of the school district or its designee 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., be:

(a) Suspended from school pursuant to this section for not more than 5 days for each occurrence of proscribed conduct.

(b) Expelled from school pursuant to this section.

(c) Permanently expelled from school pursuant to this section.

7. A homeless pupil or a pupil in foster care who is at least 11 years of age may be suspended or expelled from school pursuant to this section only if a determination is made that the behavior that led to the consideration for suspension or expulsion was not caused by homelessness or being in foster care. The person responsible for making a determination of whether or not the behavior was caused by homelessness or being in foster care shall presume that the behavior was caused by homelessness or being in foster care unless the person determines that the behavior was not caused by homelessness or being in foster care pursuant to this subsection. A determination that the behavior was not caused by homelessness must be made 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. A determination that the behavior was not caused by being in foster care must be made in consultation with an advocate for pupils in foster care at the school in which the pupil is 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).

(c) “Permanently expelled” means the disciplinary removal of a pupil from the school in which the pupil is currently enrolled:

(1) Except as otherwise provided in subparagraph (2), without the possibility of returning to the school in which the pupil is currently enrolled or another public school within the school district; and

(2) With the possibility of enrolling in a program or public school for alternative education for pupils who are expelled or permanently expelled after being permanently expelled.

Sec. 4. This act becomes effective on July 1, 2023.

