

COMMITTEE ON EDUCATION
SENATE AMENDMENTS TO H.B. 2123
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 15-841, Arizona Revised Statutes, is amended to
3 read:

4 15-841. Responsibilities of pupils; expulsion; alternative
5 education programs; alternative to suspension
6 programs; placement review committee

7 A. Pupils shall comply with the rules, pursue the required course of
8 study and submit to the authority of the teachers, the administrators and
9 the governing board. A teacher may send a pupil to the principal's office
10 in order to maintain effective discipline in the classroom. If a pupil is
11 sent to the principal's office pursuant to this subsection, the principal
12 shall employ appropriate discipline management techniques that are
13 consistent with rules adopted by the school district governing board. A
14 teacher may remove a pupil from the classroom if either of the following
15 conditions exists:

16 1. The teacher has documented that the pupil has repeatedly
17 interfered with the teacher's ability to communicate effectively with the
18 other pupils in the classroom or with the ability of the other pupils to
19 learn.

20 2. The teacher has determined that the pupil's behavior is so
21 unruly, disruptive or abusive that it seriously interferes with the
22 teacher's ability to communicate effectively with the other pupils in the
23 classroom or with the ability of the other pupils to learn.

24 B. A pupil may be expelled for continued open defiance of authority,
25 continued disruptive or disorderly behavior, violent behavior that includes

1 use or display of a dangerous instrument or a deadly weapon as defined in
2 section 13-105, use or possession of a gun, or excessive absenteeism. A
3 pupil may be expelled for excessive absenteeism only if the pupil has
4 reached the age or completed the grade after which school attendance is not
5 required as prescribed in section 15-802. A school district may expel
6 pupils for actions other than those listed in this subsection as the school
7 district deems appropriate. ANY EXPULSIONS OF PUPILS IN A KINDERGARTEN
8 PROGRAM AND GRADES ONE THROUGH FOUR MUST COMPLY WITH SECTION 15-843,
9 SUBSECTION K.

10 C. A school district may refuse to admit any pupil who has been
11 expelled from another educational institution or who is in the process of
12 being expelled from another educational institution.

13 D. A school district, ~~may~~ annually or ~~upon~~ ON the request of any
14 pupil or the parent or guardian, MAY review the reasons for THE PUPIL'S
15 expulsion and consider readmission.

16 E. As an alternative to suspension or expulsion, the school district
17 may reassign any pupil to an alternative education program if the pupil
18 does not meet the requirements for participation in the alternative to
19 suspension program prescribed in subsection ~~H~~ I of this section and if good
20 cause exists for expulsion or for a long-term suspension.

21 F. A school district may ~~also~~ reassign a pupil to an alternative
22 ~~educational~~ EDUCATION program if the pupil refuses to comply with rules,
23 refuses to pursue the required course of study or refuses to submit to the
24 authority of teachers, administrators or the governing board.

25 G. A school district or charter school shall expel from school for a
26 period of not less than one year a pupil who is determined to have brought
27 a firearm to a school within the jurisdiction of the school district or the
28 charter school, except that the school district or charter school may
29 modify this expulsion requirement for a pupil on a ~~case-by-case~~ CASE-BY-
30 CASE basis. This subsection shall be construed consistently with the
31 requirements of the individuals with disabilities education act (20 United

1 States Code sections 1400 through 1420). For the purposes of this
2 subsection:

3 1. "Expel" may include removing a pupil from a regular school
4 setting and providing educational services in an alternative setting.

5 2. "Firearm" means a firearm as defined in 18 United States Code
6 section 921.

7 H. A school district or charter school shall expel from school for
8 at least one year a pupil who is determined to have threatened an
9 educational institution ~~as defined in section 13-2911~~, except that the
10 school district or charter school may modify this expulsion requirement for
11 a pupil on a ~~case by case~~ CASE-BY-CASE basis if the pupil participates in
12 mediation, community service, restitution or other programs in which the
13 pupil takes responsibility for the results of the threat. This subsection
14 shall be construed consistently with the requirements of the individuals
15 with disabilities education act (20 United States Code sections 1400
16 through 1420). A school district may reassign a pupil who is subject to
17 expulsion pursuant to this subsection to an alternative education program
18 pursuant to subsection E of this section if the pupil participates in
19 mediation, community service, restitution or other programs in which the
20 pupil takes responsibility for the threat. A school district or charter
21 school may require the pupil's parent or guardian to participate in
22 mediation, community service, restitution or other programs in which the
23 parent or guardian takes responsibility with the pupil for the threat. For
24 the purposes of this subsection, "threatened an educational institution"
25 means to interfere with or disrupt an educational institution AS DEFINED IN
26 SECTION 13-2911 by doing any of the following:

27 1. For the purpose of causing, or in reckless disregard of causing,
28 interference with or disruption of an educational institution, threatening
29 to cause physical injury to any employee of an educational institution or
30 any person attending an educational institution.

31 2. For the purpose of causing, or in reckless disregard of causing,
32 interference with or disruption of an educational institution, threatening

1 to cause damage to any educational institution, the property of any
2 educational institution, the property of any employee of an educational
3 institution or the property of any person attending an educational
4 institution.

5 3. Going on or remaining on the property of any educational
6 institution for the purpose of interfering with or disrupting the lawful
7 use of the property or in any manner as to deny or interfere with the
8 lawful use of the property by others.

9 4. Refusing to obey a lawful order to leave the property of an
10 educational institution.

11 I. ~~By January 1, 2001,~~ each school district shall establish an
12 alternative to suspension program in consultation with local law
13 enforcement officials or school resource officers. The school district
14 governing board shall adopt policies to determine the requirements for
15 participation in the alternative to suspension program. Pupils who would
16 otherwise be subject to suspension pursuant to this article and who meet
17 the school district's requirements for participation in the alternative to
18 suspension program shall be transferred to a location on school premises
19 that is isolated from other pupils or transferred to a location that is not
20 on school premises. The alternative to suspension program shall be
21 discipline intensive and require academic work, and may require community
22 service, groundskeeping and litter control, parent supervision, and
23 evaluation or other appropriate activities. The community service,
24 groundskeeping and litter control, and other appropriate activities may be
25 performed on school grounds or at any other designated area.

26 J. Each school shall establish a placement review committee to
27 determine the placement of a pupil if a teacher refuses to readmit the
28 pupil to the teacher's class and to make recommendations to the governing
29 board regarding the readmission of expelled pupils. The process for
30 determining the placement of a pupil in a new class or replacement in the
31 existing class shall not exceed three business days ~~from~~ AFTER the date the
32 pupil was first removed from the existing class. The principal shall not

1 return a pupil to the classroom from which the pupil was removed without
2 the teacher's consent unless the committee determines that the return of
3 the pupil to that classroom is the best or only practicable alternative.
4 The committee shall be composed of two teachers who are employed at the
5 school and who are selected by the faculty members of the school and one
6 administrator who is employed by the school and who is selected by the
7 principal. The faculty members of the school shall select a third teacher
8 to serve as an alternate member of the committee. If the teacher who
9 refuses to readmit the pupil is a member of the committee, that teacher
10 shall be excused from participating in the determination of the pupil's
11 readmission and the alternate teacher member shall replace that teacher on
12 the committee until the conclusion of all matters relating to that pupil's
13 readmission.

14 Sec. 2. Section 15-842, Arizona Revised Statutes, is amended to
15 read:

16 15-842. Damage to school property; suspension or expulsion of
17 pupil; liability of parent

18 A. EXCEPT AS PROVIDED IN SECTION 15-843, SUBSECTION K, A pupil who
19 cuts, defaces or otherwise injures any school property may be suspended or
20 expelled.

21 B. ~~Upon~~ ON complaint of the governing board, the parents or
22 guardians of minors who have injured school property ~~shall be~~ ARE liable
23 for all damages caused by their children or wards.

24 Sec. 3. Section 15-843, Arizona Revised Statutes, is amended to
25 read:

26 15-843. Pupil disciplinary proceedings; definition

27 A. An action concerning discipline, suspension or expulsion of a
28 pupil is not subject to title 38, chapter 3, article 3.1, except that the
29 governing board of a school district shall post regular notice and shall
30 take minutes of any hearing held by the governing board concerning the
31 discipline, suspension or expulsion of a pupil.

1 B. The governing board of any school district, in consultation with
2 the teachers and parents of the school district, shall prescribe rules for
3 the discipline, suspension and expulsion of pupils. The rules shall be
4 consistent with the constitutional rights of pupils and shall include at
5 least the following:

6 1. Penalties for excessive pupil absenteeism pursuant to section
7 15-803, including failure in a subject, failure to pass a grade, suspension
8 or expulsion.

9 2. Procedures for ~~the use of~~ USING corporal punishment if allowed by
10 the governing board.

11 3. Procedures for the reasonable use of physical force by
12 certificated or classified personnel in self-defense, defense of others and
13 defense of property.

14 4. Procedures for dealing with pupils who have committed or who are
15 believed to have committed a crime.

16 5. A notice and hearing procedure for cases concerning the
17 suspension of a pupil for more than ten days.

18 6. Procedures and conditions for ~~readmission of~~ READMITTING a pupil
19 who has been expelled or suspended for more than ten days.

20 7. Procedures ~~for TO~~ appeal to the governing board ~~of~~ the suspension
21 of a pupil for more than ten days, if the decision to suspend the pupil was
22 not made by the governing board.

23 8. Procedures ~~for TO~~ appeal ~~of~~ the recommendation of the hearing
24 officer or officers designated by the board as provided in subsection F of
25 this section at the time the board considers the recommendation.

26 9. Disciplinary policies for ~~the confinement of~~ CONFINING pupils
27 left alone in an enclosed space. These policies shall include the
28 following:

29 (a) A process for prior written parental notification that
30 confinement may be used for disciplinary purposes and that is included in
31 the pupil's enrollment packet or admission form.

1 (b) A process for prior written parental consent before confinement
2 is allowed for any pupil in the school district. The policies shall
3 provide for an exemption to prior written parental consent if a school
4 principal or teacher determines that the pupil poses imminent physical harm
5 to self or others. The school principal or teacher shall make reasonable
6 attempts to notify the pupil's parent or guardian in writing by the end of
7 the same day that confinement was used.

8 10. Procedures that require the school district to annually report
9 to the department of education in a manner prescribed by the department the
10 number of suspensions and expulsions that involve the possession, use or
11 sale of an illegal substance under title 13, chapter 34 and the type of
12 illegal substance involved in each suspension or expulsion. The department
13 of education shall compile this information and annually post the
14 information on its website. The information shall comply with the family
15 educational rights and privacy act of 1974 (P.L. 93-380; 88 Stat. 57; 20
16 United States Code section 1232g) ~~and~~ SHALL not include personally
17 identifiable information and shall show the number of suspensions and
18 expulsions associated with each illegal substance aggregated statewide and
19 by county.

20 C. Penalties adopted pursuant to subsection B, paragraph 1 of this
21 section for excessive absenteeism shall not be applied to pupils who have
22 completed the course requirements and whose absence from school is due
23 solely to illness, disease or accident as certified by a person who is
24 licensed pursuant to title 32, chapter 7, 13, 15 or 17.

25 D. The governing board shall:

26 1. Support and assist teachers in ~~the implementation~~ IMPLEMENTING
27 and ~~enforcement of~~ ENFORCING the rules prescribed pursuant to subsection B
28 of this section.

29 2. Develop procedures allowing teachers and principals to recommend
30 the suspension or expulsion of pupils.

31 3. Develop procedures allowing teachers and principals to
32 temporarily remove disruptive pupils from a class.

1 4. Delegate to the principal the authority to remove a disruptive
2 pupil from the classroom.

3 E. If a pupil withdraws from school after receiving notice of
4 possible action concerning discipline, expulsion or suspension, the
5 governing board may continue with the action after the withdrawal and may
6 record the results of such action in the pupil's permanent file.

7 F. In all ~~action~~ ACTIONS concerning the expulsion of a pupil, the
8 governing board of a school district shall:

9 1. Be notified of the intended action.

10 2. Either:

11 (a) Decide, in executive session, whether to hold a hearing or to
12 designate one or more hearing officers to hold a hearing to hear the
13 evidence, prepare a record and bring a recommendation to the board for
14 action and whether the hearing shall be held in executive session.

15 (b) Provide by policy or vote at its annual organizational meeting
16 that all hearings concerning the expulsion of a pupil conducted pursuant to
17 this section will be conducted before a hearing officer selected from a
18 list of hearing officers approved by the governing board.

19 3. Give written notice, at least five working days before the
20 hearing by the governing board or the hearing officer or officers
21 designated by the governing board, to all pupils subject to expulsion and
22 their parents or guardians of the date, time and place of the hearing. If
23 the governing board decides that the hearing is to be held in executive
24 session, the written notice shall include a statement of the right of the
25 parents or guardians or an emancipated pupil who is subject to expulsion to
26 object to the governing board's decision to have the hearing held in
27 executive session. Objections shall be made in writing to the governing
28 board.

29 G. If a parent or guardian or an emancipated pupil who is subject to
30 expulsion disagrees that the hearing should be held in executive session,
31 ~~it~~ THE HEARING shall be held in an open meeting unless:

1 1. If only one pupil is subject to expulsion and disagreement exists
2 between that pupil's parents or guardians, the governing board, after
3 consultations with the pupil's parents or guardians or the emancipated
4 pupil, shall decide in executive session whether the hearing will be in
5 executive session.

6 2. If more than one pupil is subject to expulsion and disagreement
7 exists between the parents or guardians of different pupils, separate
8 hearings shall be held subject to this section.

9 H. This section does not prevent the pupil who is subject to
10 expulsion or suspension, and the pupil's parents or guardians and legal
11 counsel, from attending any executive session pertaining to the proposed
12 disciplinary action, from having access to the minutes and testimony of the
13 executive session or from recording the session at the parent's or
14 guardian's expense.

15 I. In schools employing a superintendent or a principal, the
16 authority to suspend a pupil from school is vested in the superintendent,
17 principal or other school officials granted this power by the governing
18 board of the school district.

19 J. In schools that do not have a superintendent or principal, a
20 teacher may suspend a pupil from school.

21 K. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY SUSPEND OR EXPEL A PUPIL
22 WHO IS ENROLLED IN A KINDERGARTEN PROGRAM, FIRST GRADE, SECOND GRADE, THIRD
23 GRADE OR FOURTH GRADE ONLY IF ALL OF THE FOLLOWING APPLY:

24 1. THE PUPIL IS SEVEN YEARS OF AGE OR OLDER.

25 2. THE PUPIL ENGAGED IN CONDUCT ON SCHOOL GROUNDS THAT MEETS ONE OF
26 THE FOLLOWING CRITERIA:

27 (a) INVOLVES THE POSSESSION OF A DANGEROUS WEAPON WITHOUT
28 AUTHORIZATION FROM THE SCHOOL.

29 (b) INVOLVES THE POSSESSION, USE OR SALE OF A DANGEROUS DRUG AS
30 DEFINED IN SECTION 13-3401 OR A NARCOTIC DRUG AS DEFINED IN SECTION 13-3401
31 OR A VIOLATION OF SECTION 13-3411.

32 (c) IMMEDIATELY ENDANGERS THE HEALTH OR SAFETY OF OTHERS.

1 (d) IS DETERMINED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER
2 SCHOOL GOVERNING BODY TO QUALIFY AS AGGRAVATING CIRCUMSTANCES AND THAT ALL
3 OF THE FOLLOWING APPLY:

4 i. THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT HAS BEEN
5 DOCUMENTED BY THE SCHOOL AND THAT PREVENTS OTHER STUDENTS FROM LEARNING OR
6 PREVENTS THE TEACHER FROM MAINTAINING CONTROL OF THE CLASSROOM ENVIRONMENT.

7 ii. THE PUPIL'S ONGOING BEHAVIOR IS UNRESPONSIVE TO TARGETED
8 INTERVENTIONS AS DOCUMENTED THROUGH AN ESTABLISHED INTERVENTION PROCESS
9 THAT INCLUDES CONSULTATION WITH A SCHOOL COUNSELOR, MENTAL HEALTH
10 PROFESSIONAL, OR SOCIAL WORKER IF AVAILABLE WITHIN THE SCHOOL DISTRICT OR
11 CHARTER SCHOOL OR THROUGH A STATE SPONSORED PROGRAM.

12 iii. THE PUPIL'S PARENT OR GUARDIAN WAS NOTIFIED AND CONSULTED ABOUT
13 THE ONGOING BEHAVIOR.

14 iv. PRIOR TO A LONG-TERM SUSPENSION OR EXPULSION, THE SCHOOL
15 PROVIDES THE PUPIL WITH A DISABILITY SCREENING AND THE SCREENING FINDS THAT
16 THE BEHAVIORAL ISSUES WERE NOT THE RESULT OF A DISABILITY.

17 3. FAILING TO REMOVE THE PUPIL FROM THE SCHOOL BUILDING WOULD CREATE
18 A SAFETY THREAT THAT CANNOT OTHERWISE REASONABLY BE ADDRESSED OR QUALIFIES
19 AS AGGRAVATING CIRCUMSTANCES AS SPECIFIED IN PARAGRAPH 1 OF THIS
20 SUBSECTION.

21 4. BEFORE SUSPENDING OR EXPELLING THE PUPIL, THE SCHOOL DISTRICT OR
22 CHARTER SCHOOL CONSIDERS AND, IF FEASIBLE WHILE MAINTAINING THE HEALTH AND
23 SAFETY OF OTHERS, IN CONSULTATION WITH THE PUPIL'S PARENT OR GUARDIAN TO
24 THE EXTENT POSSIBLE, EMPLOYS ALTERNATIVE BEHAVIORAL AND DISCIPLINARY
25 INTERVENTIONS THAT ARE AVAILABLE TO THE SCHOOL DISTRICT OR CHARTER SCHOOL,
26 THAT ARE APPROPRIATE TO THE CIRCUMSTANCES AND THAT ARE CONSIDERATE OF
27 HEALTH AND SAFETY. THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL DOCUMENT
28 THE ALTERNATIVE BEHAVIORAL AND DISCIPLINARY INTERVENTIONS IT CONSIDERS AND
29 EMPLOYS.

30 5. THE SCHOOL DISTRICT OR CHARTER SCHOOL, BY POLICY, PROVIDES FOR
31 BOTH:

1 (a) A READMISSION PROCEDURE FOR PUPILS WHO ARE IN KINDERGARTEN
2 PROGRAMS, FIRST GRADE, SECOND GRADE, THIRD GRADE AND FOURTH GRADE AND WHO
3 HAVE SERVED AT LEAST FIVE SCHOOL DAYS OF A SUSPENSION FROM THE SCHOOL THAT
4 EXCEEDS TEN SCHOOL DAYS TO BE CONSIDERED FOR READMISSION ON APPEAL OF THE
5 PUPIL'S PARENT OR GUARDIAN.

6 (b) A READMISSION PROCEDURE FOR PUPILS WHO ARE IN KINDERGARTEN
7 PROGRAMS, FIRST GRADE, SECOND GRADE, THIRD GRADE AND FOURTH GRADE AND WHO
8 ARE EXPELLED FROM OR SUBJECT TO ALTERNATIVE REASSIGNMENT AT THE SCHOOL TO
9 BE CONSIDERED FOR READMISSION ON APPEAL OF THE PUPIL'S PARENT OR GUARDIAN
10 AT LEAST TWENTY SCHOOL DAYS AFTER THE EFFECTIVE DATE OF THE EXPULSION OR
11 ALTERNATIVE REASSIGNMENT.

12 ~~K.~~ L. ~~In~~ all cases of suspension, ~~it~~ shall be for good cause and
13 shall be reported within five days to the governing board by the
14 superintendent or the person imposing the suspension.

15 ~~L.~~ M. Rules pertaining to the discipline, suspension and expulsion
16 of pupils shall not be based on race, color, religion, sex, national origin
17 or ancestry. If the department of education, the auditor general or the
18 attorney general determines that a school district is substantially and
19 deliberately not in compliance with this subsection and if the school
20 district has failed to correct the deficiency within ninety days after
21 receiving notice from the department of education, the superintendent of
22 public instruction may withhold the monies the school district would
23 otherwise be entitled to receive from the date of the determination of
24 noncompliance until the department of education determines that the school
25 district is in compliance with this subsection.

26 ~~M.~~ N. The principal of each school shall ensure that a copy of all
27 rules pertaining to discipline, suspension and expulsion of pupils is
28 distributed to the parents of each pupil at the time the pupil is enrolled
29 in school.

30 ~~N.~~ O. The principal of each school shall ensure that all rules
31 pertaining to the discipline, suspension and expulsion of pupils are

1 communicated to students at the beginning of each school year, and to
2 transfer students at the time of their enrollment in the school.

3 ~~P.~~ P. School districts may refer a pupil who has been subject to
4 discipline, suspension or expulsion pursuant to this section to a career
5 and college readiness program for at-risk students established pursuant to
6 section 15-707.

7 Q. FOR THE PURPOSE OF THIS SECTION, "AGGRAVATING CIRCUMSTANCES"
8 MEANS THE PUPIL IS ENGAGED IN PERSISTENT BEHAVIOR THAT:

- 9 1. HAS BEEN DOCUMENTED BY THE SCHOOL.
10 2. PREVENTS OTHER STUDENTS FROM LEARNING OR PREVENTS THE TEACHER
11 FROM MAINTAINING CONTROL OF THE CLASSROOM ENVIRONMENT.
12 3. IS UNRESPONSIVE TO TARGETED INTERVENTIONS AS DOCUMENTED THROUGH
13 AN ESTABLISHED INTERVENTION PROCESS."

14 Amend title to conform

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