



Jim Kelly

Bill Analysis
Legislative Service Commission

H.B. 620*

123rd General Assembly
(As Reported by S. Education)

Reps. Cates, Britton, Buehrer, Calvert, Clancy, DePiero, Evans, Ford, Goodman, Grendell, Hartnett, Hood, Pringle, Terwilleger, Tiberi, Vesper, Widener, Winkler, Roman, Peterson, Smith, Brading, Sutton, Jones, Callender, Sulzer, Carey, Mottley, Buchy, A. Core, Allen, Amstutz, Jolivette, Perry, Young, Salerno

Sens. Hagan, Gardner, Harris

BILL SUMMARY

- Permits a school district board to adopt a resolution authorizing expulsion for up to one year for any student making a bomb threat to a school or school activity.

CONTENT AND OPERATION

Expulsion for up to one year for making a bomb threat

(R.C. 3313.66(B)(5) and 3313.661(A))

The bill permits a school district board to adopt as part of its expulsion policy a provision that authorizes the district superintendent to expel a student for up to one year for "making a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat." That policy must specify any grounds for reducing the expulsion on a case-by-case basis. Also, as with other one-year expulsions already permitted under current law, any expulsion for a bomb threat must extend, as necessary, into the school year following the school year in which the incident that precipitated the expulsion took place. Thus, a student expelled under this provision might be removed from the school for an entire 12-month period. (See **COMMENT 3** for background on criminal penalties for bomb threats.)

* *This analysis was prepared before the report of the Senate Education Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Background

Continuing law requires school district boards to adopt policies regarding the discipline of students for misconduct. The policies must be posted in a central location and made available to students upon request.¹ Subject to specific due process requirements, the policies can provide for removal of a nondisabled student from school as follows:

- Suspensions for up to ten days for minor misconduct;²
- Expulsions for the greater of 80 days or the remainder of the school term for major infractions of the school discipline code;³
- Mandatory expulsions for one year for bringing firearms to school as required under the federal Gun Free Schools Act of 1994. The district superintendent may reduce these expulsions for extenuating circumstances prescribed by the district board in its expulsion policy.⁴
- Expulsions for up to one year for bringing a firearm to an interscholastic competition, extracurricular event, or other school program not located on school property;⁵
- Expulsions for up to one year for "possessing" a firearm or knife at a school or on other school property, or at an interscholastic competition, extracurricular event, or other school activity;⁶

¹ R.C. 3313.661. *In addition, district boards are required to have in place "zero tolerance" policies for violent, disruptive, or "inappropriate" behavior, and building safety plans that include protocols for addressing serious safety threats and emergency events (R.C. 3313.534 and 3313.536, neither section in the bill).*

² R.C. 3313.66(A).

³ R.C. 3313.66(B)(1).

⁴ R.C. 3313.66(B)(2)(a). *The federal law makes federal education funding contingent upon states having in place a law requiring a mandatory one-year expulsion for carrying a firearm to school, but it also requires a "case-by-case" reduction for extenuating circumstances (20 U.S.C. 8921).*

⁵ R.C. 3313.66(B)(2)(b).

⁶ R.C. 3313.66(B)(3).

- Expulsions for up to one year for committing, while at school or on school property, or at an interscholastic competition, extracurricular event, or other school activity, an act that would be a criminal act if committed by an adult and that results in serious physical harm to persons or property;⁷
- Immediate removal in order to prevent immediate threats;⁸ and
- Permanent exclusion from all public schools to prevent continued threats related to certain acts.⁹

Continuing law also *requires* a district superintendent to initiate expulsion proceedings against any student who has committed an act warranting expulsion under the district's policy even if the student has withdrawn from school prior to the hearing or a decision to impose the expulsion.¹⁰ In addition, a school district is permitted to temporarily deny admission to a student who has been suspended or expelled from another school district or from an out-of-state school if that suspension or expulsion has not expired. This denial of admission may be imposed only after providing the student with an opportunity for a hearing and may extend only for the remainder of the suspension or expulsion imposed by the other school or school district.¹¹ Finally, a school district *may* provide educational services to an expelled student in an alternative setting.¹² (See **COMMENT** 1 and 2 for additional details.)

COMMENT

Further details on laws governing suspensions and expulsions

1. *Suspensions* may be ordered by the district superintendent or the school principal or, in accordance with a specific board policy by an assistant principal or

⁷ R.C. 3313.66(B)(4).

⁸ R.C. 3313.66(C).

⁹ R.C. 3313.662, *not in the bill*.

¹⁰ R.C. 3313.66(B)(7).

¹¹ R.C. 3313.66(J).

¹² R.C. 3313.66(I).

other administrator, after providing the student a written notice and an opportunity for an informal hearing (R.C. 3313.66(A)).

Only the district superintendent may *expel* a student and only after providing greater due process safeguards than those provided for the shorter suspension. An expulsion requires written notice to the pupil and the pupil's parent, guardian, or custodian and an opportunity to appear before the superintendent to explain the pupil's actions. The pupil has a right to representation at such an appearance, the right to appeal the superintendent's decision to the district board, and a right to appeal the board's decision to the court of common pleas. The notice also must include notification that the student may be subject to permanent exclusion if the student is at least 16 years of age and the expulsion is based on a violation any of certain enumerated offenses, which include, among other acts, the conveyance or possession of a deadly weapon or ordnance on school premises. (R.C. 3313.66(B)(6), (D), and (E).)

The decision to permanently exclude a student from the public schools is made by the state Superintendent of Public Instruction after a hearing and only upon the recommendation of the district board. (R.C. 3313.662.)

2. The discipline of disabled students is controlled by federal law (Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.)). Under that statute and its implementing regulations, a disabled student cannot be removed from the setting prescribed by the student's "individualized education program" for more than ten cumulative days per year without following certain specific procedures. After following those specific procedures, the maximum "suspension" is 45 days. The federal law also provides that during any removal of the student from school, a school district must continue to provide special education services to that suspended student. However, a disabled student may be immediately removed from a classroom or school for immediate threats.

Criminal penalties for bomb threats

3. Continuing law provides criminal or juvenile penalties for making a bomb threat, which under the Criminal Code would be classified as "inducing panic." Under R.C. 2917.31, it is unlawful to "cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by . . . initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that [the] report . . . is false . . ." The statute provides that if the public place is a *school*, inducing panic is a fourth degree felony, unless the violation results in physical harm in which case it is a third degree felony. The statute further provides that if the public place is a *school* and the violation results in economic harm, it is a fourth, third, or second degree felony, depending upon the value of the harm caused.

A *student* who commits the act of inducing panic may be subject to either criminal or juvenile prosecution. A student under 18 years old who is accused of an act that is a felony if committed by an adult, such as inducing panic, might be prosecuted as a juvenile and not as an adult. In such a case, the student may be adjudicated a "delinquent child" and subject to a variety of penalties. These penalties include (among others) protective supervision; commitment to the custody of a public children services agency, a private child placing agency, or a foster home; a fine based on a schedule established in law; suspension of the student's driver's license or instruction permit; and commitment to the Department of Youth Services. (R.C. 2151.312, 1251.355, and 5139.05-5139.08, none in the bill.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-28-00	p. 1719
Reported, H. Education	05-10-00	p. 1937
Passed House (94-1)	09-13-00	p. 2241-2242
Reported, S. Education	---	---

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