

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2130

By: Hager

AS INTRODUCED

An Act relating to schools; providing for out-of-school suspension of certain students; requiring school district boards of education to adopt certain policy with some specifications; providing for student appeal to out-of-school suspension decision; listing violations subject to out-of-school suspension; requiring education for certain students suspended out-of-school; providing responsibilities and procedure; providing for alternative school setting for certain students; specifying education and related services for certain students on an individualized education plan; amending 70 O.S. 1991, Section 24-102, as amended by Section 53, Chapter 274, O.S.L. 1995 (70 O.S. Supp. 1996, Section 24-102), which relates to pupil searches; deleting provision for out-of-school suspension for students guilty of certain acts; amending 70 O.S. 1991, Section 24-101.1, which relates student possession of an electronic paging device in school; providing for out-of-school suspension; repealing 70 O.S. 1991, Section 24-101, as last amended by Section 43, Chapter 247, O.S.L. 1996 (70 O.S. Supp. 1996, Section 24-101), which relates to student suspension; repealing Section 1, Chapter 210, O.S.L. 1995 (70 O.S. Supp. 1996, Section 24-101.2), which relates to student possession of a firearm; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24-101.3 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The

policy shall address the term of the out-of-school suspension and shall provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section and participation in extracurricular activities.

B. 1. Students suspended out-of-school for ten (10) days or less shall have the right to appeal the decision of the administration to a local committee composed of district administrators or teachers or both. Upon full investigation of the matter, the committee shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. The policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section shall have the right to appeal the decision of the administration directly to the district board of education. No out-of-school suspension shall extend beyond the current semester and the succeeding semester. Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. The decision of the district board of education shall be final.

C. 1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district:

- a. violation of a school regulation,
- b. immorality,
- c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, "violent offense" shall include those

offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. "Violent offense" shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,

- d. possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, an electronic paging device, or missing or stolen property if the property is reasonably suspected to have been taken from a student, a school employee, or the school during school activities, and
- e. possession of a dangerous weapon or a controlled dangerous substance, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

2. Any student found in possession of a firearm while on any public school property or while in any school bus or other vehicle used by a public school for transportation of students or teachers shall be suspended out-of-school for a period of time to be determined by the district board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district board of education on a case-by-case basis. For purposes of this paragraph the term "firearm" shall mean and include all weapons as defined by 18 U.S.C., Section 921.

D. The following provisions shall apply to students who are suspended out-of-school for more than ten (10) days and who are guilty of acts listed in subparagraphs a, b, c and d of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's

educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students until the school in which the student is subsequently enrolled determines that the student no longer poses a threat to self, other students or faculty. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses

a threat to self, other students or faculty, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting.

G. Students suspended out-of-school who are on an individualized education plan pursuant to the Individuals with Disabilities Education Act, P.L. No. 101-476, or who are subject to the provisions of subsection F of this section and who are on an individualized education plan shall be provided the education and related services in accordance with the student's individualized education plan.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 24-102, as amended by Section 53, Chapter 274, O.S.L. 1995 (70 O.S. Supp. 1996, Section 24-102), is amended to read as follows:

Section 24-102. The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit to and from under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, electronic paging devices or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except

cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, electronic paging devices or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, electronic paging devices or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 1 of this act.

~~Any pupil found to be in possession of dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, electronic paging devices or missing or stolen property may be suspended by the superintendent or principal for a period not to exceed the current school semester and the succeeding semester. Any such suspension may be appealed to the board of education of the school district by any pupil suspended under this section.~~

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 24-101.1, is amended to read as follows:

Section 24-101.1 The board of education of each school district shall establish and implement rules and regulations which

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prohibit a pupil from possessing an electronic paging device while said pupil is on school premises, or while in transit to and from under the authority of the school, or while attending any function sponsored or authorized by the school. The rules and regulations shall provide that a pupil may possess an electronic paging device upon the prior consent of both a parent or guardian and school principal or superintendent upon a showing of medical necessity or in other appropriate circumstances as specified in the rules and regulations. Students found to be in possession of an electronic paging device in violation of the rules and regulations shall be subject to the provisions of Section 1 of this act.

SECTION 4. REPEALER 70 O.S. 1991, Section 24-101, as last amended by Section 43, Chapter 247, O.S.L. 1996, and Section 1, Chapter 210, O.S.L. 1995 (70 O.S. Supp. 1996, Sections 24-101 and 24-101.2), are hereby repealed.

SECTION 5. This act shall become effective July 1, 1997.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-6965

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