

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1435, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Sharp

Sharp-EB-FS-Req#3485
3/12/2018 1:58 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1435

By: Sharp of the Senate

and

Nollan of the House

FLOOR SUBSTITUTE

An Act relating to student discipline; amending Section 8, Chapter 7, 1st Extraordinary Session, O.S.L. 2013, as amended by Section 1, Chapter 135, O.S.L. 2015 (70 O.S. Supp. 2017, Section 6-149.7), which relates to assault or attempted physical bodily injury on school employees; removing language limiting out-of-school suspension for certain acts to students in certain grades; allowing a school district to adopt alternative disciplinary actions; amending 70 O.S. 2011, Section 24-101.3, as last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp. 2017, Section 24-101.3), which relates to out-of-school suspension; removing language limiting out-of-school suspension for certain acts to students in certain grades; updating reference; allowing use of alternative disciplinary actions; allowing a school district to require a student guilty of certain acts to complete certain programs with certain mental health provider; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 8, Chapter 7, 1st Extraordinary Session, O.S.L. 2013, as amended by Section 1, Chapter

1 135, O.S.L. 2015 (70 O.S. Supp. 2017, Section 6-149.7), is amended
2 to read as follows:

3 Section 6-149.7. A. No student enrolled in a school shall
4 assault, attempt to cause physical bodily injury, or act in a manner
5 that could reasonably cause bodily injury to an education employee
6 or a person who is volunteering for the school. Any student ~~in~~
7 ~~grades six through twelve~~ who violates the provisions of this
8 section shall be subject to out-of-school suspension as provided for
9 in Section 24-101.3 of this title. This section shall be in
10 addition to and does not limit the criminal liability of a person
11 who causes or commits an assault, battery, or assault and battery
12 upon a school employee as provided for in Section 650.7 of Title 21
13 of the Oklahoma Statutes.

14 B. No education employee shall be liable for the use of
15 necessary and reasonable force to control and discipline a student
16 during the time the student is in attendance at the school or in
17 transit to or from the school, or any other function authorized by
18 the school district.

19 C. In lieu of out-of-school suspension as provided for in
20 subsection A of this section, a school district may adopt
21 alternative disciplinary actions. Alternative disciplinary actions,
22 offered to parents or legal guardians instead of suspension, may
23 include:
24

1 1. Reverse suspension, requiring that the parent or legal
2 guardian of the student shadow the student at school for a specified
3 number of days;

4 2. Requiring that the student participate in in-service
5 activities with or without the support of a parent or legal guardian
6 for a specified number of days; or

7 3. Requiring that the student undergo professional counseling.

8 D. Any student who has violated the provisions of subsection A
9 of this section shall meet with the school district counselor or
10 other school district employee who performs the duties of a
11 counselor prior to receiving out-of-school suspension or an
12 alternative disciplinary action.

13 SECTION 2. AMENDATORY 70 O.S. 2011, Section 24-101.3, as
14 last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp.
15 2017, Section 24-101.3), is amended to read as follows:

16 Section 24-101.3. A. Any student who is guilty of an act
17 described in paragraph 1 of subsection C of this section may be
18 suspended out-of-school in accordance with the provisions of this
19 section. Each school district board of education shall adopt a
20 policy with procedures which provides for out-of-school suspension
21 of students. The policy shall address the term of the out-of-school
22 suspension, provide an appeals process as described in subsection B
23 of this section, and provide that before a student is suspended out-
24 of-school, the school or district administration shall consider and

1 apply, if appropriate, alternative in-school placement options that
2 are not to be considered suspension, such as placement in an
3 alternative school setting, reassignment to another classroom, or
4 in-school detention. The policy shall address education for
5 students subject to the provisions of subsection D of this section
6 and whether participation in extracurricular activities shall be
7 permitted.

8 B. 1. Students suspended out-of-school for ten (10) or fewer
9 days shall have the right to appeal the decision of the
10 administration as provided in the policy required in subsection A of
11 this section. The policy shall specify whether appeals for short-
12 term suspensions as provided in this subsection shall be to a local
13 committee composed of district administrators or teachers or both,
14 or to the district board of education. Upon full investigation of
15 the matter, the committee or board shall determine the guilt or
16 innocence of the student and the reasonableness of the term of the
17 out-of-school suspension. If the policy requires appeals for short-
18 term suspensions to a committee, the policy adopted by the board
19 may, but is not required to, provide for appeal of the committee's
20 decision to the board.

21 2. Students suspended out-of-school for more than ten (10) days
22 and students suspended pursuant to the provisions of paragraph 2 of
23 subsection C of this section may request a review of the suspension
24 with the administration of the district. If the administration does

1 not withdraw the suspension, the student shall have the right to
2 appeal the decision of the administration to the district board of
3 education. Except as otherwise provided for in paragraph 2 of
4 subsection C of this section, no out-of-school suspension shall
5 extend beyond the current semester and the succeeding semester.
6 Upon full investigation of the matter, the board shall determine the
7 guilt or innocence of the student and the reasonableness of the term
8 of the out-of-school suspension. A board of education may conduct
9 the hearing and render the final decision or may appoint a hearing
10 officer to conduct the hearing and render the final decision. The
11 decision of the district board of education or the hearing officer,
12 if applicable, shall be final.

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

- 16 a. violation of a school regulation,
- 17 b. possession of an intoxicating beverage, low-point
18 beer, as defined by Section 163.2 of Title 37 of the
19 Oklahoma Statutes, or missing or stolen property if
20 the property is reasonably suspected to have been
21 taken from a student, a school employee, or the school
22 during school activities, and
- 23 c. possession of a dangerous weapon or a controlled
24 dangerous substance while on or within two thousand

(2,000) feet of public school property, or at a school event, 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 not less than one (1) year, 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 superintendent 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.

3. Any student ~~in grades six through twelve~~ found to have assaulted, attempted to cause physical bodily injury, or acted in a manner that could reasonably cause bodily injury to a school employee or a person volunteering for a school as prohibited pursuant to Section ~~6-146~~ 6-149.7 of this title shall be suspended for a maximum of the remainder of the current semester and the next consecutive semester, to be determined by the board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-

1 by-case basis, and alternative disciplinary actions may be used in
2 lieu of out-of-school suspension. Alternative disciplinary actions,
3 offered to parents or legal guardians instead of suspension, may
4 include:

- 5 a. reverse suspension, requiring that the parent or legal
6 guardian of the student shadow the student at school
7 for a specified number of days,
- 8 b. requiring that the student participate in in-service
9 activities with or without the support of a parent or
10 legal guardian for a specified number of days, or
- 11 c. requiring that the student undergo professional
12 counseling.

13 D. Any student who has committed an act described in subsection
14 C of this section shall meet with the school district counselor or
15 other school district employee who performs the duties of a
16 counselor prior to receiving out-of-school suspension or an
17 alternative disciplinary action.

18 E. At its discretion a school district may provide an education
19 plan for students suspended out-of-school for five (5) or fewer days
20 pursuant to the provisions of this subsection. The following
21 provisions shall apply to students who are suspended out-of-school
22 for more than five (5) days and who are guilty of acts listed in
23 subparagraphs a and b of paragraph 1 of subsection C of this
24 section. Upon the out-of-school suspension, the parent or guardian

1 of a student suspended out-of-school pursuant to the provisions of
2 this subsection shall be responsible for the provision of a
3 supervised, structured environment in which the parent or guardian
4 shall place the student and bear responsibility for monitoring the
5 student's educational progress until the student is readmitted into
6 school. The school administration shall provide the student with an
7 education plan designed for the eventual reintegration of the
8 student into school which provides only for the core units in which
9 the student is enrolled. A copy of the education plan shall also be
10 provided to the student's parent or guardian. For the purposes of
11 this section, the core units shall consist of the minimum English,
12 mathematics, science, social studies and art units required by the
13 State Board of Education for grade completion in grades kindergarten
14 through eight and for high school graduation in grades nine through
15 twelve. The plan shall set out the procedure for education and
16 shall address academic credit for work satisfactorily completed.

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

24

1 ~~F.~~ G. 1. No public school of this state shall be required to
2 provide education services in the regular school setting to any
3 student who has been:

4 a. adjudicated as a delinquent for an offense defined as
5 a violent crime in Section 571 of Title 57 of the
6 Oklahoma Statutes,

7 b. convicted as an adult of an offense defined as a
8 violent crime in Section 571 of Title 57 of the
9 Oklahoma Statutes,

10 c. who has been removed from a public or private school
11 in the State of Oklahoma or another state by
12 administrative or judicial process for a violent act
13 or an act showing deliberate or reckless disregard for
14 the health or safety of faculty or other students,

15 d. suspended as provided for in paragraph 3 of subsection
16 C of this section, or

17 e. has been removed from a public or private school in
18 the state or another state by administrative or
19 judicial process for an act of using electronic
20 communication, as defined in Section 24-100.3 of this
21 title, with intent to terrify, intimidate or harass,
22 or threaten to inflict injury or physical harm to
23 faculty or other students.

1 2. The school in which a student as described in paragraph 1 of
2 this subsection is subsequently enrolled may elect to not provide
3 education services in the regular school setting until the school
4 determines that the student no longer poses a threat to self, other
5 students or school district faculty or employees. Until the school
6 in which such student subsequently enrolls or re-enrolls determines
7 that the student no longer poses a threat to self, other students or
8 school district faculty or employees, the school may provide
9 education services through an alternative school setting, home-based
10 instruction, or other appropriate setting. If the school provides
11 education services to the student at a district school facility, the
12 school shall notify any student or school district faculty or
13 employee victims of the student, when known, and shall ensure that
14 the student will not be allowed in the general vicinity of or
15 contact with a victim of the student, provided the victim notifies
16 the school of the victim's desire to refrain from contact with the
17 offending student.

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

1 ~~H.~~ I. A student who has been suspended for a violent offense
2 which is directed towards a classroom teacher shall not be allowed
3 to return to that teacher's classroom without the approval of that
4 teacher.

5 ~~I.~~ J. At its discretion, a school district may require a
6 student guilty of acts listed in subparagraph a or b of paragraph 1
7 of subsection C of this section to complete intervention and
8 prevention programs as provided by designated Youth Service
9 Agencies, if available, or a mental health provider that is
10 contracted with the Department of Mental Health and Substance Abuse
11 Services or a service provider that is contracted with the
12 Department of Human Services.

13 ~~J.~~ K. No school board, administrator or teacher may be held
14 civilly liable for any action taken in good faith which is
15 authorized by this section.

16 SECTION 3. This act shall become effective July 1, 2018.

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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