

1 **SENATE FLOOR VERSION**

2 February 26, 2018

3 SENATE BILL NO. 1435

By: Sharp

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5
6 An Act relating to student discipline; amending
7 Section 8, Chapter 7, 1st Extraordinary Session,
8 O.S.L. 2013, as amended by Section 1, Chapter 135,
9 O.S.L. 2015 (70 O.S. Supp. 2017, Section 6-149.7),
10 which relates to assault or attempted physical bodily
11 injury on school employees; removing language
12 limiting out-of-school suspension for certain acts to
13 students in certain grades; allowing a school
14 district to adopt alternative disciplinary actions;
15 amending 70 O.S. 2011, Section 24-101.3, as last
16 amended by Section 1, Chapter 90, O.S.L. 2016 (70
17 O.S. Supp. 2017, Section 24-101.3), which relates to
18 out-of-school suspension; removing language limiting
19 out-of-school suspension for certain acts to students
20 in certain grades; updating reference; removing
21 language requiring certain out-of-school suspension
22 to be for certain term; allowing use of alternative
23 disciplinary actions; allowing a school district to
24 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
135, O.S.L. 2015 (70 O.S. Supp. 2017, Section 6-149.7), is amended
to read as follows:

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

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

17 C. In lieu of out-of-school suspension as provided for in
18 subsection A of this section, a school district may adopt
19 alternative disciplinary actions. Alternative disciplinary actions,
20 offered to parents instead of suspension, may include:

21 1. Reverse suspension, requiring that the parent or legal
22 guardian of the student shadow the student at school for a specified
23 number of days;
24

1 2. Requiring that the student participate in in-service

2 activities with parental support for a specified number of days; or

3 3. Requiring that the student undergo professional counseling.

4 SECTION 2. AMENDATORY 70 O.S. 2011, Section 24-101.3, as
5 last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp.
6 2017, Section 24-101.3), is amended to read as follows:

7 Section 24-101.3. A. Any student who is guilty of an act
8 described in paragraph 1 of subsection C of this section may be
9 suspended out-of-school in accordance with the provisions of this
10 section. Each school district board of education shall adopt a
11 policy with procedures which provides for out-of-school suspension
12 of students. The policy shall address the term of the out-of-school
13 suspension, provide an appeals process as described in subsection B
14 of this section, and provide that before a student is suspended out-
15 of-school, the school or district administration shall consider and
16 apply, if appropriate, alternative in-school placement options that
17 are not to be considered suspension, such as placement in an
18 alternative school setting, reassignment to another classroom, or
19 in-school detention. The policy shall address education for
20 students subject to the provisions of subsection D of this section
21 and whether participation in extracurricular activities shall be
22 permitted.

23 B. 1. Students suspended out-of-school for ten (10) or fewer
24 days shall have the right to appeal the decision of the

1 administration as provided in the policy required in subsection A of
2 this section. The policy shall specify whether appeals for short-
3 term suspensions as provided in this subsection shall be to a local
4 committee composed of district administrators or teachers or both,
5 or to the district board of education. Upon full investigation of
6 the matter, the committee or board shall determine the guilt or
7 innocence of the student and the reasonableness of the term of the
8 out-of-school suspension. If the policy requires appeals for short-
9 term suspensions to a committee, the policy adopted by the board
10 may, but is not required to, provide for appeal of the committee's
11 decision to the board.

12 2. Students suspended out-of-school for more than ten (10) days
13 and students suspended pursuant to the provisions of paragraph 2 of
14 subsection C of this section may request a review of the suspension
15 with the administration of the district. If the administration does
16 not withdraw the suspension, the student shall have the right to
17 appeal the decision of the administration to the district board of
18 education. Except as otherwise provided for in paragraph 2 of
19 subsection C of this section, no out-of-school suspension shall
20 extend beyond the current semester and the succeeding semester.
21 Upon full investigation of the matter, the board shall determine the
22 guilt or innocence of the student and the reasonableness of the term
23 of the out-of-school suspension. A board of education may conduct
24 the hearing and render the final decision or may appoint a hearing

1 officer to conduct the hearing and render the final decision. The
2 decision of the district board of education or the hearing officer,
3 if applicable, shall be final.

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

7 a. violation of a school regulation,

8 b. possession of an intoxicating beverage, low-point
9 beer, as defined by Section 163.2 of Title 37 of the
10 Oklahoma Statutes, or missing or stolen property if
11 the property is reasonably suspected to have been
12 taken from a student, a school employee, or the school
13 during school activities, and

14 c. possession of a dangerous weapon or a controlled
15 dangerous substance while on or within two thousand
16 (2,000) feet of public school property, or at a school
17 event, as defined in the Uniform Controlled Dangerous
18 Substances Act. Possession of a firearm shall result
19 in out-of-school suspension as provided in paragraph 2
20 of this subsection.

21 2. Any student found in possession of a firearm while on any
22 public school property or while in any school bus or other vehicle
23 used by a public school for transportation of students or teachers
24 shall be suspended out-of-school for a period of not less than one

1 (1) year, to be determined by the district board of education
2 pursuant to the provisions of this section. The term of the
3 suspension may be modified by the district superintendent on a case-
4 by-case basis. For purposes of this paragraph the term "firearm"
5 shall mean and include all weapons as defined by 18 U.S.C., Section
6 921.

7 3. Any student ~~in grades six through twelve~~ found to have
8 assaulted, attempted to cause physical bodily injury, or acted in a
9 manner that could reasonably cause bodily injury to a school
10 employee or a person volunteering for a school as prohibited
11 pursuant to Section ~~6-146~~ 6-149.7 of this title shall be suspended
12 ~~for the remainder of the current semester and the next consecutive~~
13 ~~semester,~~ for a term to be determined by the board of education
14 pursuant to the provisions of this section. The term of the
15 suspension may be modified by the district superintendent on a case-
16 by-case basis, and alternative disciplinary actions may be used in
17 lieu of out-of-school suspension.

18 D. 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. A student who has been suspended out-of-school from a public
18 or private school in the State of Oklahoma or another state for a
19 violent act or an act showing deliberate or reckless disregard for
20 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.

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1 F. 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.
24

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
20 February 26, 2018 - DO PASS
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