

# SENATE BILL REPORT

## SB 6512

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As Reported by Senate Committee On:  
Early Learning & K-12 Education, February 4, 2010

**Title:** An act relating to school safety zones.

**Brief Description:** Increasing school safety.

**Sponsors:** Senators Gordon, Hobbs, King, Marr, Rockefeller and Kline; by request of Superintendent of Public Instruction.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/01/10, 2/04/10 [DPS, DNP].

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 6512 be substituted therefor, and the substitute bill do pass.

Signed by Senators McAuliffe, Chair; King, Ranking Minority Member; Brandland, Gordon, Hobbs and Roach.

**Minority Report:** Do not pass.

Signed by Senator Kauffman, Vice Chair, Early Learning.

**Staff:** Juliana Roe (786-7438)

**Background:** In 2007 the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to convene a task force to examine how gangs are affecting school safety and to recommend methods to prevent and eliminate gangs in schools, gather intelligence on gangs, and share information about gangs. In 2008 the task force made seven recommendations to the Legislature. Two of the recommendations included: establishing school safety zones from which persons may be excluded if they engage in activity that warrants alarm for the safety of staff or students, or would disrupt the educational process; and mandating districts to adopt a policy to prevent gang activity in school facilities.

Under current law, a school district chief administrative officer or the officer's designee may order an individual to leave any school owned or operated motor vehicle, building, grounds, or other property if the person is: (1) under the influence of alcohol or drugs; or (2) committing, threatening to commit, or inciting another to commit any act which would

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disturb, interfere with, or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee, or invitee of the school district. The order is valid if the officer or designee reasonably believes that the individual is under the influence of alcohol or drugs, is committing such acts, or is creating such a disturbance.

A law enforcement officer may order an individual to leave public property immediately adjacent to building grounds, or property owned, operated, or controlled by a school district if the conduct creates a risk of causing injury to a person or property or if the conduct rises to the level of disorderly conduct as defined in the criminal code.

It is unlawful to disobey such orders and a person guilty of a violation is deemed guilty of a gross misdemeanor.

Willfully creating a disturbance on school premises during school hours, at school activities, or school meetings is a misdemeanor, punishable by a fine of not more than \$50.

**Summary of Bill (Recommended Substitute):** School safety zones are those areas within a 1,000 foot radius of any public school facility while that facility is being used by students or school staff, and all school properties at all times. School properties include all real properties owned, operated, or under the control of any school district and those portions of the properties of any community or technical college or educational service district that are used to provide educational services to students in grades K-12.

Persons cannot remain on, or return to, public properties or spaces within a school safety zone after being properly notified by an authorized person that there is probable cause to believe that a violation has occurred. The violations are those of disorderly conduct; malicious harassment; harassment; stalking; criminal gang intimidation; malicious mischief; criminal street gang tagging and graffiti; criminal trespass; threat to bomb or injure property; delivery or possession of a controlled substance; unlawful display of a weapon; illegal possession of a firearm or dangerous weapon; certain violent offenses; school laws which prohibit disturbing school activities and interfering with, or intimidation of, school administrators, employees, and students; reckless driving laws when such act or conduct threatens school employees, students, volunteers, and visitors or threatens or causes damage to school property; or state laws related to distribution or delivery of any substance, item, or material to any minor student when possession of that substance, item, or material by the recipient student is prohibited.

A verbal notice of exclusion from the zone is valid for up to 24 hours after which time a written notice is required. Persons may not be excluded for longer than 90 days. However, an exclusion order may be extended for an additional 90 days if there is cause to believe that the person is a continuing threat. An authorized school administrator or law enforcement officer that provides a verbal or written exclusion order must provide a law enforcement officer with a signed, written statement attesting to the facts giving rise to the exclusion order, for the purpose of probable cause, that the person is properly subject to exclusion and that the person was properly provided notice.

An excluded person may request an appeal hearing. This appeal is the exclusive remedy for challenging the validity of the exclusion order. Notice of appeal must be in writing. The school district superintendent must appoint an impartial hearing officer who is not an employee of the district. The hearing must be concluded within 15 business days after the notice of appeal, unless there is good cause shown for a 15-day extension. Both parties may produce witnesses, documents, and evidence. Legal representation is allowed for either party at the party's own expense. A written decision must issue within three business days of conclusion of the hearings. The decision is final, but the excluded person may seek judicial review of the decision by filing a writ of review. The exclusion order remains in effect during the pendency of the administrative or judicial proceedings.

An exclusion order cannot be used as a means of discipline, but a student who has been suspended or expelled can be issued an exclusion order that cannot exceed the period of suspension or expulsion.

Violation of an exclusion order constitutes criminal trespass in the first degree. Violation while unlawfully in possession of a firearm is a Class C felony.

An affirmative defense is available for persons having no other route of travel or whose home is within the zone. However, these persons may not loiter on public property. There is also an exception for being present on school property with the express permission of a school principal.

A person who willfully creates a disturbance on school premises during school hours at activities or school meetings is guilty of a misdemeanor which is punishable by no more than 90 days in jail and no more than \$1,000 fine, or both.

Intentionally disrupting school operations or school activities without lawful authority is considered disorderly conduct which is a misdemeanor offense.

**EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Substitute):** Vehicles owned or operated by a school district are removed from those items listed as school property. The portion of the bill that made it unlawful for any person to remain on or return to public properties within a school safety zone or enter any school properties after being notified by an authorized school administrator or law enforcement officer that the person's presence and willful conduct are causing substantial disruption or harm to the educational process or that the person's conduct creates a substantial risk of injury or substantial harm to property has been removed. An appeal made to the school district superintendent, with regard to exclusion from a school safety zone as set forth in the bill, is the exclusive remedy for challenging the validity of an exclusion order. A violation of an exclusion order constitutes criminal trespass in the first degree. The authorized school administrator or law enforcement officer that provides a verbal or written exclusion order is required to provide a law enforcement officer with a signed written statement attesting to the facts giving rise to the exclusion order, for the purpose of probable cause, that the person is properly subject to exclusion and that the person was properly provided notice. Exclusion orders cannot be used as a means of discipline, but a student who has been suspended or expelled can be issued an exclusion order not to exceed the period of suspension or expulsion.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is a work in progress, specifically with regard to issues dealing with civil liberties. Those in schools have a right to learn in an environment free of intimidation or harassment. This bill will allow administrators to ensure that students have a safe environment in which to learn. It also allows administrators to clear a school zone of inappropriate school behavior. It creates a buffer between students and gang activity. When students are fearful for their safety, they do not learn effectively.

There are often gang members who live directly across the street from a school and these gang members harass and intimidate students, deal drugs, and recruit new members. Many of the gang shootings that occur at school take place within 40-50 yards of school. Students are fearful to walk home.

It would be helpful to require probable cause in order to exclude someone from school grounds. By requiring a written statement of probable cause, it is ensured that the person is properly subject to the exclusion order.

This bill is a great tool for principals.

CON: This bill can never be constitutional. The language is vague and has over breadth problems. We are also concerned with the lack of a judicial process. This bill will impact minorities disproportionately.

**Persons Testifying:** PRO: Senator Gordon, prime sponsor; Tyson Vogeler, OSPI; Joe Pope, Association of Washington School Principals; Joann Arlow, Washington Association of Sheriffs & Police Chiefs; Shelby Langdon, Wahluke School District; Deputy Lazaro Sanchez, Grant County Sheriff's Department, Wahluke School District; Heather Haste-Ulery, Associate Superintendent of Wahluke School District; Arturo Arellano, Simon Sampson, Community Safety Network; Brent Osborn, Rogers High School; Kim Howard, PTA.

CON: Travis Stearns, Deputy Director of Washington Defenders Association; Shankar Narayan, ACLU.