H-3688.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2767**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Ortiz-Self, Kagi, Appleton, Jinkins, Pollet, and Frame

AN ACT Relating to suspension and expulsion of students including kindergarten and early elementary school students; amending RCW 28A.600.015, 28A.600.020, 28A.600.410, and 28A.600.460; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that significant numbers of Washington kindergarten and elementary school students are suspended or expelled from school. Research indicates that school expulsion and suspension practices are associated with negative educational and life outcomes. Suspension and expulsion remove children from learning environments where they can develop social-emotional, behavioral, and academic skills, and they set children on a negative path early in their school education. Nationwide, students of color and students with disabilities are more likely to be suspended or expelled, exacerbating opportunity gaps. The legislature intends to eliminate the developmentally inappropriate use of suspension and expulsion as a response to behavior for children in grades kindergarten through two, and to encourage schools and districts to adopt evidence-based practices to support students in meeting behavioral expectations.

**Sec.**  RCW 28A.600.015 and 2016 c 72 s 105 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected.

(2) When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(3) An expulsion or suspension of a student may not be for an indefinite period of time.

((~~(2)~~)) (4) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

((~~(3)~~)) (5) Emergency expulsions must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency expulsion is converted to another form of corrective action.

((~~(4)~~)) (6) School districts may not suspend or expel any student who is enrolled in grades kindergarten through two, except for a violation of RCW 28A.600.420, and except that:

(a) School districts may remove any student who is enrolled in grades kindergarten through two from school for the remainder of a school day if, after consulting with the student's parent or guardian and the student's teacher or teachers, the local superintendent or the local superintendent's designee determines that removal would facilitate the child's successful return to the classroom;

(b) School districts may remove any student who is enrolled in grades kindergarten through two from school for the remainder of a school day and up to the end of the school day the following day if, after consulting with the student's parent or guardian and the student's teacher or teachers, the local superintendent or the local superintendent's designee determines that removal is necessary to develop a plan to support the student's successful return to the classroom and:

(i) The school takes significant steps to develop and implement a plan to support the student upon the student's return to school by the beginning of the first full day of the student's removal; and

(ii) The school discusses the plan with the student's parent or guardian;

(c) Removal of any student who is enrolled in grades kindergarten through two may not be punitive and may be used only for the purposes of developing and implementing a plan to support the student; and

(d) No student may be removed under (a) or (b) of this subsection for more than a total of three school days during any single semester or trimester.

(7) School districts shall record data on removal under subsection (6)(a) and (b) of this section in the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group.

(8) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

((~~(5)~~)) (9) Any imposition of discretionary and nondiscretionary discipline is subject to the bar on suspending the provision of educational services pursuant to subsection ((~~(8)~~)) (12) of this section.

((~~(6)~~)) (10) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

((~~(7)~~)) (11) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection ((~~(6)~~)) (10)(a) through (d) of this section and should first consider alternative actions.

((~~(8)~~)) (12) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

((~~(9)~~)) (13) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state.

**Sec.**  RCW 28A.600.020 and 2016 c 72 s 106 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day((~~, or up to the following two days,~~)) or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period ((~~or up to the following two days,~~)) or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for supporting students in meeting behavioral expectations and administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students in grades three through twelve may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5)(a) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student in grades three through twelve who, after July 27, 1997:

(i) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, or 9.41.280; or

(ii) Engages in one or more of the offenses listed in RCW 13.04.155.

(b) The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

(6) Any corrective action involving a suspension or expulsion from school for more than ten days must have an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action. Districts shall make reasonable efforts to assist students and parents in returning to an educational setting prior to and no later than the end date of the corrective action. Where warranted based on public health or safety, a school may petition the superintendent of the school district, pursuant to policies and procedures adopted by the office of the superintendent of public instruction, for authorization to exceed the academic term limitation provided in this subsection. The superintendent of public instruction shall adopt rules outlining the limited circumstances in which a school may petition to exceed the academic term limitation, including safeguards to ensure that the school district has made every effort to plan for the student's return to school. School districts shall report to the office of the superintendent of public instruction the number of petitions made to the school board and the number of petitions granted on an annual basis.

(7) Nothing in this section prevents a public school district, educational service district, the Washington state center for childhood deafness and hearing loss, or the state school for the blind if it has suspended or expelled a student from the student's regular school setting from providing educational services to the student in an alternative setting or modifying the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular education services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

**Sec.**  RCW 28A.600.410 and 1992 c 155 s 1 are each amended to read as follows:

(1) School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension.

(2) School districts are encouraged to implement evidence-based preventative, restorative, or other practices that support students in meeting behavioral expectations, and to train teachers, administrators, and student support staff as necessary to implement those practices. Evidence-based practices may include but are not limited to positive behavioral interventions and supports, trauma-informed approaches, social and emotional learning, referral services, and restorative practices.

**Sec.**  RCW 28A.600.460 and 2013 2nd sp.s. c 18 s 305 are each amended to read as follows:

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student in grades three through twelve who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student in grades three through twelve for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school, including classroom or school removal, and must record these actions using the statewide student data system, based on the data collection standards established by the office of the superintendent of public instruction and the K-12 data governance group. The information shall be made available to the public, but public release of the data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

**--- END ---**