

HOUSE BILL REPORT

HB 2707

As Reported By House Committee On:

Law & Justice

Title: An act relating to school safety.

Brief Description: Adopting provisions to improve school safety.

Sponsors: Representatives Honeyford, Linville, McMahan, Brumsickle, Clements, Sterk, Pelesky, Smith, Delvin, Radcliff, Koster, Silver, Cooke, Blanton, Hymes, McMorris, Basich, Elliot and Johnson.

Brief History:

Committee Activity:

Law & Justice: 1/24/96, 1/31/96 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Chappell; Lambert; McMahan; Robertson; Smith and Sterk.

Minority Report: Do not pass. Signed by 6 members: Representatives Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Cody; Morris; Murray and Veloria.

Staff: Pat Shelledy (786-7149).

Background:

School Safety

A school district has a duty to exercise reasonable care to protect students from reasonably foreseeable dangers by controlling the conduct of its students.

Gang Activity

A "gang" is any company of persons who act in concert for criminal purposes.

Trespassing on School Grounds

A special statute applies to public schools that provides that a person is guilty of a misdemeanor if the person willfully disobeys an order to leave the school grounds under certain circumstances.

Students' Criminal History

School districts may participate in the exchange of information with law enforcement and juvenile court officials to a certain extent.

When a student transfers to another school, the school forwards various records, but the statute governing records transfer does not directly address transferring criminal history information.

Suspension and Expulsion Policies

Several statutes, administrative rules, and cases delineate a school's authority to suspend or expel students.

The United States Supreme Court has ruled that students have procedural due process rights to prevent erroneous deprivation of the right to attend school.

A teacher may exclude any student from class who disrupts the class. The exclusion may be for all or any part of the balance of the school day, or until the principal and teacher have conferred, whichever occurs first. The teacher must attempt one or more alternative forms of corrective action, except in emergencies. Students may be excluded from a classroom for longer periods if the students have repeatedly disrupted the classroom.

A student who defaces school property may be suspended and punished. The parent is liable for damages caused by the student. The school may withhold grades, a diploma, and transcripts until the parent has paid. If the parent and student are financially unable to pay, the school must provide a voluntary work program in lieu of payment.

Possession of Weapons on School Grounds

It is unlawful for any person to carry onto school grounds a variety of weapons, such as firearms, spring-blade knives, throwing stars, and nun-chu-ka sticks. A violation is a gross misdemeanor, and if the violator is a student, he or she may be expelled.

A recent ninth circuit case has held that a school district's total ban on carrying knives on school grounds was an impermissible violation of the students' exercise of

their religion under the Religious Freedoms Restoration Act of 1993. The students carried ceremonial knives at all times as a condition of their religion. The court held that the school district made no showing that a total ban on weapons was the least restrictive alternative available to promote school safety.

Dress Codes

A school board may impose a dress and appearance code if the board accommodates students who may be unable to afford or wear a uniform.

Summary of Substitute Bill:

Findings

The Legislature finds that students and staff need to be safe at school and makes various findings about measures to enhance school security.

Provisions Governing Gangs

A person who attends or is registered in a public school, or who attended or was registered within the previous two years, or who is of compulsory school age is guilty of a new crime called "criminal gang activity" if the person knowingly or intentionally actively participates in a criminal gang, which is a class C felony.

A person who is of school age as described above, who threatens another person because the other person refuses to join a criminal gang or has attempted to withdraw from a criminal gang, commits gang intimidation. Gang intimidation is a class C felony.

School Ground Trespass

The crime of willfully refusing to leave school grounds is raised to a gross misdemeanor.

Students' Criminal History

The juvenile court administrator must notify the parents and school principal if an elementary or secondary school student is charged with any of the following offenses: violent or sex offenses, inhaling toxic fumes, violations of the controlled substances provisions, liquor violations, or gang-related crimes under the new crime of "criminal gang activity." The administrator must also notify the principal and parents of the disposition of the offense.

The principal must provide the information to the student's teachers and supervisors and other personnel who need to know for security reasons. Otherwise the information is confidential except when it may be disseminated pursuant to a statute or federal law.

When a student transfers to another school, the criminal history information must be sent to the new school, as well as immunization, health, and attendance records.

Suspension and Expulsion Policies

Schools must adopt policies establishing a zero-tolerance policy of illegal drug and gang activity on school grounds.

A teacher may suspend a student from the teacher's classroom for the day of suspension and two more days if the teacher has reasonable grounds to believe that the student has engaged in any of the following activities in the classroom: inhaled toxic fumes; violated liquor rules; violated a school rule in furtherance of a criminal gang activity; possessed a knife under certain circumstances; committed crimes of malicious mischief, arson or reckless burning, theft, or robbery; possessed drug paraphernalia; or possessed a pager or cellular phone if the school has adopted a policy that prohibits possession of those devices.

A student who is suspended from the classroom is sent to the custody of the principal.

A teacher who suspends a student from a classroom must give a written report to the principal within 24 hours. The principal must notify the parents within 24 hours of the suspension and schedule a conference within three days. If neither parent appears, the suspension must be extended until one of the parents appear. If, following a suspension, the student engages in the prohibited conduct again within a three-year period involving the same or a different teacher, the principal must decide whether to expel the student or impose a lesser period of suspension from school.

A teacher may suspend a student from the teacher's classroom permanently for conduct that constitutes an assault, kidnapping, unlawful imprisonment, or malicious mischief when the conduct is directed towards the teacher.

If a student is permanently suspended from a teacher's classroom for committing certain acts against the teacher, the principal must also determine if the student should be expelled from school.

If a student is suspended for damaging property belonging to the school, a contractor, a school employee, or another student, the student may not be readmitted until payment in full has been made for the damage, or until directed by the superintendent

of schools. If the property damaged is a school bus, the student may not ride on a school bus until full payment is made or the superintendent of schools readmits the student. The school may still provide a work program in lieu of payment of money.

Restrictions on Carrying Knives on School Grounds

It is unlawful for a person to carry onto or possess on elementary or secondary school premises, any knife capable of being used to inflict serious bodily injury. This provision does not apply to knives provided by the school such as dining utensils. Students who carry knives in observance of their religious beliefs may carry the knives if they register them with the school. Possession of knives that are not prohibited is permissible only if they are not used in a manner constituting a criminal offense.

Dress Codes

A school may adopt reasonable dress codes. School districts and principals must hold public hearings on the issue of adopting dress codes if a certain number of parents petition for a dress code. Dress codes may prohibit wearing gang-related apparel, but the school must notify the students and parents of what clothing and apparel the school considers to be gang related, and may not impose disciplinary action against a student without providing the notice.

Substitute Bill Compared to Original Bill: Numerous changes are made. Activity involving a criminal gang must involve school-age or near school-age children. A provision that attempted to incorporate case law on exceptional sentences for committing gang motivated crimes is deleted. The new crime of "school grounds trespass" is removed, and the current law is amended to raise the penalty to a gross misdemeanor if a person does not leave a school ground as required. The juvenile court administrator rather than the prosecutor must provide notice to parents and schools when a student commits certain offenses. Records of that criminal activity must be forwarded to a new school if the student transfers to another school. A provision governing criminal history background checks of elementary and secondary school students is deleted. Minor modifications are made to the provisions governing expulsion policies. Exceptions to the ban on possessing knives on school grounds are created. Minor modifications are made to the provision allowing schools to adopt school dress codes, including requiring the schools to notify students and parents of what apparel is prohibited because it is "gang-related" apparel.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The bill addresses many issues that involve promoting school safety, including discipline, dress codes, gangs, notice of criminal activity of school students, and destruction of school property. A disproportionate amount of time in school is spent on school security issues. More money is needed to hire security personnel at schools to keep teachers, students, and school property more secure and to relieve teachers and other non-security personnel from the burden of enforcing security rules.

Testimony Against: None.

Testified: Representative Jim Honeyford, prime sponsor; and David Westberg, school security personnel (pro).