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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5244

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State of Washington

63rd Legislature

2013 Regular Session

**By** Senate Ways & Means (originally sponsored by Senators Litzow, Dammeier, Ranker, Hobbs, Harper, Hatfield, Delvin, Tom, Hewitt, Schoesler, Smith, and Mullet)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to school suspensions and expulsions; amending RCW  
2 28A.600.015, 28A.600.020, 28A.600.410, 28A.300.046, 28A.300.042, and  
3 28A.300.507; adding a new section to chapter 28A.600 RCW; and creating  
4 new sections.

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

6 **Sec. 1.** RCW 28A.600.015 and 2006 c 263 s 701 are each amended to  
7 read as follows:

8 (1) The superintendent of public instruction shall adopt and  
9 distribute to all school districts lawful and reasonable rules  
10 prescribing the substantive and procedural due process guarantees of  
11 pupils in the common schools. Such rules shall authorize a school  
12 district to use informal due process procedures in connection with the  
13 short-term suspension of students to the extent constitutionally  
14 permissible: PROVIDED, That the superintendent of public instruction  
15 deems the interest of students to be adequately protected. When a  
16 student suspension or expulsion is appealed, the rules shall authorize  
17 a school district to impose the suspension or expulsion temporarily  
18 after an initial hearing for no more than ten consecutive school days  
19 or until the appeal is decided, whichever is earlier. Any days that

1 the student is temporarily suspended or expelled before the appeal is  
2 decided shall be applied to the term of the student suspension or  
3 expulsion and shall not limit or extend the term of the student  
4 suspension or expulsion. An expulsion or suspension of a student may  
5 not be for an indefinite period of time.

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

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

13 **Sec. 2.** RCW 28A.600.020 and 2006 c 263 s 706 are each amended to  
14 read as follows:

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

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

32 (3) In order to preserve a beneficial learning environment for all  
33 students and to maintain good order and discipline in each classroom,  
34 every school district board of directors shall provide that written  
35 procedures are developed for administering discipline at each school  
36 within the district. Such procedures shall be developed with the  
37 participation of parents and the community, and shall provide that the

1 teacher, principal or designee, and other authorities designated by the  
2 board of directors, make every reasonable attempt to involve the parent  
3 or guardian and the student in the resolution of student discipline  
4 problems. Such procedures shall provide that students may be excluded  
5 from their individual classes or activities for periods of time in  
6 excess of that provided in subsection (2) of this section if such  
7 students have repeatedly disrupted the learning of other students. The  
8 procedures must be consistent with the rules of the superintendent of  
9 public instruction and must provide for early involvement of parents in  
10 attempts to improve the student's behavior.

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

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

18 ((+a)) (i) Engages in two or more violations within a three-year  
19 period of RCW 9A.46.120, 28A.320.135, 28A.600.455, 28A.600.460,  
20 28A.635.020, 28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

21 ((+b)) (ii) Engages in one or more of the offenses listed in RCW  
22 13.04.155.

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

26 (6) Any corrective action involving a suspension or expulsion from  
27 school for more than ten days must have an end date of not more than  
28 one calendar year from the time of corrective action. Districts shall  
29 make reasonable efforts to assist students and parents in returning to  
30 an educational setting prior to and no later than the end date of the  
31 corrective action. Where warranted based on public health or safety,  
32 a school district may petition the superintendent of public  
33 instruction, pursuant to policies and procedures adopted by the  
34 superintendent of public instruction, for authorization to exceed the  
35 one calendar year limitation provided in this subsection.

36 (7) Nothing in this section prevents a public school district,  
37 educational service district, the Washington state center for childhood  
38 deafness and hearing loss, or the state school for the blind if it has

1 suspended or expelled a student from the student's regular school  
2 setting from providing educational services to the student in an  
3 alternative setting or modifying the suspension or expulsion on a case-  
4 by-case basis.

5 **Sec. 3.** RCW 28A.600.410 and 1992 c 155 s 1 are each amended to  
6 read as follows:

7 The state of Washington excludes tens of thousands of students from  
8 school each year due to out-of-school suspensions and expulsions. Out-  
9 of-school suspensions and expulsions contribute to poor academic  
10 achievement, lower graduation rates, and higher dropout rates. It is  
11 the intent of the legislature to minimize the use of out-of-school  
12 suspension and expulsion and its impact on student achievement by  
13 reducing the number of days that students are excluded from school due  
14 to disciplinary action. Student behavior should not result in the  
15 permanent loss of educational opportunity in the public school system.

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

23 **Sec. 4.** RCW 28A.300.046 and 2011 c 288 s 10 are each amended to  
24 read as follows:

25 (1)(a) The superintendent of public instruction shall adopt rules  
26 establishing a standard definition of student absence from school. In  
27 adopting the definition, the superintendent shall review current  
28 practices in Washington school districts, definitions used in other  
29 states, and any national standards or definitions used by the national  
30 center for education statistics or other national groups. The  
31 superintendent shall also consult with the building bridges work group  
32 established under RCW 28A.175.075.

33 (b) Using the definition of student absence adopted under this  
34 section, the superintendent shall establish an indicator for measuring  
35 student attendance in high schools for purposes of the PASS program  
36 under RCW 28A.175.130.

1 (2)(a) The K-12 data governance group under RCW 28A.300.507 shall  
2 establish the parameters and an implementation schedule for statewide  
3 collection through the comprehensive education and data research system  
4 of: (i) Student attendance data using the definitions of student  
5 absence adopted under this section; and (ii) student discipline data  
6 with a focus on suspensions and expulsions from school.

7 (b) ~~((At a minimum,))~~ Student suspension and expulsion data  
8 collected for the purposes of this subsection (2) must be:

9 (i) Made publicly available and easily accessible on the  
10 superintendent of public instruction's web site; and

11 (ii) Disaggregated and crosstabulated as established under RCW  
12 28A.300.042.

13 (c) School districts must collect and submit student attendance  
14 data and student discipline data for high school students through the  
15 comprehensive education and data research system for purposes of the  
16 PASS program under RCW 28A.175.130 beginning in the 2012-13 school  
17 year.

18 **Sec. 5.** RCW 28A.300.042 and 2009 c 468 s 4 are each amended to  
19 read as follows:

20 (1) All student data-related reports required of the superintendent  
21 of public instruction in this title must be disaggregated by at least  
22 the following subgroups of students: White, Black, Hispanic, American  
23 Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low  
24 income, transitional bilingual, migrant, special education, and  
25 students covered by section 504 of the federal rehabilitation act of  
26 1973, as amended (29 U.S.C. Sec. 794).

27 (2) All student data-related reports required of the superintendent  
28 of public instruction regarding student suspensions and expulsions as  
29 required in RCW 28A.300.046 are subject to disaggregation by subgroups  
30 including:

31 (a) Gender;

32 (b) Foster care;

33 (c) Homeless;

34 (d) School district;

35 (e) School;

36 (f) Grade level;

37 (g) Behavior infraction code, including:

- 1        (i) Bullying;  
2        (ii) Tobacco;  
3        (iii) Alcohol;  
4        (iv) Illicit drug;  
5        (v) Fighting without major injury;  
6        (vi) Violence without major injury;  
7        (vii) Violence with major injury;  
8        (viii) Possession of a weapon; and  
9        (ix) Other behavior resulting from a short-term or long-term  
10 suspension, expulsion, or interim alternative education setting  
11 intervention;  
12        (h) Intervention applied, including:  
13        (i) Short-term suspension;  
14        (ii) Long-term suspension;  
15        (iii) Emergency expulsion;  
16        (iv) Expulsion;  
17        (v) Interim alternative education settings;  
18        (vi) No intervention applied; and  
19        (vii) Other intervention applied that is not described in this  
20 subsection (2)(h);  
21        (i) Number of days a student is suspended or expelled, to be  
22 counted in half or full days; and  
23        (j) Any other categories added at a future date by the data  
24 governance group.  
25        (3) All student data-related reports required of the superintendent  
26 of public instruction regarding student suspensions and expulsions as  
27 required in RCW 28A.300.046 are subject to cross-tabulation at a  
28 minimum by the following:  
29        (a) School and district;  
30        (b) Race, low income, special education, transitional bilingual,  
31 migrant, foster care, homeless, students covered by section 504 of the  
32 federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794),  
33 and categories to be added in the future;  
34        (c) Behavior infraction code; and  
35        (d) Intervention applied.

36        **Sec. 6.** RCW 28A.300.507 and 2009 c 548 s 203 are each amended to  
37 read as follows:

1 (1) A K-12 data governance group shall be established within the  
2 office of the superintendent of public instruction to assist in the  
3 design and implementation of a K-12 education data improvement system  
4 for financial, student, and educator data. It is the intent that the  
5 data system reporting specifically serve requirements for teachers,  
6 parents, superintendents, school boards, the office of the  
7 superintendent of public instruction, the legislature, and the public.

8 (2) The K-12 data governance group shall include representatives of  
9 the education data center, the office of the superintendent of public  
10 instruction, the legislative evaluation and accountability program  
11 committee, the professional educator standards board, the state board  
12 of education, and school district staff, including information  
13 technology staff. Additional entities with expertise in education data  
14 may be included in the K-12 data governance group.

15 (3) The K-12 data governance group shall:

16 (a) Identify the critical research and policy questions that need  
17 to be addressed by the K-12 education data improvement system;

18 (b) Identify reports and other information that should be made  
19 available on the internet in addition to the reports identified in  
20 subsection (5) of this section;

21 (c) Create a comprehensive needs requirement document detailing the  
22 specific information and technical capacity needed by school districts  
23 and the state to meet the legislature's expectations for a  
24 comprehensive K-12 education data improvement system as described under  
25 RCW 28A.655.210;

26 (d) Conduct a gap analysis of current and planned information  
27 compared to the needs requirement document, including an analysis of  
28 the strengths and limitations of an education data system and programs  
29 currently used by school districts and the state, and specifically the  
30 gap analysis must look at the extent to which the existing data can be  
31 transformed into canonical form and where existing software can be used  
32 to meet the needs requirement document;

33 (e) Focus on financial and cost data necessary to support the new  
34 K-12 financial models and funding formulas, including any necessary  
35 changes to school district budgeting and accounting, and on assuring  
36 the capacity to link data across financial, student, and educator  
37 systems; and

1 (f) Define the operating rules and governance structure for K-12  
2 data collections, ensuring that data systems are flexible and able to  
3 adapt to evolving needs for information, within an objective and  
4 orderly data governance process for determining when changes are needed  
5 and how to implement them. Strong consideration must be made to the  
6 current practice and cost of migration to new requirements. The  
7 operating rules should delineate the coordination, delegation, and  
8 escalation authority for data collection issues, business rules, and  
9 performance goals for each K-12 data collection system, including:

10 (i) Defining and maintaining standards for privacy and  
11 confidentiality;

12 (ii) Setting data collection priorities;

13 (iii) Defining and updating a standard data dictionary;

14 (iv) Ensuring data compliance with the data dictionary;

15 (v) Ensuring data accuracy; and

16 (vi) Establishing minimum standards for school, student, financial,  
17 and teacher data systems. Data elements may be specified "to the  
18 extent feasible" or "to the extent available" to collect more and  
19 better data sets from districts with more flexible software. Nothing  
20 in RCW 43.41.400, this section, or RCW 28A.655.210 should be construed  
21 to require that a data dictionary or reporting should be hobbled to the  
22 lowest common set. The work of the K-12 data governance group must  
23 specify which data are desirable. Districts that can meet these  
24 requirements shall report the desirable data. Funding from the  
25 legislature must establish which subset data are absolutely required.

26 (4)(a) The K-12 data governance group shall provide updates on its  
27 work as requested by the education data center and the legislative  
28 evaluation and accountability program committee.

29 (b) The work of the K-12 data governance group shall be  
30 periodically reviewed and monitored by the educational data center and  
31 the legislative evaluation and accountability program committee.

32 (5) To the extent data is available, the office of the  
33 superintendent of public instruction shall make the following minimum  
34 reports available on the internet. The reports must either be run on  
35 demand against current data, or, if a static report, must have been run  
36 against the most recent data:

37 (a) The percentage of data compliance and data accuracy by school  
38 district;



1 (b) The magnitude of spending per student, by student estimated by  
2 the following algorithm and reported as the detailed summation of the  
3 following components:

4 (i) An approximate, prorated fraction of each teacher or human  
5 resource element that directly serves the student. Each human resource  
6 element must be listed or accessible through online tunneling in the  
7 report;

8 (ii) An approximate, prorated fraction of classroom or building  
9 costs used by the student;

10 (iii) An approximate, prorated fraction of transportation costs  
11 used by the student; and

12 (iv) An approximate, prorated fraction of all other resources  
13 within the district. District-wide components should be disaggregated  
14 to the extent that it is sensible and economical;

15 (c) The cost of K-12 basic education, per student, by student, by  
16 school district, estimated by the algorithm in (b) of this subsection,  
17 and reported in the same manner as required in (b) of this subsection;

18 (d) The cost of K-12 special education services per student, by  
19 student receiving those services, by school district, estimated by the  
20 algorithm in (b) of this subsection, and reported in the same manner as  
21 required in (b) of this subsection;

22 (e) Improvement on the statewide assessments computed as both a  
23 percentage change and absolute change on a scale score metric by  
24 district, by school, and by teacher that can also be filtered by a  
25 student's length of full-time enrollment within the school district;

26 (f) Number of K-12 students per classroom teacher on a per teacher  
27 basis;

28 (g) Number of K-12 classroom teachers per student on a per student  
29 basis;

30 (h) Percentage of a classroom teacher per student on a per student  
31 basis; and

32 (i) The cost of K-12 education per student by school district  
33 sorted by federal, state, and local dollars.

34 ~~((The superintendent of public instruction shall submit a~~  
35 ~~preliminary report to the legislature by November 15, 2009, including~~  
36 ~~the analyses by the K-12 data governance group under subsection (3) of~~  
37 ~~this section and preliminary options for addressing identified gaps.~~  
38 ~~A final report, including a proposed phase in plan and preliminary cost~~

1 ~~estimates for implementation of a comprehensive data improvement system~~  
2 ~~for financial, student, and educator data shall be submitted to the~~  
3 ~~legislature by September 1, 2010.~~

4 ~~(7))~~ All reports and data referenced in this section and RCW  
5 43.41.400 and 28A.655.210 shall be made available in a manner  
6 consistent with the technical requirements of the legislative  
7 evaluation and accountability program committee and the education data  
8 center so that selected data can be provided to the legislature,  
9 governor, school districts, and the public.

10 ~~((8))~~ (7) Reports shall contain data to the extent it is  
11 available. All reports must include documentation of which data are  
12 not available or are estimated. Reports must not be suppressed because  
13 of poor data accuracy or completeness. Reports may be accompanied with  
14 documentation to inform the reader of why some data are missing or  
15 inaccurate or estimated.

16 (8) The K-12 data governance group shall examine the data collected  
17 under the behavior infraction subgroup in RCW 28A.300.042(2)(g)(ix) and  
18 create at least four additional behavior infraction codes including the  
19 four most common behaviors reported under the behavior infraction  
20 subgroup in RCW 28A.300.042(2)(g)(ix), and may create other categories  
21 as needed, by December 1, 2013.

22 NEW SECTION. Sec. 7. A new section is added to chapter 28A.600  
23 RCW to read as follows:

24 (1) School districts should make efforts to have suspended or  
25 expelled students return to the educational setting they were suspended  
26 or expelled from as soon as possible. School districts should convene  
27 a school reentry meeting with the student and the student's parents or  
28 guardians within twenty days of the student's long-term suspension or  
29 expulsion to discuss a plan to reenter and reengage the student in a  
30 school program.

31 (2) In developing a reentry and reengagement plan, school districts  
32 should consider shortening the length of time that the student is  
33 suspended or expelled, other forms of corrective action, and supportive  
34 interventions that aid in the student's academic success and keep the  
35 student engaged and on track to graduate. School districts must create  
36 a reentry and reengagement plan tailored to the student's individual  
37 circumstances, including consideration of the incident that led to the

1 student's long-term suspension or expulsion. The plan should aid the  
2 student in taking the necessary steps to remedy the situation that led  
3 to the student's suspension or expulsion.

4 (3) Any reentry meetings conducted by the school district involving  
5 the suspended or expelled student and his or her parents or guardians  
6 are not intended to replace a petition for readmission.

7 NEW SECTION. **Sec. 8.** (1) The Washington state school directors'  
8 association shall develop a model policy for school districts to  
9 implement changes to suspension and expulsion policies.

10 (2) The model policy must include at a minimum: Appropriate  
11 discipline actions for unwanted student behavior, training in cultural  
12 sensitivity regarding school discipline policies and procedures;  
13 prevention and intervention guidance including best practices; and  
14 parental engagement.

15 (3) The model policy must be made available on the Washington state  
16 school directors' association web site by May 1, 2014.

17 NEW SECTION. **Sec. 9.** Nothing in chapter . . ., Laws of 2013 (this  
18 act) prevents a public school district, law enforcement agencies, or  
19 law enforcement personnel from enforcing laws protecting health and  
20 human safety. Such laws encompass crimes that include, but are not  
21 limited to, prohibitions against possession of firearms or other  
22 dangerous weapons; gang activity; abusing or insulting teachers;  
23 willfully disobeying school administrative personnel or refusing to  
24 leave public property; disturbing school, school activities, or  
25 meetings; intimidating any administrator, teacher, classified employee,  
26 or student by threat of force or violence; or interfering by force or  
27 violence with any administrator, teacher, classified employee, person  
28 under contract with the school or school district, or student of any  
29 common school who is in the peaceful discharge or conduct of his or her  
30 duties or studies.

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