

SENATE BILL NO. 212—SENATORS HAMMOND, LIPPARELLI,
GUSTAVSON, HARRIS, FARLEY; DENIS AND GOICOECHEA

MARCH 5, 2015

Referred to Committee on Education

SUMMARY—Revises provisions governing discipline of pupils and prohibited acts at public schools. (BDR 34-177)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; authorizing the superintendent of schools of a school district to allow a modification to the requirement that a pupil be suspended or expelled from public school for certain acts; revising provisions governing the crimes of disturbing the peace at a public school and assault on a pupil or school employee; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, with certain exceptions, a pupil must be suspended or
2 expelled from public school if the pupil: (1) commits a battery which results in
3 bodily injury of a school employee; (2) sells or distributes any controlled substance
4 while on the school premises, at a school activity or on a school bus; or (3) is
5 deemed a habitual disciplinary problem. (NRS 392.466) Also under existing law,
6 with certain exceptions, a pupil must be expelled from public school if the pupil is
7 found in possession of a firearm or dangerous weapon while on the school
8 premises, at a school activity or on a school bus. Existing law also authorizes the
9 superintendent of schools of a school district, for good cause shown in a particular
10 case, to modify the expulsion requirement for a pupil who is found in possession of
11 a firearm or dangerous weapon. (NRS 392.466) **Section 2** of this bill expands the
12 authority of the superintendent of schools of a school district to also modify the
13 suspension or expulsion requirement for good cause shown if a pupil commits a
14 battery which results in bodily injury of a school employee, sells or distributes a
15 controlled substance or is deemed a habitual disciplinary problem.

16 Under existing law, it is unlawful for a person to assault any pupil or school
17 employee: (1) within the building or grounds of a public school; (2) on a bus, van
18 or other motor vehicle used to transport pupils or school employees; or (3) at a



* S B 2 1 2 *

19 school activity. (NRS 392.910) **Section 3** of this bill adds a definition of the term
20 "assault" for the purposes of this crime that matches the definition provided in NRS
21 200.471 for the crimes of assault and battery generally. That definition provides
22 that "assault" means "[u]nlawfully attempting to use physical force against another
23 person . . . or [i]ntentionally placing another person in reasonable apprehension of
24 immediate bodily harm." Existing law also makes it unlawful for a person to
25 maliciously and purposely interfere with or disturb any persons peaceably
26 assembled within a public school building. (NRS 392.910) **Section 3** removes the
27 element that the crime be committed "purposely" and adds a definition of the term
28 "maliciously" for the purposes of this crime that matches the definition provided in
29 NRS 193.0175 for crimes generally. That definition provides that "maliciously"
30 means to "import an evil intent, wish or design to vex, annoy or injure another
31 person [, which] may be inferred from an act done in willful disregard of the rights
32 of another, or an act wrongfully done without just cause or excuse, or an act or
33 omission of duty betraying a willful disregard of social duty." Finally, **section 3**
34 removes the provision which makes it unlawful for a person to disturb the peace of
35 any public school by using vile or indecent language within the building or grounds
36 of the school, which is currently punishable as a misdemeanor.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 392.4655 is hereby amended to read as
2 follows:

3 392.4655 1. Except as otherwise provided in this section, a
4 principal of a school shall deem a pupil enrolled in the school a
5 habitual disciplinary problem if the school has written evidence
6 which documents that in 1 school year:

7 (a) The pupil has threatened or extorted, or attempted to threaten
8 or extort, another pupil or a teacher or other personnel employed by
9 the school;

10 (b) The pupil has been suspended for initiating at least two
11 fights on school property, at an activity sponsored by a public
12 school, on a school bus or, if the fight occurs within 1 hour of the
13 beginning or end of a school day, on the pupil's way to or from
14 school; or

15 (c) The pupil has a record of five suspensions from the school
16 for any reason.

17 2. At least one teacher of a pupil who is enrolled in elementary
18 school and at least two teachers of a pupil who is enrolled in junior
19 high, middle school or high school may request that the principal of
20 the school deem a pupil a habitual disciplinary problem. Upon such
21 a request, the principal of the school shall meet with each teacher
22 who made the request to review the pupil's record of discipline. If,
23 after the review, the principal of the school determines that the
24 provisions of subsection 1 do not apply to the pupil, a teacher who
25 submitted a request pursuant to this subsection may appeal that



1 determination to the board of trustees of the school district. Upon
2 receipt of such a request, the board of trustees shall review the initial
3 request and determination pursuant to the procedure established by
4 the board of trustees for such matters.

5 3. If a pupil is suspended for initiating a fight described in
6 paragraph (b) of subsection 1 and the fight is the first such fight that
7 the pupil has initiated during that school year, or if a pupil receives
8 one suspension on the pupil's record, the school in which the pupil
9 is enrolled shall provide written notice to the parent or legal
10 guardian of the pupil that contains:

11 (a) A description of the acts committed by the pupil and the
12 dates on which those acts were committed;

13 (b) An explanation that if the pupil is suspended for initiating
14 one additional fight or if the pupil receives five suspensions on his
15 or her record during the current school year, the pupil will be
16 deemed a habitual disciplinary problem;

17 (c) An explanation that, pursuant to subsection 3 of NRS
18 392.466, a pupil who is deemed a habitual disciplinary problem
19 must be suspended or expelled from school for a period equal to at
20 least one school semester;

21 (d) If the pupil has a disability and is participating in a program
22 of special education pursuant to NRS 388.520, an explanation of the
23 effect of subsection ~~16~~ 7 of NRS 392.466, including, without
24 limitation, that if it is determined in accordance with 20 U.S.C. §
25 1415 that the pupil's behavior is not a manifestation of the pupil's
26 disability, he or she may be suspended or expelled from school in
27 the same manner as a pupil without a disability; and

28 (e) If applicable, a summary of the provisions of subsection 4.

29 ➔ A school shall provide the notice required by this subsection for
30 each suspension on the record of a pupil during a school year. A
31 school may include the notice required by this subsection with
32 notice that is otherwise provided to the parent or legal guardian of a
33 pupil which informs the parent or legal guardian of the act
34 committed by the pupil.

35 4. If a pupil is suspended for initiating a fight described in
36 paragraph (b) of subsection 1 and the fight is the first such fight that
37 the pupil has initiated during that school year, or if a pupil receives
38 four suspensions on the pupil's record within 1 school year, the
39 school in which the pupil is enrolled may develop, in consultation
40 with the pupil and the parent or legal guardian of the pupil, a plan of
41 behavior for the pupil. Such a plan must be designed to prevent the
42 pupil from being deemed a habitual disciplinary problem and may
43 include, without limitation, a voluntary agreement by:

44 (a) The parent or legal guardian to attend school with his or her
45 child.



1 (b) The pupil and the pupil's parent or legal guardian to attend
2 counseling, programs or services available in the school district or
3 community.

4 (c) The pupil and the pupil's parent or legal guardian that the
5 pupil will attend summer school, intersession school or school on
6 Saturday, if any of those alternatives are offered by the school
7 district.

8 ➤ If the pupil commits the same act for which notice was provided
9 pursuant to subsection 3 after he or she enters into a plan of
10 behavior, the pupil shall be deemed a habitual disciplinary problem.

11 5. If a pupil commits an act the commission of which qualifies
12 the pupil to be deemed a habitual disciplinary problem pursuant to
13 subsection 1, the school shall provide written notice to the parent or
14 legal guardian of the pupil that contains:

15 (a) A description of the qualifying act and any previous such
16 acts committed by the pupil and the dates on which those acts were
17 committed;

18 (b) An explanation that pursuant to subsection 3 of NRS
19 392.466, a pupil who is a habitual disciplinary problem must be
20 suspended or expelled from school for a period equal to at least one
21 school semester;

22 (c) If the pupil has a disability and is participating in a program
23 of special education pursuant to NRS 388.520, an explanation of the
24 effect of subsection ~~6~~ 7 of NRS 392.466, including, without
25 limitation, that if it is determined in accordance with 20 U.S.C. §
26 1415 that the pupil's behavior is not a manifestation of the pupil's
27 disability, he or she may be suspended or expelled from school in
28 the same manner as a pupil without a disability; and

29 (d) If applicable, a summary of the provisions of subsection 6.

30 ➤ The school shall provide the notice at least 7 days before the
31 school deems the pupil a habitual disciplinary problem. A school
32 may include the notice required by this subsection with notice that is
33 otherwise provided to the parent or legal guardian of a pupil which
34 informs the parent or legal guardian of the act committed by the
35 pupil.

36 6. Before a school deems a pupil a habitual disciplinary
37 problem and suspends or expels the pupil, the school may develop,
38 in consultation with the pupil and the parent or legal guardian of the
39 pupil, a plan of behavior for the pupil. Such a plan must be designed
40 to prevent the pupil from being deemed a habitual disciplinary
41 problem and may include, without limitation, a voluntary agreement
42 by:

43 (a) The parent or legal guardian to attend school with his or her
44 child.



1 (b) The pupil and the pupil's parent or legal guardian to attend
2 counseling, programs or services available in the school district or
3 community.

4 (c) The pupil and the pupil's parent or legal guardian that the
5 pupil will attend summer school, intersession school or school on
6 Saturday, if any of those alternatives are offered by the school
7 district.

8 ➤ If the pupil violates the conditions of the plan or commits the
9 same act for which notice was provided pursuant to subsection 5
10 after he or she enters into a plan of behavior, the pupil shall be
11 deemed a habitual disciplinary problem.

12 7. A pupil may, pursuant to the provisions of this section, enter
13 into one plan of behavior per school year.

14 8. The parent or legal guardian of a pupil who has entered into
15 a plan of behavior with a school pursuant to this section may appeal
16 to the board of trustees of the school district a determination made
17 by the school concerning the contents of the plan of behavior or
18 action taken by the school pursuant to the plan of behavior. Upon
19 receipt of such a request, the board of trustees of the school district
20 shall review the determination in accordance with the procedure
21 established by the board of trustees for such matters.

22 **Sec. 2.** NRS 392.466 is hereby amended to read as follows:

23 392.466 1. Except as otherwise provided in this section, any
24 pupil who commits a battery which results in the bodily injury of an
25 employee of the school or who sells or distributes any controlled
26 substance while on the premises of any public school, at an activity
27 sponsored by a public school or on any school bus must, for the first
28 occurrence, be suspended or expelled from that school, although the
29 pupil may be placed in another kind of school, for at least a period
30 equal to one semester for that school. For a second occurrence, the
31 pupil must be permanently expelled from that school and:

32 (a) Enroll in a private school pursuant to chapter 394 of NRS or
33 be homeschooled; or

34 (b) Enroll in a program of independent study provided pursuant
35 to NRS 389.155 for pupils who have been suspended or expelled
36 from public school or a program of distance education provided
37 pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
38 for enrollment and is accepted for enrollment in accordance with the
39 requirements of the applicable program.

40 2. Except as otherwise provided in this section, any pupil who
41 is found in possession of a firearm or a dangerous weapon while on
42 the premises of any public school, at an activity sponsored by a
43 public school or on any school bus must, for the first occurrence, be
44 expelled from the school for a period of not less than 1 year,
45 although the pupil may be placed in another kind of school for a



1 period not to exceed the period of the expulsion. For a second
2 occurrence, the pupil must be permanently expelled from the school
3 and:

4 (a) Enroll in a private school pursuant to chapter 394 of NRS or
5 be homeschooled; or

6 (b) Enroll in a program of independent study provided pursuant
7 to NRS 389.155 for pupils who have been suspended or expelled
8 from public school or a program of distance education provided
9 pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
10 for enrollment and is accepted for enrollment in accordance with the
11 requirements of the applicable program.

12 ~~† The superintendent of schools of a school district may, for good
13 cause shown in a particular case in that school district, allow a
14 modification to the expulsion requirement of this subsection if such
15 modification is set forth in writing. †~~

16 3. Except as otherwise provided in this section, if a pupil is
17 deemed a habitual disciplinary problem pursuant to NRS 392.4655,
18 the pupil must be suspended or expelled from the school for a period
19 equal to at least one semester for that school. For the period of the
20 pupil's suspension or expulsion, the pupil must:

21 (a) Enroll in a private school pursuant to chapter 394 of NRS or
22 be homeschooled; or

23 (b) Enroll in a program of independent study provided pursuant
24 to NRS 389.155 for pupils who have been suspended or expelled
25 from public school or a program of distance education provided
26 pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
27 for enrollment and is accepted for enrollment in accordance with the
28 requirements of the applicable program.

29 4. *The superintendent of schools of a school district may, for
30 good cause shown in a particular case in that school district, allow
31 a modification to the suspension or expulsion requirement, as
32 applicable, of subsection 1, 2 or 3 if such modification is set forth
33 in writing.*

34 5. This section does not prohibit a pupil from having in his or
35 her possession a knife or firearm with the approval of the principal
36 of the school. A principal may grant such approval only in
37 accordance with the policies or regulations adopted by the board of
38 trustees of the school district.

39 ~~†~~ 6. Any pupil in grades 1 to 6, inclusive, except a pupil
40 who has been found to have possessed a firearm in violation of
41 subsection 2, may be suspended from school or permanently
42 expelled from school pursuant to this section only after the board of
43 trustees of the school district has reviewed the circumstances and
44 approved this action in accordance with the procedural policy
45 adopted by the board for such issues.



1 ~~16.1~~ 7. A pupil who is participating in a program of special
2 education pursuant to NRS 388.520, other than a pupil who is gifted
3 and talented or who receives early intervening services, may, in
4 accordance with the procedural policy adopted by the board of
5 trustees of the school district for such matters, be:

6 (a) Suspended from school pursuant to this section for not
7 more than 10 days. Such a suspension may be imposed pursuant to
8 this paragraph for each occurrence of conduct proscribed by
9 subsection 1.

10 (b) Suspended from school for more than 10 days or
11 permanently expelled from school pursuant to this section only after
12 the board of trustees of the school district has reviewed the
13 circumstances and determined that the action is in compliance with
14 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
15 et seq.

16 ~~17.1~~ 8. As used in this section:

17 (a) "Battery" has the meaning ascribed to it in paragraph (a) of
18 subsection 1 of NRS 200.481.

19 (b) "Dangerous weapon" includes, without limitation, a
20 blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
21 or dagger, a nunchaku, switchblade knife or trefoil, as defined in
22 NRS 202.350, a butterfly knife or any other knife described in NRS
23 202.350, or any other object which is used, or threatened to be used,
24 in such a manner and under such circumstances as to pose a threat
25 of, or cause, bodily injury to a person.

26 (c) "Firearm" includes, without limitation, any pistol, revolver,
27 shotgun, explosive substance or device, and any other item included
28 within the definition of a "firearm" in 18 U.S.C. § 921, as that
29 section existed on July 1, 1995.

30 ~~18.1~~ 9. The provisions of this section do not prohibit a pupil
31 who is suspended or expelled from enrolling in a charter school that
32 is designed exclusively for the enrollment of pupils with disciplinary
33 problems if the pupil is accepted for enrollment by the charter
34 school pursuant to NRS 386.580. Upon request, the governing body
35 of a charter school must be provided with access to the records of
36 the pupil relating to the pupil's suspension or expulsion in
37 accordance with applicable federal and state law before the
38 governing body makes a decision concerning the enrollment of the
39 pupil.

40 **Sec. 3.** NRS 392.910 is hereby amended to read as follows:

41 392.910 1. ~~It is unlawful for any person to disturb the peace~~
42 ~~of any public school by using vile or indecent language within the~~
43 ~~building or grounds of the school. Any person who violates any of~~
44 ~~the provisions of this subsection is guilty of a misdemeanor.~~



1 ~~—2.1~~ It is unlawful for any person to assault any pupil or school
2 employee:

3 (a) Within the building or grounds of the school;

4 (b) On a bus, van or any other motor vehicle owned, leased or
5 chartered by a school district to transport pupils or school
6 employees; or

7 (c) At a location where the pupil or school employee is involved
8 in an activity sponsored by a public school.

9 ➔ Except under circumstances described in paragraph (c) or (d) of
10 subsection 2 of NRS 200.471 *with respect to school employees* or in
11 NRS 200.571, any person who violates ~~any of the provisions of~~
12 this subsection is guilty of a misdemeanor.

13 ~~3.1~~ 2. It is unlawful for any person maliciously ~~and~~
14 ~~purposely~~ in any manner to interfere with or disturb any persons
15 peaceably assembled within a building of a public school for school
16 district purposes. Any person who violates ~~any of the provisions of~~
17 this subsection is guilty of a misdemeanor.

18 ~~4.1~~ 3. For the purposes of this section ~~“school”~~:

19 (a) *“Assault” has the meaning ascribed to it in NRS 200.471.*

20 (b) *“Maliciously” has the meaning ascribed to it in*
21 *NRS 193.0175.*

22 (c) *“School employee”* means any licensed or unlicensed person
23 employed by a board of trustees of a school district pursuant to
24 NRS 391.100.

25 **Sec. 4.** This act becomes effective on July 1, 2015.

