

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 47
Committee Substitute Favorable 5/14/91
Senate Education Committee Substitute Adopted 7/1/92
Corrected Copy 7/2/92

Short Title: Make Schools Safer.

(Public)

Sponsors:

Referred to:

February 11, 1991

A BILL TO BE ENTITLED

AN ACT TO CREATE SAFER SCHOOLS BY SUPPORTING THE EFFORTS OF
TEACHERS TO CONTROL THEIR CLASSES AND REQUIRING PARENTS TO
ASSIST IN DISCIPLINING THEIR CHILDREN AT SCHOOL; AND BY
MAKING IT UNLAWFUL FOR A PARENT TO ALLOW A MINOR CHILD TO
POSSESS A FIREARM ON SCHOOL PROPERTY, FOR A PERSON TO KEEP A
FIREARM WHERE A MINOR MAY OBTAIN IT AND CARRY IT ON SCHOOL
PROPERTY, AND FOR A PERSON TO DISPOSE OF A FIREARM TO A
MINOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-390 reads as rewritten:

"§ 115C-390. School State policy; school personnel may use reasonable force.

(a) The State of North Carolina stands behind its teachers in taking the steps necessary to maintain authority in their classes and recognizes that it is the responsibility of parents and guardians to instill in students respect for school authority.

(b) Except as restricted or prohibited by rules adopted by the local boards of education, principals, teachers, substitute teachers, voluntary teachers, and teacher assistants and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order."

Sec. 2. G.S. 115C-391 reads as rewritten:

"§ 115C-391. Corporal punishment, suspension, or expulsion of pupils.

1 (a) Local boards of education shall adopt policies not inconsistent with the
2 provisions of the Constitutions of the United States and North Carolina, governing the
3 conduct of students and establishing procedures to be followed by school officials in
4 suspending or expelling any student, or in disciplining any student if the offensive
5 behavior could result in suspension, expulsion, or the administration of corporal
6 punishment. The policies that shall be adopted for the administration of corporal
7 punishment shall include at a minimum the following conditions:

- 8 (1) Corporal punishment shall not be administered in a classroom with
9 other children present;
- 10 (2) The student body shall be informed beforehand what general types of
11 misconduct could result in corporal punishment;
- 12 (3) Only a teacher, substitute teacher, principal, or assistant principal may
13 administer corporal punishment and may do so only in the presence of
14 a principal, assistant principal, teacher, substitute teacher, teacher
15 assistant, or student teacher, who shall be informed beforehand and in
16 the student's presence of the reason for the punishment; and
- 17 (4) An appropriate school official shall provide the child's parent or
18 guardian with notification that corporal punishment has been
19 administered, and upon request, the official who administered the
20 corporal punishment shall provide the child's parent or guardian a
21 written explanation of the reasons and the name of the second school
22 official who was present.

23 The board shall publish all the policies mandated by this subsection and make them
24 available to each student and his parent or guardian at the beginning of each school
25 year. Notwithstanding any policy adopted pursuant to this section, school personnel
26 may use reasonable force, including corporal punishment, to control behavior or to
27 remove a person from the scene in those situations when necessary:

- 28 (1) To quell a disturbance threatening injury to others;
- 29 (2) To obtain possession of weapons or other dangerous objects on the
30 person, or within the control, of a student;
- 31 (3) For self-defense; or
- 32 (4) For the protection of persons or property.

33 (b) The principal of a school, or his delegate, shall have authority to suspend for
34 a period of 10 school days or less any student who willfully violates policies of conduct
35 established by the local board of ~~education~~-education. Prior to suspension the principal
36 may ask the student's parent or guardian to come to the school to discuss and resolve the
37 student's conduct. Provided, that a student suspended pursuant to this subsection shall
38 be provided an opportunity to take any quarterly, semester or grading period
39 examinations missed during the suspension period.

40 (c) The principal of a school, with the prior approval of the superintendent, shall
41 have the authority to suspend for periods of ~~times-time~~ in excess of 10 school days but
42 not exceeding the time remaining in the school year, any pupil who willfully violates
43 the policies of conduct established by the local board of education. Provided, that any
44 pupil who possesses on school property a weapon referenced in G.S. 14-269.2, and the

1 weapon is not for instructional or other school sanctioned purposes, may be suspended
2 for up to 180 consecutive school days, including school days in the next subsequent
3 school year. The pupil or his parents may appeal the decision of the principal to the
4 local board of education.

5 (d) A local board of education may, upon recommendation of the principal and
6 superintendent, expel any student 14 years of age or older who has been convicted of a
7 felony and whose continued presence in school constitutes a clear threat to the safety
8 and health of other students or employees. Notwithstanding the provisions of G.S.
9 115C-112, a local board of education has no duty to continue to provide a child with
10 special needs, expelled pursuant to this subsection, with any special education or related
11 services during the period of expulsion.

12 (e) A decision of a local board under subsection (c) or (d) is final and, except as
13 provided in this subsection, is subject to judicial review in accordance with Article 4 of
14 Chapter 150B of the General Statutes. A person seeking judicial review shall file a
15 petition in the superior court of the county where the local board made its decision."

16 Sec. 3. Article 39 of Chapter 14 of the General Statutes is amended by
17 adding the following sections:

18 **"§ 14-316.2. Allowing a minor child to carry a firearm to an educational**
19 **institution.**

20 (a) It is unlawful for a parent, legal guardian, or person standing in loco parentis
21 knowingly to allow his or her minor child to possess or carry a firearm on public or
22 private school property in violation of G.S. 14-269.2.

23 (b) A violation of this section is a misdemeanor, punishable as provided below.
24 This subsection does not affect the right of a defendant to elect to serve the suspended
25 sentence of imprisonment as provided in G.S. 15A-1341(c).

26 (1) For a first conviction under this section, the defendant may be fined
27 not more than two hundred fifty dollars (\$250.00), imprisoned not
28 more than 30 days, or both. A term of imprisonment must be
29 suspended on the condition that the defendant perform community
30 service for a term of at least 24 hours.

31 (2) For a second or subsequent conviction under this section, the
32 defendant may be fined not more than five hundred dollars (\$500.00),
33 imprisoned not more than 60 days, or both. A term of imprisonment
34 must be suspended on the condition that the defendant perform
35 community service for a term of at least 48 hours."

36 **"§ 14-316.3. Keeping a firearm where a minor may obtain it and carry it to school.**

37 (a) It is unlawful for a person to keep a firearm on premises under the person's
38 custody or control in a manner that allows a minor to gain access to the firearm and then
39 carry, or allow another minor to carry the firearm on school property in violation of G.S.
40 14-269.2.

41 (b) Any of the following shall be an affirmative defense to a prosecution under
42 this section:

43 (1) The minor obtains the firearm as a result of an illegal act committed by
44 the minor or other person.

1 (2) The firearm is kept in a locked container or in a location that a
2 reasonable person would believe to be secure.

3 (3) The person is a law enforcement officer, as defined in G.S. 14-288.20,
4 and the minor obtains the firearm while it is carried on the officer or
5 within such close proximity to the officer that the officer can readily
6 retrieve and use the firearm as if carried on the officer.

7 (c) A violation of this section is a misdemeanor, punishable as provided below.
8 This subsection does not affect the right of a defendant to elect to serve the suspended
9 sentence of imprisonment as provided in G.S. 15A-1341(c).

10 (1) For a first conviction under this section, the defendant may be fined
11 not more than two hundred fifty dollars (\$250.00), imprisoned not
12 more than 30 days, or both. A term of imprisonment must be
13 suspended on the condition that the defendant perform community
14 service for a term of at least 24 hours.

15 (2) For a second or subsequent conviction under this section, the
16 defendant may be fined not more than five hundred dollars (\$500.00),
17 imprisoned not more than 60 days, or both. A term of imprisonment
18 must be suspended on the condition that the defendant perform
19 community service for a term of at least 48 hours."

20 Sec. 4. G.S. 14-315 reads as rewritten:

21 "**§ 14-315. Selling or giving weapons to minors.**

22 If any person shall knowingly sell, offer for sale, give or in any way dispose of to a
23 minor any ~~pistol or firearm~~, pistol cartridge, brass knucks, bowie knife, dirk, shurikin,
24 loaded cane or slingshot, he shall be guilty of a misdemeanor."

25 Sec. 5. Sections 1 and 2 of this act are effective upon ratification and apply to
26 all school years beginning with the 1992-93 school year. Sections 3 and 4 of this act
27 become effective August 15, 1992, and apply to offenses occurring on or after that date.