

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

2

HOUSE BILL 512
Committee Substitute Favorable 3/24/97

Short Title: School Safety Act.

(Public)

Sponsors:

Referred to:

March 13, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LOCAL BOARDS OF EDUCATION TO SUSPEND FOR
3 THREE HUNDRED SIXTY-FIVE DAYS OR TO REMOVE TO AN
4 ALTERNATIVE EDUCATIONAL SETTING A STUDENT WHO PHYSICALLY
5 ASSAULTS AND INJURES A TEACHER OR OTHER PERSON; TO REQUIRE
6 PARENT'S AFFIRMATION THAT STUDENT IS NOT SUSPENDED OR
7 EXPELLED FROM ANOTHER SCHOOL BEFORE ADMISSION TO ANY
8 PUBLIC SCHOOL; TO ALLOW LOCAL BOARDS OF EDUCATION TO DENY
9 ADMISSION TO ANY STUDENT WHO HAS BEEN SUSPENDED OR
10 EXPELLED FROM ANOTHER SCHOOL; TO REQUIRE NOTICE OF
11 SUSPENSION AND EXPULSION TO BE MADE PART OF STUDENT'S
12 OFFICIAL RECORD; TO REQUIRE NOTIFICATION TO STUDENT'S SCHOOL
13 WHEN STUDENT IS CHARGED WITH A FELONY OR WHEN STUDENT IS
14 ALLEGED OR FOUND TO BE DELINQUENT FOR AN OFFENSE THAT
15 WOULD BE A FELONY IF COMMITTED BY AN ADULT; TO PROVIDE FOR
16 THE SCHOOL'S USE OF JUVENILE COURT RECORDS; TO MAKE
17 PRINCIPAL'S FAILURE TO REPORT CERTAIN ACTS TO LAW
18 ENFORCEMENT A CLASS 3 MISDEMEANOR; TO ENCOURAGE PRINCIPALS
19 TO CONVENE MEETINGS TO IDENTIFY SCHOOL SAFETY AND DISCIPLINE

1 CONCERNS; TO REQUIRE SCHOOL IMPROVEMENT PLANS TO INCLUDE
2 STRATEGIES TO ADDRESS SCHOOL SAFETY AND DISCIPLINE
3 CONCERNS; TO DIRECT THE BOARD OF GOVERNORS IN CONSULTATION
4 WITH OTHER AGENCIES TO DEVELOP A TRAINING PROGRAM TO
5 PROMOTE LOCAL COLLABORATION ON SCHOOL SAFETY AND
6 DISCIPLINE ISSUES AND TO MAKE AN APPROPRIATION FOR THIS
7 PURPOSE; TO APPROPRIATE ADDITIONAL FUNDS FOR ALTERNATIVE
8 SCHOOLS; TO MODIFY THE REPORTING OF SCHOOL DROPOUT RATES;
9 AND TO MAKE TECHNICAL AND CONFORMING CHANGES.

10 The General Assembly of North Carolina enacts:

11 Section 1. G.S. 115C-391 reads as rewritten:

12 **"§ 115C-391. Corporal punishment, suspension, or expulsion of pupils.**

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

- 20 (1) Corporal punishment shall not be administered in a classroom with
21 other children present;
- 22 (2) The student body shall be informed beforehand what general types of
23 misconduct could result in corporal punishment;
- 24 (3) Only a teacher, substitute teacher, principal, or assistant principal may
25 administer corporal punishment and may do so only in the presence of a
26 principal, assistant principal, teacher, substitute teacher, teacher
27 assistant, or student teacher, who shall be informed beforehand and in
28 the student's presence of the reason for the punishment; and
- 29 (4) An appropriate school official shall provide the child's parent or
30 guardian with notification that corporal punishment has been
31 administered, and upon request, the official who administered the
32 corporal punishment shall provide the child's parent or guardian a
33 written explanation of the reasons and the name of the second school
34 official who was present.

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

- 40 (1) To quell a disturbance threatening injury to others;
- 41 (2) To obtain possession of weapons or other dangerous objects on the
42 person, or within the control, of a student;
- 43 (3) For self-defense; or

1 (4) For the protection of persons or property.

2 (b) The principal of a school, or his delegate, shall have authority to suspend for a
3 period of 10 days or less any student who willfully violates policies of conduct
4 established by the local board of education: Provided, that a student suspended pursuant
5 to this subsection shall be provided an opportunity to take any quarterly, semester or
6 grading period examinations missed during the suspension period.

7 (c) The principal of a school, with the prior approval of the superintendent, shall
8 have the authority to suspend for periods of times in excess of 10 school days but not
9 exceeding the time remaining in the school year, any pupil who willfully violates the
10 policies of conduct established by the local board of education. The pupil or his parents
11 may appeal the decision of the principal to the local board of education.

12 (d) Notwithstanding G.S. 115C-378, a local board of education may, upon
13 recommendation of the principal and superintendent, expel any student 14 years of age or
14 older whose behavior indicates that the student's continued presence in school constitutes
15 a clear threat to the safety of other students or employees. The local board of education's
16 decision to expel a student under this section shall be based on clear and convincing
17 evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the
18 local board of education shall consider whether there is an alternative program offered by
19 the local school administrative unit that may provide education services for the student
20 who is subject to expulsion. At any time after the first July 1 that is at least six months
21 after the board's decision to expel a student under this subsection, a student may request
22 the local board of education to reconsider that decision. If the student demonstrates to the
23 satisfaction of the local board of education that the student's presence in school no longer
24 constitutes a threat to the safety of other students or employees, the board shall readmit
25 the student to a school in that local school administrative unit on a date the board
26 considers appropriate. ~~Notwithstanding the provisions of G.S. 115C-112, a local board of
27 education has no duty to continue to provide a child with special needs, expelled pursuant to this
28 subsection, with any special education or related services during the period of expulsion.~~

29 (d1) A local board of education shall suspend for 365 days any student who brings a
30 weapon, as defined in G.S. 14-269.2(b) and ~~(g)~~, G.S. 14-269.2(g), onto school property.
31 The local board of education upon recommendation by the superintendent may modify
32 this suspension requirement on a case-by-case basis ~~which that~~ includes, but is not limited
33 to, the procedures ~~set out in G.S. 115C-112~~ established for the discipline of students with
34 disabilities and may also provide, or contract for the provision of, educational services to
35 any student suspended pursuant to this subsection in an alternative school setting or in
36 another setting that provides educational and other services.

37 (d2) A local board of education shall suspend for 365 days or shall remove to an
38 alternative educational setting, as provided in this subsection, any student who physically
39 assaults and injures a teacher or other individual on school property or while attending a
40 school-sponsored or school-related activity on or off school property. If the other
41 individual is a student, then this subsection shall not apply when the board finds that the
42 student who is subject to suspension or removal was acting in self-defense. If the board
43 chooses to remove the student to an alternative educational setting and the conduct

1 leading to the suspension occurred on or before the ninetieth school day, the board shall
2 remove the student to that setting for the remainder of the current school year and the first
3 90 school days in the following school year. If the board chooses to remove the student to
4 an alternative educational setting and the conduct leading to the suspension occurred after
5 the ninetieth school day, the board shall remove the student to that setting for the
6 remainder of the current school year and for the entire subsequent school year. If a
7 teacher is assaulted and injured and as a result a student is suspended or removed to an
8 alternative educational setting under this subsection, then the student shall not be returned
9 to that teacher's classroom unless the teacher consents.

10 (e) A decision of a local board under subsection (c), (d), ~~or (d1)-(d1)~~, or (d2) of this
11 section is final and, except as provided in this subsection, is subject to judicial review in
12 accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking
13 judicial review shall file a petition in the superior court of the county where the local
14 board made its decision.

15 (f) Local boards of education ~~shall, no later than December 1, 1993, reevaluate~~
16 ~~and update their policies related to school safety so they reflect changes authorized by the~~
17 ~~1993 General Assembly. In particular, boards shall ensure they have clear policies~~
18 ~~governing the conduct of students, which students. At a minimum, these policies shall~~
19 state the consequences of violent or assaultive behavior, possessions of weapons, and
20 criminal acts committed on school property or at school-sponsored functions. The State
21 Board shall develop guidelines to assist local boards in this process.

22 (g) Notwithstanding the provisions of this section, the policies and procedures for
23 the discipline of students with disabilities shall be consistent with federal laws and
24 regulations."

25 Section 2. G.S. 115C-366 is amended by adding the following new subsection
26 to read:

27 "(a3) Before the admission of a student to any public school in North Carolina, the
28 local board shall require the student's parent, guardian, or custodian to provide a
29 statement made under oath or affirmation before a qualified official indicating whether
30 the student is, at the time, under suspension or expulsion from attendance at a private or
31 public school in this or any other state. Any person who willfully makes a materially
32 false statement or affirmation under this subsection shall be guilty of a Class 3
33 misdemeanor. Notwithstanding any other law, a local board may deny admission to a
34 student who has been suspended from a school under G.S. 115C-391 or who has been
35 suspended from a school for conduct that could have led to a suspension from a school
36 within the local school administrative unit where the student is seeking admission until
37 the period of suspension has expired. Also, a local board may deny admission to a
38 student who has been expelled from a school under G.S. 115C-391 or who has been
39 expelled from a school for behavior that indicated the student's continued presence in
40 school constituted a clear threat to the safety of other students or employees. If the local
41 board denies admission to a student who has been expelled, the student may request the
42 local board to reconsider that decision in accordance with G.S. 115C-391(d)."

43 Section 3. G.S. 115C-402 reads as rewritten:

1 **"§ 115C-402. Student records; maintenance; contents; confidentiality.**

2 The official record of each student enrolled in North Carolina public schools shall be
3 permanently maintained in the files of the appropriate school after the student graduates,
4 or should have graduated, from high school unless the local board determines that such
5 files may be filed in the central office or other location designated by the local board for
6 that purpose.

7 The official record shall contain, as a minimum, adequate identification data including
8 date of birth, attendance data, grading and promotion data, and such other factual
9 information as may be deemed appropriate by the local board of education having
10 jurisdiction over the school wherein the record is maintained. Each student's official
11 record also shall include notice of any suspension for a period of more than 10 days or of
12 any expulsion under G.S. 115C-391 and the conduct for which the student was suspended
13 or expelled. The notice of suspension or expulsion shall be expunged from the record if
14 the student (i) graduates from high school or (ii) is not expelled or suspended again
15 during the two-year period commencing on the date of the student's return to school after
16 the expulsion or suspension.

17 The official record of each student is not a public record as the term 'public record' is
18 defined by G.S. 132-1. The official record shall not be subject to inspection and
19 examination as authorized by G.S. 132-6."

20 Section 4. Article 54 of Chapter 7A of the General Statutes is amended by
21 adding the following new section to read:

22 **"§ 7A-675.1. Notification of schools when juveniles are alleged or found to be**
23 **delinquent.**

24 (a) Notwithstanding G.S. 7A-675, the juvenile court counselor shall deliver
25 written notification of the following actions to the principal of the school that the juvenile
26 attends:

- 27 (1) A petition is filed under G.S. 7A-560 that alleges delinquency for an
28 offense that would be a felony if committed by an adult;
29 (2) The judge transfers jurisdiction over a juvenile to superior court under
30 G.S. 7A-608;
31 (3) The judge dismisses the petition that alleges delinquency for an offense
32 that would be a felony if committed by an adult and releases the juvenile
33 under G.S. 7A-637;
34 (4) The judge issues a dispositional order under Article 52 of Chapter 7A of
35 the General Statutes concerning a juvenile alleged or found delinquent
36 for an offense that would be a felony if committed by an adult; or
37 (5) The judge modifies or vacates any order or disposition under G.S. 7A-
38 664 concerning a juvenile alleged or found delinquent for an offense
39 that would be a felony if committed by an adult.

40 Delivery shall be made as soon as practicable but at least within five days of the
41 action. Delivery shall be made in person or by certified mail. Notification that a petition
42 has been filed shall describe the nature of the offense. Notification of a dispositional
43 order, a modified or vacated order, or a transfer to superior court shall describe the

1 judge's action and any applicable disposition requirements. As used in this subsection,
2 the term 'offense' shall not include any offense under Chapter 20 of the General Statutes.

3 (b) If the principal of the school the juvenile attends returns any notification as
4 required by G.S. 115C-404, and if the juvenile court counselor learns that the juvenile is
5 transferring to another school, the juvenile court counselor shall deliver the notification to
6 the principal of the school to which the juvenile is transferring. Delivery shall be made
7 as soon as practicable and shall be made in person or by certified mail.

8 (c) Principals shall handle any notification delivered under this section in
9 accordance with G.S. 115C-404.

10 (d) For the purpose of this section, 'school' means any public or private school in
11 the State that is authorized under Chapter 115C of the General Statutes."

12 Section 5. Article 29 of Chapter 115C of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 115C-404. Use of juvenile court information.**

15 (a) Written notifications received in accordance with G.S. 7A-675.1 are
16 confidential records, are not public records as defined under G.S. 132-1, and shall not be
17 made part of the student's official record under G.S. 115C-402. Immediately upon
18 receipt, the principal shall maintain these documents in a safe, locked record storage that
19 is separate from the student's other school records. The principal shall maintain these
20 documents until the principal receives notification that the judge dismissed the petition
21 under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court
22 under G.S. 7A-608, or the judge granted the student's petition for expunction of the
23 records. At that time, the principal shall shred or burn the documents to protect the
24 confidentiality of this information. In no case shall the principal make a copy of these
25 documents.

26 (b) Upon receipt of each document, the principal shall share the document with
27 appropriate staff members who shall indicate in writing that they have read the document
28 and that they agree to maintain its confidentiality. For the purposes of this section,
29 'appropriate staff members' are those individuals who have direct guidance, teaching, or
30 supervisory responsibility for the student, or who have a specific need to know in order to
31 protect the safety of the student or others. Failure to maintain the confidentiality of these
32 documents as required by this section is a Class 3 misdemeanor.

33 (c) If the student graduates, withdraws from school, is suspended for the
34 remainder of the school year, is expelled, or transfers to another school, the principal
35 shall return the documents to the juvenile court counselor and, if applicable, shall provide
36 the counselor with the name and address of the school to which the student is
37 transferring."

38 Section 6. G.S. 15A-505 reads as rewritten:

39 "**§ 15A-505. Notification of ~~minor's parent.~~ parent and school.**

40 (a) A law-enforcement officer who charges a minor with a criminal offense shall
41 notify the minor's parent or guardian of the charge, as soon as practicable, in person or by
42 telephone. If the minor is taken into custody, the law enforcement officer or the officer's
43 immediate superior shall notify a parent or guardian in writing that the minor is in

1 custody within 24 hours of the minor's arrest. If the parent or guardian of the minor
2 cannot be found, then the officer or the officer's immediate superior shall notify the
3 minor's next-of-kin of the minor's arrest as soon as practicable.

4 (b) The notification provided for by subsection (a) of this section shall not be
5 required if:

6 (1) The minor is emancipated;

7 (2) The minor is not taken into custody and has been charged with a motor
8 vehicle moving violation for which three or fewer points are assessed
9 under G.S. 20-16(c), except an offense involving impaired driving, as
10 defined in G.S. 20-4.01(24a); or

11 (3) The minor has been charged with a motor vehicle offense that is not a
12 moving violation.

13 (c) A law enforcement officer who charges a person with a criminal offense that is
14 a felony, except for a criminal offense under Chapter 20 of the General Statutes, shall
15 notify the principal of any school the person attends of the charge as soon as practicable
16 but at least within five days. The notification may be made in person or by telephone. If
17 the person is taken into custody, the law enforcement officer or the officer's immediate
18 supervisor shall notify the principal of any school the person attends. This notification
19 shall be in writing and shall be made within five days of the person's arrest. As used in
20 this subsection, the term 'school' means any public or private school in the State that is
21 authorized under Chapter 115C of the General Statutes."

22 Section 7. G.S. 115C-288(g) reads as rewritten:

23 "(g) To Report Certain Acts to Law Enforcement. – When the principal has a
24 reasonable belief-actual notice that an act has occurred on school property involving
25 assault resulting in serious personal injury, sexual assault, sexual offense, rape,
26 kidnapping, indecent liberties with a minor, assault involving the use of a weapon,
27 possession of a firearm in violation of the law, possession of a weapon in violation of the
28 law, or possession of a controlled substance in violation of the law, the principal shall
29 immediately report the act to the appropriate local law enforcement agency. Failure to
30 report under this subsection is a Class 3 misdemeanor. For purposes of this subsection,
31 'school property' shall include any public school building, bus, public school campus,
32 grounds, recreational area, or athletic field, in the charge of the principal. It is the intent
33 of the General Assembly that the principal notify the superintendent and the
34 superintendent notify the local board of any report made to law enforcement under this
35 subsection."

36 Section 8. G.S. 115C-288 is amended by adding the following new subsection:

37 "(i) To Identify School Safety and Discipline Concerns. – The principal is
38 encouraged to convene meetings on a periodic basis with parents, school personnel, and
39 other interested individuals in order to identify school safety and discipline concerns and
40 to develop proposals to address these concerns."

41 Section 9. G.S. 115C-105.27 reads as rewritten:

42 "**§ 115C-105.27. Development and approval of school improvement plans.**

1 In order to improve student performance, each school shall develop a school
2 improvement plan that takes into consideration the annual performance goal for that
3 school that is set by the State Board under G.S. 115C-105.35. The principal of each
4 school, representatives of the assistant principals, instructional personnel, instructional
5 support personnel, and teacher assistants assigned to the school building, and parents of
6 children enrolled in the school shall constitute a school improvement team to develop a
7 school improvement plan to improve student performance. Parents serving on school
8 improvement teams shall reflect the racial and socioeconomic composition of the
9 students enrolled in that school and shall not be members of the building-level staff.
10 Parental involvement is a critical component of school success and positive student
11 achievement; therefore, it is the intent of the General Assembly that parents, along with
12 teachers, have a substantial role in developing school improvement plans. To this end,
13 school improvement team meetings shall be held at a convenient time to assure
14 substantial parent participation. The strategies for improving student performance shall
15 include a plan for the use of staff development funds that may be made available to the
16 school by the local board of education to implement the school improvement ~~plan~~ plan
17 and shall include a plan to address school safety and discipline concerns. The strategies
18 may include a decision to use State funds in accordance with G.S. 115C-105.25. The
19 strategies may also include requests for waivers of State laws, rules, or policies for that
20 school. A request for a waiver shall meet the requirements of G.S. 115C-105.26.

21 Support among affected staff members is essential to successful implementation of a
22 school improvement plan to address improved student performance at that school. The
23 principal of the school shall present the proposed school improvement plan to all of the
24 principals, assistant principals, instructional personnel, instructional support personnel,
25 and teacher assistants assigned to the school building for their review and vote. The vote
26 shall be by secret ballot. The principal shall submit the school improvement plan to the
27 local board of education only if the proposed school improvement plan has the approval
28 of a majority of the staff who voted on the plan.

29 The local board of education shall accept or reject the school improvement plan. The
30 local board shall not make any substantive changes in any school improvement plan that
31 it accepts. If the local board rejects a school improvement plan, the local board shall state
32 with specificity its reasons for rejecting the plan; the school improvement team may then
33 prepare another plan, present it to the principals, assistant principals, instructional
34 personnel, instructional support personnel, and teacher assistants assigned to the school
35 building for a vote, and submit it to the local board to accept or reject. If no school
36 improvement plan is accepted for a school within 60 days after its initial submission to
37 the local board, the school or the local board may ask to use the process to resolve
38 disagreements recommended in the guidelines developed by the State Board under G.S.
39 115C-105.20(b)(5). If this request is made, both the school and local board shall
40 participate in the process to resolve disagreements. If there is no request to use that
41 process, then the local board may develop a school improvement plan for the school. The
42 General Assembly urges the local board to utilize the school's proposed school
43 improvement plan to the maximum extent possible when developing such a plan.

1 A school improvement plan shall remain in effect for no more than three years;
2 however, the school improvement team may amend the plan as often as is necessary or
3 appropriate. If, at any time, any part of a school improvement plan becomes unlawful or
4 the local board finds that a school improvement plan is impeding student performance at
5 a school, the local board may vacate the relevant portion of the plan and may direct the
6 school to revise that portion. The procedures set out in this subsection shall apply to
7 amendments and revisions to school improvement plans."

8 Section 10. G.S. 115C-12 is amended by adding the following new subdivision
9 to read:

10 "(25) Reporting dropout rates. – The State Board shall not include students
11 that have been expelled from school when calculating the dropout rate."

12 Section 11. (a) The Board of Governors of The University of North Carolina,
13 in consultation with the State Board of Education, the Administrative Office of the
14 Courts, the Department of Crime Control and Public Safety, and other appropriate State
15 agencies, shall develop a program for the ongoing training of school officials, local law
16 enforcement officials, and local court officials. The program shall be designed to
17 promote local collaboration on school safety and discipline issues. The Board of
18 Governors shall report to the Joint Legislative Education Oversight Committee on the
19 development of this program by January 15, 1998.

20 (b) There is appropriated from the General Fund to the Board of Governors
21 of The University of North Carolina the sum of two hundred thousand dollars (\$200,000)
22 in the 1997-98 fiscal year to implement this section.

23 Section 12. There is appropriated from the General Fund to State Aid to Local
24 School Administrative Units the sum of ten million dollars (\$10,000,000) in each year of
25 the 1997-99 fiscal biennium to be allocated to At-Risk Student Services/Alternative
26 Schools.

27 Section 13. This act is effective when it becomes law.