

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 196

Short Title: Three Strikes for Disruptive Students.

(Public)

Sponsors: Senators Shaw of Guilford; Albertson, Allran, Ballantine, Blust, Carpenter, Carrington, Clark, Cochrane, Conder, East, Forrester, Foxx, Garwood, Hartsell, Horton, Hoyle, Kerr, Kincaid, Ledbetter, Martin of Pitt, McDaniel, Odom, Page, Perdue, Rand, Rucho, Soles, Warren, and Webster.

Referred to: Education/Higher Education.

February 20, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REMOVAL OF DISRUPTIVE STUDENTS FROM
THE CLASSROOM OR SCHOOL.

The General Assembly of North Carolina enacts:

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

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

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any ~~student~~, ~~student~~ or removing any chronically disruptive student from the classroom or the school, or in disciplining any student if the offensive behavior could result in suspension, expulsion, ~~or~~ ~~the administration of corporal punishment~~ punishment, or the removal of any student from the classroom or the school.

(a1) The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

(1) Corporal punishment shall not be administered in a classroom with other children present;

- 1 (2) The student body shall be informed beforehand what general types of
2 misconduct could result in corporal punishment;
- 3 (3) Only a teacher, substitute teacher, principal, or assistant principal may
4 administer corporal punishment and may do so only in the presence of a
5 principal, assistant principal, teacher, substitute teacher, teacher
6 assistant, or student teacher, who shall be informed beforehand and in
7 the student's presence of the reason for the punishment; and
- 8 (4) An appropriate school official shall provide the child's parent or
9 guardian with notification that corporal punishment has been
10 administered, and upon request, the official who administered the
11 corporal punishment shall provide the child's parent or guardian a
12 written explanation of the reasons and the name of the second school
13 official who was present.

14 (a2) The policies that shall be adopted for the removal of any chronically disruptive
15 student from the classroom or the school shall include at a minimum the following
16 conditions:

17 (1) A teacher may remove from the classroom a student whose conduct is
18 chronically disruptive to the learning environment. When a teacher
19 removes a student the third time for chronically disruptive behavior, the
20 principal shall not return the student to that teacher's classroom. The
21 principal shall either:

- 22 a. Suspend the student from the school; or
23 b. Assign the student to another teacher's classroom within the
24 school with the consent of that classroom's teacher. If that
25 teacher removes the student from the classroom one time for
26 chronically disruptive behavior, the principal shall suspend the
27 student from the school.

28 (2) When a principal suspends a student from school pursuant to
29 subdivision (1) of this subsection, the local board of education shall
30 remove the student from the school pursuant to subsection (d2) of this
31 section and the student shall not return to the school.

32 (a3) The board shall publish all the policies mandated by ~~this subsection~~ subsections
33 (a), (a1), (a2), and (a3) of this section and make them available to each student and his
34 parent or guardian at the beginning of each school year. Notwithstanding any policy
35 adopted pursuant to this section, school personnel may use reasonable force, including
36 corporal punishment, to control behavior or to remove a person from the scene in those
37 situations when necessary:

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

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

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

11 (d) Notwithstanding G.S. 115C-378, a local board of education may, upon
12 recommendation of the principal and superintendent, expel any student 14 years of age or
13 older whose behavior indicates that the student's continued presence in school constitutes
14 a clear threat to the safety of other students or employees. The local board of education's
15 decision to expel a student under this section shall be based on clear and convincing
16 evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the
17 local board of education shall consider whether there is an alternative program offered by
18 the local school administrative unit that may provide education services for the student
19 who is subject to expulsion. At any time after the first July 1 that is at least six months
20 after the board's decision to expel a student under this subsection, a student may request
21 the local board of education to reconsider that decision. If the student demonstrates to the
22 satisfaction of the local board of education that the student's presence in school no longer
23 constitutes a threat to the safety of other students or employees, the board shall readmit
24 the student to a school in that local school administrative unit on a date the board
25 considers appropriate. Notwithstanding the provisions of G.S. 115C-112, a local board of
26 education has no duty to continue to provide a child with special needs, expelled pursuant
27 to this subsection, with any special education or related services during the period of
28 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), onto school property. The local board of
31 education upon recommendation by the superintendent may modify this suspension
32 requirement on a case-by-case basis which includes, but is not limited to, the procedures
33 set out in G.S. 115C-112 and may also provide, or contract for the provision of,
34 educational services to any student suspended pursuant to this subsection in an alternative
35 school setting or in another setting that provides educational and other services.

36 (d2) Notwithstanding G.S. 115C-378, a local board of education shall not return a
37 student who has been suspended from school pursuant to subsection (a2) of this section to
38 the school from which the student was suspended. The local board shall reassign the
39 student to another school, place the student in an alternative program, or expel the
40 student.

41 A local board of education's decision to expel a student under this section shall be
42 based on clear and convincing evidence of the chronically disruptive behavior. Prior to
43 ordering the expulsion of a student pursuant to this subsection, the local board of

1 education shall consider whether there is an alternative program offered by the local
2 school administrative unit that may provide education services for the student who is
3 subject to expulsion. At any time after the first July 1 that is at least six months after the
4 board's decision to expel a student under this subsection, a student may request the local
5 board of education to reconsider that decision. If the student demonstrates to the
6 satisfaction of the local board of education that the student's behavior will no longer be
7 chronically disruptive to the learning environment, the board shall readmit the student to
8 another school or an alternative program in that local school administrative unit on a date
9 the board considers appropriate.

10 The local board shall have no obligation to provide transportation to any other school
11 or alternative program to which the student is assigned.

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

17 (f) Local boards of education shall, no later than December 1, ~~1993~~, 1997,
18 reevaluate and update their policies related to school safety so they reflect changes
19 authorized by the ~~1993-1997~~ General Assembly. In particular, boards shall ensure they
20 have clear policies governing the conduct of students, which state the consequences of
21 chronically disruptive behavior, violent or assaultive behavior, possessions of weapons,
22 and criminal acts committed on school property or at school-sponsored functions. The
23 State Board shall develop guidelines to assist local boards in this process.

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

27 Section 2. This act is effective when it becomes law and applies on and after
28 January 1, 1998.