

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Mahony

A Bill

SENATE BILL 438

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 6 OF THE
9 ARKANSAS CODE ANNOTATED TO CONFORM WITH FEDERAL
10 REQUIREMENTS THAT STUDENTS WHO BRING FIREARMS OR OTHER
11 WEAPONS UPON A SCHOOL CAMPUS SHALL BE EXPELLED FOR A
12 PERIOD OF NOT LESS THAN ONE (1) YEAR; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

16 "TO REQUIRE THAT STUDENTS WHO BRING
17 FIREARMS OR OTHER WEAPONS UPON A SCHOOL
18 CAMPUS SHALL BE EXPELLED."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code Annotated § 6-18-502 is hereby amended to
23 read as follows:

24 "6-18-502. Guidelines for development of school district student
25 discipline policies.

26 (a) The Department of Education shall establish guidelines for the
27 development of school district student discipline policies.

28 (b) Such guidelines shall include, but not be limited to, the
29 following requirements:

30 (1) Parents, students, and school district personnel, including
31 teachers, shall be involved in the development of school district student
32 discipline policies;

33 (2) Student discipline policies shall include, but not be
34 limited to, the following offenses:

35 (A) Willfully and intentionally assaulting or threatening

1 to assault or abuse any teacher, principal, superintendent, or other employee
2 of a school system;

3 (B) Possession by students of any firearm or other weapon
4 prohibited upon the school campus by law or by policies adopted by the school
5 board;

6 (C) Using, offering for sale, or selling beer, alcoholic
7 beverages, or other illicit drugs by students on school property;

8 (D) Possession by a student of any paging device, beeper,
9 or similar electronic communication device on the school campus; however, the
10 policy may provide an exemption for possession of such a device by a student
11 who is required to use such a device for health or other compelling reasons;
12 and

13 (E) Willfully or intentionally damaging, destroying, or
14 stealing of school property by students.

15 (c) The school discipline policies shall:

16 (1) Prescribe minimum and maximum penalties, including students'
17 suspension or dismissal from school, for violations of each of the
18 aforementioned offenses and for violations of other practices prohibited by
19 school discipline policies;

20 (2) Prescribe expulsion from school for a period of not less
21 than one (1) year for possession of any firearm or other weapon prohibited
22 upon the school campus by law; provided, however, that the superintendent
23 shall have discretion to modify such expulsion requirement for a student on a
24 case-by-case basis; and

25 (3) Establish procedures for notice to students and parents of
26 charges, hearings, and other due process proceedings to be applicable in the
27 enforcement and administration of such policies by the school administrator
28 and by the school board.

29 (d) Student discipline policies shall provide that parents and
30 students will be advised of the rules and regulations by which the school is
31 governed and will be made aware of the behavior that will call for
32 disciplinary action and the types of corrective actions that may be imposed.

33 (e) Each school district shall develop a procedure for written
34 notification to all parents and students of the district's student discipline
35 policies and documentation of the receipt of the policies by all parents and

1 students.

2 (f) Teachers and administrators shall be provided with training as
3 needed in classroom management and in other skills relevant to student
4 discipline.

5 (g) In developing the state guidelines for school district discipline
6 policies, the Department of Education shall involve parents, students,
7 teachers, and administrators."

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9 SECTION 2. Arkansas Code Annotated § 6-18-503(a) is hereby amended to
10 read as follows:

11 "(a)(1) Each school district in this state shall develop written
12 student discipline policies in compliance with the guidelines established by
13 the Department of Education and shall file such policies with the Department
14 of Education.

15 (A) Guidelines shall include minimum standards of quality,
16 experimentation with innovative programs, and a system to judge the
17 effectiveness of the program.

18 (B) The discipline policy shall include provisions for:

19 (i) Placement of a student with disciplinary,
20 socially dysfunctional, or behavioral problems not associated with a
21 handicapping condition in an alternative learning environment provided by the
22 district;

23 (ii) Expulsion from school for a period of not less
24 than one (1) year for possession of any firearm or other weapon prohibited
25 upon the school campus by law; provided, however, that the superintendent
26 shall have discretion to modify such expulsion requirement for a student on a
27 case-by-case basis.

28 (2) Behavioral problems shall include those at risk of not
29 satisfactorily completing a high school education."

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31 SECTION 3. Arkansas Code Annotated § 6-18-507 is hereby amended by
32 adding a new subsection to read as follows:

33 "(d) The superintendent of any school district shall suspend any
34 student from school for a period of not less than one (1) year for possession
35 of any firearm or other weapon prohibited upon the school campus by law;

1 provided, however, that the superintendent shall have discretion to modify
2 such expulsion requirement for a student on a case-by-case basis."

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4 SECTION 4. Arkansas Code Annotated § 6-21-608 is hereby amended to
5 read as follows:

6 "6-21-608. Concealing guns or drugs in school property.

7 (a) For the purpose of this section:

8 (1) School official means any public school employee receiving
9 compensation for services from any public school system in the State of
10 Arkansas;

11 (2) School-owned property means any property located among
12 premises owned in whole or in part by the state or any city, district, or
13 county within the state, including but not limited to any desk, locker, file,
14 or other tangible property assigned to, for use, or on loan to any student,
15 or other person using the property for his own use;

16 (3) School premises means any locale upon which is situated
17 any school building;

18 (4) Supervisor means any person who is employed as
19 administrator or supervisor of any public school.

20 (b) It shall be unlawful for any student, or any other person using
21 school-owned property to conceal any gun, drug, or any other contraband in
22 any desk, locker, or other school-owned property in this state.

23 (c) Any school official employed in a supervisory capacity of students
24 or other persons on school premises shall, upon receipt of information that
25 drugs or other contraband are concealed in school-owned property, have the
26 authority to investigate and search any school-owned property for any drugs,
27 gun, or other contraband which may be concealed in the school-owned property,
28 without the necessity of obtaining a search warrant from local authorities.
29 In the event contraband is discovered, it shall be seized and held by the
30 supervisor of the school premises until appropriate action, as described in
31 subsection (d) of this section, is taken.

32 (d) Whenever a school official discovers any illegal drugs, or other
33 contraband in any school-owned property assigned to the use of an
34 identifiable student or any other identifiable person, appropriate action for
35 discipline, expulsion, discharge, or prosecution shall be within the

1 discretion of the supervisor of the premises. In the event that prosecution
2 by local authorities is pursued, the supervisor shall release the contraband
3 to the local prosecuting authorities to be used as evidence in court. Any
4 evidence obtained by use of the procedure as defined in this section shall be
5 legally admissible in any court in this state.

6 (e) Whenever a school official discovers any gun or other firearm in
7 any school-owned property assigned to the use of an identifiable student,
8 that student shall be expelled for a period of not less than one (1) year;
9 provided, however, that the superintendent shall have discretion to modify
10 such expulsion requirement for a student on a case-by-case basis. In the
11 event that prosecution by local authorities is pursued, the gun or other
12 firearm shall be released to the local prosecution authorities to be used as
13 evidence in court and shall be legally admissible in any court in this
14 state."

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16 SECTION 5. All provisions of this act of a general and permanent
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
18 Code Revision Commission shall incorporate the same in the Code.

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20 SECTION 6. If any provision of this act or the application thereof to
21 any person or circumstance is held invalid, such invalidity shall not affect
22 other provisions or applications of the act which can be given effect without
23 the invalid provision or application, and to this end the provisions of this
24 act are declared to be severable.

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26 SECTION 7. All laws and parts of laws in conflict with this act are
27 hereby repealed.

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29 SECTION 8. EMERGENCY. It is hereby found and determined by the
30 General Assembly that Arkansas law governing the expulsion of public school
31 students determined to have brought a firearm or other prohibited weapon upon
32 a school campus does not conform with current federal requirements set forth
33 in the Gun-Free Schools Act of 1994; that failure to immediately remedy the
34 law by legislative action will place federal funds received by the State of
35 Arkansas in jeopardy. Therefore, an emergency is hereby declared to exist

1 and this act being necessary for the immediate preservation of the public
2 peace, health and safety shall be in full force and effect from and after its
3 passage and approval.

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