

SENATE BILL 866

F1

4lr3040
CF 4lr1847

By: **Senator Benson**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Education – Suspension and Expulsion – Restrictions and Alternative Disciplinary Options

FOR the purpose of prohibiting certain school principals from suspending certain students or recommending certain students for expulsion unless the student commits a certain act or a certain offense under certain circumstances; requiring a certain principal to use certain alternative disciplinary options in lieu of suspensions unless the student committed certain offenses or acts; authorizing a certain principal to suspend a certain student if the student does not respond to multiple attempts by the principal to use certain alternative disciplinary options; authorizing certain principals to use certain alternative disciplinary options to correct certain student behavior; defining certain terms; and generally relating to disciplinary options for primary and secondary students.

BY repealing and reenacting, with amendments,

Article – Education

Section 4–319(d) and 7–305

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY adding to

Article – Education

Section 7–305.1

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



4-319.

(d) (1) Except as otherwise provided in [§ 7-305(g)] **§ 7-305(I)** of this article, a student in the Baltimore City School System may be transferred to the Center if the student:

(i) Assaults a teacher, teacher's aide, student teacher, other professional or paraprofessional school employee, or other student;

(ii) Carries a gun, rifle, knife, or other deadly weapon onto school property; or

(iii) Commits any other act that would be a crime if committed by an adult.

(2) The Director shall review recommendations for admission of students to the Center and admit or deny admission for each student based on an assessment of the student's amenability to the services, programs, and treatment available in the Center.

7-305.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BULLYING, HARASSMENT, OR INTIMIDATION" MEANS ANY INTENTIONAL WRITTEN, ORAL, OR PHYSICAL ACT, INCLUDING AN ELECTRONIC COMMUNICATION, THAT:

(I) 1. PHYSICALLY HARMS AN INDIVIDUAL;

2. DAMAGES AN INDIVIDUAL'S PROPERTY;

3. SUBSTANTIALLY INTERFERES WITH AN INDIVIDUAL'S EDUCATION OR LEARNING ENVIRONMENT; OR

4. PLACES AN INDIVIDUAL IN REASONABLE FEAR OF HARM TO THE INDIVIDUAL'S PERSON OR PROPERTY; AND

(II) SUBSTANTIALLY DISRUPTS THE ORDERLY OPERATION OF A SCHOOL.

(3) “ELECTRONIC COMMUNICATION” MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING A TELEPHONE, CELLULAR PHONE, COMPUTER, OR PAGER.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PRINCIPAL MAY SUSPEND A STUDENT OR RECOMMEND A STUDENT FOR EXPULSION ONLY IF THE PRINCIPAL DETERMINES THAT:

(I) THE STUDENT’S BEHAVIOR CANNOT BE CORRECTED WITH THE ALTERNATIVE DISCIPLINARY METHODS LISTED IN § 7–305.1 OF THIS SUBTITLE; OR

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STUDENT HAS:

1. ENGAGED IN AN ACT OF BULLYING, HARASSMENT, OR INTIMIDATION;

2. CARRIED OR POSSESSED A FIREARM;

3. CARRIED OR POSSESSED A KNIFE, AN EXPLOSIVE, OR ANY OTHER DEADLY WEAPON UNLESS THE STUDENT OBTAINED WRITTEN PERMISSION TO POSSESS THE ITEM FROM THE PRINCIPAL OR COUNTY SUPERINTENDENT;

4. UNLAWFULLY POSSESSED, USED, SOLD, OR BEEN UNDER THE INFLUENCE OF:

A. A CONTROLLED DANGEROUS SUBSTANCE UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE; OR

B. AN ALCOHOLIC BEVERAGE;

5. UNLAWFULLY POSSESSED OR UNLAWFULLY OFFERED OR NEGOTIATED TO SELL DRUG PARAPHERNALIA, AS DEFINED IN § 5–620(B) OF THE CRIMINAL LAW ARTICLE;

6. POSSESSED OR USED A TOBACCO PRODUCT;

7. COMMITTED OR ATTEMPTED TO COMMIT ROBBERY OR EXTORTION;

8. STOLE OR ATTEMPTED TO STEAL SCHOOL PROPERTY OR PRIVATE PROPERTY;

9. KNOWINGLY RECEIVED STOLEN SCHOOL PROPERTY OR PRIVATE PROPERTY; OR

10. COMMITTED A SEXUAL OFFENSE AS DEFINED IN TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE.

(2) A PRINCIPAL MAY SUSPEND A STUDENT OR RECOMMEND A STUDENT FOR EXPULSION FOR COMMITTING AN ACT LISTED IN PARAGRAPH (1) OF THIS SUBSECTION ONLY IF THE ACT OCCURRED:

(I) WHILE ON SCHOOL PROPERTY OR ON A SCHOOL BUS;

(II) WHILE AT A SCHOOL EVENT OR ACTIVITY; OR

(III) DURING A LUNCH OR BREAK PERIOD ON OR OFF SCHOOL PROPERTY.

[(a)] (C) (1) [Except] SUBJECT TO SUBSECTION (B) OF THIS SECTION, AND EXCEPT as provided in subsection [(b)] (D) of this section, in accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

[(b)] (D) (1) (I) Except as provided in [paragraph (2) of this subsection] SUBPARAGRAPH (II) OF THIS PARAGRAPH, a student may not be suspended or expelled from school solely for attendance-related offenses.

[(2)] (II) [Paragraph (1) of this subsection] SUBPARAGRAPH (I) OF THIS PARAGRAPH does not apply to in-school suspensions for attendance-related offenses.

(2) A STUDENT WHO HELPED TO INFLECT PHYSICAL INJURY ON ANOTHER PERSON MAY NOT BE EXPELLED UNLESS THE STUDENT HAS BEEN

ADJUDGED BY A JUVENILE COURT TO HAVE BEEN AN ACCOMPLICE TO A CRIME OF PHYSICAL VIOLENCE IN WHICH THE VICTIM SUFFERED SERIOUS BODILY INJURY.

[(c)] (E) [At] SUBJECT TO SUBSECTION (B) OF THIS SECTION, AT the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

[(d)] (F) (1) [If] SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

[(e)] (G) (1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

[(f)] (H) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative

educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

[(g)] (I) (1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

[(h)] (J) (1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

7-305.1.

(A) (1) UNLESS A STUDENT COMMITS AN ACT LISTED IN § 7-305(B) OR (H) OF THIS SUBTITLE, A PRINCIPAL MAY SUSPEND A STUDENT OR RECOMMEND A STUDENT FOR EXPULSION ONLY WHEN OTHER MEANS OF CORRECTION FAIL TO BRING ABOUT PROPER CONDUCT.

(2) A PRINCIPAL SHALL KEEP A RECORD OF ALL EFFORTS TO CORRECT A STUDENT'S BEHAVIOR WITH ALTERNATIVE DISCIPLINARY METHODS.

(B) A PRINCIPAL MAY USE DISCRETION TO PROVIDE ALTERNATIVES TO SUSPENSION OR EXPULSION THAT ARE AGE APPROPRIATE AND DESIGNED TO ADDRESS AND CORRECT THE STUDENT'S SPECIFIC BEHAVIOR, INCLUDING:

(1) A CONFERENCE BETWEEN SCHOOL PERSONNEL, THE STUDENT'S PARENT OR GUARDIAN, AND THE STUDENT;

(2) A REFERRAL TO THE SCHOOL COUNSELOR, PSYCHOLOGIST, SOCIAL WORKER, OR OTHER SCHOOL SUPPORT SERVICE PERSONNEL FOR CASE MANAGEMENT AND COUNSELING;

(3) A REFERRAL FOR A COMPREHENSIVE PSYCHOSOCIAL OR PSYCHOEDUCATIONAL ASSESSMENT;

(4) ENROLLMENT IN A PROGRAM FOR TEACHING PROSOCIAL BEHAVIOR OR ANGER MANAGEMENT;

(5) ENROLLMENT IN A RESTORATIVE JUSTICE PROGRAM; AND

(6) ENROLLMENT IN AN AFTER-SCHOOL PROGRAM THAT ADDRESSES SPECIFIC BEHAVIORAL ISSUES OR EXPOSES STUDENTS TO POSITIVE ACTIVITIES AND BEHAVIORS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.