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**By: Chairman, Ways and Means Committee (Departmental - Education)**

Introduced and read first time: February 14, 1996

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - Expulsion for Bringing a Firearm onto School Property**

3 FOR the purpose of requiring a county superintendent of schools to expel an identified  
4 student with disabilities under certain circumstances for a certain period of time,  
5 who has brought a firearm onto school property; authorizing a county  
6 superintendent of schools to specify on a case by case basis a shorter period of  
7 expulsion or an alternative educational setting for an identified student with  
8 disabilities who has brought a firearm onto school property under certain  
9 circumstances; requiring the county superintendent to follow certain procedures in  
10 making the expulsion determination; providing for a certain contingency; and  
11 generally relating to the expulsion of identified students with disabilities.

12 BY repealing and reenacting, with amendments,

13 Article - Education

14 Section 7-304

15 Annotated Code of Maryland

16 (1992 Replacement Volume and 1995 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Education**

20 7-304.

21 (a) (1) In accordance with the rules and regulations of the county board, each  
22 principal of a public school may suspend for cause, for not more than 5 school days, any  
23 student in the school who is under the direction of the principal.

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

27 (b) At the request of a principal, a county superintendent may suspend a student  
28 for more than 5 school days or expel him.

1 (c) (1) If a principal finds that a suspension of more than 5 schooldays or  
2 expulsion is warranted, he immediately shall report the matter in writing to the county  
3 superintendent.

4 (2) The county superintendent or his designated representative promptly  
5 shall make a thorough investigation of the matter.

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

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

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

13 (ii) Be heard before the county board or its designated committee; and

14 (iii) Bring counsel and witnesses to the hearing.

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

18 (6) The appeal to the county board does not stay the decision of the county  
19 superintendent.

20 (7) The decision of the county board is final.

21 (d) (1) This subsection applies to Prince George's County only.

22 (2) Any student expelled or suspended from school shall remain away from  
23 the school premises during those hours each school day when the school the student  
24 attends is in session.

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

28 (4) Any person who violates any provision of this subsection is guilty of a  
29 misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

30 (e) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. §  
31 921.

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

36 (3) The County Superintendent may specify, on a case by case basis, a  
37 shorter period of expulsion or an alternative educational setting, if alternative

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1 educational settings have been approved by the County Board, for a student who has  
2 brought a firearm onto school property.

3 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS  
4 PARAGRAPH, IF THE PROCEEDINGS CONDUCTED UNDER THIS SUBSECTION  
5 INVOLVE AN IDENTIFIED STUDENT WITH DISABILITIES WHO IS DETERMINED TO  
6 HAVE BROUGHT A FIREARM TO SCHOOL, THE STUDENT MAY BE PLACED IN AN  
7 INTERIM ALTERNATIVE EDUCATIONAL SETTING IN ACCORDANCE WITH STATE LAW  
8 PROCEDURES, FOR NOT MORE THAN THE MAXIMUM NUMBER OF DAYS SPECIFIED  
9 IN THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 20 U.S.C. 1415(E)  
10 OR THE IMPROVING AMERICA'S SCHOOLS ACT.

11 (II) THE INTERIM ALTERNATIVE EDUCATIONAL SETTING SHALL  
12 BE DECIDED BY THE ADMISSION, REVIEW, AND DISMISSAL COMMITTEE.

13 (III) IF A PARENT OR GUARDIAN OF AN IDENTIFIED STUDENT WITH  
14 DISABILITIES REQUESTS A DUE PROCESS HEARING, THE STUDENT SHALL REMAIN IN  
15 THE ALTERNATIVE EDUCATIONAL SETTING DESCRIBED ABOVE DURING THE  
16 PENDENCY OF ANY PROCEEDINGS CONDUCTED UNDER THIS SUBSECTION, UNLESS  
17 THE PARENTS AND THE LOCAL SCHOOL SYSTEM AGREE OTHERWISE.

18 (IV) THIS SUBSECTION DOES NOT SUPERSEDE THE PROVISIONS OF §  
19 14601 OF THE FEDERAL ELEMENTARY AND SECONDARY EDUCATION ACT IF THE  
20 CONDUCT OF THE IDENTIFIED STUDENT WITH DISABILITIES IS UNRELATED TO THE  
21 STUDENT'S DISABILITY, EXCEPT THAT, IN THOSE CIRCUMSTANCES, THE  
22 PROCEDURES UNDER STATE AND FEDERAL LAW SHALL BE FOLLOWED.

23 [(4)] (5) The State Board shall adopt regulations to implement this  
24 subsection.

25 (f) (1) [A handicapped] FOR ANY OTHER NONFIREARM DISCIPLINARY  
26 ACTION A student WITH A DISABILITY may not be removed from the student's current  
27 educational placement for more than 10 school days each school year unless:

28 (i) The admission, review, and dismissal committee has determined  
29 that the conduct which prompted the disciplinary action was not a manifestation of the  
30 student's [handicapping condition] DISABILITY and the student's parents have not  
31 appealed the determination;

32 (ii) The admission, review, and dismissal committee has determined in  
33 accordance with regulations adopted by the State Board of Education that the cumulative  
34 effect of 2 or more suspensions totaling more than 10 school days each school year does  
35 not create a pattern of exclusion that significantly impacts upon the student's educational  
36 program and the student's parents have not appealed the determination;

37 (iii) The student's parents have agreed to an alternative or interim  
38 educational placement; or

39 (iv) 1. The maintenance of the student's current educational  
40 placement is substantially likely to result in injury to the student or to others;

