

**By: Senator Ferguson**

Requested: July 18, 1995

Introduced and read first time: January 10, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public Schools - Suspension of Students by Teachers**

3 FOR the purpose of authorizing public school teachers to suspend certain violent or  
 4 disruptive students for not more than a certain number of school days; requiring  
 5 teachers who suspend students to submit a certain report; permitting a student or  
 6 the parent or guardian of a student who is suspended by a teacher to appeal the  
 7 suspension to the county board of education and the school principal within a  
 8 certain number of days; requiring the county board and the principal to hold a  
 9 hearing and make a decision within a certain number of days; permitting the student  
 10 or the parent or guardian of the student to bring counsel and witnesses to the  
 11 hearing; requiring that the hearing be conducted in a certain manner under certain  
 12 circumstances; providing that the decision of the county board and the principal is  
 13 final; authorizing the teacher to permit the student to return to school before the  
 14 suspension period is over; and generally relating to the suspension of public school  
 15 students by teachers.

16 BY repealing and reenacting, with amendments,  
 17 Article - Education  
 18 Section 7-304  
 19 Annotated Code of Maryland  
 20 (1992 Replacement Volume and 1995 Supplement)

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

23 **Article - Education**

24 7-304.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS  
24 SECTION, A TEACHER IN A PUBLIC SCHOOL MAY SUSPEND FOR NOT MORE THAN 45  
25 SCHOOL DAYS A STUDENT WHO:

26 (I) EXHIBITS VIOLENT OR DISRUPTIVE BEHAVIOR; AND

27 (II) IS UNDER THE DIRECTION OF THE TEACHER.

28 (2) WITHIN 24 HOURS AFTER THE SUSPENSION, THE TEACHER SHALL  
29 SUBMIT TO THE PRINCIPAL AND THE COUNTY BOARD A WRITTEN REPORT THAT:

30 (I) DESCRIBES THE INCIDENT OR INCIDENTS WHICH LED TO THE  
31 SUSPENSION; AND

32 (II) STATES THE DURATION OF THE SUSPENSION.

33 (3) (I) THE STUDENT OR THE PARENT OR GUARDIAN OF THE  
34 STUDENT MAY:

35 1. APPEAL TO THE PRINCIPAL AND THE COUNTY BOARD  
36 WITHIN 10 DAYS AFTER THE SUSPENSION;

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1 2. BE HEARD BEFORE THE PRINCIPAL AND COUNTY BOARD;  
2 AND

3 3. BRING COUNSEL AND WITNESSES TO THE HEARING.

4 (II) A SUSPENSION BY A TEACHER UNDER THIS SUBSECTION MAY  
5 BE REVERSED ONLY BY A VOTE OF THE PRINCIPAL AND A MAJORITY OF THE  
6 COUNTY BOARD.

7 (III) UNLESS A PUBLIC HEARING IS REQUESTED BY THE PARENT OR  
8 GUARDIAN OF THE STUDENT, A HEARING UNDER THIS PARAGRAPH SHALL BE HELD  
9 OUT OF THE PRESENCE OF ALL INDIVIDUALS EXCEPT THOSE WHOSE PRESENCE IS  
10 CONSIDERED NECESSARY OR DESIRABLE BY THE BOARD OR THE PRINCIPAL.

11 (IV) THE DECISION OF THE PRINCIPAL AND THE COUNTY BOARD  
12 SHALL BE MADE WITHIN 10 DAYS OF THE APPEAL.

13 (V) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,  
14 THE DECISION OF THE PRINCIPAL AND THE COUNTY BOARD IS FINAL.

15 (4) A TEACHER WHO SUSPENDS A STUDENT UNDER THIS SUBSECTION  
16 MAY, IN THE TEACHER'S SOLE DISCRETION, PERMIT THE STUDENT TO RETURN TO  
17 SCHOOL BEFORE THE SUSPENSION HAS ENDED.

18 [(d)] (E) (1) This subsection applies to Prince George's County only.

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

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

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

27 [(e)] (F) (1) In this subsection, "firearm" means a firearm as defined in 18  
28 U.S.C. § 921.

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

33 (3) The county superintendent may specify, on a case by case basis, a shorter  
34 period of expulsion or an alternative educational setting, if alternative educational  
35 settings have been approved by the county board, for a student who has brought a firearm  
36 onto school property.

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

38 [(f)] (G) (1) A handicapped student may not be removed from the student's  
39 current educational placement for more than 10 school days each school year unless:

4

1 (i) The admission, review, and dismissal committee has determined  
2 that the conduct which prompted the disciplinary action was not a manifestation of the  
3 student's handicapping condition and the student's parents have not appealed the  
4 determination;

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

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

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

14 2. The student's parents have not agreed to an alternative or  
15 interim educational placement; and

16 3. A court of competent jurisdiction has temporarily enjoined  
17 the student from remaining in the student's current educational placement.

18 (2) In injunctive proceedings under paragraph (1)(iv)3 of this subsection,  
19 there is a presumption in favor of maintaining the student's current educational  
20 placement. The county superintendent or the superintendent's designated representative  
21 may overcome this presumption by showing that maintaining the student's current  
22 educational placement is substantially likely to result in injury either to the student or to  
23 others.

24 (3) Whenever a student has been enjoined from attending the student's  
25 current educational placement under paragraph (1)(iv)3 of this subsection, the county  
26 superintendent shall ensure that the student continues to receive appropriate educational  
27 and related services to the extent practicable.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 1996.