

# SENATE BILL 651

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CF HB 425

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By: **Senators Smith, Astle, Benson, Conway, Currie, Feldman, Ferguson, Guzzone, Jennings, Kagan, Kelley, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Nathan–Pulliam, Norman, Peters, Ramirez, Robinson, Salling, Young, and Zucker**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Schools – Suspensions and Expulsions**

3 FOR the purpose of prohibiting the suspension or expulsion of prekindergarten,  
4 kindergarten, first grade, or second grade students from public schools with certain  
5 exceptions for an expulsion required by federal law or a suspension for not more than  
6 a certain number of days under certain circumstances; requiring the principal or  
7 school administration to contact a student’s parent or guardian under certain  
8 circumstances; ~~authorizing the suspension or expulsion of students in kindergarten,~~  
9 ~~first grade, or second grade under certain circumstances; requiring the school to~~  
10 ~~return a suspended student to school under a certain manner;~~ requiring the school  
11 to provide certain supports to address the student’s behavior; requiring the school  
12 system to remedy the impact of the student’s behavior through certain intervention  
13 methods; requiring the State Department of Education to adopt certain regulations  
14 on or before a certain date; defining certain terms; and generally relating to the  
15 suspension and expulsion of students in public schools.

16 BY repealing and reenacting, with amendments,  
17 Article – Education  
18 Section 4–319(d) and 7–305  
19 Annotated Code of Maryland  
20 (2014 Replacement Volume and 2016 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
 2 Article – Education  
 3 Section 7–305.1  
 4 Annotated Code of Maryland  
 5 (2014 Replacement Volume and 2016 Supplement)

6 Preamble

7 WHEREAS, Maryland public schools should provide practices that build fair  
 8 processes into decision making, facilitate student learning, and allow for accountability and  
 9 skill building, cooperation, and mutual understanding; and

10 WHEREAS, It is the intent of the General Assembly that school systems shall utilize  
 11 restorative practices as an alternative to traditional school disciplinary practices to ensure  
 12 that developmentally appropriate, age–appropriate, and proportional consequences are  
 13 applied to a child’s misbehavior in a way that supports personal growth and positive  
 14 learning opportunities for all students; now, therefore,

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

17 **Article – Education**

18 4–319.

19 (d) (1) Except as otherwise provided in [§ 7–305(g)] **§§ 7–305(G) AND**  
 20 **7–305.1** of this article, a student in the Baltimore City School System may be transferred  
 21 to the Center if the student:

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

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

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

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

31 7–305.

32 (a) (1) Except as provided in subsection (b) of this section **AND § 7–305.1 OF**  
 33 **THIS SUBTITLE**, in accordance with the rules and regulations of the county board, each

1 principal of a public school may suspend for cause, for not more than 10 school days, any  
2 student in the school who is under the direction of the principal.

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

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

9 (b) (1) Except as provided in paragraph (2) of this subsection, a student may  
10 not be suspended or expelled from school solely for attendance-related offenses.

11 (2) Paragraph (1) of this subsection does not apply to in-school suspensions  
12 for attendance-related offenses.

13 (c) **[At] EXCEPT AS PROVIDED IN § 7-305.1 OF THIS SUBTITLE, AT** the  
14 request of a principal, a county superintendent may suspend a student for more than 10  
15 school days or expel the student.

16 (d) (1) If a principal finds that a suspension of more than 10 school days or  
17 expulsion is warranted, the principal immediately shall report the matter in writing to the  
18 county superintendent.

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

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

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

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

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

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

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

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

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

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

8 (e) (1) Any student expelled or suspended from school:

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

11 (ii) May not participate in school sponsored activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **7-305.1.**

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

31           (2) **"PUBLIC PREKINDERGARTEN PROGRAM" MEANS:**

32           (I) **ANY PUBLICLY FUNDED PREKINDERGARTEN PROGRAM**  
33 **ESTABLISHED UNDER § 7-101.1 OF THIS TITLE; OR**

1 (II) ANY QUALIFIED VENDOR OF PREKINDERGARTEN SERVICES  
2 AS DEFINED IN § 7-101.2(A)(7) OF THIS TITLE.

3 (3) "RESTORATIVE PRACTICES" MEANS PRACTICES CONDUCTED IN A  
4 WHOLE-SCHOOL ETHOS OR CULTURE THAT SUPPORTS PEACEMAKING AND SOLVES  
5 CONFLICT BY BUILDING A COMMUNITY AND ADDRESSING HARM IN A SCHOOL  
6 SETTING AND THAT:

7 (I) ARE CONDUCTED BY TRAINED STAFF;

8 (II) FOCUS ON REPAIRING THE HARM TO THE COMMUNITY  
9 THROUGH DIALOGUE THAT EMPHASIZES INDIVIDUAL ACCOUNTABILITY; AND

10 (III) HELP BUILD A SENSE OF BELONGING, SAFETY, AND SOCIAL  
11 RESPONSIBILITY IN THE SCHOOL COMMUNITY.

12 ~~(B) (1) A STUDENT MAY NOT BE SUSPENDED OR EXPELLED FROM SCHOOL  
13 IF THE STUDENT IS ENROLLED IN A PUBLIC PREKINDERGARTEN PROGRAM.~~

14 ~~(2) A STUDENT MAY BE SUSPENDED OR EXPELLED FROM SCHOOL IF  
15 THE STUDENT:~~

16 ~~(I) IS ENROLLED IN KINDERGARTEN, FIRST GRADE, OR SECOND  
17 GRADE; AND~~

18 ~~(II) 1. HAS KNOWINGLY BROUGHT A FIREARM TO SCHOOL;  
19 OR~~

20 ~~2. HAS KNOWINGLY POSSESSED A FIREARM AT SCHOOL.~~

21 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
22 STUDENT ENROLLED IN A PUBLIC PREKINDERGARTEN PROGRAM, KINDERGARTEN,  
23 FIRST GRADE, OR SECOND GRADE MAY NOT BE SUSPENDED OR EXPELLED FROM  
24 SCHOOL.

25 (2) A STUDENT DESCRIBED UNDER PARAGRAPH (1) OF THIS  
26 SUBSECTION MAY ONLY BE:

27 (I) EXPELLED FROM SCHOOL IF REQUIRED BY FEDERAL LAW;  
28 OR

29 (II) SUSPENDED FOR NOT MORE THAN 5 SCHOOL DAYS IF THE  
30 SCHOOL ADMINISTRATION, IN CONSULTATION WITH A SCHOOL PSYCHOLOGIST OR  
31 OTHER MENTAL HEALTH PROFESSIONAL, DETERMINES THAT THERE IS AN

1 IMMINENT THREAT OF SERIOUS HARM TO OTHER STUDENTS OR STAFF THAT  
2 CANNOT BE REDUCED OR ELIMINATED THROUGH INTERVENTIONS AND SUPPORTS.

3 (3) THE PRINCIPAL OR SCHOOL ADMINISTRATION SHALL PROMPTLY  
4 CONTACT THE PARENT OR GUARDIAN OF A STUDENT SUSPENDED OR EXPELLED  
5 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

6 ~~(C) THE SCHOOL SHALL RETURN ANY STUDENT SUSPENDED UNDER~~  
7 ~~SUBSECTION (B) OF THIS SECTION TO THE LOCAL SCHOOL SYSTEM BY A MEANS THAT~~  
8 ~~MINIMIZES, TO THE GREATEST EXTENT POSSIBLE, ANY DISRUPTION OF THE~~  
9 ~~STUDENT'S ACADEMIC INSTRUCTION.~~

10 ~~(D)~~ (C) (1) THE SCHOOL SHALL PROVIDE INTERVENTION AND  
11 SUPPORT TO ADDRESS THE STUDENT'S BEHAVIOR IF THE STUDENT IS:

12 (I) SUSPENDED UNDER SUBSECTION (B) OF THIS SECTION; OR

13 (II) ENROLLED IN PREKINDERGARTEN, KINDERGARTEN, FIRST  
14 GRADE, OR SECOND GRADE AND:

15 1. IS DISRUPTIVE TO THE SCHOOL ENVIRONMENT; OR

16 2. COMMITS AN ACT THAT WOULD BE CONSIDERED AN  
17 OFFENSE SUBJECT TO SUSPENSION BUT FOR THE STUDENT'S GRADE.

18 (2) ~~SUPPORT~~ INTERVENTION AND SUPPORT PROVIDED UNDER  
19 PARAGRAPH (1) OF THIS SUBSECTION INCLUDES:

20 (I) POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS;

21 (II) A BEHAVIOR INTERVENTION PLAN;

22 (III) A REFERRAL TO A STUDENT SUPPORT TEAM;

23 (IV) A REFERRAL TO AN INDIVIDUALIZED EDUCATION PROGRAM  
24 TEAM; AND

25 (V) A REFERRAL FOR APPROPRIATE COMMUNITY-BASED  
26 SERVICES.

27 ~~(E)~~ (D) THE SCHOOL SYSTEM SHALL REMEDY THE IMPACT OF A  
28 STUDENT'S BEHAVIOR THROUGH APPROPRIATE INTERVENTION METHODS  
29 INCLUDING RESTORATIVE PRACTICES.

1           ~~(F)~~ (E)           ON OR BEFORE MAY 1, 2018, THE DEPARTMENT SHALL ADOPT  
2 REGULATIONS TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.

3           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
4 1, 2017.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.