



House of Representatives

General Assembly

File No. 744

January Session, 2009

Substitute House Bill No. 6567

House of Representatives, April 20, 2009

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING READMISSION OF STUDENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-233d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) (1) Any local or regional board of education, at a meeting at
4 which three or more members of such board are present, or the
5 impartial hearing board established pursuant to subsection (b) of this
6 section, may expel, subject to the provisions of this subsection, any
7 pupil whose conduct on school grounds or at a school-sponsored
8 activity is violative of a publicized policy of such board or is seriously
9 disruptive of the educational process or endangers persons or property
10 or whose conduct off school grounds is violative of such policy and is
11 seriously disruptive of the educational process, provided a majority of
12 the board members sitting in the expulsion hearing vote to expel and
13 that at least three affirmative votes for expulsion are cast. In making a
14 determination as to whether conduct is seriously disruptive of the

15 educational process, the board of education or impartial hearing board
16 may consider, but such consideration shall not be limited to: (A)
17 Whether the incident occurred within close proximity of a school; (B)
18 whether other students from the school were involved or whether
19 there was any gang involvement; (C) whether the conduct involved
20 violence, threats of violence or the unlawful use of a weapon, as
21 defined in section 29-38, and whether any injuries occurred; and (D)
22 whether the conduct involved the use of alcohol.

23 (2) Expulsion proceedings pursuant to this section, except as
24 provided in subsection (i) of this section shall be required whenever
25 there is reason to believe that any pupil (A) on school grounds or at a
26 school-sponsored activity, was in possession of a firearm, as defined in
27 18 USC 921, as amended from time to time, or deadly weapon,
28 dangerous instrument or martial arts weapon, as defined in section
29 53a-3, (B) off school grounds, did possess such a firearm in violation of
30 section 29-35 or did possess and use such a firearm, instrument or
31 weapon in the commission of a crime under chapter 952, or (C) on or
32 off school grounds, offered for sale or distribution a controlled
33 substance, as defined in subdivision (9) of section 21a-240, whose
34 manufacture, distribution, sale, prescription, dispensing, transporting
35 or possessing with intent to sell or dispense, offering, or administering
36 is subject to criminal penalties under sections 21a-277 and 21a-278.
37 Such a pupil shall be expelled for one calendar year if the local or
38 regional board of education or impartial hearing board finds that the
39 pupil did so possess or so possess and use, as appropriate, such a
40 firearm, instrument or weapon or did so offer for sale or distribution
41 such a controlled substance, provided the board of education or the
42 hearing board may modify the period of expulsion for a pupil on a
43 case by case basis, and as provided for in subdivision (2) of subsection
44 (c) of this section.

45 (3) Unless an emergency exists, no pupil shall be expelled without a
46 formal hearing held pursuant to sections 4-176e to 4-180a, inclusive,
47 and section 4-181a, provided whenever such pupil is a minor, the
48 notice required by section 4-177 and section 4-180 shall also be given to

49 the parents or guardian of the pupil. If an emergency exists, such
50 hearing shall be held as soon after the expulsion as possible. The notice
51 shall include information concerning legal services provided free of
52 charge or at a reduced rate that are available locally and how to access
53 such services.

54 (b) For purposes of conducting expulsion hearings as required by
55 subsection (a) of this section, any local or regional board of education
56 or any two or more of such boards in cooperation may establish an
57 impartial hearing board of one or more persons. No member of any
58 such board or boards shall be a member of the hearing board. The
59 hearing board shall have the authority to conduct the expulsion
60 hearing and render a final decision in accordance with the provisions
61 of sections 4-176e to 4-180a, inclusive, and section 4-181a.

62 (c) (1) In determining the length of an expulsion and the nature of
63 the alternative educational opportunity to be offered under subsection
64 (d) of this section, the local or regional board of education, or the
65 impartial hearing board established pursuant to subsection (b) of this
66 section, may receive and consider evidence of past disciplinary
67 problems which have led to removal from a classroom, suspension or
68 expulsion of such pupil.

69 (2) For any pupil expelled for the first time pursuant to this section
70 and who has never been suspended pursuant to section 10-233c, the
71 local or regional board of education may shorten the length of or waive
72 the expulsion period if the pupil successfully completes a board-
73 specified program and meets any other conditions required by the
74 board. Such board-specified program shall not require the pupil or the
75 parent or guardian of the pupil to pay for participation in the program.

76 (d) Notwithstanding the provisions of subsection (a) of section 10-
77 220, local and regional boards of education shall only be required to
78 offer an alternative educational opportunity in accordance with this
79 section. Any pupil under sixteen years of age who is expelled shall be
80 offered an alternative educational opportunity during the period of
81 expulsion, provided any parent or guardian of such pupil who does

82 not choose to have his or her child enrolled in an alternative program
83 shall not be subject to the provisions of section 10-184. Any pupil
84 expelled for the first time who is between the ages of sixteen and
85 eighteen and who wishes to continue his or her education shall be
86 offered an alternative educational opportunity if he or she complies
87 with conditions established by his or her local or regional board of
88 education. Such alternative may include, but shall not be limited to, the
89 placement of a pupil who is at least sixteen years of age in an adult
90 education program pursuant to section 10-69. A local or regional board
91 of education shall count the expulsion of a pupil when he was under
92 sixteen years of age for purposes of determining whether an
93 alternative educational opportunity is required for such pupil when he
94 is between the ages of sixteen and eighteen. A local or regional board
95 of education may offer an alternative educational opportunity to a
96 pupil for whom such alternative educational opportunity is not
97 required pursuant to this section.

98 (e) Notwithstanding the provisions of subsection (d) of this section
99 concerning the provision of an alternative educational opportunity for
100 pupils between the ages of sixteen and eighteen, local and regional
101 boards of education shall not be required to offer such alternative to
102 any pupil between the ages of sixteen and eighteen who is expelled
103 because of conduct which endangers persons if it is determined at the
104 expulsion hearing that the conduct for which the pupil is expelled
105 involved (1) possession of a firearm, as defined in 18 USC 921, as
106 amended from time to time, or deadly weapon, dangerous instrument
107 or martial arts weapon, as defined in section 53a-3, on school property
108 or at a school-sponsored activity, or (2) offering for sale or distribution
109 on school property or at a school-sponsored activity a controlled
110 substance, as defined in subdivision (9) of section 21a-240, whose
111 manufacture, distribution, sale, prescription, dispensing, transporting
112 or possessing with the intent to sell or dispense, offering, or
113 administration is subject to criminal penalties under sections 21a-277
114 and 21a-278. If a pupil is expelled pursuant to this section for
115 possession of a firearm or deadly weapon the board of education shall
116 report the violation to the local police department or in the case of a

117 student enrolled in a regional vocational-technical school to the state
118 police. If a pupil is expelled pursuant to this section for the sale or
119 distribution of such a controlled substance, the board of education
120 shall refer the pupil to an appropriate state or local agency for
121 rehabilitation, intervention or job training, or any combination thereof,
122 and inform the agency of its action. Whenever a local or regional board
123 of education notifies a pupil between the ages of sixteen and eighteen
124 or the parents or guardian of such pupil that an expulsion hearing will
125 be held, the notification shall include a statement that the board of
126 education is not required to offer an alternative educational
127 opportunity to any pupil who is found to have engaged in the conduct
128 described in this subsection.

129 (f) (1) Whenever a pupil is expelled pursuant to the provisions of
130 this section, notice of the expulsion and the conduct for which the
131 pupil was expelled shall be included on the pupil's cumulative
132 educational record. Such notice, except for notice of an expulsion
133 based on possession of a firearm or deadly weapon as described in
134 subsection (a) of this section, shall be expunged from the cumulative
135 educational record by the local or regional board of education if a
136 pupil graduates from high school, except as provided for in
137 subdivision (2) of this subsection.

138 (2) In the case of a pupil for which the length of the expulsion
139 period is shortened or the expulsion period is waived pursuant to
140 subdivision (2) of subsection (c) of this section, such notice shall be
141 expunged from the cumulative educational record by the local or
142 regional board of education (A) if the pupil graduates from high
143 school, or (B) if the board so chooses, at the time the pupil completes
144 the board-specified program and meets any other conditions required
145 by the board pursuant to [said] subdivision (2) of subsection (c) of this
146 section, whichever is earlier.

147 (g) A local or regional board of education may adopt the decision of
148 a pupil expulsion hearing conducted by another school district
149 provided such local or regional board of education or impartial

150 hearing board shall hold a hearing pursuant to the provisions of
151 subsection (a) of this section which shall be limited to a determination
152 of whether the conduct which was the basis for the expulsion would
153 also warrant expulsion under the policies of such board. The pupil
154 shall be excluded from school pending such hearing. The excluded
155 student shall be offered an alternative educational opportunity in
156 accordance with the provisions of subsections (d) and (e) of this
157 section.

158 (h) Whenever a pupil against whom an expulsion hearing is
159 pending withdraws from school after notification of such hearing but
160 before the hearing is completed and a decision rendered pursuant to
161 this section, (1) notice of the pending expulsion hearing shall be
162 included on the pupil's cumulative educational record, and (2) the
163 local or regional board of education or impartial hearing board shall
164 complete the expulsion hearing and render a decision. If such pupil
165 enrolls in school in another school district, such pupil shall not be
166 excluded from school in the other district pending completion of the
167 expulsion hearing pursuant to this subsection unless an emergency
168 exists, provided nothing in this subsection shall limit the authority of
169 the local or regional board of education for such district to suspend the
170 pupil or to conduct its own expulsion hearing in accordance with this
171 section.

172 (i) Prior to conducting an expulsion hearing for a child requiring
173 special education and related services described in subparagraph (A)
174 of subdivision (5) of section 10-76a, a planning and placement team
175 shall convene to determine whether the misconduct was caused by the
176 child's disability. If it is determined that the misconduct was caused by
177 the child's disability, the child shall not be expelled. The planning and
178 placement team shall reevaluate the child for the purpose of modifying
179 the child's individualized education program to address the
180 misconduct and to ensure the safety of other children and staff in the
181 school. If it is determined that the misconduct was not caused by the
182 child's disability, the child may be expelled in accordance with the
183 provisions of this section applicable to children who do not require

184 special education and related services. Notwithstanding the provisions
185 of subsections (d) and (e) of this section, whenever a child requiring
186 such special education and related services is expelled, an alternative
187 educational opportunity, consistent with such child's educational
188 needs shall be provided during the period of expulsion.

189 (j) An expelled pupil may apply for early readmission to school.
190 Except as provided in this subsection, such readmission shall be at the
191 discretion of the local or regional board of education. The board of
192 education may delegate authority for readmission decisions to the
193 superintendent of schools for the school district. If the board delegates
194 such authority, readmission shall be at the discretion of the
195 superintendent. Readmission decisions shall not be subject to appeal to
196 Superior Court. The board or superintendent, as appropriate, may
197 condition such readmission on specified criteria.

198 (k) Local and regional boards of education shall submit to the
199 Commissioner of Education such information on expulsions for the
200 possession of weapons as required for purposes of the Gun-Free
201 Schools Act of 1994, 20 USC 8921 et seq., as amended from time to
202 time.

203 (l) If a student who committed an expellable offense seeks to return
204 to a school district after having been in a juvenile detention center, the
205 Connecticut Juvenile Training School or any other residential
206 placement for one year or more, the district to which the student is
207 returning shall allow such student to return and may not expel the
208 student for additional time for such offense.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	10-233d

ED *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Education, Dept.	GF - Indeterminate	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Local and Regional School Districts	Savings	Potential	Potential

Explanation

The bill states that if a student who committed an expellable offense seeks to return to a district after having been in a residential placement for at least a year, districts may not prevent the student from returning or expel the student for additional time for the offense.

The bill could result in a potential savings to local and regional boards of education. If local and regional boards of education are not able to expel the student then they would not have to pay for tutoring services as children expelled must receive an alternative educational opportunity. It is anticipated that individualized tutoring services are more costly than instruction in a classroom setting.

The fiscal impact to the state is indeterminate. If a district places a student out of district, rather than expelling the student, building an alternative educational program for the student, the out of district placement could potentially qualify for an excess cost grant, which could result in an additional cost to the state. However, if a student is readmitted into school after being in a residential placement, rather than expelling that student for additional time, and the transition back

to the school district is done correctly and with the appropriate supports in place, the child could return to school and finish without additional expulsions and result in a savings.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: State Department of Education

OLR Bill Analysis

sHB 6567

AN ACT CONCERNING READMISSION OF STUDENTS.

SUMMARY:

By law, boards of education can expel students whose conduct (1) on school grounds or at a school-sponsored activity violates a publicized board policy, is seriously disruptive of the educational process, or endangers persons or property or (2) off school grounds violates board policy and is seriously disruptive of the educational process.

Under this bill, if a student who committed an expellable offense seeks to return to a district after having been in a residential placement for at least a year, districts may not (1) prevent the student from returning or (2) expel the student for additional time for the offense.

EFFECTIVE DATE: July 1, 2009

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 30 Nay 0 (04/01/2009)