
OLR Bill Analysis

sHB 5170

AN ACT CONCERNING STUDENTS' RIGHT TO PRIVACY IN THEIR MOBILE ELECTRONIC DEVICES.

SUMMARY

This bill creates a standard for determining when a public school administrator can search a student's personal mobile electronic device to access data or other content stored on or accessed from the device. Current case law holds that student searches by school administrators are subject to the Fourth Amendment and that reasonable cause is required before a student or the student's personal effects can be searched (see BACKGROUND).

The bill bans a school employee from taking a student's personal device to search it or compelling a student to provide access to it unless the device is on school property or being used during a school-sponsored activity and there is a reasonable suspicion that the student:

1. violated an educational policy and the device contains evidence of the suspected violation or
2. poses a risk of imminent personal injury to him or herself or others.

It limits the search to finding evidence of the suspected violation or the risk of imminent personal injury and requires other steps, including notifying the student and the student's parents within 24 hours of the search.

EFFECTIVE DATE: July 1, 2018

DEFINITIONS

The bill includes the following definitions:

1. "mobile electronic device" means any hand-held or other

portable electronic equipment capable of providing data communication between individuals, including a mobile telephone (see BACKGROUND), a text messaging device, a paging device, a personal digital assistant, a laptop computer, equipment capable of playing a video game or a DVD, or equipment on which digital images are taken or transmitted;

2. "school employee" means (a) a teacher or substitute teacher, administrator or superintendent, guidance counselor, school counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by a local or regional board of education or working in a public or private school or (b) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public school, under a contract with the local or regional board of education;
3. "school-sponsored activity" means any activity sponsored, recognized, or authorized by a board of education and includes activities conducted on or off school property; and
4. "administrator" means a certified professional board of education employee in a position requiring an administrator whose administrative or supervisory duties take up more than 50% of the assigned time.

SEARCH CONDITIONS AND PROCEDURES

Under the bill, when a school employee takes a student's personal device because of a reasonable suspicion that the student violated education policy or poses a risk of imminent personal injury, the employee must immediately turn the device over to a school administrator.

The school administrator must follow certain steps to conduct the search. Under the bill, the search is strictly limited to (1) finding evidence of the suspected policy violation or (2) preventing imminent personal injury to the student or others. It must immediately cease

upon (1) finding sufficient evidence or no evidence of the suspected violation or (2) preventing imminent personal injury.

Also, immediately after turning over the device, the school employee must report to the principal, in writing, the reasonable suspicion that gave rise to taking the device and to whom the device was turned over. Within 24 hours after the search, the principal must (1) notify the student and the student's parent or guardian of the suspected violation and what data was accessed from the device during the search and (2) provide them with a copy of the report explaining the reasonable suspicion that triggered the search.

STANDARDS OF CONDUCT AND STUDENT HANDBOOKS

Annually, starting with the 2018-19 school year, the bill requires each board of education to include the bill's requirements in the publication of the school district's rules, procedures, and standards of conduct and in all student handbooks.

BACKGROUND

Student Searches Supreme Court Case

In *New Jersey v. T.L.O.*, 469 U.S. 325 (1985), the court ruled that school administrators must have reasonable grounds to conduct a search at its start. Furthermore, the search must be reasonable in scope and not excessively intrusive in light of the student's age or sex. The search must be clearly related to the reasonable grounds or suspicion.

Mobile Telephone

State law defines "mobile telephone" as a cellular, analog, wireless, or digital telephone capable of sending or receiving telephone communications without an access line for service (CGS § 14-296aa).

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 35 Nay 0 (03/23/2018)