

File No. 659

(Reprint of File No. 343)

Substitute Senate Bill No. 355
As Amended by Senate Amendment
Schedule "A" and House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 1, 1998

AN ACT CONCERNING STUDENT SUSPENSIONS AND
EXPULSIONS.

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

1 Section 1. Subsection (a) of section 10-233c
2 of the general statutes is repealed and the
3 following is substituted in lieu thereof:
4 (a) Any local or regional board of education
5 may authorize the administration of the schools
6 under its direction to suspend from school
7 privileges any pupil whose conduct on school
8 grounds or at a school sponsored activity is
9 violative of a publicized policy of such board or
10 is seriously disruptive of the educational process
11 or endangers persons or property or whose conduct
12 off school grounds is violative of such policy and
13 is seriously disruptive of the educational
14 process. IN MAKING A DETERMINATION AS TO WHETHER
15 CONDUCT IS SERIOUSLY DISRUPTIVE OF THE EDUCATIONAL
16 PROCESS, THE ADMINISTRATION MAY CONSIDER, BUT SUCH
17 CONSIDERATION SHALL NOT BE LIMITED TO: (1) WHETHER
18 THE INCIDENT OCCURRED WITHIN CLOSE PROXIMITY OF A
19 SCHOOL; (2) WHETHER OTHER STUDENTS FROM THE SCHOOL
20 WERE INVOLVED OR WHETHER THERE WAS ANY GANG

21 INVOLVEMENT; (3) WHETHER THE CONDUCT INVOLVED
22 VIOLENCE, THREATS OF VIOLENCE OR THE UNLAWFUL USE
23 OF A WEAPON, AS DEFINED IN SECTION 29-38, AND
24 WHETHER ANY INJURIES OCCURRED; AND (4) WHETHER THE
25 CONDUCT INVOLVED THE USE OF ALCOHOL. Any such
26 board may authorize the administration to suspend
27 transportation services for any pupil whose
28 conduct while awaiting or receiving transportation
29 to and from school endangers persons or property
30 or is violative of a publicized policy of such
31 board. Unless an emergency exists, no pupil shall
32 be suspended without an informal hearing by the
33 administration, at which such pupil shall be
34 informed of the reasons for the disciplinary
35 action and given an opportunity to explain the
36 situation, provided nothing herein shall be
37 construed to prevent a more formal hearing from
38 being held if the circumstances surrounding the
39 incident so require, and further provided no pupil
40 shall be suspended more than ten times or a total
41 of fifty days in one school year, whichever
42 results in fewer days of exclusion, unless such
43 pupil is granted a formal hearing pursuant to
44 sections 4-176e to 4-180a, inclusive, and section
45 4-181a. If an emergency situation exists, such
46 hearing shall be held as soon after the suspension
47 as possible.

48 Sec. 2. Section 10-233d of the general
49 statutes is repealed and the following is
50 substituted in lieu thereof:

51 (a) (1) Any local or regional board of
52 education, at a meeting at which three or more
53 members of such board are present, or the
54 impartial hearing board established pursuant to
55 subsection (b) of this section, may expel, subject
56 to the provisions of this subsection, any pupil
57 whose conduct on school grounds or at a
58 school-sponsored activity is violative of a
59 publicized policy of such board or is seriously
60 disruptive of the educational process or endangers
61 persons or property or whose conduct off school
62 grounds is violative of such policy and is
63 seriously disruptive of the educational process,
64 provided a majority of the board members sitting
65 in the expulsion hearing vote to expel and that at
66 least three affirmative votes for expulsion are
67 cast. IN MAKING A DETERMINATION AS TO WHETHER
68 CONDUCT IS SERIOUSLY DISRUPTIVE OF THE EDUCATIONAL

69 PROCESS, THE BOARD OF EDUCATION OR IMPARTIAL
70 HEARING BOARD MAY CONSIDER, BUT SUCH CONSIDERATION
71 SHALL NOT BE LIMITED TO: (A) WHETHER THE INCIDENT
72 OCCURRED WITHIN CLOSE PROXIMITY OF A SCHOOL; (B)
73 WHETHER OTHER STUDENTS FROM THE SCHOOL WERE
74 INVOLVED OR WHETHER THERE WAS ANY GANG
75 INVOLVEMENT; (C) WHETHER THE CONDUCT INVOLVED
76 VIOLENCE, THREATS OF VIOLENCE OR THE UNLAWFUL USE
77 OF A WEAPON, AS DEFINED IN SECTION 29-38, AND
78 WHETHER ANY INJURIES OCCURRED; AND (D) WHETHER THE
79 CONDUCT INVOLVED IN THE USE OF ALCOHOL.

80 (2) Expulsion proceedings pursuant to this
81 section, except as provided in subsection (i) of
82 this section shall be required whenever there is
83 reason to believe that any pupil (A) on school
84 grounds or at a school sponsored activity, was in
85 possession of a firearm, as defined in 18 USC 921,
86 as amended from time to time, or deadly weapon,
87 dangerous instrument or martial arts weapon, as
88 defined in section 53a-3, (B) off school grounds,
89 did possess such a firearm in violation of section
90 29-35 or did possess and use such a firearm,
91 instrument or weapon in the commission of a crime
92 under chapter 952, or (C) on or off school
93 grounds, offered for sale or distribution a
94 controlled substance, as defined in subdivision
95 (9) of section 21a-240, whose manufacture,
96 distribution, sale, prescription, dispensing,
97 transporting or possessing with intent to sell or
98 dispense, offering, or administering is subject to
99 criminal penalties under sections 21a-277 and
100 21a-278. Such a pupil shall be expelled for one
101 calendar year if the local or regional board of
102 education or impartial hearing board finds that
103 the pupil did so possess or so possess and use, as
104 appropriate, such a firearm, instrument or weapon
105 or did so offer for sale or distribution such a
106 controlled substance, provided the board of
107 education or the hearing board may modify the
108 period of expulsion for a pupil on a case by case
109 basis.

110 (3) Unless an emergency exists, no pupil shall
111 be expelled without a formal hearing held pursuant
112 to sections 4-176e to 4-180a, inclusive, and
113 section 4-181a, provided whenever such pupil is a
114 minor, the notice required by section 4-177 and
115 section 4-180 shall also be given to the parents
116 or guardian of the pupil. If an emergency exists,

117 such hearing shall be held as soon after the
118 expulsion as possible.

119 (b) For purposes of conducting expulsion
120 hearings as required by subsection (a) of this
121 section, any local or regional board of education
122 or any two or more of such boards in cooperation
123 may establish an impartial hearing board of one or
124 more persons. No member of any such board or
125 boards shall be a member of the hearing board. The
126 hearing board shall have the authority to conduct
127 the expulsion hearing and render a final decision
128 in accordance with the provisions of sections
129 4-176e to 4-180a, inclusive, and section 4-181a.

130 (c) In determining the length of an expulsion
131 and the nature of the alternative educational
132 opportunity to be offered under subsection (d),
133 the local or regional board of education, or the
134 impartial hearing board established pursuant to
135 subsection (b) of this section, may receive and
136 consider evidence of past disciplinary problems
137 which have led to removal from a classroom,
138 suspension or expulsion of such pupil.

139 (d) Any pupil under sixteen years of age who
140 is expelled shall be offered an alternative
141 educational opportunity during the period of
142 expulsion, provided any parent or guardian of such
143 pupil who does not choose to have his or her child
144 enrolled in an alternative program shall not be
145 subject to the provisions of section 10-184. Any
146 pupil expelled for the first time who is between
147 the ages of sixteen and eighteen and who wishes to
148 continue his or her education shall be offered an
149 alternative educational opportunity if he or she
150 complies with conditions established by his or her
151 local or regional board of education. Such
152 alternative may include, but shall not be limited
153 to, the placement of a pupil who is at least
154 sixteen years of age in an adult education program
155 pursuant to section 10-69. A local or regional
156 board of education shall count the expulsion of a
157 pupil when he was under sixteen years of age for
158 purposes of determining whether an alternative
159 educational opportunity is required for such pupil
160 when he is between the ages of sixteen and
161 eighteen. A local or regional board of education
162 may offer an alternative educational opportunity
163 to a pupil for whom such alternative educational

164 opportunity is not required pursuant to this
165 section.

166 (e) Notwithstanding the provisions of
167 subsection (d) of this section concerning the
168 provision of an alternative educational
169 opportunity for pupils between the ages of sixteen
170 and eighteen, local and regional boards of
171 education shall not be required to offer such
172 alternative to any pupil between the ages of
173 sixteen and eighteen who is expelled because of
174 conduct which endangers persons if it is
175 determined at the expulsion hearing that the
176 conduct for which the pupil is expelled involved
177 (1) possession of a firearm, as defined in 18 USC
178 921, as amended from time to time, or deadly
179 weapon, dangerous instrument or martial arts
180 weapon, as defined in section 53a-3, on school
181 property or at a school-sponsored activity or (2)
182 offering for sale or distribution on school
183 property or at a school-sponsored activity a
184 controlled substance, as defined in subdivision
185 (9) of section 21a-240, whose manufacture,
186 distribution, sale, prescription, dispensing,
187 transporting or possessing with the intent to sell
188 or dispense, offering, or administration is
189 subject to criminal penalties under sections
190 21a-277 and 21a-278. If a pupil is expelled
191 pursuant to this section for possession of a
192 firearm or deadly weapon the board of education
193 shall report the violation to the local police
194 department or in the case of a student enrolled in
195 a regional vocational-technical school to the
196 state police. If a pupil is expelled pursuant to
197 this section for the sale or distribution of such
198 a controlled substance, the board of education
199 shall refer the pupil to an appropriate state or
200 local agency for rehabilitation, intervention or
201 job training, or any combination thereof, and
202 inform the agency of its action. Whenever a local
203 or regional board of education notifies a pupil
204 between the ages of sixteen and eighteen or the
205 parents or guardian of such pupil that an
206 expulsion hearing will be held, the notification
207 shall include a statement that the board of
208 education is not required to offer an alternative
209 educational opportunity to any pupil who is found
210 to have engaged in the conduct described in this
211 subsection.

212 (f) Whenever a pupil is expelled pursuant to
213 the provisions of this section, notice of the
214 expulsion and the conduct for which the pupil was
215 expelled shall be included on the pupil's
216 cumulative educational record. Such notice, except
217 for notice of an expulsion based on possession of
218 a firearm or deadly weapon as described in
219 subsection (a) of this section, shall be expunged
220 from the cumulative educational record by the
221 local or regional board of education if a pupil
222 graduates from high school.

223 (g) A local or regional board of education may
224 adopt the decision of a pupil expulsion hearing
225 conducted by another school district provided such
226 local or regional board of education or impartial
227 hearing board shall hold a hearing pursuant to the
228 provisions of subsection (a) of this section which
229 shall be limited to a determination of whether the
230 conduct which was the basis for the expulsion
231 would also warrant expulsion under the policies of
232 such board. The pupil shall be excluded from
233 school pending such hearing. The excluded student
234 shall be offered an alternative educational
235 opportunity in accordance with the provisions of
236 subsections (d) and (e) of this section.

237 (h) Whenever a pupil against whom an expulsion
238 hearing is pending withdraws from school after
239 notification of such hearing but before the
240 hearing is completed and a decision rendered
241 pursuant to this section, (1) notice of the
242 pending expulsion hearing shall be included on the
243 pupil's cumulative educational record and (2) the
244 local or regional board of education or impartial
245 hearing board shall complete the expulsion hearing
246 and render a decision. If such pupil enrolls in
247 school in another school district, such pupil
248 shall not be excluded from school in the other
249 district pending completion of the expulsion
250 hearing pursuant to this subsection unless an
251 emergency exists, provided nothing in this
252 subsection shall limit the authority of the local
253 or regional board of education for such district
254 to suspend the pupil or to conduct its own
255 expulsion hearing in accordance with this section.

256 (i) Prior to conducting an expulsion hearing
257 for a child requiring special education and
258 related services described in subparagraph (A) of
259 subdivision (5) of section 10-76a, a planning and

260 placement team shall convene to determine whether
261 the misconduct was caused by the child's
262 disability. If it is determined that the
263 misconduct was caused by the child's disability,
264 the child shall not be expelled. The planning and
265 placement team shall reevaluate the child for the
266 purpose of modifying the child's individualized
267 education program to address the misconduct and to
268 ensure the safety of other children and staff in
269 the school. If it is determined that the
270 misconduct was not caused by the child's
271 disability, the child may be expelled in
272 accordance with the provisions of this section
273 applicable to children who do not require special
274 education and related services. Notwithstanding
275 the provisions of subsections (d) and (e) of this
276 section, whenever a child requiring such special
277 education and related services is expelled, an
278 alternative educational opportunity, consistent
279 with such child's educational needs shall be
280 provided during the period of expulsion.

281 (j) AN EXPELLED PUPIL MAY APPLY FOR EARLY
282 READMISSION TO SCHOOL. EXCEPT AS PROVIDED IN THIS
283 SUBSECTION, SUCH READMISSION SHALL BE AT THE
284 DISCRETION OF THE LOCAL OR REGIONAL BOARD OF
285 EDUCATION. THE BOARD OF EDUCATION MAY DELEGATE
286 AUTHORITY FOR READMISSION DECISIONS TO THE
287 SUPERINTENDENT OF SCHOOLS FOR THE SCHOOL DISTRICT.
288 IF THE BOARD DELEGATES SUCH AUTHORITY, READMISSION
289 SHALL BE AT THE DISCRETION OF THE SUPERINTENDENT.
290 READMISSION DECISIONS SHALL NOT BE SUBJECT TO
291 APPEAL TO SUPERIOR COURT. THE BOARD OR
292 SUPERINTENDENT, AS APPROPRIATE, MAY CONDITION SUCH
293 READMISSION ON SPECIFIED CRITERIA.

294 [(j)] (k) Local and regional boards of
295 education shall submit to the Commissioner of
296 Education such information on expulsions for the
297 possession of weapons as required for purposes of
298 the Gun-Free Schools Act of 1994, 20 USC 8921 et
299 seq., as amended from time to time.

300 Sec. 3. This act shall take effect from its
301 passage.

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 355

STATE IMPACT None
 MUNICIPAL IMPACT None, see explanation below
 STATE AGENCY(S) Department of Education

EXPLANATION OF ESTIMATES:

MUNICIPAL IMPACT: This bill has no fiscal impact as the bill is clarifying in nature. Special conditions set forth by a district's board of education already need not be paid for.

Senate "A" and House "A" are technical and have no fiscal impact.

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OLR AMENDED BILL ANALYSIS

sSB 355 (File 343, as amended by Senate "A" and House "A")*

AN ACT CONCERNING STUDENT SUSPENSIONS AND EXPULSIONS

SUMMARY: This bill allows a school board or school administration to consider four factors, among others, when deciding whether a student's conduct seriously disrupts the educational process, which is one criterion for expelling or suspending a student from school. The four factors are: (1) whether the incident happened near a school; (2) whether other students from the school were, or a gang was, involved; (3) whether a weapon was illegally used or there was violence, threat

of violence, or injury; and (4) whether the conduct involved use of liquor.

The bill covers such weapons as handguns, long-bladed and spring-release knives, dangerous and deadly weapons like blackjacks and sandbags, and martial arts weapons.

The bill also gives an expelled student the right to apply to return to school before his expulsion period ends. It gives the board of education discretion, which it may delegate to the superintendent, over whether to approve the application and specifies that the decision is not appealable to Superior Court. It allows the board or the superintendent, as appropriate, to impose specified conditions on the student's readmission. The bill specifies that the board need not pay for the special conditions.

*Senate Amendment "A" changes the bill's effective date from October 1, 1998 to upon passage.

*House Amendment "A" revises the factors boards may consider in deciding whether a student's conduct is seriously disruptive of the educational process by allowing them to consider (1) whether an incident occurred near a school rather than how far away from school and (2) whether a weapon was used illegally rather than merely used. It deletes from the specified considerations whether the conduct involved the sale or use of illegal drugs. Finally, it makes boards of education instead of school superintendents ultimately responsible for allowing an expelled student to return to school early and setting any conditions, allows a board to delegate the responsibility to its superintendent, and specifies that such decisions cannot be appealed to a court.

EFFECTIVE DATE: Upon passage

BACKGROUND

Discretionary Suspension and Expulsion Standards

By law, a student may be suspended or expelled from school for conduct on school grounds or at a school-sponsored activity that (1) violates the school board's published policy, (2) endangers people or property, or (3) seriously disrupts the educational

process. For a student to be suspended or expelled for conduct away from school, the conduct must both violate the board's published policy and seriously disrupt the educational process.

Mandatory Expulsion Requirements

The law already requires boards to expel students for one year for (1) possessing a wide variety of weapons, including not only those covered by the bill but also explosive devices, incendiaries, poison gas, and certain firearm accessories on school grounds or at a school-sponsored event; (2) carrying such a weapon off school grounds without a permit; (3) using such a weapon to commit a crime off school grounds; or (4) offering to sell illegal drugs on or off school grounds.

Related Court Case

On January 9, 1998, a Litchfield Superior Court judge ruled the current law unconstitutionally vague because it contains no standards for determining when a student's out-of-school conduct is "seriously disruptive of the educational process." He consequently reversed the Thomaston school board's expulsion of a student arrested for possessing marijuana off school grounds. The board has appealed the decision to the Connecticut Supreme Court (Packer v. Thomaston Board of Education, CV 97 0075242, Pickett, J.).

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute
Yea 30 Nay 1