



## 1995 SENATE BILL 113

March 15, 1995 - Introduced by Senators PETAK and DRZEWIECKI, cosponsored by Representatives TURNER, PLACHE, LADWIG, DUFF, PORTER, SCHNEIDERS, MUSSER, GOETSCH, BRANDEMUEHL, AINSWORTH, HAHN, DOBYNS, SERATTI and HUEBSCH. Referred to Committee on Education and Financial Institutions.

1     **AN ACT to renumber and amend** 119.25 (2) and 120.13 (1) (e) 2.; **to amend**  
2             120.13 (1) (b) and 120.13 (1) (c); and **to create** 119.25 (2) (a) 2., 120.13 (1) (bm),  
3             120.13 (1) (c) 2. and 120.13 (1) (e) 2. b. of the statutes; **relating to:** grounds for  
4             suspending or expelling a pupil from school.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that a pupil may be suspended from school for noncompliance with school rules, or for knowingly conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives, or for conduct while at school or while under the supervision of a school authority that endangers the property, health or safety of others, or for conduct while not at school or while not under the supervision of a school authority that endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employe or school board member of the school district in which the pupil is enrolled.

A school board may expel a pupil from school if it finds that the pupil engaged in any of the conduct described above or finds the pupil guilty of repeated refusal or neglect to obey the rules, and is satisfied that the interest of the school demands the pupil's expulsion. Prior to expelling a pupil, the school board must hold a hearing.

This bill provides that a pupil must be suspended, and that proceedings to expel the pupil must be commenced, if it is determined that the pupil, while at school or while under the supervision of a school authority, possessed a knife that was of no reasonable use to the pupil, a firearm or an explosive.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 119.25 (2) of the statutes is renumbered 119.25 (2) (a) (intro.) and  
2 amended to read:

3           119.25 (2) (a) (intro.) During any school year in which a resolution adopted  
4 under sub. (1) is effective, the independent hearing officer or independent hearing  
5 panel appointed by the board ~~may~~:

6           1. May expel a pupil from school whenever the hearing officer or panel finds  
7 that the pupil engaged in conduct that constitutes grounds for expulsion under s.  
8 120.13 (1) (c) 1.

9           (b) No administrator may be designated to participate in an expulsion hearing  
10 if he or she was involved in the incident that led to the expulsion proceeding. Prior  
11 to such ~~expulsion~~ expelling a pupil, the hearing officer or panel shall hold a hearing.  
12 Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if  
13 the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of  
14 the alleged conduct, stating the time and place of the hearing and stating that the  
15 hearing may result in the pupil's expulsion. This section shall be printed in full on  
16 the face or back of the notice. Upon request of the pupil and, if the pupil is a minor,  
17 the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil  
18 is a minor, the pupil's parent or guardian, may be represented at the hearing by  
19 counsel. The hearing officer or panel shall keep a full record of the hearing. The  
20 hearing officer or panel shall inform each party of the right to a complete record of  
21 the proceeding. Upon request, the hearing officer or panel shall direct that a

1 transcript of the record be prepared and that a copy of the transcript be given to the  
2 pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering  
3 by the hearing officer or panel of the expulsion of a pupil, the school district shall mail  
4 a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's  
5 parent or guardian. A school board, hearing officer or panel may disclose the  
6 transcript to the parent or guardian of an adult pupil, if the adult pupil is a  
7 dependent of his or her parent or guardian under section 152 of the internal revenue  
8 code. Within 30 days after the date on which the order is issued, the board shall  
9 review the expulsion order and shall, upon review, approve, reverse or modify the  
10 order. The order of the hearing officer or panel shall be enforced while the board  
11 reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or  
12 guardian may appeal the board's decision to the state superintendent. If the board's  
13 decision is appealed to the state superintendent, within 60 days after the date on  
14 which the state superintendent receives the appeal, the state superintendent shall  
15 review the decision and shall, upon review, approve, reverse or modify the decision.  
16 The decision of the board shall be enforced while the state superintendent reviews  
17 the decision. An appeal from the decision of the state superintendent may be taken  
18 within 30 days to the circuit court for the county in which the school is located.

19 **SECTION 2.** 119.25 (2) (a) 2. of the statutes is created to read:

20 119.25 (2) (a) 2. Shall commence proceedings to expel a pupil from school  
21 whenever the hearing officer or panel finds that the pupil engaged in conduct that  
22 constitutes grounds for expulsion under s. 120.13 (1) (c) 2.

23 **SECTION 3.** 120.13 (1) (b) of the statutes is amended to read:

24 120.13 (1) (b) The school district administrator or any principal or teacher  
25 designated by the school district administrator also may make rules, with the

1 consent of the school board, and may suspend a pupil for not more than 3 school days  
2 or, if a notice of expulsion hearing has been sent under par. (c) 3. or (e) or s. 119.25  
3 (2) (b), for not more than a total of 15 consecutive school days for noncompliance with  
4 such rules or school board rules, or for knowingly conveying any threat or false  
5 information concerning an attempt or alleged attempt being made or to be made to  
6 destroy any school property by means of explosives, or for conduct by the pupil while  
7 at school or while under the supervision of a school authority which endangers the  
8 property, health or safety of others, or for conduct while not at school or while not  
9 under the supervision of a school authority which endangers the property, health or  
10 safety of others at school or under the supervision of a school authority or endangers  
11 the property, health or safety of any employe or school board member of the school  
12 district in which the pupil is enrolled. Prior to any suspension, the pupil shall be  
13 advised of the reason for the proposed suspension. The pupil may be suspended if  
14 it is determined that the pupil is guilty of noncompliance with such rule, or of the  
15 conduct charged, and that the pupil's suspension is reasonably justified. The parent  
16 or guardian of a suspended minor pupil shall be given prompt notice of the  
17 suspension and the reason for the suspension. The suspended pupil or the pupil's  
18 parent or guardian may, within 5 school days following the commencement of the  
19 suspension, have a conference with the school district administrator or his or her  
20 designee who shall be someone other than a principal, administrator or teacher in  
21 the suspended pupil's school. If the school district administrator or his or her  
22 designee finds that the pupil was suspended unfairly or unjustly, or that the  
23 suspension was inappropriate, given the nature of the alleged offense, or that the  
24 pupil suffered undue consequences or penalties as a result of the suspension,  
25 reference to the suspension on the pupil's school record shall be expunged. Such

1 finding shall be made within 15 days of the conference. A pupil suspended under this  
2 paragraph shall not be denied the opportunity to take any quarterly, semester or  
3 grading period examinations or to complete course work missed during the  
4 suspension period, as provided in the attendance policy established under s. 118.16  
5 (4) (a).

6 **SECTION 4.** 120.13 (1) (bm) of the statutes is created to read:

7 120.13 (1) (bm) The school district administrator or any principal or teacher  
8 designated by the school district administrator shall suspend a pupil under par. (b)  
9 if the school district administrator, principal or teacher determines that the pupil,  
10 while at school or while under the supervision of a school authority, possessed a knife  
11 that was of no reasonable use to the pupil, a firearm or an explosive.

12 **SECTION 5.** 120.13 (1) (c) of the statutes is amended to read:

13 120.13 (1) (c) 1. The school board may expel a pupil from school whenever it  
14 finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a  
15 pupil knowingly conveyed or caused to be conveyed any threat or false information  
16 concerning an attempt or alleged attempt being made or to be made to destroy any  
17 school property by means of explosives, or finds that the pupil engaged in conduct  
18 while at school or while under the supervision of a school authority which  
19 endangered the property, health or safety of others, or finds that a pupil while not  
20 at school or while not under the supervision of a school authority engaged in conduct  
21 which endangered the property, health or safety of others at school or under the  
22 supervision of a school authority or endangered the property, health or safety of any  
23 employe or school board member of the school district in which the pupil is enrolled,  
24 and is satisfied that the interest of the school demands the pupil's expulsion.

1           3. Prior to such ~~expulsion~~ expelling a pupil, the school board shall hold a  
2 hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil  
3 and, if the pupil is a minor, to the pupil's parent or guardian, specifying the  
4 particulars of the alleged refusal, neglect or conduct, stating the time and place of  
5 the hearing and stating that the hearing may result in the pupil's expulsion. Upon  
6 request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the  
7 hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or  
8 guardian may be represented at the hearing by counsel. The school board shall keep  
9 written minutes of the hearing. Upon the ordering by the school board of the  
10 expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil  
11 and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or,  
12 if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the  
13 state superintendent. If the school board's decision is appealed to the state  
14 superintendent, within 60 days after the date on which the state superintendent  
15 receives the appeal, the state superintendent shall review the decision and shall,  
16 upon review, approve, reverse or modify the decision. The decision of the school board  
17 shall be enforced while the state superintendent reviews the decision. An appeal  
18 from the decision of the state superintendent may be taken within 30 days to the  
19 circuit court of the county in which the school is located. This paragraph shall be  
20 printed in full on the face or back of the notice.

21           **SECTION 6.** 120.13 (1) (c) 2. of the statutes is created to read:

22           120.13 (1) (c) 2. The school board shall commence proceedings to expel a pupil  
23 from school whenever it finds that the pupil, while at school or while under the  
24 supervision of a school authority, possessed a knife that was of no reasonable use to  
25 the pupil, a firearm or an explosive.

1           **SECTION 7.** 120.13 (1) (e) 2. of the statutes is renumbered 120.13 (1) (e) 2.  
2 (intro.) and amended to read:

3           120.13 (1) (e) 2. (intro.) During any school year in which a resolution adopted  
4 under subd. 1. is effective, the independent hearing officer or independent hearing  
5 panel appointed by the school board ~~may~~:

6           a. May expel a pupil from school whenever the hearing officer or panel finds  
7 that the pupil engaged in conduct that constitutes grounds for expulsion under par.  
8 (c) 1.

9           3. ~~Prior to such expulsion~~ expelling a pupil, the hearing officer or panel shall  
10 hold a hearing. Not less than 5 days' written notice of the hearing shall be sent to  
11 the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the  
12 particulars of the alleged conduct, stating the time and place of the hearing and  
13 stating that the hearing may result in the pupil's expulsion. This paragraph shall  
14 be printed in full on the face or back of the notice. Upon request of the pupil and, if  
15 the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The  
16 pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented  
17 at the hearing by counsel. The hearing officer or panel shall keep a full record of the  
18 hearing. The hearing officer or panel shall inform each party of the right to a  
19 complete record of the proceeding. Upon request, the hearing officer or panel shall  
20 direct that a transcript of the record be prepared and that a copy of the transcript be  
21 given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon  
22 the ordering by the hearing officer or panel of the expulsion of a pupil, the school  
23 district shall mail a copy of the order to the school board, the pupil and, if the pupil  
24 is a minor, the pupil's parent or guardian. Within 30 days after the date on which  
25 the order is issued, the school board shall review the expulsion order and shall, upon

1 review, approve, reverse or modify the order. The order of the hearing officer or panel  
2 shall be enforced while the school board reviews the order. The expelled pupil or, if  
3 the pupil is a minor, the pupil's parent or guardian may appeal the school board's  
4 decision to the state superintendent. If the school board's decision is appealed to the  
5 state superintendent, within 60 days after the date on which the state  
6 superintendent receives the appeal, the state superintendent shall review the  
7 decision and shall, upon review, approve, reverse or modify the decision. The  
8 decision of the school board shall be enforced while the state superintendent reviews  
9 the decision. An appeal from the decision of the state superintendent may be taken  
10 within 30 days to the circuit court of the county in which the school is located. This  
11 paragraph does not apply to a school district operating under ch. 119.

12 **SECTION 8.** 120.13 (1) (e) 2. b. of the statutes is created to read:

13 120.13 (1) (e) 2. b. Shall commence proceedings to expel a pupil from school  
14 whenever the hearing officer or panel finds that the pupil engaged in conduct that  
15 constitutes grounds for expulsion under par. (c) 2.

16 (END)