



1997 ASSEMBLY BILL 423

June 12, 1997 - Introduced by Representatives R. YOUNG, SERATTI, BALDWIN, BOYLE, NOTESTEIN and L. YOUNG, cosponsored by Senator ADELMAN. Referred to Committee on Education.

1 **AN ACT** *to repeal* 120.13 (1) (c) 2.; *to amend* 15.09 (1) (a), 119.04 (1), 119.25 (2)
2 (a) 1., 119.25 (2) (b), 120.13 (1) (c) 3., 120.13 (1) (c) 4. a., 120.13 (1) (c) 4. h., 120.13
3 (1) (e) 2. a., 120.13 (1) (e) 3., 120.13 (1) (e) 4. a., 120.13 (1) (e) 4. j. and 120.13 (1)
4 (f); *to repeal and recreate* 120.13 (1) (c) 1.; and *to create* 15.09 (1) (c), 15.377
5 (8), 116.032 (4), 118.153 (1) (a) 5., 120.12 (25), 120.13 (1) (h), 120.13 (1) (i) and
6 121.05 (1) (a) 11. of the statutes; **relating to:** the expulsion of pupils from school
7 and creating a council on pupil discipline in the department of public
8 instruction.

Analysis by the Legislative Reference Bureau

Under current law, a school board may expel a pupil from school if the school board finds any of the following:

1. That the pupil is guilty of repeated refusal or neglect to obey school district rules.
2. That the pupil knowingly conveyed or caused to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by explosives.
3. That the pupil engaged in conduct while at school or while under the supervision of a school authority that endangered the property, health or safety of others.

ASSEMBLY BILL 423

4. That the pupil, while not at school or while not under the supervision of a school authority, engaged in conduct that endangered the property, health or safety of others at school or under the supervision of a school authority, or endangered the property, health or safety of any school district employe or school board member.

5. That the pupil is at least 16 years old and repeatedly engaged in conduct while at school or while under the supervision of a school authority that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an educational atmosphere at school or at an activity supervised by a school authority.

This bill eliminates all of the above reasons for expulsion. Instead, the bill authorizes a school board to expel a pupil from school whenever the pupil does any of the following on school grounds, at a school-sponsored event or in a vehicle being used for a school purpose:

1. Uses violence, force, coercion, threats, intimidation or similar conduct in a manner that constitutes substantial interference with school purposes.

2. Wilfully causes or attempts to cause substantial damage to property, steals or attempts to steal property of substantial value, or repeatedly damages or steals school property.

3. Causes or attempts to cause personal injury to any school district official, employe or agent or to any pupil enrolled in the school district, unless the pupil engaged in such conduct by accident or with the reasonable belief that it was necessary to protect a person from harm.

4. Threatens or intimidates any pupil for the purpose of obtaining anything of value from the pupil.

5. Knowingly possesses a dangerous weapon.

6. Engages in the unlawful possession, selling, dispensing or use, or is under the influence, of alcohol or a controlled substance (dangerous drug).

7. If the pupil is at least 12 years of age, publicly engages in sexual intercourse or publicly exposes genitals with the intent to alarm another person.

8. Commits a sexual assault.

9. Engages in conduct that is punishable as a felony and that constitutes a danger to other pupils or interferes with school purposes.

10. Repeatedly violates school rules adopted by the school board if the school board has distributed a copy of the rules to each pupil enrolled in the school district and the violations constitute a substantial interference with school purposes.

Current law provides no limitation on the term of an expulsion. This bill provides that, with certain exceptions, a pupil may not be expelled from school beyond the last day of the semester in which the expulsion takes effect.

Current law specifies that no school board is required to enroll a pupil during the term of his or her expulsion from another school district. This bill eliminates that statement. Instead, the bill provides that if an expelled pupil seeks to enroll in another school district, the school board of the latter school district must determine whether it would have expelled the pupil from school and, if so, whether it would have done so for the same term. If the school board determines that it would have expelled

ASSEMBLY BILL 423

the pupil from school for at least the same term, it may refuse to enroll the pupil during the term of the pupil's expulsion.

The bill provides that if a pupil is expelled from school and does not enroll in another school district, the school board must ensure that the pupil is enrolled in a children-at-risk program or in an appropriate educational program operated by a cooperative educational service agency under contract with the school board. (The bill specifies that pupils who are the subject of an expulsion hearing are eligible for children-at-risk programs.)

Currently, if a pupil is expelled from school, the pupil may appeal the expulsion to the state superintendent of public instruction. This bill provides that the appeal must be made within 30 days after the expulsion order is issued and requires that the state superintendent treat the appeal as a contested case, which means that all parties must be afforded an opportunity for hearing.

Finally, this bill establishes a council on pupil discipline in the department of public instruction. The committee consists of one senator, one representative to the assembly, one member appointed by the governor and 4 members who represent the interests of school boards, school administrators, teachers and parents, appointed by the state superintendent.

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

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

1 **SECTION 1.** 15.09 (1) (a) of the statutes is amended to read:

2 15.09 (1) (a) Unless otherwise provided by law, the governor shall appoint the
3 members of councils for terms prescribed by law. Except as provided in ~~par.~~ pars. (b)
4 and (c), fixed terms shall expire on July 1 and shall, if the term is for an even number
5 of years, expire in an odd-numbered year.

6 **SECTION 2.** 15.09 (1) (c) of the statutes is created to read:

7 15.09 (1) (c) The terms of 2 of the members of the council on pupil discipline
8 appointed under s. 15.377 (8) (d) shall expire in an even-numbered year.

9 **SECTION 3.** 15.377 (8) of the statutes is created to read:

ASSEMBLY BILL 423**SECTION 3**

1 15.377 (8) COUNCIL ON PUPIL DISCIPLINE. There is created in the department of
2 public instruction a council on pupil discipline. The council shall consist of the
3 following members:

4 (a) One member appointed by the governor for a 2-year term.

5 (b) One senator who is a member of the senate committee whose subject matter
6 is elementary and secondary education, appointed by the chairperson of that
7 committee.

8 (c) One representative to the assembly who is a member of the assembly
9 committee whose subject matter is elementary and secondary education, appointed
10 by the chairperson of that committee.

11 (d) Four members who represent the interests of school boards, school
12 administrators, teachers and parents, appointed by the state superintendent of
13 public instruction for 2-years.

14 **SECTION 4.** 116.032 (4) of the statutes is created to read:

15 116.032 (4) If a board of control contracts with the school board of an expelled
16 pupil's school district of residence to provide an alternative educational program for
17 the pupil under s. 120.13 (1) (i), the board of control and the school board shall jointly
18 develop an individualized plan for success for the pupil. The plan shall include a
19 strategy for the pupil to return to school in his or her school district of residence
20 within one year or at the end of the pupil's term of expulsion, whichever is sooner.

21 **SECTION 5.** 118.153 (1) (a) 5. of the statutes is created to read:

22 118.153 (1) (a) 5. Pupils who are the subject of an expulsion hearing under s.
23 119.25 (2) (b) or 120.13 (1) (c) 3. or (e) 3.

24 **SECTION 6.** 119.04 (1) of the statutes is amended to read:

ASSEMBLY BILL 423

1 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),
2 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
3 (2), 115.40, 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to
4 118.14, 118.15, 118.153, 118.16, 118.162, 118.163, 118.18, 118.19, 118.20, 118.24 (1),
5 (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.30 to 118.43, 120.12 (5) and
6 (15) to ~~(24)~~ (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34) and
7 (35) and 120.14 are applicable to a 1st class city school district and board.

8 **SECTION 7.** 119.25 (2) (a) 1. of the statutes is amended to read:

9 119.25 (2) (a) 1. May expel a pupil from school whenever the hearing officer or
10 panel finds that the pupil engaged in conduct that constitutes grounds for expulsion
11 under s. 120.13 (1) (c) 1. ~~or 2.~~

12 **SECTION 8.** 119.25 (2) (b) of the statutes is amended to read:

13 119.25 (2) (b) No administrator may be designated to participate in an
14 expulsion hearing if he or she was involved in the incident that led to the expulsion
15 proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a
16 hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or
17 guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the
18 pupil's parent or guardian, may be represented at the hearing by counsel. The
19 hearing officer or panel shall keep a full record of the hearing. The hearing officer
20 or panel shall inform each party of the right to a complete record of the proceeding.
21 Upon request, the hearing officer or panel shall direct that a transcript of the record
22 be prepared and that a copy of the transcript be given to the pupil and, if the pupil
23 is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer
24 or panel of the expulsion of a pupil, the school district shall mail a copy of the order
25 to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian.

ASSEMBLY BILL 423**SECTION 8**

1 A school board, hearing officer or panel may disclose the transcript to the parent or
2 guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or
3 guardian under section 152 of the internal revenue code. Within 30 days after the
4 date on which the order is issued, the board shall review the expulsion order and
5 shall, upon review, approve, reverse or modify the order. The order of the hearing
6 officer or panel shall be enforced while the board reviews the order. The Within 30
7 days after the date of the board's decision, the expelled pupil or, if the pupil is a minor,
8 the pupil's parent or guardian may appeal the board's decision to the department as
9 a contested case under ch. 227. If the board's decision is appealed to the department,
10 within 60 days after the date on which the department receives the appeal, the
11 department shall review the decision and shall, upon review, approve, reverse or
12 modify the decision. The decision of the board shall be enforced while the department
13 reviews the decision. An appeal from the decision of the department may be taken
14 within 30 days to the circuit court for the county in which the school is located.

15 **SECTION 9.** 120.12 (25) of the statutes is created to read:

16 120.12 (25) SCHOOL DISTRICT RULES. Distribute a copy of the rules adopted under
17 s.120.13 (1) (a) to all of the following:

18 (a) Each pupil enrolled in the school district, and his or her parent or guardian,
19 at the beginning of each school term.

20 (b) Each pupil who enrolls in the school district after the beginning of a school
21 term, and the pupil's parent or guardian.

22 **SECTION 10.** 120.13 (1) (c) 1. of the statutes is repealed and recreated to read:

23 120.13 (1) (c) 1. The school board may expel a pupil from school whenever the
24 pupil does any of the following on school grounds, at a school-sponsored event or in
25 a vehicle being used for a school purpose:

ASSEMBLY BILL 423

1 a. Uses violence, force, coercion, threats, intimidation or similar conduct in a
2 manner that constitutes substantial interference with school purposes.

3 b. Wilfully causes or attempts to cause substantial damage to property, steals
4 or attempts to steal property of substantial value, or repeatedly damages or steals
5 school property.

6 c. Causes or attempts to cause personal injury to any school district official,
7 employe or agent or to any pupil enrolled in the school district, unless the pupil
8 engaged in such conduct by accident or with the reasonable belief that it was
9 necessary to protect a person from harm.

10 d. Threatens or intimidates any pupil for the purpose of obtaining anything of
11 value from the pupil.

12 e. Except as provided in subd. 2m., knowingly possesses a dangerous weapon,
13 as defined in s. 939.22 (10), other than a firearm, as defined in 18 USC 921 (a) (3).

14 f. Engages in the unlawful possession, selling, dispensing or use, or is under
15 the influence, of alcohol, a controlled substance, as defined in s. 961.01 (4), or a
16 controlled substance analog, as defined in s. 961.01 (4m).

17 g. If the pupil is at least 12 years of age, publicly engages in sexual intercourse,
18 as defined in s. 948.01 (6), or publicly exposes genitals with the intent to alarm
19 another person.

20 h. Violates s. 940.225 (1), (2) or (3), 948.02 (1) or (2) or 948.025.

21 i. Engages in conduct that is punishable as a felony and that constitutes a
22 danger to other pupils or interferes with school purposes.

23 j. Repeatedly violates school rules adopted by the school board under par. (a)
24 if the school board is in compliance with s. 120.12 (25) and the violations constitute
25 a substantial interference with school purposes.

ASSEMBLY BILL 423**SECTION 11**

1 **SECTION 11.** 120.13 (1) (c) 2. of the statutes is repealed.

2 **SECTION 12.** 120.13 (1) (c) 3. of the statutes is amended to read:

3 120.13 (1) (c) 3. Prior to expelling a pupil, the school board shall hold a hearing.

4 Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian,

5 the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent

6 or guardian may be represented at the hearing by counsel. The school board shall

7 keep written minutes of the hearing. Upon the ordering by the school board of the

8 expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil

9 and, if the pupil is a minor, to the pupil's parent or guardian. The ~~Within 30 days after~~

10 the date of the school board's order, the expelled pupil or, if the pupil is a minor, the

11 pupil's parent or guardian may appeal the expulsion to the department as a contested

12 case under ch. 227. If the school board's decision is appealed to the department,

13 within 60 days after the date on which the department receives the appeal, the

14 department shall review the decision and shall, upon review, approve, reverse or

15 modify the decision. The decision of the school board shall be enforced while the

16 department reviews the decision. An appeal from the decision of the department

17 may be taken within 30 days to the circuit court of the county in which the school is

18 located.

19 **SECTION 13.** 120.13 (1) (c) 4. a. of the statutes is amended to read:

20 120.13 (1) (c) 4. a. The specific grounds, under subd. 1.,~~2.~~ or 2m., and the

21 particulars of the pupil's alleged conduct upon which the expulsion proceeding is

22 based.

23 **SECTION 14.** 120.13 (1) (c) 4. h. of the statutes is amended to read:

24 120.13 (1) (c) 4. h. That if the pupil is expelled by the school board the expelled

25 pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the school

ASSEMBLY BILL 423**SECTION 14**

1 board's decision to the department within 30 days after the date of the school board's
2 decision.

3 **SECTION 15.** 120.13 (1) (e) 2. a. of the statutes is amended to read:

4 120.13 (1) (e) 2. a. May expel a pupil from school whenever the hearing officer
5 or panel finds that the pupil engaged in conduct that constitutes grounds for
6 expulsion under par. (c) 1. ~~or 2.~~

7 **SECTION 16.** 120.13 (1) (e) 3. of the statutes is amended to read:

8 120.13 (1) (e) 3. Prior to expelling a pupil, the hearing officer or panel shall hold
9 a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent
10 or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the
11 pupil's parent or guardian, may be represented at the hearing by counsel. The
12 hearing officer or panel shall keep a full record of the hearing. The hearing officer
13 or panel shall inform each party of the right to a complete record of the proceeding.
14 Upon request, the hearing officer or panel shall direct that a transcript of the record
15 be prepared and that a copy of the transcript be given to the pupil and, if the pupil
16 is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer
17 or panel of the expulsion of a pupil, the school district shall mail a copy of the order
18 to the school board, the pupil and, if the pupil is a minor, the pupil's parent or
19 guardian. Within 30 days after the date on which the order is issued, the school board
20 shall review the expulsion order and shall, upon review, approve, reverse or modify
21 the order. The order of the hearing officer or panel shall be enforced while the school
22 board reviews the order. The Within 30 days after the date of the school board's
23 decision, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian
24 may appeal the school board's decision to the department as a contested case under
25 ch. 227. If the school board's decision is appealed to the department, within 60 days

ASSEMBLY BILL 423**SECTION 16**

1 after the date on which the department receives the appeal, the department shall
2 review the decision and shall, upon review, approve, reverse or modify the decision.
3 The decision of the school board shall be enforced while the department reviews the
4 decision. An appeal from the decision of the department may be taken within 30 days
5 to the circuit court of the county in which the school is located. This paragraph does
6 not apply to a school district operating under ch. 119.

7 **SECTION 17.** 120.13 (1) (e) 4. a. of the statutes is amended to read:

8 120.13 (1) (e) 4. a. The specific grounds, under par. (c) 1., ~~2.~~ or 2m., and the
9 particulars of the pupil's alleged conduct upon which the expulsion proceeding is
10 based.

11 **SECTION 18.** 120.13 (1) (e) 4. j. of the statutes is amended to read:

12 120.13 (1) (e) 4. j. That, if the pupil's expulsion is approved by the school board,
13 the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal
14 the school board's decision to the department within 30 days after the date of the
15 school board's decision.

16 **SECTION 19.** 120.13 (1) (f) of the statutes is amended to read:

17 120.13 (1) (f) ~~No school board is required to enroll a pupil during the term of~~
18 ~~his or her expulsion from another school district.~~ Notwithstanding s. 118.125 (2) and
19 (4), if a pupil who has been expelled from one school district seeks to enroll in another
20 school district during the term of his or her expulsion, upon request the school board
21 of the former school district shall provide the school board of the latter school district
22 with a copy of the expulsion findings and order, a written explanation of the reasons
23 why the pupil was expelled and the length of the term of the expulsion. The school
24 board of the latter school district shall review the materials to determine whether
25 it would have expelled the pupil from school and, if so, whether it would have done

ASSEMBLY BILL 423**SECTION 19**

1 so for the same term. If that school board determines that it would have expelled the
2 pupil from school for at least the same term, it may refuse to enroll the pupil during
3 the term of the pupil's expulsion.

4 **SECTION 20.** 120.13 (1) (h) of the statutes is created to read:

5 120.13 (1) (h) 1. Except as provided in pars. (c) 2m. and (e) 2. b. and subds. 2.
6 and 3., a pupil may not be expelled from school beyond the last day of the semester
7 in which the expulsion takes effect.

8 2. Except as provided in subd. 3., if an expulsion takes effect within 10 days
9 prior to the end of the first semester, a pupil may be expelled from school for all or
10 a portion of the following semester as well. Except as provided in subd. 3., if an
11 expulsion takes effect within 10 days prior to the end of the 2nd semester, a pupil may
12 be expelled from school for all or a portion of the first semester of the following school
13 term as well.

14 3. A pupil may be expelled from school under par. (c) 1. c. or e. for the balance
15 of the school term in which the expulsion takes effect and, if the expulsion takes effect
16 during the 2nd semester, for all or a portion of the first semester of the following
17 school term as well. If a pupil is expelled from school under par. (c) 1. c. or e. for all
18 or a portion of the first semester of the following school term, the school board,
19 independent hearing officer or independent hearing panel that expelled the pupil
20 shall review the expulsion before the beginning of the following school term. The
21 school board, hearing officer or panel shall notify the pupil and the pupil's parent or
22 guardian of the review. After the review, the school board, hearing officer or panel
23 may determine to readmit the pupil to school before the expiration of the pupil's term
24 of expulsion.

25 **SECTION 21.** 120.13 (1) (i) of the statutes is created to read:

