

**2003 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB760)**

Received: 02/06/2004

Received By: pgrant

Wanted: As time permits

Identical to LRB:

For: **Sondy Pope-Roberts (608) 266-3520**

By/Representing: **Joyce Kiel**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Education - miscellaneous**

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **Rep.PopeRoberts@legis.state.wi.us**

Carbon copy (CC:) to: **joyce.kiel@legis.state.wi.us**

**Pre Topic:**

No specific pre topic given

**Topic:**

Removal of pupil from class by teacher's assistant

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 02/06/2004	csicilia 02/09/2004					
/1	pgrant 02/13/2004	csicilia 02/16/2004	pgreensl 02/10/2004		lemery 02/10/2004	lemery 02/10/2004	
			pgreensl 02/16/2004		<del>lemery 02/16/2004</del>	<del>lemery 02/16/2004</del>	

**NO**

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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02/16/2004 \_\_\_\_\_

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pgreensl \_\_\_\_\_  
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lemery \_\_\_\_\_  
02/16/2004 \_\_\_\_\_

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/1			pgreensl 02/10/2004	_____	lemery 02/10/2004	lemery 02/10/2004	

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**<END>**

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Removal of pupil from class by teacher's assistant

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FE Sent For:

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Dear Lonny:

2/6/04 - ~~Lonny at last street is done~~

Would you please prepare a substitute amendment to AB 760 for Rep. Pope-Roberts that does the following:

1. Amend s. 118.164 (2) to add a school district employee who is assisting a teacher in a classroom and then give such a classroom assistant the same removal authority when the teacher is not present in the classroom. Thus, such a classroom assistant also could remove a pupil from the classroom and would then have the duty to send the pupil to the principal or designee and provide immediate notification of the reason for removal and a written explanation within 24 hours. (This removal would invoke the process in sub. (3).) Also, amend s. 118.164 (3) (a) 4. to refer to the interests of such classroom assistants in readmission decisions.
2. Amend s. 118.164 (3) (a) (intro.) to make it clear that sub. (3) is referring only to pupils removed under sub. (2), i. e., from the classroom. (Without this change, there may be some ambiguity after the creation of sub. (4).)
3. Amend proposed s. 118.164 (4) to specify that situations covered by sub. (2) are not included in sub. (4). (Otherwise, the law would be ambiguous because the situation of teacher removal from a classroom (that is, what is in sub. (2)) is also described in sub. (4).)
4. Amend the last sentence of proposed s. 118.164 (4) to eliminate the requirement that the employee escort the pupil to the principal (which may not be feasible if the removal occurs at an off-campus or after-hours school-sponsored activity). Provide that the school employee *shall* notify the principal or his or her designee of the removal and the reasons for the removal as soon as possible

1

following the removal and *may* "send" (mirroring the term "send" from s. 118.164 (2)) the pupil to the office of the principal or his or her designee.

5. Add a provision paralleling s. 118.164 (3) (b) (that is, that sub. (3) does not prohibit other discipline) to proposed s. 118.164 (4). Or, redraft so that such a provision applies to all of s. 118.164.
6. Amend s. 120.13 (1) (a) 1. to also refer to the classroom assistant removal under s. 118.164 (2).
7. Amend s. 120.13 (1) (a) 1., 2., and 4. to also require the code of conduct to include those elements with respect to proposed s. 118.164 (4). Or, if you think it more appropriate because part (but not all) of s. 120.13 (1) (a) (intro.) refers to a code of classroom code whereas s. 118.164 (4) will typically be on school property or a school-sponsored activity other than in a classroom, create similar provisions elsewhere (but make sure they are cross-referenced in s. 120.13 (1) (b) so that violation may be cause for suspension)).

Lonny, you may think of other provisions that also should be changed to accomplish these intentions. If so, please include them. Let me know if you have any questions.

Please email a copy of the substitute amendment to me at the same time it is sent to Rep. Pope-Roberts.

Thanks,

Joyce L. Kiel, Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Suite 401, One East Main Street  
Madison, WI 53703  
608-266-3137  
608-266-3830 (fax)  
Joyce.Kiel@legis.state.wi.us

Ines. 9 a.m.

A. SUB. AMDT. -  
TO 2003 ASSEMBLY BILL 760

LRB-03411  
PG: 95

SA

January 21, 2004 - Introduced by Representatives POPE-ROBERTS, BERCEAU, ZERNICK, KRUG, GRONEMUS, OTT, TURNER, F. LASEE, GUNDERSON, J. LEHMAN, BLACK, SHILLING, MUSSER and FREESE, cosponsored by Senators PLALE, BRESKE, DECKER, RISSER, SCHULTZ and HANSEN. Referred to Committee on Education.

1 AN ACT to create 118.164 (4) of the statutes; relating to: removal of a pupil from  
2 any portion of a school <sup>negl.</sup> ~~and~~ from a school-sponsored activity.

class, from

**Analysis by the Legislative Reference Bureau**

Current law authorizes a teacher to remove from the classroom a pupil who is dangerous, disruptive, or unruly or who interferes with the teacher's ability to teach effectively. A pupil who is removed from the classroom must be sent to the school principal, with a written explanation of the reasons for the removal.

This bill authorizes any school employee to remove a pupil from any portion of school property or from a school-sponsored activity that is supervised by the employee if the pupil is dangerous, disruptive, or unruly or interferes with the ability of the employee to perform his or her job effectively. The school employee must escort the pupil to the office of the school principal and provide an explanation of the reasons for the removal.

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

1-3 →

3 SECTION 1. 118.164 (4) of the statutes is created to read:

4

118.164 (4) <sup>(a)</sup> (Subject to 20 USC 1415 (k), a school employee may remove a pupil

5

from any portion of school property or from a school-sponsored activity that is

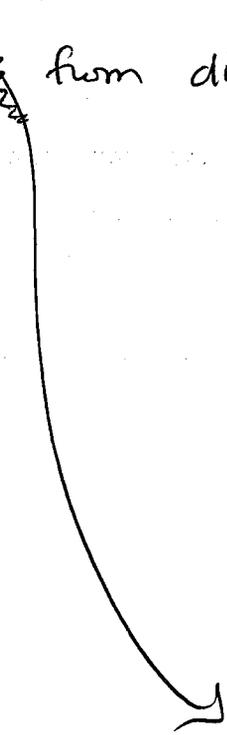
ASSEMBLY BILL 760

SECTION 1

other than <sup>from</sup> a class under sub. (2),

1 supervised by the school employee if the pupil is dangerous, unruly, or disruptive or  
 2 exhibits behavior that interferes with the ability of the school employee to perform  
 3 his or her job effectively. <sup>As soon as feasible,</sup> The school employee shall ~~escort the pupil to the office of~~  
 4 <sup>notify</sup> the school principal or his or her designee <sup>of the removal</sup> and ~~shall~~ provide the principal or designee  
 5 with an explanation of the reasons for the removal.

6 ~~(b)~~ <sup>(b)</sup> This subsection does not prohibit the school employee who removed the pupil from school property or a school-sponsored activity or the school board, school district administrator, school principal, or their designees ~~from~~ disciplining the pupil.



Section #. 120.13 (1) (a) 1. of the statutes is amended to read:

*or a teacher's assistant  
to perform his or her  
job effectively*

120.13 (1) (a) 1. A specification of what constitutes dangerous, disruptive or unruly behavior

*2* *↑* ~~or~~ behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105.

or behavior that  
interferes with the  
ability of a school  
employee to perform his  
or her job effectively  
under s. 118.164 (4)



Section #. 120.13 (1) (a) 2. of the statutes is amended to read:

120.13 (1) (a) 2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2) or from school property or a school-sponsored activity under s. 118.164 (4)

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105.

Section #. 120.13 (1) (a) 4. of the statutes is amended to read:

*or removed from school property or a  
school-sponsored activity under  
s. 118.164 (4)*

120.13 (1) (a) 4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2).

**History:** 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105.

*(End)*

1-3

(2)

Section #. 118.164 of the statutes is amended to read:

**118.164 Removal of pupils from the class. (1)** In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

**118.164 (2)** Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1) (a) or is dangerous, unruly, or disruptive, or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

SEC# AM. 118.164 (3) (a) (intro.)  
118.164 (3) (a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7) (c) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.

SEC# AM. 118.164 (3) (a) 4.  
118.164 (3) (a) 4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

SEC# AM. 118.164 (3) (b)  
118.164 (3) (b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

History: 1997 a. 335.

(A)

, or interferes with the ability of an individual  
employed by the school district as a teacher's assistant  
employed by the school district as a teacher's assistant  
to perform <sup>his</sup> <sup>or</sup> <sup>her</sup> <sup>job</sup> effectively as

(B)

Subject to <sup>20 USC 1415(k)</sup> ~~20 USC 1415(K)~~; an individual

employed by the school district as a teacher's

assistant may <sup>remove</sup> remove a pupil from class

if the pupil <sup>violates</sup> violates the <sup>code</sup> code of classroom

conduct <sup>adopted</sup> ~~adopted~~ under <sup>s. 120.13(1)(a)</sup> s. 120.13(1)(a); or is

<sup>or disruptive, or</sup> dangerous, unruly, <sup>or disruptive, or</sup> or

exhibits behavior that interferes with the

<sup>ability</sup> ability of the teacher's assistant to perform

<sup>his or her job</sup> his or her job effectively, as specified in

the code of classroom conduct.

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ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2003 ASSEMBLY BILL 760

SA ✓

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1 AN ACT to amend 118.164 (2), 118.164 (3) (a) (intro.), 118.164 (3) (a) 4., 118.164  
2 (3) (b), 120.13 (1) (a) 1., 120.13 (1) (a) 2. and 120.13 (1) (a) 4.; and to create  
3 118.164 (4) of the statutes; relating to: removal of a pupil from class, from any  
4 portion of school property, or from a school-sponsored activity.

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

5 SECTION 1. 118.164 (2) of the statutes is amended to read:

6 118.164 (2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher  
7 may remove a pupil from the teacher's class if the pupil violates the code of classroom

8 conduct adopted under s. 120.13 (1) (a), or is dangerous, unruly, or disruptive, or  
9 exhibits behavior that interferes with the ability of the teacher to teach effectively,  
10 or interferes with the ability of an individual employed by the school district as a  
11 teacher's assistant to perform his or her job effectively as specified in the code of  
12 classroom conduct. Subject to 20 USC 1415 (k), an individual employed by the school  
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1 district as a teacher's assistant may remove a pupil from class if the pupil violates  
 2 the code of classroom conduct adopted under s. 120.13 (1) (a) or is dangerous, unruly,  
 3 or disruptive, or exhibits behavior that interferes with the ability of the teacher's  
 4 assistant to perform his or her job effectively, as specified in the code of classroom  
 5 ~~conduct~~ conduct. The teacher or teacher's assistant shall send the pupil to the school  
 6 principal or his or her designee and notify the school principal or his or her designee  
 7 immediately of the reasons for the removal. In addition, the teacher or teacher's  
 8 assistant shall provide to the principal or his or her designee within 24 hours after  
 9 the pupil's removal from the class a written explanation of the reasons for the  
 10 removal.

SECTION 2. 118.164 (3) (a) (intro.) of the statutes is amended to read:

118.164 (3) (a) (intro.) The school principal or his or her designee shall place  
the a pupil who has been removed from class under sub. (2) in one of the following:

SECTION 3. 118.164 (3) (a) 4. of the statutes is amended to read:

118.164 (3) (a) 4. The class from which the pupil was removed if, after weighing  
 the interests of the removed pupil, the other pupils in the class ~~and~~, the teacher, and  
 17 the teacher's assistant, the school principal or his or her designee determines that  
 18 readmission to the class is the best or only alternative.

SECTION 4. 118.164 (3) (b) of the statutes is amended to read:

118.164 (3) (b) This subsection does not prohibit the teacher or teacher's  
 21 assistant who removed the pupil from ~~the~~ class or the school board, school district  
 22 administrator, school principal, or their designees from disciplining the pupil.

SECTION 5. 118.164 (4) of the statutes is created to read:

118.164 (4) (a) Subject to 20 USC 1415 (k), a school employee may remove a  
 25 pupil from any portion of school property or from a school-sponsored activity that is

if the teachers assistant removed the pupil

3-3

1 supervised by the school employee, other than from a class under sub. (2), if the pupil  
 2 is dangerous, unruly, or disruptive or exhibits behavior that interferes with the  
 3 ability of the school employee to perform his or her job effectively. As soon as feasible,  
 4 the school employee shall notify the school principal or his or her designee of the  
 5 removal and provide the principal or designee with an explanation of the reasons for  
 6 the removal.

7 (b) This subsection does not prohibit the school employee who removed the  
 8 pupil from school property or a school-sponsored activity or the school board, school  
 9 district administrator, school principal, or their designees from disciplining the  
 10 pupil.

11 SECTION 6. 120.13 (1) (a) 1. of the statutes is amended to read:

12 120.13 (1) (a) 1. A specification of what constitutes dangerous, disruptive, or  
 13 unruly behavior or behavior that interferes with the ability of the teacher to teach  
 14 effectively or a teacher's assistant to perform his or her job effectively under s.  
 15 118.164 (2); <sup>and</sup> ~~or~~ behavior that interferes with the ability of a school employee to  
 16 perform his or her job effectively under s. 118.164 (4).

17 SECTION 7. 120.13 (1) (a) 2. of the statutes is amended to read:

18 120.13 (1) (a) 2. Any grounds in addition to those under subd. 1. for the removal  
 19 of a pupil from the class under s. 118.164 (2) or from school property or a  
 20 school-sponsored activity under s. 118.164 (4).

INS.  
3-20

21 SECTION 8. 120.13 (1) (a) 4. of the statutes is amended to read:

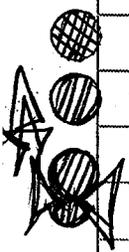
22 120.13 (1) (a) 4. A procedure for notifying the parent or guardian of a minor  
 23 pupil who has been removed from the class under s. 118.164 (2) or removed from  
 24 school property or a school-sponsored activity under s. 118.164 (4).

25 (END)

3-3

if there are  
~~or~~ / ~~constitutes~~ other grounds for  
removal ~~from~~ <sup>as specified</sup> in the code of  
classroom conduct under § 120.13(1)(a) 2.  
send

The school employee may send the pupil to  
the school principal or his or her  
designee  
designee



3-20

✓

Section #. 120.13 (1) (a) 3. of the statutes is amended to read:

120.13 (1) (a) 3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164<sup>(2)</sup> ✓

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105.