



## 1997 ASSEMBLY BILL 301

April 17, 1997 - Introduced by Representatives UNDERHEIM, KRUSICK, HASENOHRL, BALDWIN, KUNICKI, KRUG, PLALE, STEINBRINK, VANDER LOOP, DOBYNS, KAUFERT, RYBA, GROTHMAN, ZUKOWSKI, MUSSER, OWENS, SYKORA, OTT, WALKER, JESKEWITZ, HAHN, FREESE, ALBERS, HOVEN, POWERS and GARD, cosponsored by Senators C. POTTER, RUDE, SHIBILSKI, CLAUSING and COWLES. Referred to Committee on Education.

1     **AN ACT to amend** 119.04 (1) and 120.13 (1) (b); and **to create** 118.164, 119.25 (2)  
2             (a) 3., 119.44 (2) (a) 2. c., 120.13 (1) (c) 2g., 120.13 (1) (e) 2. c. and 120.18 (1) (gr)  
3             of the statutes; **relating to:** removal of disruptive pupils from the classroom  
4             and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Current law provides that a pupil may be suspended for not more than 5 days for any of the following reasons: noncompliance with school rules; 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; conduct while at school or while under the supervision of a school authority that endangers the property, health or safety of others; 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 conduct that endangers the property, health or safety of any employe or school board member of the school district in which the pupil is enrolled. Before any suspension, the pupil must be advised of the reason for the proposed suspension. In addition, the parent or guardian of a minor pupil must be given prompt notice of the suspension and an opportunity within 5 school days following the commencement of the suspension to have a conference with the school district administrator.

A school board may expel a pupil from school if it finds: that the pupil engaged in any of the conduct described above; that the pupil is guilty of repeated refusal to obey the rules, and the school board is satisfied that the interest of the school

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demands the pupil's expulsion; or that a pupil who is at least 16 years old has repeatedly engaged in conduct while at school or 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 a school-supervised activity, and the school board is satisfied that the interest of the school demands the pupil's expulsion. If a school board finds that a pupil, while at school or while under supervision of a school authority, possessed a firearm, the school board must commence expulsion proceedings and expel the pupil for not less than one year. Before expelling the pupil, the school board must hold a hearing.

This bill provides that a teacher may remove a pupil who is enrolled in a grade from 5 to 12 from the teacher's classroom if the teacher determines that the pupil is uncooperative, unruly or disruptive or if the pupil has been absent from the classroom for a total of 10 days without an excuse and, if, on a previous occasion during the same school year, the teacher supplied a written warning to the pupil of the teacher's intent to remove the pupil from the classroom. If a teacher removes a pupil from the classroom, the teacher must promptly inform the school principal and the parent or guardian of a minor pupil. A removed pupil may not return to the classroom until he or she and his or her guardian, if the pupil is a minor, have attended a conference with the teacher in which the teacher explains the standards of behavior that he or she expects the pupil to meet and until the teacher gives his or her written consent to the pupil's return. If a pupil who is removed from the classroom due to absence does not receive this written permission, the pupil may not return to the classroom for one year from the date of removal. Teachers are not required to provide makeup examinations or provide tutoring to assist any pupil who has been removed from the classroom. In addition, each employer must permit an employe to take no more than 4 hours of leave in each school year for the purpose of picking up the child of the employe who has been removed from a classroom. An employe is not entitled to receive wages or salary while taking this leave, but he or she may substitute for this leave paid or unpaid leave of any other type provided by the employer.

A pupil removed under this bill may appeal his or her removal to a pupil disciplinary committee that is composed primarily of teachers and includes the school principal and parents appointed by the school principal. Within 48 hours of receiving the appeal, the committee must hold a hearing and either uphold or reverse the decision to remove the pupil.

Finally, this bill requires a school board to expel a pupil from school for one year if the pupil possesses on school property or at a school-sponsored event a weapon, controlled substance, or drug paraphernalia or if the pupil is convicted of certain crimes or adjudged delinquent for violating certain criminal statutes. In addition, these acts are grounds for suspension from school.

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For further information see the *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.** 118.164 of the statutes is created to read:

2           **118.164 Removal of pupils from the classroom. (1)** In this section:

3           (a) “Employer” means a person engaging in any activity, enterprise or business  
4 in this state employing at least one individual. “Employer” includes the state and  
5 any office, department, independent agency, authority, institution, association,  
6 society or other body in state government created or authorized to be created by the  
7 constitution or any law, including the legislature and the courts.

8           (b) “Teacher” means a person holding a license or permit issued by the  
9 department whose employment by a school district requires that he or she hold that  
10 license or permit but does not include a short-term substitute, as defined by the  
11 department by rule.

12           **(2)** Except as provided in sub. (8), a teacher may remove a pupil who is enrolled  
13 in a grade from 5 to 12 from the teacher’s classroom if all of the following apply:

14           (a) The teacher determines that the pupil is uncooperative, disruptive or  
15 dangerous or the pupil has been absent for a total of at least 10 days without an  
16 acceptable excuse under s. 118.15 or 118.16 (4).

17           (b) On a previous occasion during the same school year, the teacher determined  
18 that the pupil was uncooperative, disruptive or dangerous or the pupil had been  
19 absent for at least 10 days and on that occasion or because the pupil had been absent  
20 for at least 10 days provided a written warning to the pupil and to the parent or  
21 guardian of a minor pupil and a copy of the warning to the school principal,

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1 describing the nature of the violation under par. (a) and stating the teacher's intent  
2 to remove the pupil from the classroom if the violation continued or any other  
3 violation under par. (a) occurred.

4       **(3)** A teacher shall promptly inform the school principal and, if the pupil is a  
5 minor, the pupil's parent or guardian, if the teacher removes a pupil from the  
6 classroom under this section. A teacher who removes a pupil from a classroom under  
7 this section shall send the pupil to the school's administrative office. If the removed  
8 pupil is a minor, the school principal shall notify the pupil's parent or guardian that  
9 the pupil has been removed from the classroom. The school principal may detain the  
10 pupil in the administrative office for the remainder of the school day, send the pupil  
11 to a school detention center for the remainder of the school day, send the pupil to his  
12 or her next scheduled class or, if the pupil is a minor, send the pupil home after  
13 notifying the pupil's parent or guardian. Thereafter, the school principal shall decide  
14 where to send the pupil during the time scheduled for the class from which the pupil  
15 has been removed.

16       **(4)** Except as provided in sub. (7), a pupil who has been removed from a  
17 classroom under this section may not return to the classroom unless the pupil and,  
18 if the pupil is a minor, the pupil's parent or guardian, have attended a conference  
19 with the teacher in which the teacher explains the standards of behavior that he or  
20 she expects the pupil to meet and the teacher has given his or her written consent  
21 to the pupil's return, or the teacher waives the required meeting under this  
22 subsection.

23       **(5)** Except as provided under sub. (7), if a pupil has been removed from a  
24 classroom due to absence under sub. (2) (a) and does not receive the teacher's

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1 permission to return to the classroom under sub. (4), the pupil may not return to the  
2 classroom for one year from the date of removal.

3 (6) A teacher is not required to provide makeup examinations or to hold private  
4 conferences or tutoring sessions to assist any pupil to make up any school work  
5 missed because the pupil was removed from a classroom under this section.

6 (7) Each school board shall establish in each middle school, junior high school  
7 and senior high school a pupil disciplinary committee that is composed primarily of  
8 teachers and includes the school principal and parents appointed by the school  
9 principal. A pupil removed under this section may appeal his or her removal orally  
10 or in writing to the pupil disciplinary committee. The pupil disciplinary committee  
11 shall hold a hearing, issue a written decision upholding or overturning the removal  
12 within 48 hours of receiving the appeal and mail a copy of the written decision to the  
13 pupil, and, if the pupil is a minor, to the pupil's parent or guardian. The decision of  
14 the committee is final.

15 (8) If a collective bargaining agreement entered into under subch. IV of ch. 111  
16 specifies a different pupil disciplinary procedure from the procedure in this section,  
17 the procedure in that collective bargaining agreement shall govern.

18 (9) (a) Each employer shall permit an employe to take no more than 4 hours  
19 of leave in each school year for the purpose of picking up the child of the employe who  
20 has been removed from a classroom under this section.

21 (b) An employe is not entitled to receive wages or salary while taking leave  
22 under par. (a). An employe may substitute for leave under par. (a) paid or unpaid  
23 leave of any other type provided by the employer.

24 (10) Before the beginning of each school term, each school board shall mail a  
25 written notice of a teacher's authority to remove a pupil under this section to each

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1 pupil enrolled in the school district or, if the pupil is a minor, to the pupil's parent or  
2 guardian.

3 **SECTION 2.** 119.04 (1) of the statutes is amended to read:

4 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c),  
5 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38  
6 (2), 115.40, 115.45, 118.001 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to  
7 118.14, 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,  
8 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.30 to 118.43, 120.12  
9 (5) and (15) to (24), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34)  
10 and (35) and 120.14 are applicable to a 1st class city school district and board.

11 **SECTION 3.** 119.25 (2) (a) 3. of the statutes is created to read:

12 119.25 (2) (a) 3. Shall commence proceedings under par. (b) and expel a pupil  
13 from school for either the rest of the school year or for 12 months, whichever is  
14 appropriate under s. 120.13 (1) (c) 2g., whenever that hearing officer or panel finds  
15 that the pupil engaged in conduct that constitutes grounds for expulsion under s.  
16 120.13 (1) (c) 2g.

17 **SECTION 4.** 119.44 (2) (a) 2. c. of the statutes is created to read:

18 119.44 (2) (a) 2. c. The number of incidents in which teachers removed pupils  
19 from the classroom under s. 118.164.

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

21 120.13 (1) (b) The school district administrator or any principal or teacher  
22 designated by the school district administrator also may make rules, with the  
23 consent of the school board, and may suspend a pupil for not more than 5 school days  
24 or, if a notice of expulsion hearing has been sent under par. (c) 4, or (e) 4. or s. 119.25  
25 (2) (c), for not more than a total of 15 consecutive school days for noncompliance with

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1 such rules or school board rules, or for knowingly conveying any threat or false  
2 information concerning an attempt or alleged attempt being made or to be made to  
3 destroy any school property by means of explosives, or for conduct by the pupil while  
4 at school or while under the supervision of a school authority which endangers the  
5 property, health or safety of others, or for conduct while not at school or while not  
6 under the supervision of a school authority which endangers the property, health or  
7 safety of others at school or under the supervision of a school authority or endangers  
8 the property, health or safety of any employe or school board member of the school  
9 district in which the pupil is enrolled, or for possession on school property or at a  
10 school-sponsored event of a weapon, controlled substance, as defined under s. 961.01  
11 (4), a controlled substance analog, as defined under s. 961.01 (4m), or drug  
12 paraphernalia, as defined under s. 961.571, or for the conviction of a crime under or  
13 an adjudication of delinquency on the basis of a violation of ss. 940.02 (2), 940.08,  
14 940.09 (1g), 940.24, 941.20 to 941.298, 948.55, 948.60, 948.605, 948.61, 961.41 to  
15 961.50 and 961.571 to 961.577. Prior to any suspension, the pupil shall be advised  
16 of the reason for the proposed suspension. The pupil may be suspended if it is  
17 determined that the pupil is guilty of noncompliance with such rule, or of the conduct  
18 charged, and that the pupil's suspension is reasonably justified. The parent or  
19 guardian of a suspended minor pupil shall be given prompt notice of the suspension  
20 and the reason for the suspension. The suspended pupil or the pupil's parent or  
21 guardian may, within 5 school days following the commencement of the suspension,  
22 have a conference with the school district administrator or his or her designee who  
23 shall be someone other than a principal, administrator or teacher in the suspended  
24 pupil's school. If the school district administrator or his or her designee finds that  
25 the pupil was suspended unfairly or unjustly, or that the suspension was

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1 inappropriate, given the nature of the alleged offense, or that the pupil suffered  
2 undue consequences or penalties as a result of the suspension, reference to the  
3 suspension on the pupil's school record shall be expunged. Such finding shall be  
4 made within 15 days of the conference. A pupil suspended under this paragraph  
5 shall not be denied the opportunity to take any quarterly, semester or grading period  
6 examinations or to complete course work missed during the suspension period, as  
7 provided in the attendance policy established under s. 118.16 (4) (a).

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

9 120.13 (1) (c) 2g. In addition to the grounds for expulsion under subd. 1., the  
10 school board shall commence proceedings under subd. 3. and expel a pupil from  
11 school for one year if the pupil has in his or her possession on school property or at  
12 a school-sponsored event a weapon, other than a firearm, as defined in 18 USC 921  
13 (a) (3); a controlled substance, as defined under s. 961.01 (4); a controlled substance  
14 analog, as defined under s. 961.01 (4m); or drug paraphernalia, as defined under s.  
15 961.571. A school board shall commence proceedings under subd. 3. against a pupil  
16 who has been convicted of a crime under or adjudicated delinquent on the basis of  
17 a violation of ss. 940.02 (2), 940.08, 940.09 (1g), 940.24, 941.20 to 941.298, 948.55,  
18 948.60, 948.605, 948.61, 961.41 to 961.50 and 961.571 to 961.577 and expel that pupil  
19 from school for a period of one year beginning from the date of the conviction.

20 **SECTION 7.** 120.13 (1) (e) 2. c. of the statutes is created to read:

21 120.13 (1) (e) 2. c. Shall commence proceedings under subd. 3. and expel a pupil  
22 for one year whenever that hearing officer or panel finds that the pupil engaged in  
23 conduct that constitutes grounds for expulsion under par. (c) 2g.

24 **SECTION 8.** 120.18 (1) (gr) of the statutes is created to read:

