

LEGISLATIVE HISTORY CHECKLIST
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(Zero tolerance for guns)

NJSA: 18A:37-7

LAWS OF: 1995 **CHAPTER:** 127

BILL NO: A2348

SPONSOR(S): Rocco

DATE INTRODUCED: November 14, 1994

COMMITTEE: **ASSEMBLY:** Education
SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage
 Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 5, 1994 Re-enacted 5-22-95
SENATE: January 19, 1995 Re-enacted 6-12-95

DATE OF APPROVAL: June 22, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:
 "Whitman signs two bills to keep schools gun-free," 6-23-95, Trenton Times.

KBG:pp

[CORRECTED COPY]

[SECOND REPRINT]

ASSEMBLY, No. 2348

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1994

By Assemblymen ROCCO, CORODEMUS, Wolfe, Solomon, Assemblywomen Wright, Crecco, Assemblymen Albohn, Arnone, Augustine, Azzolina, Bateman, Bodine, Colburn, DeCroce, DiGaetano, Assemblywoman Farragher, Assemblymen Felice, Gaffney, Garcia, Geist, Gibson, Gregg, Holzapfel, Kelly, Mikulak, Assemblywomen Murphy, Ogden, J. Smith, Assemblyman Dalton, Assemblywoman Heck, Assemblymen Roma, Romano and Assemblywoman Turner

1 AN ACT concerning education and supplementing chapter 37 of
2 Title 18A of the New Jersey Statutes.

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4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. This act shall be known as the "Zero Tolerance for Guns
7 Act."

8 2. Any pupil who is convicted or adjudicated delinquent for
9 possession of a firearm or a crime while armed with a firearm or
10 found knowingly in possession of a firearm on any school
11 property, on a school bus, or at a school-sponsored function shall
12 be immediately removed from the school's regular education
13 program ¹pending a hearing before the local board of education¹
14 ²to remove the pupil from the regular education program² for a
15 period of not less than one calendar year ²subject to modification
16 on a case-by-case basis by the chief school administrator².

17 For the purposes of this section "firearm" means those items
18 enumerated in N.J.S.2C:39-1f ²and 18 U.S.C.921².

19 Any pupil that is removed from the regular education program
20 pursuant to this section shall be placed in an alternative
21 education program. If placement in an alternative education
22 program is not available, the pupil shall be provided home
23 instruction or other suitable facilities and programs until
24 placement is available. ²The provisions herein shall be construed
25 in a manner consistent with 20 U.S.C.1400 et seq.² Nothing
26 herein shall be construed as prohibiting the expulsion of a pupil.

27 3. The principal or his or her designee shall be responsible for
28 the removal of any pupil pursuant to section 1 of P.L. , c.
29 (C.) (now pending before the legislature as this bill). The
30 principal or his or her designee shall ²immediately² report the
31 removal of any pupil ²[¹to a law enforcement agency and¹]² to
32 the district's chief school administrator. ²The district's chief
33 school administrator may modify such removal of a pupil on a
34 case-by-case basis. The principal shall also notify the
35 appropriate law enforcement agency of a possible violation of the
36 New Jersey Code of Criminal Justice.²

37 ¹4. a. Any pupil removed pursuant to section 1 of P.L. , c.
38 (C.) (now pending before the legislature as this bill) shall be

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted December 1, 1994.

² Assembly amendments adopted in accordance with Governor's
recommendations March 23, 1995.

1 entitled to a hearing before the local board of education to
2 determine if the pupil was convicted or adjudicated delinquent
3 for possession of a firearm or a crime while armed with a firearm
4 or is guilty of knowingly possessing a firearm on any school
5 property, on a school bus or at a school-sponsored function. If it
6 is found that the pupil is not guilty of these offenses the pupil
7 shall be immediately returned to the regular education program.

8 b. The hearing shall take place no later than 30 days following
9 the day the pupil is removed from the regular education
10 program. The hearing is not subject to the provisions of the
11 "Open Public Meetings Act," P.L. 1975, c. 231 (C. 10:4-6 et seq.).

12 c. The decision of the board shall be made within five days
13 after the close of the hearing. Any appeal of the board's
14 decision shall be made to the Commissioner of Education within
15 ~~30~~ 90² days of the board's decision.¹

16 ¹[4.]¹ ²[Any pupil removed pursuant to section 1 of P.L. ,
17 c. (C.) (now pending before the legislature as this bill) shall
18 undergo a child study team evaluation prior to returning to the
19 regular education program.]² The ²[principal of the school from
20 which the pupil was removed] chief school administrator² shall
21 determine whether the pupil is prepared to return to the regular
22 education program or whether the pupil shall remain in an
23 alternative education program, home instruction or other suitable
24 facilities and program, ²[taking into consideration the child study
25 team's recommendations] in accordance with procedures to be
26 established by the Commissioner of Education².

27 ²6. This act shall not apply to any pupil who has obtained the
28 written authorization of the chief school administrator to
29 lawfully possess a firearm while participating in a school
30 sponsored function. The chief school administrator shall not
31 provide such authorization to any pupil who has been convicted or
32 adjudicated delinquent for possession of a firearm or for a crime
33 involving the use of a firearm.²

34 ¹[5.] ²[6.1] ⁷.² This act shall take effect immediately and shall
35 first apply to the 1995-96 school year.

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40 "Zero Tolerance for Guns Act."

ASSEMBLY, No. 2348
STATE OF NEW JERSEY

INTRODUCED NOVEMBER 14, 1994

By Assemblymen ROCCO, CORODEMUS, Wolfe, Solomon,
Assemblywomen Wright and Crecco

1 AN ACT concerning education and supplementing chapter 37 of
2 Title 18A of the New Jersey Statutes.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. This act shall be known as the "Zero Tolerance for Guns
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8 2. Any pupil who is convicted or adjudicated delinquent for
9 possession of a firearm or a crime while armed with a firearm or
10 found knowingly in possession of a firearm on any school
11 property, on a school bus, or at a school-sponsored function shall
12 be immediately removed from the school's regular education
13 program for a period of not less than one calendar year.

14 For the purposes of this section "firearm" means those items
15 enumerated in N.J.S.2C:39-1f.

16 Any pupil that is removed from the regular education program
17 pursuant to this section shall be placed in an alternative
18 education program. If placement in an alternative education
19 program is not available, the pupil shall be provided home
20 instruction or other suitable facilities and programs until
21 placement is available. Nothing herein shall be construed as
22 prohibiting the expulsion of a pupil.

23 3. The principal or his or her designee shall be responsible for
24 the removal of any pupil pursuant to section 1 of P.L. , c.
25 (C.) (now pending before the legislature as this bill). The
26 principal or his or her designee shall report the removal of any
27 pupil to the district's chief school administrator.

28 4. Any pupil removed pursuant to section 1 of P.L. , c.
29 (C.) (now pending before the legislature as this bill) shall
30 undergo a child study team evaluation prior to returning to the
31 regular education program. The principal of the school from
32 which the pupil was removed shall determine whether the pupil is
33 prepared to return to the regular education program or whether
34 the pupil shall remain in an alternative education program, home
35 instruction or other suitable facilities and program, taking into
36 consideration the child study team's recommendations.

37 5. This act shall take effect immediately and shall first apply
38 to the 1995-96 school year.

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STATEMENT

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43 This bill provides that any pupil convicted or adjudicated
44 delinquent for possession of a firearm or a crime while armed
45 with a firearm or found knowingly in possession of a firearm on

1 school property or at a school function must be immediately
2 removed from the regular education program for a period of one
3 year. Any pupil removed would be placed in an alternative
4 educational program or be provided home instruction or other
5 suitable facilities and programs until placement in an alternative
6 program is possible. The bill would not prohibit expulsion of the
7 pupil.

8 One year after removal the pupil would be eligible to return to
9 the regular education program. Before returning to the regular
10 education program the pupil must undergo a child study team
11 evaluation. The child study team will advise the principal who
12 shall determine whether the pupil is ready for the regular
13 education program or is better served by remaining in an
14 alternative education program, or provided with home instruction
15 or other suitable facilities and programs.

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20 "Zero Tolerance for Guns Act."

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2348

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

This bill provides that any pupil convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on school property, on a school bus, or at a school-sponsored function must be immediately removed from the school's regular education program for a period of not less than one calendar year. Any pupil removed would be placed in an alternative education program or be provided with home instruction or other suitable facilities and programs until placement in an alternative program is possible. The bill would not prohibit expulsion of the pupil.

The bill further provides that one year after removal the pupil would be eligible to return to the regular education program. Before returning to the regular education program the pupil would be required to undergo a child study team evaluation. The principal of the school from which the pupil was removed would determine whether the pupil is prepared to return to the school's regular education program or is better served by remaining in an alternative education program, or provided with home instruction or other suitable facilities and programs. The principal is to take the recommendations of the child study team into consideration when making that determination.

ASSEMBLY BILL NO. 2348
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2348 (First Reprint) with my recommendations for reconsideration.

A. Summary of Bill

Assembly Bill No. 2348 (First Reprint) provides that any pupil convicted or adjudicated delinquent for an offense involving a firearm or found knowingly in possession of a firearm while on school property, a school bus or at a school function must be immediately removed from the regular education program, pending a hearing before the local board of education. Upon a finding of guilt by the local board of education, the pupil is to be removed from school for a period of at least one year and must be placed in an alternative education program or be provided home instruction.

The bill further provides that at the completion of the one-year removal period, the pupil must undergo a child study team evaluation. The principal of the school, taking into consideration the recommendation of the child study team, shall determine whether the pupil will return to the regular education program or remain in an alternative education program.

The bill provides for an immediate effective date and shall first apply to the 1995-96 school year.

B. Recommendation

I commend the Legislature on its diligence in drafting this legislation in response to the federal Gun-Free School Act of 1994 (the "Federal Act"). Pursuant to federal mandate, adoption of a

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EXECUTIVE DEPARTMENT

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compatible gun-free school act at the State level by October 20, 1995 will allow New Jersey to maintain federal education funding. I support the goal of this bill because it is increasingly apparent that children cannot learn and teachers cannot teach in school environments where firearms and other weapons are present. We must ensure safety in our schools.

However, I am advised by the Attorney General and the Commissioner of Education that several of the provisions of this bill are inconsistent with the mandates of the Federal Act. The State is therefore in jeopardy of losing federal education funding if the inconsistencies are not rectified. Finally, I have recommended some additional amendments to provide clarity, consistency and uniformity with other school laws.

Therefore, I herewith return Assembly Bill No. 2348 (First Reprint) and recommend that it be amended as follows:

- Page 1, Section 2, Line 13: After "education" insert "to remove the pupil from the regular education program"
- Page 1, Section 2, Line 14: After "year" insert ", subject to modification on a case-by-case basis by the chief school administrator"
- Page 1, Section 2, Line 16: After "N.J.S. 2C:39-1f" insert "and 18 U.S.C. 921"
- Page 1, Section 2, Line 22: After "available." insert "The provisions herein shall be construed in a manner consistent with 20 U.S.C. et seq."
- Page 1, Section 3, Line 27: After "shall" insert "immediately"
- Page 1, Section 3, Line 28: After "pupil" delete "to a law enforcement agency and"

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- Page 1, Section 3, Line 29: After "administrator." insert "The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice."
- Page 2, Section 4, Line 6: Delete "30" and insert "90"
- Page 2, Section 5, Lines 7-9: After "5." delete in entirety
- Page 2, Section 5, Line 10: Delete "regular education program."
- Page 2, Section 5, Line 10: After "The" delete "principal of the school from" and insert "chief school administrator"
- Page 2, Section 5, Line 11: Delete "which the pupil was removed"
- Page 2, Section 5, Line 14: After "program" delete ", taking into" and insert "in accordance with procedures to be established by the Commissioner of Education"
- Page 2, Section 5, Line 15: Delete "consideration the child study team's recommendations" and insert "6. This act shall not apply to any pupil who has obtained the written authorization of the chief school administrator to lawfully possess a firearm while participating in a school sponsored function. The chief school administrator shall not provide such authorization to any pupil who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm"
- Page 2, Section 6, Line 16: Delete "6." and insert "7."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Margaret M. Foti

Chief Counsel to the Governor