

18A:37-2.2

LEGISLATIVE HISTORY CHECKLIST
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(Pupils using weapons--removal from school)

NJSA: 18A:37-2.2

LAWS OF: 1995 **CHAPTER:** 128

BILL NO: A2349

SPONSOR(S): Rocco and others

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: February 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: Yes

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes
HEARINGS: Yes

974.90 New Jersey. Department of Education. Violence and Vandalism
C24 Prevention Task Force.
1994a Report...January 5, 1994. Trenton, 1994.

974.90 New Jersey. Legislature. General Assembly. Education Committee.
E24 Public hearing on violence and vandalism in the public
1994m schools, held 4-12-94. Secaucus, New Jersey.

KBG:pp

[SECOND REPRINT]
ASSEMBLY, No. 2349

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,
Assemblywoman Farragher, Assemblymen Felice, Gaffney,
Garcia, Garrett, Geist, Gibson, Gregg, Holzapfel,
Assemblywoman Murphy, Assemblyman Mikulak,
Assemblywomen Ogden, J. Smith, Assemblymen T. Smith,
Dalton, Roma, Romano and Assemblywoman Turner

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. Any pupil who commits an assault upon a teacher,
7 administrator, board member, other employee of a school board
8 or another student, with a weapon, on any school property, on a
9 school bus, or at a school-sponsored function shall be
10 immediately removed from the school's regular education
11 program ²pending a hearing before the local board of education².

12 For purposes of this section "assault" means those actions
13 defined under subsection a.(1) of N.J.S.2C:12-1.

14 For purposes of this section "weapon" includes but is not
15 limited to those items enumerated in subsection r. of
16 N.J.S.2C:39-1, except a firearm ²as defined by N.J.S.2C:39-1f
17 and 18 U.S.C. 921².

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

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

34 ^{13.} a. Any pupil removed pursuant to section 1 of P.L. , c.
35 (C.) (now pending before the legislature as this bill) shall be
36 entitled to a hearing before the local board of education to
37 determine if the pupil is guilty of committing an assault upon a
38 teacher, administrator, board member, other employee of a
39 school board or another student, with a weapon, on any school

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 property, on a school bus, or at a school-sponsored function. If it
 2 is found that the pupil is not guilty of the offense the pupil shall
 3 be immediately returned to the regular education program.

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

8 c. The decision of the board shall be made within five days
 9 after the close of the hearing. Any appeal of the board's
 10 decision shall be made to the Commissioner of Education within
 11 2[30] 90² days of the board's decision.¹

12 ¹[3.] ²[4.¹ Any pupil removed pursuant to section 1 of P.L. ,
 13 c. (C.) (now pending before the legislature as this bill) shall
 14 remain in the alternative educational program or other suitable
 15 facilities and programs for a period not exceeding one calendar
 16 year.]²

17 ¹[4.] ²[5.¹ 4.² ²[Any pupil removed pursuant to section 1 of
 18 P.L. , c. (C.) (now pending before the legislature as this
 19 bill) shall undergo a child study team evaluation prior to returning
 20 to the regular education program.]² The ²[principal of the school
 21 from which the pupil was removed] chief school administrator²
 22 shall determine ²[whether] when² the pupil is prepared to return
 23 to the regular education program ²[in less than one year, taking
 24 into consideration the child study team's recommendations] in
 25 accordance with procedures to be established by the
 26 Commissioner of Education².

27 ²5. Section 2 of P.L.1979, c.189 (C.18A:37-2.1) is amended to
 28 read as follows:

29 2. Any pupil who commits an assault, as defined pursuant to
 30 N.J.S.2C:12-1, upon a teacher, administrator, board member or
 31 other employee of a board of education, acting in the
 32 performance of his duties and in a situation where his authority
 33 to so act is apparent, or as a result of the victim's relationship to
 34 an institution of public education of this State, not involving the
 35 use of a weapon or firearm, shall be immediately suspended from
 36 school consistent with procedural due process pending suspension
 37 or expulsion proceedings before the local board of education.
 38 Said proceedings shall take place no later than [21] 30 calendar
 39 days following the day on which the pupil is suspended. The
 40 decision of the board shall be made within five days after the
 41 close of the hearing. Any appeal of the board's decision shall be
 42 made to the Commissioner of Education within 90 days of the
 43 board's decision. The provisions herein shall be construed in a
 44 manner consistent with 20 U.S.C. 1400 et seq.²

45 (cf: P.L.1979, c.189, s.2)

46 ¹[5.] ^{6.}¹ This act shall take effect immediately and shall first
 47 apply to the 1995-96 school year.

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 52 Provides for the removal from school of pupils using weapons.

1 SPONSORS' STATEMENT

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This bill provides that any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student with a weapon, except a firearm, on school property, on a school bus or at a school-sponsored function must be immediately removed from the regular education program. Any pupil removed would be placed in an alternative educational program or be provided home instruction or other suitable facilities and programs until placement in an alternative program is possible for a period no longer than one year. The bill would not prohibit the expulsion of the pupil.

Any pupil removed from the regular education program would remain in the alternative educational program or other suitable program no longer than one year, but shall be eligible to return to the regular education program in less than one year at the discretion of the school principal, taking into consideration a child study team evaluation of the pupil.

Provides for the removal from school of pupils using weapons.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2349

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

This bill provides that any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board, or another student with a weapon, except a firearm, on school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program. 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 the expulsion of the pupil.

The bill further provides that any pupil removed from the regular education program shall remain in the alternative education program or other suitable program for no longer than one calendar year and shall be eligible to return to the regular education program in less than one year at the discretion of the school principal. Prior to returning to the regular education program the pupil is to undergo a child study team evaluation. The principal is to take the recommendations of the child study team into consideration when making a determination on the pupil's return to the regular school program in less than one year.

LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

ASSEMBLY, No. 2349

STATE OF NEW JERSEY

DATED: December 6, 1994

Assembly Bill No. 2349(1R) of 1994 provides that any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board, or another student with a weapon, except a firearm, on school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program, and within 30 days after removal, shall be entitled to a hearing before the local board of education. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). The board is required to make a decision within five days after the hearing, and, the pupil, if found guilty, is to be removed from the regular school program for a period of not less than one calendar year. If found not guilty of the offense, the pupil is to be returned immediately to the regular classroom. Any appeal of the decision is to be made within 30 days of the board's decision. Any pupil removed from the regular school program under the provisions of this bill is to be placed in an alternative education program immediately, or be provided with home instruction, or another suitable facility or program. 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.

The Office of Legislative Services cannot estimate the total increased costs to school districts and the State due to the unavailability of data on: (1) the number of pupils to be removed from the regular school program; and, (2) any additional costs associated with providing special programs for pupils removed from the regular school programs.

The Office of Legislative Services(OLS) notes that, if a district does not have an alternative education program, it would have to provide a program of home instruction. According to Department of Education estimates, the minimum cost of providing home instruction is approximately \$20 per hour. Annualized, on the basis of a 36 week school year (the minimum number of hours required for home instruction is 5, and the maximum is 10 pursuant to N.J.A.C.6:28-4.5), it is estimated that the total cost of providing home instruction for a pupil would range from a minimum of \$3,600 to a maximum of \$4,500.

However, under the QEA formula, districts were provided State aid for home instruction (\$18 per hour) in the year following the year in which the costs were incurred. However, since the 1992-93

school year (FY 1993), State aid allocations have been frozen at the 1992-93 level, and it is unclear what may be enacted for the 1995-96 school year. Pending a new funding formula, any additional costs associated with increasing the number of pupils receiving home instruction, or any other special program, would be funded by the local district tax levy.

This legislative fiscal estimate has been produced by the Office of Legislative Services(OLS) due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

March 9, 1995

ASSEMBLY BILL NO. 2349
(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. 2349 (First Reprint) with my recommendations for reconsideration.

A. Summary of Bill

Assembly Bill No. 2349 (First Reprint) provides that any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon other than a firearm, on any school property, a school bus or at a school sponsored function shall be immediately removed from the school's 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 not to exceed one year and must be placed in an alternative education program or be provided home instruction.

The bill further provides that a pupil removed from school in accordance with this bill must undergo a child study team evaluation prior to returning to the regular education program. The principal of the school shall determine whether the pupil is prepared to return to the regular education program in less than one year, taking into consideration the child study team's recommendations.

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

B. Recommended Actions

I fully support the objectives of this bill. It is of paramount importance that schools in this State are safe, disciplined and provide environments conducive to learning. Any

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student who behaves in a manner which disrupts these important objectives or endangers the safety of others should be removed from a school's regular education program.

I have been advised, however, that certain of the bill's provisions must be amended to conform to federal laws. Additionally, certain technical and clarifying amendments to the bill are recommended to make it consistent with Assembly Bill No. 2348, the Zero Tolerance for Guns Act.

Therefore, I herewith return Assembly Bill No. 2349 (First Reprint) and recommend that it be amended as follows:

- Page 1, Section 1, Line 11 : After "program" insert
"pending a hearing before the
local board of education"
- Page 1, Section 1, Line 16: After "firearm" insert "as
defined by N.J.S. 2C:39-1f
and 18 U.S.C. 921."
- Page 1, Section 1, Line 22: After "available." insert
"The provisions herein shall
be construed in a manner
consistent with 20 U.S.C.
1400 et seq."
- Page 1, Section 2, Line 27: After "shall" insert
"immediately"
- Page 1, Section 2, Line 28: After "pupil" delete "to a
law enforcement agency and"
- Page 1, Section 2, Line 29: After "administrator." insert
"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 3, Line 8: Delete "30" and insert "90"
- Page 2, Section 4, Lines 9-13: Delete in entirety
- Page 2, Section 5, Line 14: Delete "5." and insert "4."
- Page 2, Section 5, Lines 14-16: Delete in entirety

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- Page 2, Section 5, Line 17: Delete "regular education program." and after "The" delete "principal" and insert "chief school administrator"
- Page 2, Section 5, Line 18: After "determine" delete "whether" and insert "when"
- Page 2, Section 5, Line 19: After "program" delete "in less than" and insert "in accordance with procedures to be established by the Commissioner of Education."
- Page 2, Section 5, Lines 20-21: Delete in entirety
- Page 2, Section 6, Line 22: Delete "6." and insert "5. N.J.S. 18A:37-2.1 shall be amended to read as follows: Any pupil who commits an assault, as defined pursuant to N.J.S. 2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm. shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than [21] 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions

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herein shall be construed in
a manner consistent with 20
U.S.C. 1400 et seq."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Margaret M. Foti

Chief Counsel to the Governor