

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0684.01 Julie Pelegrin x2700

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A BILL FOR AN ACT

101 CONCERNING THE DISCIPLINE OF PRESCHOOL THROUGH SECOND
102 GRADE STUDENTS ENROLLED IN PUBLICLY FUNDED EDUCATION
103 PROGRAMS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill allows a state-funded, community-based preschool program, school district, or charter school (enrolling entity) to impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, or first or second grade only under specified circumstances. If the enrolling entity imposes an out-of-school suspension, the length of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 20, 2019

HOUSE
Amended 2nd Reading
March 19, 2019

the suspension must be limited to the time required to resolve the safety threat, but no more than 3 school days. The state board of education (state board) cannot waive the provisions concerning suspension and expulsion of young students for school districts or charter schools. Each school district and charter school must ensure that its school discipline code reflects the requirements specified in the bill. The state board must annually review the data concerning suspensions and expulsions of students in preschool, kindergarten, and first and second grade.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Children in preschool and early elementary years are at a
5 critical stage of development, and a child's early experiences in school
6 have a dramatic impact on the child's health and future success in school;

7 (b) The practice of out-of-school suspension or expulsion of a
8 young child may have profound consequences for the child, as these
9 exclusionary measures come at a time when the child is supposed to be
10 forming positive associations with school and building positive
11 relationships with teachers and peers; and

12 (c) Research indicates that young children who are suspended or
13 expelled from school are several times more likely to experience
14 disciplinary action later in their academic careers, drop out or disengage
15 from high school, report feeling disconnected from school, and be
16 incarcerated later in life.

17 (2) The general assembly therefore declares that the standards for
18 suspension and expulsion of young children should be developmentally
19 appropriate, and implementing inclusive discipline practices, rather than
20 out-of-school suspension and expulsion, is an important step in
21 supporting a positive school experience for young children in preschool

1 and early elementary programs that will result in greater long-term
2 success for the child.

3 **SECTION 2.** In Colorado Revised Statutes, **add** 22-33-106.1 as
4 follows:

5 **22-33-106.1. Suspension - expulsion - preschool through**
6 **second grade - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (a) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT IS
9 AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT TO
10 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR AN INSTITUTE CHARTER
11 SCHOOL THAT IS AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE
12 PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

13 (b) "ENROLLING ENTITY" MEANS:

14 (I) A COMMUNITY-BASED PRESCHOOL PROGRAM THAT INCLUDES
15 STUDENTS WHO ARE FUNDED THROUGH THE "COLORADO PRESCHOOL
16 PROGRAM ACT", ARTICLE 28 OF THIS TITLE 22, OR STUDENTS WHO ARE
17 FUNDED WITH STATE OR FEDERAL MONEY TO EDUCATE CHILDREN WITH
18 DISABILITIES;

19 (II) A SCHOOL DISTRICT; OR

20 (III) A CHARTER SCHOOL.

21 (2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 33 TO THE
22 CONTRARY, AN ENROLLING ENTITY MAY IMPOSE AN OUT-OF-SCHOOL
23 SUSPENSION OR EXPEL A STUDENT ENROLLED IN PRESCHOOL,
24 KINDERGARTEN, FIRST GRADE, OR SECOND GRADE ONLY IF:

25 (a) THE ENROLLING ENTITY DETERMINES THAT THE STUDENT HAS
26 ENGAGED IN CONDUCT ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR
27 AT A SCHOOL ACTIVITY OR SANCTIONED EVENT THAT:

1 (I) INVOLVES THE POSSESSION OF A DANGEROUS WEAPON WITHOUT
2 THE AUTHORIZATION OF THE PUBLIC SCHOOL OR ENROLLING ENTITY, IF
3 DIFFERENT;

4 (II) INVOLVES THE USE, POSSESSION, OR SALE OF A DRUG OR
5 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5); OR

6 (III) ENDANGERS THE HEALTH OR SAFETY OF OTHERS;

7 (b) ~~THE ENROLLING ENTITY DETERMINES THAT FAILURE TO~~
8 REMOVE THE STUDENT FROM THE SCHOOL BUILDING WOULD CREATE A
9 SAFETY THREAT THAT CANNOT OTHERWISE BE ADDRESSED; AND

10 (c) ~~THE ENROLLING ENTITY, ON A CASE-BY-CASE BASIS, CONSIDERS~~
11 ~~EACH OF THE FACTORS SET FORTH IN SECTION 22-33-106 (1.2) BEFORE~~
12 ~~SUSPENDING OR EXPELLING THE STUDENT.~~ ~~THE ENROLLING ENTITY~~
13 SHALL DOCUMENT ~~ANY~~ ALTERNATIVE BEHAVIORAL AND DISCIPLINARY
14 INTERVENTIONS THAT IT EMPLOYS BEFORE SUSPENDING OR EXPELLING THE
15 STUDENT.

16 (3) IF AN ENROLLING ENTITY IMPOSES AN OUT-OF-SCHOOL
17 SUSPENSION ON A STUDENT WHO MEETS THE CRITERIA SPECIFIED IN
18 SUBSECTION (2) OF THIS SECTION, ~~THE OUT-OF-SCHOOL SUSPENSION SHALL~~
19 NOT EXCEED THREE SCHOOL DAYS UNLESS THE EXECUTIVE OFFICER OR
20 CHIEF ADMINISTRATIVE OFFICER OF THE ENROLLING ENTITY, OR DESIGNEE
21 OF EITHER, DETERMINES THAT A LONGER PERIOD OF SUSPENSION IS
22 NECESSARY TO RESOLVE THE SAFETY THREAT OR RECOMMENDS THAT THE
23 STUDENT BE EXPELLED IN ACCORDANCE WITH SECTION 22-33-105 (2)(c).

24 ~~THE ENROLLING ENTITY~~

25 (4) THIS SECTION DOES NOT PREVENT AN ENROLLING ENTITY FROM
26 ~~EXCLUDING, REMOVING, OR DISENROLLING A STUDENT~~ ~~FOR REASONS~~
27 UNRELATED TO STUDENT DISCIPLINE.

6 (6) THE STATE BOARD SHALL ANNUALLY REVIEW THE DATA
7 CONCERNING THE NUMBER OF STUDENTS WHO ARE SUSPENDED OR
8 EXPELLED PURSUANT TO THIS SECTION ~~AND, IF AVAILABLE, THE REASONS~~
9 FOR THE SUSPENSIONS AND EXPULSIONS.

10 **SECTION 3.** In Colorado Revised Statutes, 22-2-117, amend
11 (1)(b)(VI) and (1)(b)(VII); and **add** (1)(b)(VIII) as follows:

12 **22-2-117. Additional power - state board - waiver of**
13 **requirements - rules.** (1) (b) The state board shall not waive any of the
14 requirements specified in any of the following statutory provisions:

15 (VI) The requirement to post on the internet the statutes for which
16 waivers are granted as provided in section 22-44-305; or

17 (VII) Any provisions of section 22-1-130, relating to notification
18 to parents of alleged criminal conduct by school district employees; OR

19 (VIII) SECTION 22-33-106.1, CONCERNING SUSPENSION AND
20 EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

21 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-104, amend
22 (6)(c)(VI) and (6)(c)(VII); and **add** (6)(c)(VIII) as follows:

22-30.5-104. Charter school - requirements - authority - rules.

24 (6) (c) A school district, on behalf of a charter school, may apply to the
25 state board for a waiver of a state statute or state rule that is not an
26 automatic waiver. Notwithstanding any provision of this subsection (6)
27 to the contrary, the state board may not waive any statute or rule relating

1 to:

2 (VI) The requirement to post on the internet the statutes for which
3 waivers are granted as provided in section 22-44-305; **or**

4 (VII) Any provisions of section 22-1-130, relating to notification
5 to parents of alleged criminal conduct by charter school employees; **OR**

6 (VIII) SECTION 22-33-106.1, CONCERNING SUSPENSION AND
7 EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

8 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-106, **amend**

9 (1)(p) as follows:

10 **22-30.5-106. Charter application - contents.** (1) The charter
11 school application is a proposed agreement upon which the charter
12 applicant and the chartering local board of education negotiate a charter
13 contract. At a minimum, each charter school application includes:

14 (p) Policies regarding student discipline, expulsion, and
15 suspension that are consistent with the intent and purpose of ~~section~~
16 ~~SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety~~
17 ~~of students and staff, and provide a level of due process for students that,~~
18 ~~at a minimum, complies with the requirements of the federal "Individuals~~
19 ~~with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;~~

20 **SECTION 6.** In Colorado Revised Statutes, 22-30.5-505, **amend**

21 (9) as follows:

22 **22-30.5-505. State charter school institute - institute board -**
23 **appointment - powers and duties - rules.** (9) The institute shall ensure
24 that each institute charter school addresses the expulsion, suspension, and
25 education of expelled or suspended students in a manner consistent with
26 the intents and purposes of sections 22-33-105, 22-33-106, **22-33-106.1,**
27 and 22-33-203.

1 **SECTION 7.** In Colorado Revised Statutes, 22-30.5-507, **amend**
2 (7)(b)(VI) and (7)(b)(VII); and **add** (7)(b)(VIII) as follows:

3 **22-30.5-507. Institute charter school - requirements -**
4 **authority - rules.** (7) (b) An institute charter school may apply to the
5 state board, through the institute, for a waiver of state statutes and state
6 rules that are not automatic waivers. The state board may waive state
7 statutory requirements or rules promulgated by the state board; except that
8 the state board may not waive any statute or rule relating to:

9 (VI) The requirement to post on the internet the statutes for which
10 waivers are granted as provided in section 22-44-305; **or**

11 (VII) Any provisions of section 22-1-130, relating to notification
12 to parents of alleged criminal conduct by institute charter school
13 employees; **OR**

14 (VIII) **SECTION 22-33-106.1, CONCERNING SUSPENSION AND**
15 **EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.**

16 **SECTION 8.** In Colorado Revised Statutes, 22-30.5-509, **amend**
17 (1)(p) as follows:

18 **22-30.5-509. Institute charter school application - contents.**
19 (1) The institute charter school application is a proposed agreement upon
20 which the institute charter applicant and the institute negotiate a charter
21 contract. At a minimum, each institute charter school application
22 includes:

23 (p) Policies regarding student discipline, expulsion, and
24 suspension that are consistent with the intent and purpose of **section**
25 **SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety**
26 **of students and staff, and provide a level of due process for students that,**
27 **at a minimum, complies with the requirements of the federal "Individuals**

1 with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

2 **SECTION 9.** In Colorado Revised Statutes, 22-32-109.1, **amend**
3 (2)(a)(I) introductory portion, (2)(a)(I)(E), (2)(a)(II) introductory portion,
4 (2)(a)(II)(C), and (2)(a)(II)(D); and **add** (2)(a)(II)(E) as follows:

5 **22-32-109.1. Board of education - specific powers and duties**

6 **- safe school plan - conduct and discipline code - safe school reporting**
7 **requirements - school response framework - school resource officers**

8 **- definitions - repeal.** (2) **Safe school plan.** In order to provide a
9 learning environment that is safe, conducive to the learning process, and
10 free from unnecessary disruption, each school district board of education
11 or institute charter school board for a charter school authorized by the
12 charter school institute shall, following consultation with the school
13 district accountability committee and school accountability committees,
14 parents, teachers, administrators, students, student councils where
15 available, and, where appropriate, the community at large, adopt and
16 implement a safe school plan, or review and revise, as necessary in
17 response to any relevant data collected by the school district, any existing
18 plans or policies already in effect. In addition to the aforementioned
19 parties, each school district board of education, in adopting and
20 implementing its safe school plan, may consult with victims' advocacy
21 organizations, school psychologists, local law enforcement, and
22 community partners. The plan, at a minimum, must include the following:

23 (a) **Conduct and discipline code.** (I) A concisely written conduct
24 and discipline code that shall be enforced uniformly, fairly, and
25 consistently for all students. Copies of the code shall be provided to each
26 student upon enrollment at the PRESCHOOL, elementary, middle, and high
27 school levels and shall be posted or kept on file at each public school in

1 the school district. The school district shall take reasonable measures to
2 ensure that each student of each public school in the school district is
3 familiar with the code. The code shall include, but need not be limited to:

4 (E) General policies and procedures for determining the
5 circumstances under and the manner in which disciplinary actions,
6 including suspension and expulsion, shall be imposed in accordance with
7 the provisions of sections 22-33-105, ~~and 22-33-106, AND 22-33-106.1;~~

8 (II) In creating and enforcing a school conduct and discipline code
9 pursuant to ~~subparagraph (I) of this paragraph (a) SUBSECTION (2)(a)(I)~~
10 OF THIS SECTION, each school district board of education, on and after
11 August 1, 2013, shall:

12 (C) Ensure that the implementation of the code complies with all
13 state and federal laws concerning the education of students with
14 disabilities, as defined in section 22-20-103 (5); ~~and~~

15 (D) Ensure that, in implementing the code, each school of the
16 school district shows due consideration of the impact of certain violations
17 of the code upon victims of such violations, in accordance with the
18 provisions of Title IX of the United States Code and other state and
19 federal laws; ~~AND~~

20 (E) ENSURE THAT, IN IMPLEMENTING THE CODE, EACH SCHOOL OF
21 THE SCHOOL DISTRICT COMPLIES WITH THE REQUIREMENTS OF SECTION
22 22-33-106.1.

23 **SECTION 10. Act subject to petition - effective date.** This act
24 takes effect July 1, 2020; except that, if a referendum petition is filed
25 pursuant to section 1 (3) of article V of the state constitution against this
26 act or an item, section, or part of this act within such period, then the act,
27 item, section, or part will not take effect unless approved by the people

1 at the general election to be held in November 2020 and, in such case,
2 will take effect on the date of the official declaration of the vote thereon
3 by the governor.