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H. B. 3081

(By Delegate Savilla)
[Introduced February 9, 2011; referred to the
Committee on Education then the Judiciary.]

A BILL to amend and reenact §18A-5-1 of the Code of West Virginia,
1931, as amended, relating to permitting the use of reasonable
corporal punishment by a teacher or administrator.

Be it enacted by the Legislature of West Virginia:

That §18A-5-1 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

**§18A-5-1. Authority of teachers and other school personnel;
exclusion of students having infectious diseases;
suspension or expulsion of disorderly students;
reasonable corporal punishment abolished permitted.**

(a) The teacher shall stand in the place of the parent(s),
guardian(s) or custodian(s) in exercising authority over the school
and has control of all students enrolled in the school from the
time they reach the school until they have returned to their
respective homes, except that where transportation of students is
provided, the driver in charge of the school bus or other mode of
transportation shall exercise ~~such~~ authority and control over the

1 students while they are in transit to and from the school.

2 (b) Subject to the rules of the State Board of Education, the
3 teacher shall exclude from the school any student known to have or
4 suspected of having any infectious disease, or any student who has
5 been exposed to any infectious disease, and shall immediately
6 notify the proper health officer or medical inspector of the
7 exclusion. Any student so excluded may not be readmitted to the
8 school until he or she has complied with all the requirements of
9 the rules governing those cases or has presented a certificate of
10 health signed by the medical inspector or other proper health
11 officer.

12 (c) The teacher may exclude from his or her classroom or
13 school bus any student who is guilty of disorderly conduct; who in
14 any manner interferes with an orderly educational process; who
15 threatens, abuses or otherwise intimidates or attempts to
16 intimidate a school employee or a student; who willfully disobeys
17 a school employee; or who uses abusive or profane language directed
18 at a school employee. Any student excluded shall be placed under
19 the control of the principal of the school or a designee. The
20 excluded student may be admitted to the classroom or school bus
21 only when the principal, or a designee, provides written
22 certification to the teacher that the student may be readmitted and
23 specifies the specific type of disciplinary action, if any, that
24 was taken. If the principal finds that disciplinary action is
25 warranted, he or she shall provide written and, if possible,
26 telephonic notice of the action to the parent(s), guardian(s) or
27 custodian(s). When a student is excluded from a classroom or a

1 school bus two times in one semester, and after exhausting all
2 reasonable methods of classroom discipline provided in the school
3 discipline plan, the student may be readmitted to the classroom or
4 the school bus only after the principal, teacher and, if possible,
5 the parent(s), guardian(s) or custodian(s) of the student have held
6 a conference to discuss the student's disruptive behavior patterns,
7 and the teacher and the principal agree on a course of discipline
8 for the student and inform the parent(s), guardian(s) or
9 custodian(s) of the course of action. Thereafter, if the student's
10 disruptive behavior persists, upon the teacher's request, the
11 principal may, to the extent feasible, transfer the student to
12 another setting. The Legislature finds that isolating students or
13 placing them in alternative learning centers may be the best
14 setting for chronically disruptive students. The county board
15 shall create more alternative learning centers or expand its
16 capacity for alternative placements, subject to funding, to
17 correct these students' behaviors so they can return to a regular
18 classroom without engaging in further disruptive behavior.

19 (d) The Legislature finds that suspension from school is not
20 appropriate solely for a student's failure to attend class.
21 Therefore, a student may not be suspended from school solely for
22 not attending class. Other methods of discipline may be used for
23 the student which may include, but are not limited to, detention,
24 extra class time or alternative class settings.

25 (e) Reasonable corporal punishment of any student by a ~~school~~
26 ~~employee is prohibited~~ teacher or administrator is permitted if it
27 is conducted by a teacher or administrator the same gender as the

1 student and is supervised by a teacher or administrator of the
2 opposite gender of the student.

3 (f) Each county board is solely responsible for the
4 administration of proper discipline in the public schools of the
5 county and shall adopt policies consistent with the provisions of
6 this section to govern disciplinary actions. These policies shall
7 encourage the use of alternatives to corporal punishment, providing
8 for the training of school personnel in alternatives to corporal
9 punishment and for the involvement of parent(s), guardian(s) or
10 custodian(s) in the maintenance of school discipline. The county
11 boards shall provide for the immediate incorporation and
12 implementation in the schools of a preventive discipline program
13 which may include the responsible student program and a student
14 involvement program which may include the peer mediation program,
15 devised by the West Virginia Board of Education. Each county board
16 may modify those programs to meet the particular needs of the
17 county. The county boards shall provide in-service training for
18 teachers and principals relating to assertive discipline procedures
19 and conflict resolution. The county boards also may establish
20 cooperatives with private entities to provide middle educational
21 programs which may include programs focusing on developing
22 individual coping skills, conflict resolution, anger control, self-
23 esteem issues, stress management and decision making for students
24 and any other program related to preventive discipline.

25 (g) For the purpose of this section:

26 (1) "Student" includes any child, youth or adult who is
27 enrolled in any instructional program or activity conducted under

1 board authorization and within the facilities of or in connection
2 with any program under public school direction: *Provided*, That in
3 the case of adults, the student-teacher relationship shall
4 terminate when the student leaves the school or other place of
5 instruction or activity;

6 (2) "Teacher" means all professional educators as defined in
7 section one, article one of this chapter and includes the driver of
8 a school bus or other mode of transportation; and

9 (3) "Principal" means the principal, assistant principal, vice
10 principal or the administrative head of the school or a
11 professional personnel designee of the principal or the
12 administrative head of the school.

13 (h) Teachers shall exercise other authority and perform other
14 duties prescribed for them by law or by the rules of the state
15 board not inconsistent with the provisions of this chapter and
16 chapter eighteen of this code.

NOTE: The purpose of this bill is to reinstate the authority
for the use of reasonable corporal punishment in public schools.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.