Committee Substitute

for

House Bill 2890

By Delegates Gearheart, Ellington, Westfall, Storch,
Bridges, Foster, Butler, Householder, Cooper, Dean,
and Heckert

[Originating in the Committee on Education;
January 25, 2023]
A BILL to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating to authority of teachers and other school personnel for discipline of students; creating offence of behavior that is disruptive to classroom environment; teacher's responsibility to make a report after excluding student from classroom for certain offenses; excluding student from classroom for certain offenses and making exclusion an in-school suspension; providing penalty for repeat offenses; providing permissible action in event of personality clash; and requiring each county school board to implement a tier system policy, with teacher input, to provide a framework for student behaviors and punishments.

Be it enacted by the Legislature of West Virginia:

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; corporal punishment abolished.

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

(b) Subject to the rules of the state Board of Education, the teacher shall exclude from the school any student known to have or suspected of having any infectious disease, or any student who has been exposed to any infectious disease, and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.
(c) The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that is disruptive to the classroom environment; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior. When a student is excluded from the classroom by the teacher for disorderly conduct, interfering with an orderly educational process or behaving in a manner that is disruptive to the classroom environment, the teacher has 24 hours to create an electronic record and place
the report on this action into West Virginia Education Information System (WVEIS), without any repercussion.

When a teacher determines that the behavior of the student is disorderly conduct, interfering with an orderly educational process or disruptive to the classroom environment, the student shall be excluded from that teacher’s classroom and may not re-enter the classroom for the remainder of the instructional day. This removal shall count as an in-school suspension. If the behavior of the student is disruptive enough to be removed from a classroom three times total in one month, the student shall receive an out-of-school suspension or may be considered for placement in an alternative learning center if one is available within the county school system.

If the behavior of the student is considered to be a personality clash and that the student may learn better in a different classroom environment, the principal may remove the student immediately and protect the integrity of the classroom.

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

(e) Corporal punishment of any student by a school employee is prohibited.

(f) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal punishment, providing for the training of school personnel in alternatives to corporal punishment and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. Each county board shall implement a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy.
The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county boards shall provide for the immediate incorporation and implementation in the schools of a preventive discipline program which may include the responsible student program and a student involvement program which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students and any other program related to preventive discipline.

(g) For the purpose of this section:

(1) "Student" includes any child, youth or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction: Provided, That, in the case of adults, the student–teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

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

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

(h) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and chapter 18 of this code.
NOTE: The purpose of this bill is to modify the authority of teachers and other school personnel for discipline of students that requires removal of a student from the classroom; and requiring each county school board to implement a tier system policy, with teacher input, to provide a framework for student behaviors and punishments.

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