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H.796

Introduced by Representatives Ram of Burlington and Rachelson of Burlington

Referred to Committee on

Date:

Subject: Education; school safety; disciplinary action

Statement of purpose of bill as introduced: This bill proposes to change the conditions under which students can be suspended or expelled and to require an assessment of a number of considerations before imposing disciplinary action.

An act relating to school safety and use of disciplinary action

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

(a) ~~A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:~~

1           ~~(1) on school property, on a school bus, or at a school-sponsored activity~~  
2 ~~when the misconduct makes the continued presence of the student harmful to~~  
3 ~~the welfare of the school;~~

4           ~~(2) not on school property, on a school bus, or at a school-sponsored~~  
5 ~~activity where direct harm to the welfare of the school can be demonstrated; or~~

6           ~~(3) not on school property, on a school bus, or at a school-sponsored~~  
7 ~~activity where the misconduct can be shown to pose a clear and substantial~~  
8 ~~interference with another student's equal access to educational programs.~~

9           A superintendent or principal may, after having taken any appropriate  
10 action to address a student's misconduct in a manner that does not separate the  
11 student from the school environment, and pursuant to policies adopted by the  
12 school board that are consistent with State Board rules, suspend a student for  
13 up to five school days for misconduct:

14           (1) on school property, on a school bus, or at a school-sponsored activity  
15 that poses a risk of substantial harm to the safety of others; or

16           (2) not on school property, on a school bus, or at a school-sponsored  
17 activity that poses a risk of substantial harm to the safety of other students or  
18 school staff.

19           (b) A superintendent or principal may, after having taken any appropriate  
20 action to address a student's misconduct in a manner that does not separate the  
21 student from the school environment, and pursuant to policies adopted by the

1 school board that are consistent with State Board rules, and with the approval  
2 of the board of the school district, expel a student for up to the remainder of the  
3 school year or up to 90 days, whichever is longer, for misconduct:

4 (1) on school property, on a school bus, or at a school-sponsored activity  
5 that knowingly posed an imminent risk of, or intentionally caused, physical  
6 harm to others;

7 (2) not on school property, on a school bus, or at a school-sponsored  
8 activity that knowingly posed an imminent risk of, or intentionally caused,  
9 physical harm to other students or school staff.

10 ~~(b)~~(c) Nothing contained in this section shall prevent a superintendent or  
11 principal, subject to subsequent due process procedures, from removing  
12 immediately from a school a student who poses a continuing danger to persons  
13 or property or an ongoing threat of disrupting the academic process of the  
14 school, or from expelling a student who brings a weapon to school pursuant to  
15 section 1166 of this title.

16 (d) Nothing in this section shall prevent a superintendent or principal,  
17 subject to subsequent due process procedures, from suspending or expelling a  
18 student where, in accordance with policies and procedures required by  
19 subdivision 1161a(a)(6) of this title and State Board rules and procedures, the  
20 student has been found to have engaged in misconduct that constituted  
21 “bullying,” “hazing,” or “harassment” as defined in section 11 of this title, and

1 has substantially interfered with at least one other student's equal access to  
2 education.

3 ~~(e)~~(e) Principals, superintendents, and school boards are authorized and  
4 encouraged to provide alternative education services or programs to students  
5 during any period of suspension or expulsion authorized under this section.

6 (f) When making a determination to suspend, expel, or impose other forms  
7 of disciplinary action, the person making the determination shall consider the  
8 safety of all students and staff, whether the action is proportionate to the  
9 situation, and other disciplinary actions taken in similar circumstances, and  
10 shall take into account the following factors:

11 (1) the chronological age, development, and maturity of the student who  
12 is the subject of the disciplinary action;

13 (2) the cognitive ability of the student who is the subject of the  
14 disciplinary action;

15 (3) any known physical, medical, psychiatric condition, and personal  
16 history of the student who is the subject of the disciplinary action, including  
17 any history of physical, emotional, or sexual abuse or trauma;

18 (4) the nature of past treatment efforts for, and the nature of the response  
19 to them by, the student who is the subject of the disciplinary action;

1           (5) the nature of any personal injuries to others resulting from, or  
2           intended to be caused by, the misconduct by the student who is the subject of  
3           the disciplinary action; and

4           (6) whether the misconduct was committed by the student who is the  
5           subject of the disciplinary action in an aggressive, violent, premeditated, or  
6           willful manner.

7           Sec. 2. EFFECTIVE DATE

8           This act shall take effect on July 1, 2016.