

CHAPTER 83

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 04-1137

BY REPRESENTATIVE(S) Frangas, Cloer, Jahn, King, Paccione, Pommer, Vigil, White, Borodkin, Boyd, Cadman, Carroll, Clapp, Coleman, Crane, Hefley, Lee, Madden, May M., McFadyen, McGihon, Plant, Romanoff, Rose, Sinclair, Spence, Spradley, Stafford, Stengel, Williams S., and Williams T.;

also SENATOR(S) Groff, Arnold, Evans, Fitz-Gerald, Gordon, Hanna, Hillman, Isgar, Jones, Keller, May R., McElhany, Nichol, Phillips, Sandoval, Tapia, Taylor, Teck, Veiga, and Windels.

AN ACT

CONCERNING THE CREATION OF A PUBLIC SCHOOL STUDENT'S RIGHT TO HAVE A GUARDIAN PRESENT WHEN THE STUDENT SIGNS A STATEMENT THAT COULD RESULT IN EXPULSION.

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

SECTION 1. Part 1 of article 33 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-33-106.3. Disciplinary investigations - parental presence - student statements. (1) A PUBLIC SCHOOL EMPLOYEE SHALL NOT USE A STUDENT'S STATEMENT CONCERNING AN ACT ALLEGED TO HAVE BEEN COMMITTED BY THE STUDENT THAT RESULTS IN MANDATORY EXPULSION PURSUANT TO SECTION 22-33-106 (1) (d), IN THE EXPULSION HEARING, UNLESS THE STATEMENT IS SIGNED BY THE STUDENT AND A PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN IS PRESENT WHEN THE STUDENT SIGNS THE STATEMENT OR ADMISSION OR A REASONABLE ATTEMPT WAS MADE TO CONTACT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN TO HAVE THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN PRESENT WHEN THE STUDENT SIGNED THE STATEMENT. THE SCHOOL SHALL BE DEEMED TO HAVE MADE A REASONABLE ATTEMPT TO CONTACT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN IF THE SCHOOL CALLS EACH OF THE PHONE NUMBERS THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN PROVIDES TO THE SCHOOL AND ALL PHONE NUMBERS THE STUDENT PROVIDES TO THE SCHOOL FOR THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE STUDENT AND HIS OR HER PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MAY EXPRESSLY WAIVE THE REQUIREMENT THAT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN BE PRESENT WHEN A STUDENT SIGNS A STATEMENT OR ADMISSION. THIS EXPRESS WAIVER SHALL BE IN WRITING AND SHALL BE OBTAINED ONLY AFTER FULL ADVISEMENT OF THE STUDENT AND HIS OR HER PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN OF THE STUDENT'S RIGHTS PRIOR TO THE SIGNING OF THE STATEMENT OR ADMISSION BY THE STUDENT.

(3) THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY IF THE STUDENT MAKES ANY DELIBERATE MISREPRESENTATIONS AFFECTING THE APPLICABILITY OR REQUIREMENTS OF THIS SECTION AND A SCHOOL OFFICIAL, ACTING IN GOOD FAITH AND IN REASONABLE RELIANCE ON SUCH DELIBERATE MISREPRESENTATION, OBTAINS A SIGNED STATEMENT OR ADMISSION OF THE STUDENT THAT DOES NOT COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT OR INTERFERE WITH A FACT-FINDING OR INFORMATION-GATHERING INVESTIGATION BY A SCHOOL OR SCHOOL EMPLOYEE.

(5) FOR THE PURPOSES OF THIS SECTION, "PHYSICAL CUSTODIAN" SHALL HAVE THE SAME MEANING AS THAT TERM IS DEFINED IN SECTION 19-1-103 (84), C.R.S.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 5, 2004