

CHAPTER 190

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 98-1227

BY REPRESENTATIVES Schauer, Bacon, Leyba, and Reeser;
also SENATORS Blickensderfer, Arnold, and Lamborn.

AN ACT

CONCERNING AUTHORIZATION OF ALTERNATIVE EDUCATIONAL PROGRAMS FOR STUDENTS IN PUBLIC SCHOOLS.

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

SECTION 1. 22-33-104 (1), (2) (d), and (2) (i), Colorado Revised Statutes, are amended to read:

22-33-104. Compulsory school attendance. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, every child who has attained the age of seven years and is under the age of sixteen years, except as provided by this section, shall attend public school for at least one thousand fifty-six hours if a secondary school pupil or nine hundred sixty-eight hours if an elementary school pupil during each school year; except that in no case shall a school or schools be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education.

(2) The provisions of subsection (1) of this section shall not apply to a child:

(d) Who has been suspended, expelled, or denied admission in accordance with the provisions of this article; except that, when a pupil is expelled for the remainder of the school year, the parent, guardian, or legal custodian is responsible for seeing that EITHER the provisions of subsection (1) of this section are complied with during the period of expulsion from the school district OR THAT THE PUPIL MEETS THE CONDITIONS FOR EXEMPTION SPECIFIED IN PARAGRAPH (b) OR (i) OF THIS SUBSECTION (2);

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

(i) Who is being instructed at home:

(I) By a teacher certified pursuant to article 60 or 61 of this title; or

(II) Under a non-public home-based educational program pursuant to section 22-33-104.5; or

(III) IN AN ALTERNATIVE PROGRAM AUTHORIZED PURSUANT TO SECTION 22-33-104.6; OR

SECTION 2. Part 1 of article 33 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-33-104.6. On-line program - legislative declaration - authorized - definitions. (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT TECHNOLOGICAL ADVANCES, PARTICULARLY IN THE DEVELOPMENT AND DISSEMINATION OF RESOURCES THROUGH THE WORLD WIDE WEB, CAN PROVIDE ALTERNATIVES FOR THE PROVISION OF EDUCATIONAL SERVICES THAT CAN BE CUSTOMIZED TO SERVE THE DIVERSE NEEDS OF TODAY'S STUDENT POPULATION.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE STATE SHOULD AVAIL ITSELF OF THE ENHANCED SERVICES AVAILABLE AS A RESULT OF SUCH TECHNOLOGICAL ADVANCES TO SERVE THE CITIZENS OF THE STATE MORE APPROPRIATELY.

(2) **Definitions.** AS USED IN THIS SECTION:

(a) "DISTRICT COORDINATOR" MEANS A STAFF PERSON AT THE SCHOOL DISTRICT LEVEL WHO SHALL ADMINISTER AND MONITOR THE ON-LINE PROGRAM FOR THE SCHOOL DISTRICT.

(b) "ON-LINE PROGRAM" MEANS AN ALTERNATIVE ON-LINE EDUCATION PROGRAM AUTHORIZED PURSUANT TO THIS SECTION THAT PROVIDES A SEQUENTIAL PROGRAM OF INSTRUCTION FOR THE EDUCATION OF A CHILD THROUGH SERVICES ACCESSIBLE ON THE WORLD WIDE WEB AND MONITORED BY A DISTRICT COORDINATOR AND A SITE COORDINATOR. AN ON-LINE PROGRAM IS NOT INTENDED TO BE AND DOES NOT QUALIFY AS A PRIVATE OR NONPROFIT SCHOOL.

(c) "PARENT" INCLUDES A PARENT OR GUARDIAN.

(d) "SITE COORDINATOR" MEANS A COUNSELOR OR TEACHER AT A PUBLIC SCHOOL WHO SHALL MONITOR THE PROGRESS OF A STUDENT PARTICIPATING IN THE ON-LINE PROGRAM.

(3) **Program criteria.** A SCHOOL DISTRICT, ANY GROUP OF TWO OR MORE SCHOOL DISTRICTS, OR ANY BOARD OF COOPERATIVE SERVICES IS HEREBY AUTHORIZED TO CREATE AN ON-LINE PROGRAM. THE FOLLOWING GUIDELINES SHALL APPLY TO ANY ON-LINE PROGRAM THAT IS CREATED AND ADMINISTERED PURSUANT TO THE PROVISIONS OF THIS SECTION:

(a) A CHILD WHO IS PARTICIPATING IN AN ON-LINE PROGRAM SHALL NOT BE SUBJECT TO COMPULSORY SCHOOL ATTENDANCE AS PROVIDED IN THIS ARTICLE;

(b) AN ON-LINE PROGRAM SHALL INCLUDE REGULAR ASSESSMENT BY THE SITE COORDINATOR AS TO WHETHER A CHILD PARTICIPATING IN THE PROGRAM IS PROGRESSING ON A REGULAR BASIS TOWARD ASSIGNED WORK;

(c) AN ON-LINE PROGRAM SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, EDUCATION IN READING, WRITING, MATHEMATICS, GEOGRAPHY, HISTORY, CIVICS, LITERATURE, AND SCIENCE AND REGULAR COURSES OF INSTRUCTION IN THE CONSTITUTION OF THE UNITED STATES AS PROVIDED IN SECTION 22-1-108;

(d) EACH CHILD PARTICIPATING IN AN ON-LINE PROGRAM SHALL BE EVALUATED, TESTED, AND MONITORED AT THE SAME INTERVALS AS OTHER STUDENTS IN THE GRADE LEVEL IN THE CHILD'S SCHOOL. EACH CHILD PARTICIPATING IN AN ON-LINE PROGRAM SHALL BE SUBJECT TO THE STATEWIDE ASSESSMENTS AS REQUIRED IN SECTION 22-7-409. THE DISTRICT COORDINATOR AND THE SITE COORDINATOR SHALL COLLABORATE TO ENSURE THAT THE CHILD MEETS IN PERSON WITH THE SITE COORDINATOR FOR AN EVALUATION.

(e) AN ON-LINE PROGRAM SHALL INCLUDE:

(I) MENTORING SERVICES DEEMED NECESSARY BY THE SITE COORDINATOR FOR A CHILD PARTICIPATING IN THE ON-LINE PROGRAM AFTER HAVING BEEN EXPELLED FROM A PUBLIC SCHOOL; AND

(II) A PROCESS PURSUANT TO WHICH THE SITE COORDINATOR SHALL NOTIFY ANY CHILD WHO IS NOT PERFORMING SATISFACTORILY IN THE ON-LINE PROGRAM, AS DETERMINED BY THE SCHOOL DISTRICT PROVIDING THE ON-LINE PROGRAM, AND SHALL IDENTIFY OTHER EDUCATIONAL ALTERNATIVES AVAILABLE TO SUCH CHILD;

(f) THE PROVISIONS OF ARTICLE 36 OF THIS TITLE SHALL APPLY TO AN ON-LINE PROGRAM IMPLEMENTED PURSUANT TO THIS SECTION;

(g) THE RECORDS OF EACH CHILD PARTICIPATING IN AN ON-LINE PROGRAM SHALL BE MAINTAINED ON A PERMANENT BASIS BY THE SCHOOL AND THE SCHOOL DISTRICT PROVIDING THE ON-LINE PROGRAM. THE RECORDS SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

(I) ATTENDANCE DATA;

(II) TEST, EVALUATION, AND STATEWIDE ASSESSMENT RESULTS; AND

(III) IMMUNIZATION RECORDS, AS REQUIRED BY SECTIONS 25-4-902 AND 25-4-903, C.R.S.

(h) EACH CHILD PARTICIPATING IN AN ON-LINE PROGRAM SHALL MEET THE CRITERIA FOR SELECTION FOR PARTICIPATION IN SUCH PROGRAM SET BY THE SCHOOL DISTRICT PROVIDING THE ON-LINE PROGRAM AND SHALL DEMONSTRATE THAT HE OR SHE POSSESSES THE APPROPRIATE ELECTRONIC EQUIPMENT AND RESOURCES TO PARTICIPATE IN THE PROGRAM. A SCHOOL DISTRICT MAY PROVIDE SUCH EQUIPMENT

AND RESOURCES TO A CHILD PARTICIPATING IN THE ON-LINE PROGRAM.

(4) **Pupil enrollment.** (a) IF A CHILD IS PARTICIPATING IN AN ON-LINE PROGRAM CREATED BY A SCHOOL DISTRICT, THE SCHOOL DISTRICT SHALL BE ENTITLED TO COUNT SUCH CHILD IN ACCORDANCE WITH THE PROVISIONS OF SECTION 22-54-103 (10) FOR PURPOSES OF DETERMINING PUPIL ENROLLMENT UNDER THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, IF, IN THE PRECEDING ACADEMIC YEAR, SUCH CHILD EITHER:

(I) WAS ENROLLED IN A PUBLIC SCHOOL OR CHARTER SCHOOL OF A SCHOOL DISTRICT IN THIS STATE; OR

(II) WAS NOT ENROLLED IN ANY PRIVATE SCHOOL, HAD NOT PARTICIPATED IN A NON-PUBLIC HOME-BASED EDUCATION PROGRAM, OR HAD NOT PARTICIPATED IN HOME INSTRUCTION BY A LICENSED OR CERTIFIED TEACHER.

(b) FOR PURPOSES OF THIS SUBSECTION (4), A CHILD WHO IS PARTICIPATING IN AN ON-LINE PROGRAM, OTHER THAN A CHILD WHO IS PARTICIPATING IN THE ON-LINE PROGRAM AFTER HAVING BEEN EXPELLED FROM A PUBLIC SCHOOL, MAY PARTICIPATE ON AN EQUAL BASIS IN ANY EXTRACURRICULAR OR INTERSCHOLASTIC ACTIVITY OFFERED BY A PUBLIC SCHOOL OR OFFERED BY A PRIVATE SCHOOL, AT THE PRIVATE SCHOOL'S DISCRETION, AS PROVIDED IN SECTION 22-32-116.5.

(c) AS USED IN THIS SUBSECTION (4), "AN EXTRACURRICULAR OR INTERSCHOLASTIC ACTIVITY" SHALL HAVE THE SAME MEANING AS "ACTIVITY" AS SET FORTH IN SECTION 22-32-116.5 (10) (a).

SECTION 3. 22-33-105 (5) (a), Colorado Revised Statutes, is amended to read:

22-33-105. Suspension, expulsion, and denial of admission. (5) (a) Whenever a petition filed in juvenile court alleges that a child at least fourteen years of age but under eighteen years of age has committed an offense that would constitute a crime of violence, as defined in section 16-11-309, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4) (h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an

appropriate alternate education program, INCLUDING BUT NOT LIMITED TO AN ON-LINE PROGRAM AUTHORIZED PURSUANT TO SECTION 22-33-104.6, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

SECTION 4. 22-54-103 (10) (a), Colorado Revised Statutes, is amended to read:

22-54-103. Definitions. As used in this article, unless the context otherwise requires:

(10) (a) (I) "Pupil enrollment" means the number of pupils enrolled on October 1 within the applicable budget year or the school day nearest said date, as evidenced by the actual attendance of such pupils prior to said date, EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). The department of education is authorized to establish alternative dates for determining pupil enrollment in appropriate circumstances, including, but not limited to, when schools are on a year-round schedule pursuant to section 22-32-109 (1) (n) and pupils will be on authorized breaks on October 1 within the applicable budget year; except that such alternative dates shall be set not more than forty-five calendar days after the first school day occurring after October 1.

(II) "PUPIL ENROLLMENT" SHALL INCLUDE A PUPIL WHO IS ENROLLED AND PARTICIPATES IN AN ON-LINE PROGRAM AUTHORIZED PURSUANT TO SECTION 22-33-104.6.

SECTION 5. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 6. 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; 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: May 18, 1998