

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on February 19, 2007, in Room 123-S of the Capitol.

Committee members absent: Pat Apple

Committee staff present: Sharon Wenger, Kansas Legislative Research Department
Ashley Holm, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Mark Tallman, Kansas Association of School Boards
Senator Phil Journey
Mark Desetti, Kansas National Education Association
Kathy Cook, Kansas Families United for Public Education

SB 143 – School districts; procedure to adopt local option budget

Theresa Kiernan, Revisor of Statutes Office, noted that **SB 143** was introduced by the Committee at the request of Senator Vratil and that it rewrites the LOB provision in an easier to understand version. She went on to outline the provisions as shown in her handout. She explained that the key difference between **SB 143** and a bill last year was that the under-the-average spending provision is not repealed. (Attachment 1)

Senator Vratil clarified that the intent of **SB 143** was to simplify the statutes pertaining to LOBs without making any changes to the existing law. He commented, “Apparently a change was made to the substantive law in that this bill eliminates the mandatory election to increase a LOB from 30 to 31 percent. It was not my intention that that be in the bill.”

Mark Tallman, Kansas Association of School Boards, testified in support of **SB 143**. (Attachment 2)

There being no others wishing to testify, the hearing on **SB 143** was closed.

SB 280 – Schools; corporal punishment; civil and criminal immunity

Theresa Kiernan, Revisor of Statutes Office, explained that **SB 280** would provide civil and criminal immunity to school districts and its officers and employees when they impose corporal punishment if they impose it in accordance with the provisions of the act. The bill requires school districts which choose to impose corporal punishment to adopt a policy authorizing corporal punishment. The list of requirements to be included in the policy includes the following: the cause for imposing punishment, corporal punishment would not be the first form of discipline unless it was in response to behavior that was shocking to the conscience, a written explanation as to why the punishment was imposed and who was present when the corporal punish was imposed, it could only be imposed by a principal or a teacher or another administrator employed by the district, parental consent is required and is to be reviewed annually, the school district is authorized to adopt restrictions in addition to those in the act, the district must give written notice of its policy to parents, officers, and employees of the district. There also is a provision under which parents could revoke their permission for the imposition of corporal punishment against their child.

Senator Phil Journey, who requested the introduction of **SB 280**, commented that the most important thing to remember about the bill was not the emotional nature of some who have reacted to it in a rather alarmist way; but rather to understand that Kansas currently does not have a corporal punishment statute to give guidance to school districts, educators, parents, or students. In addition, he noted that there are no Kansas appellate cases dealing with this topic. He went on to say, “The reality is that this legislation severely restricts corporal punishment in Kansas in a trade off for the grant of immunity.” He explained that Congress provided immunity for teachers nationwide in 2001 but required that there be a state law for that grant of immunity. The state of Kansas has no statute to trigger to this federal immunity. He noted that 25 states ban corporal

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on February 19, 2007, in Room 123-S of the Capitol.

punishment. He emphasized that the bill has elements of both local and parental control, it would not be the first-line punishment for misbehavior, and students would be informed of the reason corporal punishment is to be imposed. In support of the bill, Senator Journey called the Committee's attention to a copy of the corporal punishment section in the Kansas Association of School Board's copyrighted manual for school board members and school administrators (*Student Discipline in the Public Schools*, 4th edition updated 2005). A copy of the manual can be obtained from the KASB office at 1420 SW Arrowhead Road, Topeka, Kansas. He pointed out that the manual cites several appellate court cases outside Kansas and that the guidelines for corporal punishment are very similar to the provisions incorporated into **SB 280** except the manual does not include a provision for parental permission. In addition, he called attention to a copy of a copyrighted article relating to a poll conducted by Public Agenda for Common Good in May 2004 entitled, "Teaching Interrupted – Do Discipline Policies in Today's Public Schools Foster the Common Good?". The article is available online at www.publicagenda.org. In a poll of a random sample of 725 middle and high school teachers and 600 parents of middle and high school students on the causes, effectiveness, and the impact of discipline on the climate in public schools, more than half of those surveyed said that districts backed down from assertive parents. Nearly 78 percent of teachers said that there are persistent troublemakers in their schools, and they should be removed from regular classrooms. Teachers almost unanimously said that a school needs good discipline and behavior in order to flourish, and 78 percent of parents agreed. Nearly 8 in 10 teachers said students are quick to remind them they have rights or that their parents can sue. More than 1 in 3 teachers say they have considered quitting the profession, or know a colleague who has left, because student discipline and behavior became intolerable. In conclusion, Senator Journey noted that all discipline options, including corporal punishment, have the potential to be effective. He emphasized that **SB 280** was simply an attempt to codify rules in the application of corporal punishment and grant the immunity desired by parents and teachers so that schools can be operated in an effective way and enhance the learning environment for Kansas students. ([Attachment 3](#))

Mark Desetti, Kansas National Education Association, testified in opposition to **SB 280**. He emphasized that corporal punishment is prohibited in many school districts because educators generally believe that corporal punishment is not effective as a discipline tool and that it is not appropriate for school employees to administer corporal punishment. He suggested that, if legislation in this area is needed, it is legislation that enforces administrative support for teachers in enforcing discipline. He urged the Legislature to join the states which have banned corporal punishment. ([Attachment 4](#))

Kathy Cook, Kansas Families United for Public Education, testified in opposition to **SB 280**. In her opinion, rather than giving immunity for corporal punishment in schools, corporal punishment should be banned. She noted that many national organizations favor the ban of corporal punishment. She contended that corporal punishment is ineffective and detrimental to learning and that it does nothing more than perpetuate a cycle of child abuse. ([Attachment 5](#))

There being no others wishing to testify, the hearing on **SB 280** was closed.

Committee discussion on previously heard bill: **SB 129 – School safety violations; suspension of driving privileges**

Theresa Kiernan, Revisor of Statutes Office, summarized the proposed amendments to the bill as shown in a handout she distributed to committee members. She then responded to questions. ([Attachment 6](#))

Committee discussion followed regarding the notification and appeal provisions in the bill. It was the consensus of the Committee that no action on the bill be taken until members had sufficient time to fully study the proposed amendments.

The meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for February 20, 2007.

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: February 19, 2007

| NAME | REPRESENTING |
|-----------------|--------------------|
| Phil Jennings | 26th Senate |
| James Carlson | Topeka Cap-Journal |
| Val DeFerra | SQE |
| Mark Tallman | KASB |
| Dodie Wellshear | USA |
| Mark Deseeth | KNEA |
| Bill Brady | SFFF |
| RA Mid | LGR |
| TERRY HOLDREN | KS FARM BUREAU |
| KATHY COOK | KFUPE |
| MAC COOK | self |
| Kyle Stearns | KFUPE |
| BILL Reardon | USD 500 |
| Scott Frank | LPA |
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Overview of Senate Bill No. 143

Rewrites the LOB provision in an easier to understand version.

The board of education of a district would be able to adopt an LOB which would not be subject to protest and election under 2 situations:

The LOB did not exceed the amount it was authorized to adopt under this section prior to the effective date of this amendment, plus the amount the board was authorized to adopt pursuant to any resolution currently in effect; plus any amount which the board was authorized to adopt under K.S.A. 72-6444 (the under the average spending provision); or

→ the proposed lob does not exceed the state-wide average percentage of lob authorized for the preceding school year.

If the amount of the LOB authority would exceed either of these two situations, the LOB would be subject to protest and election.

→ The maximum LOB remains at 31% of the state financial aid of the district, but the mandatory election currently required to go above 30% is eliminated.

The bill provides that the LOB authority is permanent unless the resolution adopted by the board specifically states otherwise.

Provisions are included for the renewal of LOB authority if the board adopts a nonpermanent resolution.

The purposes and limitations currently imposed on expenditure of LOB funds are the same as current law.

The bill adds a provision directing the SBOE to determine annually the state-wide average percentage of LOBs adopted for the preceding school year.

The KEY difference between this bill and last year's bill, is that the under the average spending provision is not repealed in this bill.

Revisor of
Statutes

Senate Education Committee
2-19-07
Attachment 1

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on **SB 143**
before the
Senate Committee on Education

by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

February 7, 2007

Madam Chair, Members of the Committee:

Thank you for the opportunity to appear on **SB 143**. As we understand the intent of this bill, it has two primary purposes. First, it would simplify the extremely complicated set of provisions regarding adoption of the local option budget that have developed over the years. Second, it would remove the requirement that a district hold an election to adopt any local option budget percentage over 30 percent. KASB has previously testified in support of this change. We believe the local school boards should be able to adopt an LOB in an amount up to the state authorized maximum.

KASB supports both of the measures contained in this bill.

Thank you and I would be happy to answer any questions.

*Senate Education Committee
2-19-07
Attachment 2*

SENATOR PHILLIP B. JOURNEY

STATE SENATOR, 26TH DISTRICT

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HAYSVILLE, KS 67060STATE CAPITOL—221-E
300 S.W. 10TH AVENUE
TOPEKA, KANSAS 66612
(785) 296-7367E-mail: journey@senate.state.ks.us

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

VICECHAIR: SPECIAL CLAIMS AGAINST THE STATE
(JOINT), VICECHAIR
MEMBER: HEALTH CARE STRATEGIES
JUDICIARY
PUBLIC HEALTH AND WELFARE
TRANSPORTATIONCORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)

**Testimony Before the Kansas Senate Education Committee
in Support of Senate Bill 280
on February 19th, 2007**

Thank you Madam Chairman, members of the committee for the opportunity to present testimony in support of Senate Bill 280, a bill that I euphemistically call the most misunderstood bill filed this session. From time to time the legislature deals with issues that have an emotional factor to them, and in those instances all too often reason flies out the door as emotion supersedes the deliberative consideration of legislation we more often than not impart upon the legislative process.

Senate Bill 280 has been the subject of commentary of newspapers long before any of those editorial writers took the time, the trouble or had the opportunity to review the actual bill. First, it's most important to understand the current state of the law in Kansas and the United States. In the 107th Congress, S316 was presented on February 13th, 2001, Section 15004 provided limitation on liability for teachers. That law preempts, to a limited degree, state and local laws and provides teachers with limited immunity from civil prosecution if the teacher's actions are carried out in conformity with state law. Several preconditions are necessary for the immunity to occur. First, a state law on the subject exist. The teacher be certified, that the harm was not caused by willful or criminal misconduct, negligence, reckless misconduct, or flagrant indifference to the rights or safety of an individual by the teacher. It also includes the exception that the harm was not caused by any type of vehicle under the operation or control of the teacher. A number of exceptions exist each mandated by enactment of legislation in the respective state of the teacher. It limits both punitive and non-economic loss in any civil suit that could be filed. Currently, Kansas has no state statute involving corporal punishment. Kansas is one of only a few states that has not dealt with this issue.

The research I have completed shows no Kansas Appellate cases dealing with the application of corporal punishment in Kansas schools. A majority of states have banned corporal punishment in all instances. Nine states have statutory schemes with limited authority to use corporal punishment as a method of discipline in schools. This legislation came as a result of requests from parents, educators, citizens, and from my own research on the topic.

Senate Bill 280 is composed of two major concepts. One, that school boards, school employees, and school districts are granted immunity from both civil and criminal liability if certain prerequisites are met. The legislation proposed has elements of both local control and parental control. School boards may prohibit corporal punishment. The school board is required to adopt at least the guidelines in the bill to receive the grant of immunity. Policies in the bill require

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Attachment 3*

corporal punishment be reasonable and be administered only for cause. That it not be the first-line punishment for misbehavior. That the student be informed of the reason why corporal punishment is to be imposed. The exception to first-line punishment prohibition occurs when the child's misconduct be of such an antisocial or disruptive nature as to shock the consciousness. In that unusual exception, then corporal punishment may be the first-line punishment.

Corporal punishment must be imposed by the principal or the principal designatee. It is not intended that the teacher who observed the behavior by the child be the individual that applies the punishment to the child. That there be a witness to the punishment. That should the parents request the information of who applied the punishment, who the witness was, and why, be supplied to the student's parents in writing. The element of parental control is that the parent must authorize corporal punishment for their child prior to the incident in writing. That permission must be renewed annually, and may be withdrawn at any time by the parent in writing.

Attached for the Committee's review is the appropriate section regarding corporal punishment from the Kansas Association of School Board "Student Discipline in the Public Schools" manual for school board members and school administrators, fourth edition updated 2005. In that section of the discipline manual, several appellate court cases are cited from outside of Kansas and guidelines for policy if corporal punishment is permitted include "students should be informed ahead of time that certain conduct may result in the use of corporal punishment. Generally, corporal punishment should not be employed as a first line of punishment for misbehavior. A teacher or principal should punish corporally only in the presence of a second school official. The second official should be informed, in the student's presence, of the reason for the punishment. The official who administers or witnesses the corporal punishment should provide a child's parent, upon request, with a written explanation of the reasons for the punishment, as well as the name of the second official who was present." All very similar to the provisions incorporated into Senate Bill 280. Just for the Committee's information, this manual was not discovered until a few days ago, and the parallels between the concepts and prerequisites involved in both Senate Bill 280 and the discipline manual should establish the reasonableness of this legislation.

In May of 2004, Public Agenda, a think tank which may be located at www.publicagenda.org, prepared a monograph reviewing the application of discipline and public opinion in public schools which was entitled "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" Based on a random sample of 725 middle and high school teachers and 600 parents of middle and high school students, surveys detailed the discipline issue exploring its causes, effectiveness, and the impact on climate in the public schools.

Discipline in public schools today is perceived to be significantly different than just 20 or 30 years ago. Some disturbing trends that were found in this public opinion research were that half the teachers complained they were accused of unfairly disciplining a student. More than half said their districts backed down from assertive parents. 78% said there are persistent troublemakers in school who should be removed from regular classrooms. 97% of teachers said schools need

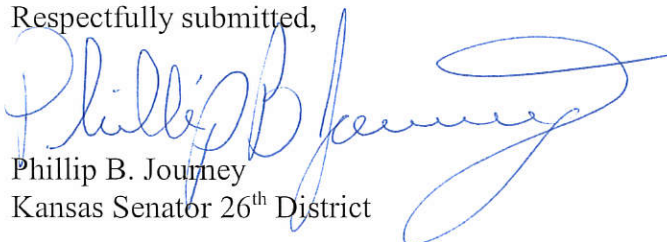
good discipline and behavior in order to flourish, 78% of parents agreed. 85% of teachers and 73% of parents said the school experience of most students suffers at the expense of a few chronic offenders. 78% of teachers said that a lack of parental support and fear of law suits are ever-present concerns for many teachers. They say that students are quick to remind them that they have rights and that their parents will sue them. The majority believe they cannot count on parents to support the teacher. The majority of teachers said that student discipline and behavior problems are pervasive in our public schools. One in three teachers say that they have seriously considered quitting the profession or know of a colleague who has left because student discipline and behavior has become so intolerable. 85% believe new teachers are particularly unprepared for dealing with behavior problems. Student behavior is more acute in urban schools with high concentrations of student poverty.

I'm sure members of the Education Committee will agree with me that Kansas is facing a unique problem in the supply of teachers and the future demographics of those in the profession will mandate the retirement of many experienced teachers in the next 5 to 15 years. 42% of teachers and 46% of parents strongly support limiting lawsuits involving teacher discipline. Another 40% of teachers and 32% of parents support this idea somewhat with a total of 82% of teachers and 78% of parents. 82% of teachers and 69% of parents support removing the possibility of monetary awards for parents who sue over discipline issues. The summary of the report is attached to my testimony for your in-depth review.

In reviewing other learned treatises and monographs regarding discipline in schools, it became readily apparent that all discipline options, including corporal punishment, have the potential to be effective. It is not what discipline is used is the most important factor, but how it is applied to the individual student and the circumstances within which the discipline is needed to enhance the greatest likelihood of behavior modification through the effective use of negative reinforcers.

Schools districts have an array of potential discipline options, nearly as varied as the discipline problems that they deal with on a daily basis. Senate Bill 280 simply attempts to codify rational rules in the application of corporal punishment to students in the State of Kansas and grant the immunity desired by parents and teachers so the schools may be operated in an effective way to enhance the learning environment for Kansas students. Despite the uninformed and biased editorials whose authors failed to even review the legislation or the research available. Senate Bill 280 offers us an opportunity to improve the learning environment in Kansas schools. I would urge the Committee to recommend the same favorably for passage.

Respectfully submitted,



Phillip B. Journey
Kansas Senator 26th District



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

**Mark Desetti, Testimony
Senate Education Committee
February 19, 2007**

Senate Bill 280

Madame Chair, members of the committee, thank you for the opportunity to appear before you on **Senate Bill 280**.

This bill proposes rules under which corporal punishment may be administered and provides protection from liability if corporal punishment is used.

First let me stress that corporal punishment is already prohibited in many school districts. It is the belief of educators generally that corporal punishment is not effective as a discipline tool and that it is not appropriate for school employees – trusted guardians of our children during the school day – to administer corporal punishment.

KNEA members at our annual representative assembly establish resolutions that express our members' beliefs relative to issues of importance to teachers. The representative assembly passed a resolution on discipline back in 1979.

This resolution expresses our position against the use of corporal punishment. The resolution goes on to express what would make for a positive discipline program for schools. This would include the development of a discipline code and policy done through a collaborative effort that includes school administrators, teachers, support personnel, parents, and students.

If legislation in this area is needed, it is legislation that enforces administrative support for teachers in enforcing discipline. What we hear from teachers is not that they need the ability to administer corporal punishment but that they need back-up from their principal.

Because of our opposition to corporal punishment, we ask the committee to reject SB 280. We hope instead that the legislature would join those states banning corporal punishment and requiring procedures to include teachers in the development of discipline policies and procedures and requiring administrative support for teachers in the enforcement of discipline.

The KNEA resolution on discipline has been reaffirmed nine times since 1979, most recently in 2003. The text of that resolution is on the reverse side of this testimony.

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Attachment 4*

Resolution C-1-9: Discipline

Kansas NEA believes discipline is essential in promoting optimum learning.

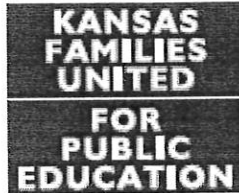
KNEA further believes that corporal punishment should not be used as a means of disciplining students.

KNEA further believes that boards of education, in conjunction with local affiliates, should develop policies which would provide necessary administrative support to the education employee of the maintenance of a positive learning environment.

KNEA further believes its local affiliates should develop guidelines for effective disciplinary techniques. It urges affiliates to negotiate a process whereby administrators, teachers, support personnel, parents, and students will be involved in identifying disruptive behavior and prescribing, implementing, and evaluating procedures that reduce and correct disruptive behavior.

KNEA further believes that legislation to authorize education employees to maintain school discipline should be adopted.

KNEA further believes management in the classroom and on school premises should be a mandatorily negotiable topic.



Testimony

Senate Education Committee –SB 280

February 19, 2007

Kathy Cook, Executive Director

Kansas Families United for Public Education

Madam Chair and Members of the Committee:

Thank you for the opportunity this afternoon to testify in AGAINST SB280. I'm here today on behalf of Kansas Families United for Public Education as well as a parent of a child who is enrolled in public school and is here with me today observing.

This bill is nothing short of an endorsement to legalize child abuse. Rather than giving immunity for those that enact corporal punishment in our schools we should be banning corporal punishment all together.

The reason that most school districts have a policy against corporal punishment is not that they are afraid of legal action from parents, but rather that they know this type of punishment is ineffective. More than half of the states in this country have legislation that bans corporal punishment. Not only is corporal punishment ineffective at changing behavior, but I would go as far to say that it is a detriment to learning. Attached is a chart that shows statistics for states where corporal punishment is allowed and I would maintain that the states with the highest percentage of "hits" are also the states with some of the lowest academic performance in the country.

Our members from across the state were astonished when I mentioned that this bill might be introduced. There are several national organizations that favor the ban of corporal punishment including; American Academy of Pediatrics, American Medical Association, NAACP, and the National Committee to Prevent Child Abuse. ✓

Corporal punishment does nothing more than perpetuate a cycle of child abuse. Corporal punishment is used much more frequently on poor children, minorities and children with disabilities. We don't allow prisons to strike prisoners, but we continue to allow corporal punishment in our schools.

There are many proven alternatives to corporal punishment that are exercised by parents and schools every day and they are effective.

We respectfully request that this committee vote NO on SB 280 and we hope that someday corporal punishment will be banned in Kansas.

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(913) 825-0099

*Senate Education Committee
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Attachment 5*

Corporal Punishment in U.S. Public Schools 1999-2000 School Year: data released February, 2003

In the U.S. as a whole, **342,038** students were subjected to corporal punishment. This is a drop of 7% from the previous survey two years earlier [taking enrollment increases into account], continuing a steady trend. Total U.S. public school enrollment was 46,306,355 students in '99-2000. Twenty-seven states and the District of Columbia now have prohibited all corporal punishment in public schools. Data for the remaining 23 states are listed below.

| STATE | Number of Students Hit | Percent of Total Students |
|-------------------|------------------------|---------------------------|
| Alabama | 39,197 | 5.4 |
| Arizona | 632 | < 0.1 |
| Arkansas | 40,437 | 9.1 |
| Colorado | 260 | < 0.1 |
| Delaware | 65 | 0.1 |
| Florida | 11,405 | 0.5 |
| Georgia | 25,189 | 1.8 |
| Idaho | 23 | < 0.1 |
| Indiana | 2,221 | 0.2 |
| Kansas | 99 | < 0.1 |
| Kentucky | 2,797 | 0.4 |
| Louisiana | 18,672 | 2.6 |
| Mississippi | 48,627 | 9.8 |
| Missouri | 9,223 | 1.0 |
| New Mexico | 2,205 | 0.7 |
| North Carolina | 5,717 | 0.5 |
| Ohio | 1,085 | 0.1 |
| Oklahoma | 17,764 | 2.9 |
| Pennsylvania | 407 | < 0.1 |
| South Carolina | 3,631 | 0.5 |
| Tennessee | 38,373 | 4.2 |
| Texas | 73,994 | 1.9 |
| Wyoming | 8 | < 0.1 |
| U.S. TOTAL | 342,038 | 0.7 |

Source: U.S. Department of Education, Office for Civil Rights, 2000 Elementary and Secondary School Civil Rights Compliance Report. Compiled by the National Coalition to Abolish Corporal Punishment in Schools: Columbus, Ohio: 614/221-8829. <http://www.stophitting.com>

Proposed Amendments to SENATE BILL NO. 129

On page 1, by striking all in lines 13 through 43:

On page 2, by striking all in lines 1 through 38 and inserting:

"Section 1. K.S.A. 72-89c01 As used in K.S.A. 72-89c01 and 72-89c02, and amendments thereto:

(a) "Board of education" means the board of education of a unified school district or the governing authority of an accredited nonpublic school.

(b) "School" means a public school or an accredited nonpublic school.

(c) "Public school" means a school operated by a unified school district organized under the laws of this state.

(d) "Accredited nonpublic school" means a nonpublic school participating in the quality performance accreditation system.

(e) "Chief administrative officer of a school" means, in the case of a public school, the superintendent of schools or a designee of the superintendent and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.

(f) "Weapon" means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than 1/4 ounce, (E) mine, or (F) similar device; (5) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 inch in diameter; (6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (7) any bludgeon, sandclub, metal knuckles or throwing star; (8) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; (9) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun. The term "weapon" does not include within its meaning (1) an antique firearm; (2) any device which is neither designed nor redesigned for use as a weapon; (3) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (4) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (5) class C common fireworks.

(g) "Controlled substance" has the meaning ascribed thereto in K.S.A. 65-4101, and amendments thereto.

(h) "Illegal drug" means a controlled substance but does not include ~~such~~ a controlled

REVISOR OF
STATUTES

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Attachment 6

substance that is legally possessed ~~or~~, used under the supervision of a licensed health-care professional ~~or that is legally possessed~~ or used under authority of any federal or state law.

(i) "Possession of a weapon, ~~controlled substance~~ or illegal drug" means knowingly having direct physical control over a weapon, ~~controlled substance~~ or illegal drug or knowingly having the power and the intention at a given time to exercise dominion or control over a weapon, ~~controlled substance~~ or illegal drug.

(j) "School safety violation" means: (1) The possession of a weapon or illegal drug at school, upon school property or at a school-supervised activity; or (2) an act or behavior committed at school, upon school property or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.

(k) "Law enforcement agency" means the police department of a city if the school safety violation occurs within the corporate limits of a city or the office of the county sheriff if the school safety violation occurs outside the corporate limits of a city.

(l) "Division" means the division of motor vehicles of the Kansas department of revenue.

Sec. 2. K.S.A. 72-89c02 (a) ~~Whenever a pupil who has attained the age of 13 years has been found in possession of a weapon, controlled substance or illegal drug at school, upon school property, or at a school-supervised activity or has engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make an immediate report of the pupil's act to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of vehicles of the department of revenue of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency within three days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil. Upon receipt of the notice~~ Whenever a pupil who has attained the age of 13 years has been expelled from school or suspended for an extended term in accordance with K.S.A. 72-8901 et seq. or 72-89a01 et seq., and amendments thereto, and such suspension or expulsion was imposed for committing a school safety violation, the chief administrative officer of the school from which the student was suspended or expelled shall notify the appropriate law enforcement agency of the suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, after the imposition of the expulsion or suspension. The notice shall include the pupil's name, address, date of birth, driver's license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term. Following receipt of the notice, the law enforcement agency shall notify the division of the suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, of the date of receipt of notice from the chief administrative officer of the school from which the student was suspended or expelled. The notice shall include the pupil's name, address, date of birth, driver's license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term. A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

(b) If timely notice is given to the appropriate law enforcement agency and the division as specified in subsection (a), the division of vehicles shall suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the

suspension shall be for a period of one year. Upon expiration of the period of suspension, the pupil may apply to the division for return of the license. If the license has expired, the pupil may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the pupil's privilege to operate a motor vehicle is in effect. If the pupil does not have a driver's license, the pupil's driving privileges shall be revoked. If timely notice is given to the appropriate law enforcement agency and the division as required by subsection (a), no Kansas driver's license shall be issued to a pupil whose driving privileges have been revoked pursuant to this subsection for a period of one year:

(1) Immediately following the date of receipt by the division of notification from a law enforcement agency containing the description of the pupil's act, if the pupil is eligible to apply for a driver's license; or

(2) after the date the pupil will be eligible to apply for a driver's license, if the pupil is not eligible to apply for a driver's license on the date of receipt of ~~the~~ such notification.

~~(b)~~(c) If the pupil's driving privileges have been revoked, suspended or canceled for another cause, the suspension or revocation required by this section shall apply consecutively to the previous revocation, suspension or cancellation.

~~(e)~~(d) Upon suspension or revocation of a pupil's privilege to operate a motor vehicle as provided in this section, the division of vehicles shall immediately notify the pupil in writing. If the pupil makes a written request for hearing within 30 days after such notice of suspension or revocation, the division of vehicles shall afford the pupil an opportunity for a hearing as provided by K.S.A. 8-255, and amendments thereto, except that the scope of the hearing shall be limited to determination of whether ~~there are reasonable grounds to believe the pupil was in possession of a weapon, controlled substance or illegal drug at school, upon school property, or at a school-supervised activity or was engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others~~ notice was given to the appropriate law enforcement agency and the division within the time specified in subsection (a).

~~(d)~~(e) For the purposes of this section, the term driver's license includes, in addition to any commercial driver's license and any class A, B, C or M driver's license, any restricted license issued under K.S.A. 8-237, and amendments thereto, any instruction permit issued under K.S.A. 8-239, and amendments thereto, and any farm permit issued under K.S.A. 8-296, and amendments thereto.

Sec. 3. K.S.A. 72-89a01 and 72-89a02 are hereby repealed.”

Renumber and Title changes