

# S.B. NO. 1434

JAN 22 2007

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## A BILL FOR AN ACT

RELATING TO STUDENT BEHAVIOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The goal of this Act is to cultivate and  
2 maintain an environment in each of the State's public schools  
3 that is conducive to learning and respectful of the rights and  
4 responsibilities of the students, parents, and school teachers,  
5 administrators, and staff.

6           This is not the legislature's first attempt at making our  
7 schools the safe and nurturing places they need to be in order  
8 to provide our children with the educational opportunities they  
9 need and want. The legislature enacted Act 90, Session Laws of  
10 Hawaii 1996, and Act 274, Session Laws of Hawaii 2000, to deal  
11 with "the rapid increase in the number of disruptive students in  
12 our public schools" and the "detrimental effect on those  
13 students seeking a quality education." In their detail,  
14 however, the acts focused primarily on "problems of student  
15 discipline that arise from substance abuse and violence on  
16 school campuses," and limited their prescriptions to excluding  
17 students who possessed or had engaged in incidents that involved  
18 dangerous weapons or illicit drugs, from school.

1           Essentially, efforts to create and maintain an atmosphere  
2 conducive to learning in the public schools thus far have  
3 concentrated on protecting members of each school's community  
4 from physical harm by expelling the threatening student, or  
5 treating them for alcohol or substance abuse. Attention now  
6 needs to be given to establishing a separate process for dealing  
7 with the growing number of non-violent yet equally disruptive  
8 incidents that detract from the majority's efforts to learn. To  
9 achieve this objective, this Act:

10           (1) Requires the department of education to designate or  
11 establish at least one school in each complex or  
12 regional administrative unit it establishes under  
13 section 302A-1102, Hawaii Revised Statutes, to serve  
14 as an alternative school for students whose behavior  
15 in the classroom, on a school's campus, or during  
16 their state-provided transport to or from school or to  
17 or from a school-sponsored activity disrupts or  
18 hinders the efforts of other students to learn;

19           (2) Vests the principal of each school with express and  
20 broad discretion to determine what the cause of each  
21 disruptive situation is and how best to respond to  
22 each student involved in a disruptive situation;

- 1           (3) Directs the University of Hawaii and the department of  
2 education, with assistance from the department of  
3 defense and outside experts, to develop strategies for  
4 conflict and classroom management, to alter or avoid  
5 disruptive behavior in students, and to train current  
6 and future teachers in their use; and
- 7           (4) Directs the department to revise its existing due  
8 process procedures to assure that the process used to  
9 deal with crime-related incidents is separate from the  
10 process used to deal with other disruptive situations,  
11 and to assure that each student involved in a  
12 disruptive situation that is not crime-related has an  
13 opportunity to persuade the principal that the student  
14 did not engage in disruptive behavior and that  
15 placement in the alternative school is not appropriate  
16 or justifiable.

17 The Act also attempts to make the laws relating to student  
18 behavior and school discipline clearer by defining "disruption,"  
19 and reorganizing and consolidating existing provisions to avoid  
20 redundancy and minimize ambiguities.

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1 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§302A- Maintaining an environment conducive to  
5 learning. (a) The department shall designate or establish at  
6 least one school in each complex or regional administrative unit  
7 it establishes under section 302A-1102, to serve as an  
8 alternative school for students whose behavior in the classroom,  
9 on a school's campus, or during their state-provided transport  
10 to or from school or to or from a school-sponsored activity  
11 disrupts or hinders the efforts of other students to learn. The  
12 department may contract for the services of a private entity to  
13 administer and staff the alternative schools, or hire  
14 administrators, teachers, and staff for the school without  
15 regard for chapter 76 or 89 or part III of this chapter,  
16 provided that all teachers employed to teach at the school shall  
17 be licensed or certificated, or hired as emergency hires  
18 pursuant to sections 302A-801 to 302A-808.

19 (b) Reports of incidents that disrupt or hinder learning  
20 or the opportunity to learn at a public school, including  
21 incidents at public charter schools, and incidents on school  
22 buses transporting students to and from school, may be made

1 orally or in writing to the school's principal by students,  
2 parents, and teachers, administrators, and school staff,  
3 including contracted school bus drivers. Within three school  
4 days of receiving the report, the principal shall determine  
5 whether

6 (1) Any of the students involved is a special education  
7 student or should be referred for a special education  
8 evaluation so that the statutes and rules related to  
9 special education apply;

10 (2) The incident involves a firearm, a dangerous weapon,  
11 or intoxicating liquor or illegal drugs such that the  
12 provisions of section 302A-1134 or 302A-1134.6 are  
13 applicable to any student involved in the incident;

14 (3) The incident involves prohibited student conduct or  
15 school-prohibited conduct under chapter 8-19 of the  
16 Hawaii Administrative Rules such that the provisions  
17 of those rules are applicable to any student involved  
18 in the incident; or

19 (4) The incident involves other behavior that disrupts or  
20 hinders learning at the school.

21 The principal shall provide a student who is determined to have  
22 been involved in an incident described in paragraph (4) with a

1 written notice that specifies the basis for the principal's  
2 determination, and affords the student and the student's parents  
3 an opportunity to meet with the principal to respond to those  
4 findings and otherwise persuade the principal that the student  
5 was not involved in the incident, the student had not engaged in  
6 disruptive behavior, or that placement at the alternative school  
7 is inappropriate or not justifiable. If the principal does not  
8 change the initial determination, the principal shall arrange  
9 for the student's daily transportation to the alternative school  
10 if appropriate, and the student shall be enrolled in that  
11 school. The student shall have ten days from the date of the  
12 student's enrollment at the alternative school to appeal the  
13 principal's decision to the complex area superintendent. If an  
14 appeal is taken, the student's enrollment at the alternative  
15 school shall continue until the complex area superintendent  
16 renders a decision.

17 (c) The department shall adopt rules pursuant to chapter  
18 91 should any additional procedures need to be established to  
19 implement the provisions of this section. The rules shall be  
20 separate from the due process procedures applicable to crime-  
21 related incidents required to be reported under section 302A-

1 1002, or incidents involving firearms, dangerous weapons,  
2 intoxicating liquor, or illegal drugs.

3 (d) The department with the assistance and cooperation of  
4 the University of Hawaii college of education, the state  
5 department of defense, and outside nationally recognized experts  
6 shall develop strategies for altering disruptive behavior by  
7 students, and for conflict and classroom management, and shall  
8 train current and future teachers, administrators, and staff in  
9 their use.

10 (e) For purposes of this section, the terms "disruption",  
11 "disruptive incident", "disruptive situation", "disruptive  
12 behavior", and "behavior that disrupts or hinders learning",  
13 refers to and includes but is not limited to, conduct not  
14 otherwise subject to the provisions of section 302A-1002, 302A-  
15 1134, or 302A-1134.6 or chapter 8-19 of the Hawaii  
16 Administrative Rules, that over a period of time interrupts or  
17 interferes with communications between and among students,  
18 teachers, and students and teachers, distracts students or  
19 teachers from reading, writing, listening, computing, or other  
20 learning activities, prevents students from engaging in learning  
21 activities, or jeopardizes the physical safety of students,  
22 teachers, administrators, or staff by preventing teachers,

1 administrators, or staff from performing their duties. The  
2 terms do not refer to or include single or episodic  
3 interruptions, interferences, distractions, or incidents that  
4 prevent or jeopardize students from learning or teachers,  
5 administrators or staff from doing their work."

6 SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§302A-1132 [-] **Attendance compulsory; exceptions.** (a)  
9 Unless excluded from school or excepted from attendance, all  
10 children who will have arrived at the age of at least six years,  
11 and who will not have arrived at the age of eighteen years, by  
12 January 1 of any school year, shall attend either a public or  
13 private school for, and during, the school year, and any parent,  
14 guardian, or other person having the responsibility for, or care  
15 of, a child whose attendance at school is obligatory shall send  
16 the child to either a public or private school. Attendance at a  
17 public or private school shall not be compulsory in the  
18 following cases:

19 (1) Where the child is physically or mentally unable to  
20 attend school (deafness and blindness excepted), of  
21 which fact the certificate of a duly licensed  
22 physician shall be sufficient evidence;



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- 1           (2) Where the child, who has reached the fifteenth
- 2           anniversary of birth, is suitably employed and has
- 3           been excused from school attendance by the
- 4           superintendent or the superintendent's authorized
- 5           representative, or by a family court judge;
- 6           (3) Where, upon investigation by the family court, it has
- 7           been shown that for any other reason the child may
- 8           properly remain away from school;
- 9           (4) Where the child has graduated from high school;
- 10          (5) Where the child is enrolled in an appropriate
- 11          alternative educational program as approved by the
- 12          superintendent or the superintendent's authorized
- 13          representative in accordance with the plans and
- 14          policies of the department, or notification of intent
- 15          to home school has been submitted to the principal of
- 16          the public school that the child would otherwise be
- 17          required to attend in accordance with department rules
- 18          adopted to achieve this result; or
- 19          (6) Where [+
- 20          ~~(A) The child has attained the age of sixteen years;~~
- 21          ~~(B) The principal has determined that:~~

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1                   ~~(i) The child has engaged in behavior which is~~  
2                                   ~~disruptive to other students, teachers, or~~  
3                                   ~~staff; or~~

4                   ~~(ii) The child's non attendance is chronic and~~  
5                                   ~~has become a significant factor that hinders~~  
6                                   ~~the child's learning; and~~

7                   ~~(C) The principal of the child's school, and the~~  
8                                   ~~child's teacher or counselor, in consultation~~  
9                                   ~~with the child and the child's parent, guardian,~~  
10                                  ~~or other adult having legal responsibility for or~~  
11                                  ~~care of the child, develops an alternative~~  
12                                  ~~educational plan for the child. The alternative~~  
13                                  ~~educational plan shall include a process that~~  
14                                  ~~shall permit the child to resume school.~~

15                   ~~The principal of the child's school shall file the~~  
16                                  ~~plan made pursuant to subparagraph (C) with the~~  
17                                  ~~child's school record. If the adult having legal~~  
18                                  ~~responsibility for or care of the child disagrees with~~  
19                                  ~~the plan, then the adult shall be responsible for~~  
20                                  ~~obtaining appropriate educational services for the~~  
21                                  ~~child.] the child has been excluded from school~~  
22                                  ~~pursuant to section 302A-1134.6 or 302A-~~

1           (b) Any employer who employs a child who is excused from  
2 school attendance in accordance with subsection (a) (2) shall  
3 notify the child's school within three days upon termination of  
4 the child's employment.

5           (c) No child who is seventeen years of age or over shall  
6 be admitted to the ninth grade of a public four-year high  
7 school, and no child who is eighteen years of age or over shall  
8 be admitted to the tenth grade of a public senior high school,  
9 except upon the written permission of the superintendent when in  
10 the superintendent's opinion the facts warrant admission."

11           SECTION 4. Section 302A-1134, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§302A-1134 Exclusion from school.** (a) ~~[If for any~~  
14 ~~reason a child becomes a detriment to the morals or discipline~~  
15 ~~of any school, the child may be precluded from attending school~~  
16 ~~by the principal, with the approval of the complex area~~  
17 ~~superintendent. The department shall seek the active~~  
18 ~~participation of other public and private agencies in providing~~  
19 ~~help to these children before and after they have left school.~~  
20 ~~An appeal may be taken on behalf of the child to the~~  
21 ~~superintendent of education within ten days from the date of~~  
22 ~~such action.] Any child who, while attending school, violates~~

1 the department's duly adopted rules of conduct, who violates the  
2 school's rules issued in accordance with the department's rules  
3 of conduct, or who violates classroom rules approved by the  
4 principal of the school may be excluded from school in  
5 accordance with the provisions of those rules.

6 (b) Any child who, while attending school, is found to be  
7 in possession of a firearm, shall be excluded from attending  
8 school for not less than one year. The due process procedures  
9 of chapter [~~19 of the Department of Education,~~] 8-19 of the  
10 Hawaii Administrative Rules[7] shall apply to any child who,  
11 while attending school, is alleged to be in possession of a  
12 firearm. The superintendent, on a case-by-case basis, may  
13 modify the exclusion of a child found to be in possession of a  
14 firearm while attending school. If a child is excluded from  
15 attending school, the superintendent shall ensure that  
16 substitute educational activities or other appropriate  
17 assistance shall be provided. The superintendent shall submit  
18 to the United States Department of Education, the state board of  
19 education, and the legislature an annual report indicating the  
20 number of students excluded, the types of firearms found in  
21 their possession, and the schools from which they were excluded.



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Justification Sheet

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO STUDENT BEHAVIOR.

PURPOSE: To promote learning in a safe environment for all students.

MEANS: Add a new section to chapter 302A and amend sections 301A-1132 and 302A-1134, Hawaii Revised Statutes.

JUSTIFICATION: Efforts to create and maintain an atmosphere conducive to learning in the State's public schools have concentrated on protecting members of the school community from physical harm by expelling a threatening student or by treating them for alcohol or substance abuse.

This bill establishes a separate process for dealing with a growing number of non-violent yet equally disruptive incidents that detract from the ability of the rest of the students to learn and teachers to teach. Specifically, this bill requires the Department of Education to designate or establish at least one school in each complex to serve as an alternative learning center for students whose behavior in the classroom, on campus, or during State-provided transport to and from school (or a school-sponsored activity) disrupts or hinders the efforts of the other students to learn.

The bill vests each principal with express broad discretion to determine the cause and respond within a prescribed period of time. Additionally, the bill directs the

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Department of Education, with assistance from the University of Hawaii College of Education, the State Department of Defense, and nationally recognized experts, to develop strategies for conflict and classroom management and to train teachers in their use.

The legislation defines disruptive behavior and removes the previous age limitation that a child has to be at least 16 years old for the principal to take disciplinary action. Finally, the bill deletes provisions that previously allowed the filing of an alternative education plan to serve as demonstration that the disruptive behavioral situation has been properly handled.

Impact on the public: Will enhance the safety of those entering on school campuses, including vendors, parents, substitute teachers, administrative personnel, contractors, and school visitors.

Impact on the department and other agencies: Requires the Department of Education to establish alternative schools in each complex, requires the department to train existing and future teachers in conflict and classroom management; requires the department to promulgate rules that are separate and distinct from the due-process procedures applicable to criminal-type behavior on campuses. Vests in the University of Hawaii College of Education and the State Department of Defense responsibility for assisting the Department of Education in the development of strategies for altering disruptive behavior by students.

GENERAL FUNDS:

None.

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OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Department of Education, University of  
Hawaii College of Education, State  
Department of Defense

EFFECTIVE DATE: Upon approval.