



## 1995 ASSEMBLY BILL 116

February 8, 1995 - Introduced by Representatives BRANDEMUEHL, NASS, ALBERS, DUFF, FREESE, GOETSCH, GREEN, GROTHMAN, GUNDERSON, HAHN, HARSDORF, HOVEN, HUEBSCH, JOHNSRUD, KREIBICH, LEHMAN, MUSSER, OTT, OTTE, SCHNEIDERS, SERATTI, SILBAUGH, UNDERHEIM, VRAKAS, WASSERMAN, WOOD and ZUKOWSKI, cosponsored by Senators HUELSMAN, SCHULTZ, C. POTTER and ROSENZWEIG. Referred to Committee on Education.

- 1 **AN ACT to amend** 119.25 (2), 120.13 (1) (b), 120.13 (1) (c), 120.13 (1) (e) 1. (intro.)  
2 and 2. and 252.04 (5) (b) 4.; and **to create** 120.13 (1) (c) 2. of the statutes;  
3 **relating to:** reasons for pupil expulsions.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a pupil may be expelled if the school board is satisfied that the interest of the school demands the pupil's expulsion and finds that the pupil has done any of the following:

1. Repeatedly refused or neglected to obey school rules.
2. Knowingly made a bomb threat against school property.
3. Engaged in conduct, while at school or while under the supervision of a school authority, that endangered the property, health or safety of others.
4. Engaged in conduct, while not at school or while not under the supervision of a school authority, that endangered the property, health or safety of others at school or under the supervision of school authorities.

This bill expands the reasons for which a pupil 16 years of age or older may be expelled from school to include repeated conduct, while at school or under the supervision of a school authority, that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority. These new grounds for expulsion apply in the Milwaukee public schools only if the pupil is enrolled or participating in an alternative educational program that is appropriate to the pupil's needs (other than a special educational program) for pupils who engage in the described conduct and the described conduct occurred since enrollment or participation in the alternative educational program.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 119.25 (2) of the statutes is amended to read:

2           119.25 (2) During any school year in which a resolution adopted under sub. (1)  
3 is effective, the independent hearing officer or independent hearing panel appointed  
4 by the board may expel a pupil from school whenever the hearing officer or panel  
5 finds that the pupil engaged in conduct that constitutes grounds for expulsion under  
6 s. 120.13 (1) (c) 1. or 2. No administrator may be designated to participate in an  
7 expulsion hearing if he or she was involved in the incident that led to the expulsion  
8 proceeding. Prior to such expulsion, the hearing officer or panel shall hold a hearing.  
9 Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if  
10 the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of  
11 the alleged conduct, stating the time and place of the hearing and stating that the  
12 hearing may result in the pupil's expulsion. This section shall be printed in full on  
13 the face or back of the notice. Upon request of the pupil and, if the pupil is a minor,  
14 the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil  
15 is a minor, the pupil's parent or guardian, may be represented at the hearing by  
16 counsel. The hearing officer or panel shall keep a full record of the hearing. The  
17 hearing officer or panel shall inform each party of the right to a complete record of  
18 the proceeding. Upon request, the hearing officer or panel shall direct that a  
19 transcript of the record be prepared and that a copy of the transcript be given to the  
20 pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering  
21 by the hearing officer or panel of the expulsion of a pupil, the school district shall mail  
22 a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's  
23 parent or guardian. A school board, hearing officer or panel may disclose the  
24 transcript to the parent or guardian of an adult pupil, if the adult pupil is a  
25 dependent of his or her parent or guardian under section 152 of the internal revenue

1 code. Within 30 days after the date on which the order is issued, the board shall  
2 review the expulsion order and shall, upon review, approve, reverse or modify the  
3 order. The order of the hearing officer or panel shall be enforced while the board  
4 reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or  
5 guardian may appeal the board's decision to the state superintendent. If the board's  
6 decision is appealed to the state superintendent, within 60 days after the date on  
7 which the state superintendent receives the appeal, the state superintendent shall  
8 review the decision and shall, upon review, approve, reverse or modify the decision.  
9 The decision of the board shall be enforced while the state superintendent reviews  
10 the decision. An appeal from the decision of the state superintendent may be taken  
11 within 30 days to the circuit court for the county in which the school is located.

12 **SECTION 2.** 120.13 (1) (b) of the statutes is amended to read:

13 120.13 (1) (b) The school district administrator or any principal or teacher  
14 designated by the school district administrator also may make rules, with the  
15 consent of the school board, and may suspend a pupil for not more than 3 school days  
16 or, if a notice of expulsion hearing has been sent under par. (c) 3. or (e) or s. 119.25,  
17 for not more than a total of 15 consecutive school days for noncompliance with such  
18 rules or school board rules, or for knowingly conveying any threat or false  
19 information concerning an attempt or alleged attempt being made or to be made to  
20 destroy any school property by means of explosives, or for conduct by the pupil while  
21 at school or while under the supervision of a school authority which endangers the  
22 property, health or safety of others, or for conduct while not at school or while not  
23 under the supervision of a school authority which endangers the property, health or  
24 safety of others at school or under the supervision of a school authority or endangers  
25 the property, health or safety of any employe or school board member of the school

1 district in which the pupil is enrolled. Prior to any suspension, the pupil shall be  
2 advised of the reason for the proposed suspension. The pupil may be suspended if  
3 it is determined that the pupil is guilty of noncompliance with such rule, or of the  
4 conduct charged, and that the pupil's suspension is reasonably justified. The parent  
5 or guardian of a suspended minor pupil shall be given prompt notice of the  
6 suspension and the reason for the suspension. The suspended pupil or the pupil's  
7 parent or guardian may, within 5 school days following the commencement of the  
8 suspension, have a conference with the school district administrator or his or her  
9 designee who shall be someone other than a principal, administrator or teacher in  
10 the suspended pupil's school. If the school district administrator or his or her  
11 designee finds that the pupil was suspended unfairly or unjustly, or that the  
12 suspension was inappropriate, given the nature of the alleged offense, or that the  
13 pupil suffered undue consequences or penalties as a result of the suspension,  
14 reference to the suspension on the pupil's school record shall be expunged. Such  
15 finding shall be made within 15 days of the conference. A pupil suspended under this  
16 paragraph shall not be denied the opportunity to take any quarterly, semester or  
17 grading period examinations or to complete course work missed during the  
18 suspension period, as provided in the attendance policy established under s. 118.16  
19 (4) (a).

20 **SECTION 3.** 120.13 (1) (c) of the statutes is amended to read:

21 120.13 (1) (c) 1. The school board may expel a pupil from school whenever it  
22 finds the pupil guilty of repeated refusal or neglect to obey the rules, or finds that a  
23 pupil knowingly conveyed or caused to be conveyed any threat or false information  
24 concerning an attempt or alleged attempt being made or to be made to destroy any  
25 school property by means of explosives, or finds that the pupil engaged in conduct

1 while at school or while under the supervision of a school authority which  
2 endangered the property, health or safety of others, or finds that a pupil while not  
3 at school or while not under the supervision of a school authority engaged in conduct  
4 which endangered the property, health or safety of others at school or under the  
5 supervision of a school authority or endangered the property, health or safety of any  
6 employe or school board member of the school district in which the pupil is enrolled,  
7 and is satisfied that the interest of the school demands the pupil's expulsion.

8 3. Prior to ~~such expulsion~~ expelling a pupil, the school board shall hold a  
9 hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil  
10 and, if the pupil is a minor, to the pupil's parent or guardian, specifying the  
11 particulars of the alleged refusal, neglect or conduct, stating the time and place of  
12 the hearing and stating that the hearing may result in the pupil's expulsion. Upon  
13 request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the  
14 hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or  
15 guardian may be represented at the hearing by counsel. The school board shall keep  
16 written minutes of the hearing. Upon the ordering by the school board of the  
17 expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil  
18 and, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or,  
19 if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the  
20 state superintendent. If the school board's decision is appealed to the state  
21 superintendent, within 60 days after the date on which the state superintendent  
22 receives the appeal, the state superintendent shall review the decision and shall,  
23 upon review, approve, reverse or modify the decision. The decision of the school board  
24 shall be enforced while the state superintendent reviews the decision. An appeal  
25 from the decision of the state superintendent may be taken within 30 days to the

1 circuit court of the county in which the school is located. This paragraph shall be  
2 printed in full on the face or back of the notice.

3 **SECTION 4.** 120.13 (1) (c) 2. of the statutes is created to read:

4 120.13 (1) (c) 2. In addition to the grounds for expulsion under subd. 1., the  
5 school board may expel from school a pupil who is at least 16 years old if the school  
6 board finds that the pupil repeatedly engaged in conduct while at school or while  
7 under the supervision of a school authority that disrupted the ability of school  
8 authorities to maintain order or an educational atmosphere at school or at an activity  
9 supervised by a school authority and that such conduct does not constitute grounds  
10 for expulsion under subd. 1., and is satisfied that the interest of the school demands  
11 the pupil's expulsion. The school board of a school district operating under ch. 119  
12 may expel a pupil from school under this subdivision if all of the following apply:

13 a. The pupil is enrolled or participating in a work program, community-based  
14 program or other alternative educational program that is appropriate to the needs  
15 of the pupil, other than a special education program under subch. V of ch. 115, for  
16 pupils who engage in the conduct described under this subdivision.

17 b. The conduct described under this subdivision occurred since enrollment or  
18 participation in the alternative educational program.

19 **SECTION 5.** 120.13 (1) (e) 1. (intro.) and 2. of the statutes are amended to read:

20 120.13 (1) (e) 1. (intro.) The school board may adopt a resolution, which is  
21 effective only during the school year in which it is adopted, authorizing any of the  
22 following to determine pupil expulsion from school under subd. 2. instead of using  
23 the procedure under par. (c) 3.:

24 2. During any school year in which a resolution adopted under subd. 1. is  
25 effective, the independent hearing officer or independent hearing panel appointed

1 by the school board may expel a pupil from school whenever the hearing officer or  
2 panel finds that the pupil engaged in conduct that constitutes grounds for expulsion  
3 under par. (c) 1. or 2. Prior to such expulsion, the hearing officer or panel shall hold  
4 a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil  
5 and, if the pupil is a minor, to the pupil's parent or guardian, specifying the  
6 particulars of the alleged conduct, stating the time and place of the hearing and  
7 stating that the hearing may result in the pupil's expulsion. This paragraph shall  
8 be printed in full on the face or back of the notice. Upon request of the pupil and, if  
9 the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The  
10 pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented  
11 at the hearing by counsel. The hearing officer or panel shall keep a full record of the  
12 hearing. The hearing officer or panel shall inform each party of the right to a  
13 complete record of the proceeding. Upon request, the hearing officer or panel shall  
14 direct that a transcript of the record be prepared and that a copy of the transcript be  
15 given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon  
16 the ordering by the hearing officer or panel of the expulsion of a pupil, the school  
17 district shall mail a copy of the order to the school board, the pupil and, if the pupil  
18 is a minor, the pupil's parent or guardian. Within 30 days after the date on which  
19 the order is issued, the school board shall review the expulsion order and shall, upon  
20 review, approve, reverse or modify the order. The order of the hearing officer or panel  
21 shall be enforced while the school board reviews the order. The expelled pupil or, if  
22 the pupil is a minor, the pupil's parent or guardian may appeal the school board's  
23 decision to the state superintendent. If the school board's decision is appealed to the  
24 state superintendent, within 60 days after the date on which the state  
25 superintendent receives the appeal, the state superintendent shall review the

1 decision and shall, upon review, approve, reverse or modify the decision. The  
2 decision of the school board shall be enforced while the state superintendent reviews  
3 the decision. An appeal from the decision of the state superintendent may be taken  
4 within 30 days to the circuit court of the county in which the school is located. This  
5 paragraph does not apply to a school district operating under ch. 119.

6 **SECTION 6.** 252.04 (5) (b) 4. of the statutes is amended to read:

7 252.04 (5) (b) 4. No student may be excluded from public school under this  
8 paragraph for more than 10 consecutive school days unless, prior to the 11th  
9 consecutive school day of exclusion, the school board provides the student and the  
10 student's parent, guardian or legal custodian with an additional notice, a hearing  
11 and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

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(END)