

REFERENCE TITLE: schools; corporal punishment; prohibition

State of Arizona
House of Representatives
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HB 2071

Introduced by
Representatives Terech: Austin, Blattman, Bravo, Cano, Contreras P, De Los
Santos, Gutierrez, Mathis, Pawlik, Sandoval, Schwiebert, Stahl Hamilton,
Travers, Tsosie

AN ACT

AMENDING SECTION 15-105, ARIZONA REVISED STATUTES; AMENDING TITLE 15,
CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION
15-120.04; AMENDING SECTION 15-843, ARIZONA REVISED STATUTES; RELATING TO
STUDENT DISCIPLINE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-105, Arizona Revised Statutes, is amended to
3 read:

4 15-105. Use of restraint and seclusion techniques;
5 requirements; definitions

6 A. A school may ~~permit~~ ALLOW the use of restraint or seclusion
7 techniques on any ~~pupit~~ STUDENT if both of the following apply:

8 1. The ~~pupit's~~ STUDENT'S behavior presents an imminent danger of
9 bodily harm to the pupil or others.

10 2. Less restrictive interventions appear insufficient to mitigate
11 the imminent danger of bodily harm.

12 B. If a restraint or seclusion technique is used on a ~~pupit~~
13 STUDENT:

14 1. School personnel shall maintain continuous visual observation
15 and monitoring of the ~~pupit~~ STUDENT while the restraint or seclusion
16 technique is in use.

17 2. The restraint or seclusion technique shall end when the ~~pupit's~~
18 STUDENT'S behavior no longer presents an imminent danger to the ~~pupit~~
19 STUDENT or others.

20 3. The restraint or seclusion technique shall be used only by
21 school personnel who are trained in the safe and effective use of
22 restraint and seclusion techniques unless an emergency situation does not
23 allow sufficient time to summon trained personnel.

24 4. The restraint technique employed may not impede the ~~pupit's~~
25 STUDENT'S ability to breathe.

26 5. The restraint technique may not be out of proportion to the
27 ~~pupit's~~ STUDENT'S age or physical condition.

28 C. Schools may establish policies and procedures for ~~the use of~~
29 USING restraint or seclusion techniques in a school safety or crisis
30 intervention plan if the plan is not specific to any individual ~~pupit~~
31 STUDENT.

32 D. Schools shall establish reporting and documentation procedures
33 to be followed when a restraint or seclusion technique has been used on a
34 ~~pupit~~ STUDENT. The procedures shall include the following requirements:

35 1. School personnel shall provide the ~~pupit's~~ STUDENT'S parent or
36 guardian with written or oral notice on the same day that the incident
37 occurred, unless circumstances prevent same-day notification. If the
38 notice is not provided on the same day of the incident, notice shall be
39 given within twenty-four hours after the incident.

40 2. Within a reasonable time following the incident, school
41 personnel shall provide the ~~pupit's~~ STUDENT'S parent or guardian with
42 written documentation that includes information about any persons,
43 locations or activities that may have triggered the behavior, if known,
44 and specific information about the behavior and its precursors, the type
45 of restraint or seclusion technique used and the duration of its use.

1 3. Schools shall review strategies used to address a ~~pupit's~~
2 ~~STUDENT'S~~ dangerous behavior if there has been repeated use of restraint
3 or seclusion techniques for the ~~pupit~~ ~~STUDENT~~ during a school year. The
4 review shall include a review of the incidents in which A restraint or
5 seclusion technique ~~were~~ ~~WAS~~ used and an analysis of how future incidents
6 may be avoided, including whether the ~~pupit~~ ~~STUDENT~~ requires a functional
7 behavioral assessment.

8 E. If a school district or charter school summons law enforcement
9 instead of using a restraint or seclusion technique on a ~~pupit~~ ~~STUDENT~~,
10 the school shall comply with the reporting, documentation and review
11 procedures established under subsection D of this section.
12 Notwithstanding this section, school resource officers are authorized to
13 respond to situations that present the imminent danger of bodily harm
14 according to protocols established by their law enforcement agency.

15 F. This section does not prohibit schools from adopting policies
16 pursuant to section 15-843, subsection B, paragraph ~~3~~ 2.

17 G. For the purposes of this section:

18 1. "Restraint" means any method or device that immobilizes or
19 reduces the ability of a ~~pupit~~ ~~STUDENT~~ to move the ~~pupit's~~ ~~STUDENT'S~~
20 torso, arms, legs or head freely, including physical force or mechanical
21 devices. Restraint does not include any of the following:

22 (a) Methods or devices implemented by trained school personnel or
23 used by a ~~pupit~~ ~~STUDENT~~ for the specific and approved therapeutic or
24 safety purposes for which the method or device is designed and, if
25 applicable, prescribed.

26 (b) The temporary touching or holding of the hand, wrist, arm,
27 shoulder or back for the purpose of inducing a ~~pupit~~ ~~STUDENT~~ to comply
28 with a reasonable request or to go to a safe location.

29 (c) The brief holding of a ~~pupit~~ ~~STUDENT~~ by one adult for the
30 purpose of calming or comforting the ~~pupit~~ ~~STUDENT~~.

31 (d) Physical force used to take a weapon away from a ~~pupit~~ ~~STUDENT~~
32 or to separate and remove a ~~pupit~~ ~~STUDENT~~ from another person when the
33 ~~pupit~~ ~~STUDENT~~ is engaged in a physical assault on another person.

34 2. "School" means a school district, a charter school, a public or
35 private special education school that provides services to ~~pupit's~~ ~~STUDENTS~~
36 placed by a public school, the Arizona state schools for the deaf and the
37 blind and a private school.

38 3. "Seclusion" means the involuntary confinement of a ~~pupit~~ ~~STUDENT~~
39 alone in a room from which egress is prevented. Seclusion does not
40 include the use of a voluntary behavior management technique, including a
41 timeout location, as part of a ~~pupit's~~ ~~STUDENT'S~~ education plan,
42 individual safety plan, behavioral plan or individualized education
43 program that involves the ~~pupit's~~ ~~STUDENT'S~~ separation from a larger group
44 for purposes of calming.

1 Sec. 2. Title 15, chapter 1, article 1, Arizona Revised Statutes,
2 is amended by adding section 15-120.04, to read:

3 15-120.04. Corporal punishment; prohibition; definition

4 A. A TEACHER, PRINCIPAL OR OTHER PERSON EMPLOYED BY A SCHOOL
5 DISTRICT OR CHARTER SCHOOL MAY NOT SUBJECT A STUDENT TO CORPORAL
6 PUNISHMENT. THE PROHIBITION ON CORPORAL PUNISHMENT DOES NOT PREVENT THE
7 USE OF RESTRAINT OR SECLUSION TECHNIQUES THAT COMPLY WITH SECTION 15-105.
8 IN DETERMINING WHETHER A PERSON WAS COMPLYING WITH A RESTRAINT OR
9 SECLUSION TECHNIQUE, CONSIDERATION SHALL BE GIVEN TO REASONABLE JUDGMENTS
10 THAT WERE MADE AT THE TIME OF THE EVENT BY A TEACHER, PRINCIPAL OR OTHER
11 PERSON EMPLOYED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL.

12 B. FOR THE PURPOSES OF THIS SECTION, "CORPORAL PUNISHMENT":

13 1. MEANS INFLECTING, OR CAUSING THE INFLECTION OF, PHYSICAL PAIN ON
14 A STUDENT AS A MEANS OF DISCIPLINE.

15 2. DOES NOT INCLUDE PHYSICAL PAIN, INJURY OR DISCOMFORT CAUSED BY
16 USING INCIDENTAL, MINOR OR REASONABLE PHYSICAL CONTACT OR OTHER ACTIONS
17 DESIGNED TO MAINTAIN ORDER, CONTROL AND SAFETY IN THE SCHOOL OR CLASSROOM
18 SETTING.

19 Sec. 3. Section 15-843, Arizona Revised Statutes, is amended to
20 read:

21 15-843. Student disciplinary proceedings; definition

22 A. An action concerning discipline, suspension or expulsion of a
23 ~~pupit~~ STUDENT is not subject to title 38, chapter 3, article 3.1, except
24 that the governing board of a school district shall post regular notice
25 and shall take minutes of any hearing held by the governing board
26 concerning the discipline, suspension or expulsion of a ~~pupit~~ STUDENT.

27 B. The governing board of any school district, in consultation with
28 the teachers and parents of the school district, shall prescribe rules for
29 the discipline, suspension and expulsion of ~~pupits~~ STUDENTS. The rules
30 shall be consistent with the constitutional rights of ~~pupits~~ STUDENTS and
31 shall include at least the following:

32 1. Penalties for excessive ~~pupit~~ STUDENT absenteeism pursuant to
33 section 15-803, including failure in a subject, failure to pass a grade,
34 suspension or expulsion.

35 ~~2. Procedures for using corporal punishment if allowed by the~~
36 ~~governing board.~~

37 ~~3.~~ 2. Procedures for the reasonable use of physical force by
38 certificated or classified personnel in self-defense, defense of others
39 and defense of property.

40 ~~4.~~ 3. Procedures for dealing with ~~pupits~~ STUDENTS who have
41 committed or who are believed to have committed a crime.

42 ~~5.~~ 4. A notice and hearing procedure for cases concerning the
43 suspension of a ~~pupit~~ STUDENT for more than ten days.

44 ~~6.~~ 5. Procedures and conditions for readmitting a ~~pupit~~ STUDENT
45 who has been expelled or suspended for more than ten days.

1 ~~7.~~ 6. Procedures to appeal to the governing board the suspension
2 of a ~~pupit~~ STUDENT for more than ten days, if the decision to suspend the
3 ~~pupit~~ STUDENT was not made by the governing board.

4 ~~8.~~ 7. Procedures to appeal the recommendation of the hearing
5 officer or officers designated by the board as provided in subsection F of
6 this section at the time the board considers the recommendation.

7 ~~9.~~ 8. Disciplinary policies for confining ~~pupit~~s STUDENTS WHO ARE
8 left alone in an enclosed space. These policies shall include the
9 following:

10 (a) A process for prior written parental notification that
11 confinement may be used for disciplinary purposes ~~and~~ that is included in
12 the ~~pupit~~s STUDENT'S enrollment packet or admission form.

13 (b) A process for prior written parental consent before confinement
14 is allowed for any ~~pupit~~ STUDENT in the school district. The policies
15 shall provide for an exemption to prior written parental consent if a
16 school principal or teacher determines that the ~~pupit~~ STUDENT poses
17 imminent physical harm to self or others. The school principal or teacher
18 shall make reasonable attempts to notify the ~~pupit~~s STUDENT'S parent or
19 guardian in writing by the end of the same day that confinement was used.

20 ~~10.~~ 9. Procedures that require the school district to annually
21 report to the department of education in a manner prescribed by the
22 department the number of suspensions and expulsions that involve the
23 possession, use or sale of an illegal substance under title 13, chapter 34
24 and the type of illegal substance involved in each suspension or
25 expulsion. The department of education shall compile this information and
26 annually post the information on its website. The information shall
27 comply with the family educational rights and privacy act of 1974
28 (P.L. 93-380; 88 Stat. ~~57~~ 571; 20 United States Code section 1232g), shall
29 not include personally identifiable information and shall show the number
30 of suspensions and expulsions associated with each illegal substance
31 aggregated statewide and by county.

32 C. Penalties adopted pursuant to subsection B, paragraph 1 of this
33 section for excessive absenteeism shall not be applied to ~~pupit~~s STUDENTS
34 who have completed the course requirements and whose absence from school
35 is due solely to illness, disease or accident as certified by a person who
36 is licensed pursuant to title 32, chapter 7, 13, 14, 15 or 17.

37 D. The governing board shall:

38 1. Support and assist teachers in implementing and enforcing the
39 rules prescribed pursuant to subsection B of this section.

40 2. Develop procedures allowing teachers and principals to recommend
41 the suspension or expulsion of ~~pupit~~s STUDENTS.

42 3. Develop procedures allowing teachers and principals to
43 temporarily remove disruptive ~~pupit~~s STUDENTS from a class.

44 4. Delegate to the principal the authority to remove a disruptive
45 ~~pupit~~ STUDENT from the classroom.

1 E. If a ~~pupit~~ STUDENT withdraws from school after receiving notice
2 of possible action concerning discipline, expulsion or suspension, the
3 governing board may continue with the action after the withdrawal and may
4 record the results of such action in the pupil's permanent file.

5 F. In all actions concerning the expulsion of a ~~pupit~~ STUDENT, the
6 governing board of a school district shall:

7 1. Be notified of the intended action.

8 2. Either:

9 (a) Decide, in executive session, whether to hold a hearing or to
10 designate one or more hearing officers to hold a hearing to hear the
11 evidence, prepare a record and bring a recommendation to the board for
12 action and whether the hearing shall be held in executive session.

13 (b) Provide by policy or vote at its annual organizational meeting
14 that all hearings concerning the expulsion of a ~~pupit~~ STUDENT conducted
15 pursuant to this section will be conducted before a hearing officer
16 selected from a list of hearing officers approved by the governing board.

17 3. Give written notice, at least five working days before the
18 hearing by the governing board or the hearing officer or officers
19 designated by the governing board, to all ~~pupits~~ STUDENTS subject to
20 expulsion and their parents or guardians of the date, time and place of
21 the hearing. If the governing board decides that the hearing is to be
22 held in executive session, the written notice shall include a statement of
23 the right of the parents or guardians or an emancipated ~~pupit~~ STUDENT who
24 is subject to expulsion to object to the governing board's decision to
25 have the hearing held in executive session. Objections shall be made in
26 writing to the governing board.

27 G. If a parent or guardian or an emancipated ~~pupit~~ STUDENT who is
28 subject to expulsion disagrees that the hearing should be held in
29 executive session, the hearing shall be held in an open meeting unless:

30 1. If only one ~~pupit~~ STUDENT is subject to expulsion and
31 disagreement exists between that ~~pupit's~~ STUDENT'S parents or guardians,
32 the governing board, after consultations with the ~~pupit's~~ STUDENT'S
33 parents or guardians or the emancipated ~~pupit~~ STUDENT, shall decide in
34 executive session whether the hearing will be in executive session.

35 2. If more than one ~~pupit~~ STUDENT is subject to expulsion and
36 disagreement exists between the parents or guardians of different ~~pupits~~
37 STUDENTS, separate hearings shall be held subject to this section.

38 H. This section does not prevent the ~~pupit~~ STUDENT who is subject
39 to expulsion or suspension, and the ~~pupit's~~ STUDENT'S parents or guardians
40 and legal counsel, from attending any executive session pertaining to the
41 proposed disciplinary action, from having access to the minutes and
42 testimony of the executive session or from recording the session at the
43 parent's or guardian's expense.

1 I. In schools employing a superintendent or a principal, the
2 authority to suspend a ~~pupit~~ STUDENT from school is vested in the
3 superintendent, principal or other school officials granted this power by
4 the governing board of the school district.

5 J. In schools that do not have a superintendent or principal, a
6 teacher may suspend a ~~pupit~~ STUDENT from school.

7 K. Unless required by section 15-841, subsection G, a school
8 district or charter school may suspend or expel a ~~pupit~~ STUDENT who is
9 enrolled in a kindergarten program, first grade, second grade, third grade
10 or fourth grade only if all of the following apply:

11 1. The ~~pupit~~ STUDENT is seven years of age or older.

12 2. The ~~pupit~~ STUDENT engaged in conduct on school grounds that
13 meets one of the following criteria:

14 (a) Involves the possession of a dangerous weapon without
15 authorization from the school.

16 (b) Involves the possession, use or sale of a dangerous drug as
17 defined in section 13-3401 or a narcotic drug as defined in section
18 13-3401 or a violation of section 13-3411.

19 (c) Immediately endangers the health or safety of others.

20 (d) The ~~pupit's~~ STUDENT'S behavior is determined by the school
21 district governing board or charter school governing body to qualify as
22 aggravating circumstances and ~~that~~ all of the following apply:

23 (i) The ~~pupit~~ STUDENT is engaged in persistent behavior that has
24 been documented by the school and that prevents other ~~pupit's~~ STUDENTS from
25 learning or prevents the teacher from maintaining control of the classroom
26 environment.

27 (ii) The ~~pupit's~~ STUDENT'S ongoing behavior is unresponsive to
28 targeted interventions as documented through an established intervention
29 process that includes consultation with a school counselor, school
30 psychologist or other mental health professional or social worker if
31 available within the school district or charter school or through a
32 state-sponsored program.

33 (iii) The ~~pupit's~~ STUDENT'S parent or guardian was notified and
34 consulted about the ongoing behavior.

35 (iv) Before a long-term suspension or expulsion, the school
36 provides the ~~pupit~~ STUDENT with a disability screening and the screening
37 finds that the behavioral issues were not the result of a disability.

38 3. Failing to remove the ~~pupit~~ STUDENT from the school building
39 would create a safety threat that cannot otherwise reasonably be addressed
40 or qualifies as aggravating circumstances as specified in paragraph 2 of
41 this subsection.

42 4. Before suspending or expelling the ~~pupit~~ STUDENT, the school
43 district or charter school considers and, if feasible while maintaining
44 the health and safety of others, in consultation with the ~~pupit's~~
45 STUDENT'S parent or guardian to the extent possible, employs alternative

1 behavioral and disciplinary interventions that are available to the school
2 district or charter school, that are appropriate to the circumstances and
3 that are considerate of health and safety. The school district or charter
4 school shall document the alternative behavioral and disciplinary
5 interventions it considers and employs.

6 5. The school district or charter school, by policy, provides for
7 both:

8 (a) A readmission procedure for ~~pupils~~ STUDENTS who are in
9 kindergarten programs, first grade, second grade, third grade and fourth
10 grade and who have served at least five school days of a suspension from
11 the school that exceeds ten school days to be considered for readmission
12 on appeal of the ~~pupils~~ STUDENT'S parent or guardian.

13 (b) A readmission procedure for ~~pupils~~ STUDENTS who are in
14 kindergarten programs, first grade, second grade, third grade and fourth
15 grade and who are expelled from or subject to alternative reassignment at
16 the school to be considered for readmission on appeal of the ~~pupils~~
17 STUDENT'S parent or guardian at least twenty school days after the
18 effective date of the expulsion or alternative reassignment.

19 L. All cases of suspension shall be for good cause and shall be
20 reported within five days to the governing board by the superintendent or
21 the person imposing the suspension.

22 M. Rules pertaining to the discipline, suspension and expulsion of
23 ~~pupils~~ STUDENTS shall not be based on race, color, religion, sex, national
24 origin or ancestry. If the department of education, the auditor general
25 or the attorney general determines that a school district is substantially
26 and deliberately not in compliance with this subsection and if the school
27 district has failed to correct the deficiency within ninety days after
28 receiving notice from the department of education, the superintendent of
29 public instruction may withhold the monies the school district would
30 otherwise be entitled to receive from the date of the determination of
31 noncompliance until the department of education determines that the school
32 district is in compliance with this subsection.

33 N. The principal of each school shall ensure that a copy of all
34 rules pertaining to THE discipline, suspension and expulsion of ~~pupils~~
35 STUDENTS is distributed to the parents of each ~~pupil~~ STUDENT at the time
36 the ~~pupil~~ STUDENT is enrolled in THE school.

37 O. The principal of each school shall ensure that all rules
38 pertaining to the discipline, suspension and expulsion of ~~pupils~~ STUDENTS
39 are communicated to students at the beginning of each school year, and to
40 transfer students at the time of their enrollment in the school.

41 P. School districts may refer a ~~pupil~~ STUDENT who has been subject
42 to discipline, suspension or expulsion pursuant to this section to a
43 career and college readiness program for at-risk students established
44 pursuant to section 15-707.

- 1 Q. For the purposes of this section, "aggravating circumstances"
2 means the ~~pupit~~ STUDENT is engaged in persistent behavior that:
3 1. Has been documented by the school.
4 2. Prevents other students from learning or prevents the teacher
5 from maintaining control of the classroom environment.
6 3. Is unresponsive to targeted interventions as documented through
7 an established intervention process.