

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING FIREARMS ON  
5 SCHOOL GROUNDS; MAKING EXPULSION OF A STUDENT FOR BRINGING OR POSSESSING A  
6 FIREARM AT SCHOOL DISCRETIONARY; CLARIFYING WHAT CONSTITUTES A VIOLATION; REQUIRING  
7 SCHOOL OFFICIALS TO PROVIDE NOTICE OF CERTAIN RIGHTS; REQUIRING THE OFFICE OF PUBLIC  
8 INSTRUCTION TO MAKE CERTAIN INFORMATION PUBLIC; PROVIDING THAT A KNOWING VIOLATION  
9 BY A SCHOOL EMPLOYEE CONSTITUTES GOOD CAUSE FOR TERMINATION OF EMPLOYMENT; AND  
10 AMENDING SECTION 20-5-202, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 **Section 1.** Section 20-5-202, MCA, is amended to read:

15 **"20-5-202. Suspension and expulsion.** (1) As provided in 20-4-302, 20-4-402, and 20-4-403, a pupil  
16 may be suspended by a teacher, superintendent, or principal. The trustees of the district shall adopt a policy  
17 defining the authority and procedure to be used by a teacher, superintendent, or principal in the suspension of a  
18 pupil and in defining the circumstances and procedures by which the trustees may expel a pupil. Expulsion is  
19 any removal of a pupil for more than 20 school days without the provision of educational services and is a  
20 disciplinary action available only to the trustees. A pupil may be suspended from school for an initial period not  
21 to exceed 10 school days. Upon a finding by a school administrator that the immediate return to school by a  
22 pupil would be detrimental to the health, welfare, or safety of others or would be disruptive of the educational  
23 process, a pupil may be suspended for one additional period not to exceed 10 school days if the pupil is  
24 granted an informal hearing with the school administrator prior to the additional suspension and if the decision  
25 to impose the additional suspension does not violate the Individuals With Disabilities Education Act, 20 U.S.C.  
26 1400, et seq.

27 (2) (a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined  
28 to have brought a firearm, ~~as defined in 18 U.S.C. 921,~~ to school or to have possessed a firearm at school and

1 for referring the matter to the appropriate local law enforcement agency. A student who is determined to have  
2 brought a firearm to school or to have possessed a firearm at school under this subsection (2)(a) must be  
3 expelled from school for a period of not less than 1 year, except that the trustees may authorize the school  
4 administration in writing to modify the requirement for decrease the length of the expulsion of a student on a  
5 case-by-case basis. The trustees shall annually review the district's weapons policy and any policy adopted  
6 under this subsection (2)(a) and update the policies as determined necessary by the trustees based on  
7 changing circumstances pertaining to school safety.

8 (b) A decision to change the placement of a student with a disability who has been expelled pursuant  
9 to this section must be made in accordance with the Individuals With Disabilities Education Act.

10 (3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a  
11 superintendent, or a principal ~~shall suspend immediately for good cause a student who is determined to have~~  
12 ~~brought a firearm to school~~ may immediately suspend a student if, prior to an evidentiary hearing conducted  
13 pursuant to subsection (6), there is probable cause to believe the student brought a firearm to school or  
14 possessed a firearm at school.

15 (4) Nothing in this section prevents a school district from:

16 (a) offering instructional activities related to firearms or allowing a student to bring a firearm to be  
17 ~~brought~~ to school for instructional activities sanctioned by the district if:

18 (i) the district has appropriate safeguards in place to ensure student safety; and

19 (ii) the firearm is secured in a locked container approved by the school district when the firearm is at  
20 school and is not in use for the instructional activity; or

21 (b) providing educational services in an alternative setting to a student who has been expelled from  
22 the student's regular school setting.

23 (5) Before holding an evidentiary hearing as required under subsection (6) to determine if a student  
24 has violated this section, the trustees shall, in a clear and timely manner, notify the student if the student is an  
25 adult or notify the parent or guardian of a student if the student is a minor that the student may:

26 (a) waive the student's privacy interest by requesting that the evidentiary hearing be held in public;  
27 and

28 (b) invite other individuals to attend the hearing.

1 (6) Before expelling a student under this section, the trustees shall hold an evidentiary hearing. The  
2 trustees of a school district may not find that a student has brought a firearm to school or possessed a firearm  
3 at school unless, after due notice and an evidentiary hearing, the trustees find by a preponderance of the  
4 evidence that the student knowingly, as defined in 1-1-204, brought a firearm to school or possessed a firearm  
5 at school.

6 (7) When a student subject to an evidentiary hearing is found to have not violated this section, the  
7 student's school record must be expunged of the incident.

8 (8) The office of public instruction shall make available on its website the information gathered from  
9 school districts that is provided annually to the federal government under the reporting requirements of 20  
10 U.S.C. 7151, provided that any personally identifiable information is redacted.

11 (9) The provisions of this section do not apply to a student who has brought a firearm to school or  
12 possesses a firearm at school as long as the firearm is secured in a locked container approved by the school  
13 district or in a locked motor vehicle the entire time the firearm is at school, except while the firearm is in use for  
14 a school-sanctioned instructional activity.

15 (10) For the purposes of this section, the following definitions apply:

16 (a) (i) "Firearm" has the same meaning as provided in 18 U.S.C. 921.

17 (ii) The term does not include:

18 (A) a picture of a firearm;

19 (B) a fractional-sized replica of a firearm, such as on a toy soldier, a charm bracelet, a necklace, or a  
20 lapel pin;

21 (C) a person imitating the sound of a firearm discharge; or

22 (D) a person forming the person's hand into the shape of a firearm.

23 (b) (i) "School" means a building, grounds, or property of a public elementary or secondary school.

24 (ii) The term does not include a student's home, a vehicle, a parking lot, or a commercial business  
25 when the student is participating in an online, remote, or distance-learning setting."

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