

SENATE BILL NO. 404—SENATOR WASHINGTON

MARCH 19, 2007

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing homeschooled children. (BDR 34-738)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; revising provisions governing homeschooled children; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, compulsory attendance in public school is required of
2 children between the ages of 7 and 17 years. (NRS 392.040) Compulsory
3 attendance is excused if satisfactory written evidence is presented to the board of
4 trustees of the school district in which the child resides that the child is receiving at
5 home or in some other school equivalent instruction of the kind and amount
6 approved by the State Board of Education. (NRS 392.070) **Section 3** of this bill
7 excuses compulsory attendance if a child is enrolled in a private school or if a
8 notice of intent to homeschool the child is filed with the Superintendent of Public
9 Instruction. **Section 2** of this bill sets forth requirements concerning a notice of
10 intent to homeschool and establishes certain rights for a child that is being
11 homeschooled and the parents of that child.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 388.850 is hereby amended to read as follows:
2 388.850 1. A pupil may enroll in a program of distance
3 education only if the pupil satisfies the requirements of any other
4 applicable statute and the pupil:
5 (a) Is participating in a program for pupils at risk of dropping
6 out of high school pursuant to NRS 388.537;
7 (b) Is participating in a program of independent study pursuant
8 to NRS 389.155;



1 (c) Is enrolled in a public school that does not offer certain
2 advanced or specialized courses that the pupil desires to attend;

3 (d) Has a physical or mental condition that would otherwise
4 require an excuse from compulsory attendance pursuant to
5 NRS 392.050;

6 (e) Would otherwise be excused from compulsory attendance
7 pursuant to NRS 392.080;

8 (f) Is otherwise prohibited from attending public school pursuant
9 to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467
10 or 392.4675;

11 (g) Is otherwise permitted to enroll in a program of distance
12 education provided by the board of trustees of a school district if the
13 board of trustees determines that the circumstances warrant
14 enrollment for the pupil; or

15 (h) Is otherwise permitted to enroll in a program of distance
16 education provided by the governing body of a charter school if the
17 governing body of the charter school determines that the
18 circumstances warrant enrollment for the pupil.

19 2. In addition to the eligibility for enrollment set forth in
20 subsection 1, a pupil must satisfy the qualifications and conditions
21 for enrollment in a program of distance education adopted by the
22 State Board pursuant to NRS 388.874.

23 3. A child who is exempt from compulsory attendance and
24 ~~receiving equivalent instruction authorized by the State Board~~
25 ~~pursuant to subsection 1 of NRS 392.070~~ *is enrolled in a private*
26 *school pursuant to chapter 394 of NRS or is being homeschooled*
27 is not eligible to enroll in or otherwise attend a program of distance
28 education, regardless of whether he is otherwise eligible for
29 enrollment pursuant to subsection 1.

30 4. If a pupil who is prohibited from attending public school
31 pursuant to NRS 392.264 enrolls in a program of distance education,
32 the enrollment and attendance of that pupil must comply with all
33 requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to
34 392.271, inclusive.

35 5. If a pupil is eligible for enrollment in a program of distance
36 education pursuant to paragraph (c) of subsection 1, he may enroll
37 in the program of distance education only to take those advanced or
38 specialized courses that are not offered at the public school he
39 otherwise attends.

40 **Sec. 2.** Chapter 392 of NRS is hereby amended by adding
41 thereto a new section to read as follows:

42 *1. If the parent of a child wishes to homeschool the child, the*
43 *parent must file with the Superintendent of Public Instruction a*
44 *notice of intent to homeschool the child not later than 30 days*
45 *after beginning to homeschool the child.*



1 2. *The Department shall develop a standard form for the*
2 *notice of intent to homeschool. The form must include only the*
3 *following:*

4 (a) *The full name, age and gender of the child;*

5 (b) *The name and address of each parent filing the notice of*
6 *intent to homeschool;*

7 (c) *A statement signed and dated by each such parent*
8 *declaring that the parent assumes full responsibility for the*
9 *education of the child while the child is being homeschooled; and*

10 (d) *An optional statement that the parent may sign which*
11 *provides:*

12 *I expressly prohibit the release of any information*
13 *contained in this document, including, without limitation,*
14 *directory information as defined in 20 U.S.C. §*
15 *1232g(a)(5)(A), without my prior written consent.*
16
17

18 3. *The Superintendent of Public Instruction shall, upon*
19 *written request, provide a copy of a signed notice of intent to*
20 *homeschool concerning a specific child:*

21 (a) *To the board of trustees of a school district or a law*
22 *enforcement agency for purposes relating to the investigation of*
23 *suspected truancy. Before any information is provided pursuant to*
24 *this paragraph, the board of trustees or law enforcement agency*
25 *must certify in writing to the Superintendent of Public Instruction*
26 *that the information will not be disclosed to any other party*
27 *without the prior written consent of the parent of the child, except*
28 *as otherwise provided by specific statute.*

29 (b) *To the board of trustees of a school district for purposes of*
30 *confirming the residency of a child for participation in classes,*
31 *activities or services in a public school.*

32 (c) *To anyone specified by:*

33 (1) *The parent; or*

34 (2) *The child, if the child is at least 18 years of age.*

35 4. *If a child who is or was homeschooled seeks admittance or*
36 *entrance to any school in this State, the school may use only*
37 *commonly used practices in determining the academic ability,*
38 *placement or eligibility of the child.*

39 5. *A school or organization shall not discriminate in any*
40 *manner against a child who is or was homeschooled.*

41 6. *Each school district shall allow homeschooled children to*
42 *participate in the high school proficiency examination*
43 *administered pursuant to NRS 389.015 and all college entrance*
44 *examinations offered in this State, including, without limitation,*
45 *the Scholastic Aptitude Test, the American College Test, the*



1 *Preliminary Scholastic Aptitude Test and the National Merit*
2 *Scholarship Qualifying Test. Each school district shall maintain*
3 *on its Internet website a tab for homeschooling, and shall post in a*
4 *timely manner all pertinent information concerning such*
5 *examinations for homeschooled children within the school district,*
6 *including, without limitation, the dates and times of, and contact*
7 *information concerning, such examinations.*

8 7. *No regulation or policy of the State Board or any school*
9 *district may infringe upon the right of a parent to educate his child*
10 *based on religious preference unless it is:*

11 (a) *Essential to further a compelling governmental interest;*
12 *and*

13 (b) *The least restrictive means of furthering that compelling*
14 *governmental interest.*

15 8. *As used in this section, "parent" means the parent,*
16 *custodial parent, legal guardian or other person in this State who*
17 *has control or charge of a child and the legal right to direct the*
18 *education of the child.*

19 **Sec. 3.** NRS 392.070 is hereby amended to read as follows:

20 392.070 1. Attendance *of a child* required by the provisions
21 of NRS 392.040 must be excused when ~~satisfactory written~~
22 ~~evidence is presented to the board of trustees of the school district in~~
23 ~~which the child resides that the child is receiving at home or in some~~
24 ~~other school equivalent instruction of the kind and amount approved~~
25 ~~by the State Board.]:~~

26 (a) *The child is enrolled in a private school pursuant to*
27 *chapter 394 of NRS; or*

28 (b) *A notice of intent to homeschool the child is filed with the*
29 *Superintendent of Public Instruction in accordance with section 2*
30 *of this act.*

31 2. The board of trustees of each school district shall provide
32 programs of special education and related services for
33 homeschooled children. The programs of special education and
34 related services required by this section must be made available:

35 (a) Only if a child would otherwise be eligible for participation
36 in programs of special education and related services pursuant to
37 NRS 388.440 to 388.520, inclusive;

38 (b) In the same manner that the board of trustees provides, as
39 required by 20 U.S.C. § 1412, for the participation of pupils with
40 disabilities who are enrolled in private schools within the school
41 district voluntarily by their parents or legal guardians; and

42 (c) In accordance with the same requirements set forth in 20
43 U.S.C. § 1412 which relate to the participation of pupils with
44 disabilities who are enrolled in private schools within the school
45 district voluntarily by their parents or legal guardians.



1 3. Except as otherwise provided in subsection 2 for programs
2 of special education and related services, upon the request of a
3 parent or legal guardian of a child who is enrolled in a private
4 school or a parent or legal guardian of a homeschooled child, the
5 board of trustees of the school district in which the child resides
6 shall authorize the child to participate in ~~[a class that is not available~~
7 ~~to the child at the private school or home school or to participate in~~
8 ~~an extracurricular activity,]~~ *any classes or extracurricular*
9 *activities*, excluding sports, at a public school within the school
10 district if:

11 (a) Space for the child in the class or extracurricular activity is
12 available; and

13 (b) The parent or legal guardian demonstrates to the satisfaction
14 of the board of trustees that the child is qualified to participate in the
15 class or extracurricular activity.

16 ➔ If the board of trustees of a school district authorizes a child to
17 participate in a class or extracurricular activity, excluding sports,
18 pursuant to this subsection, the board of trustees is not required to
19 provide transportation for the child to attend the class or activity. A
20 homeschooled child must be allowed to participate in interscholastic
21 activities and events governed by ~~[an association]~~ *the Nevada*
22 *Interscholastic Activities Association* pursuant to NRS 386.420 to
23 386.470, inclusive, and interscholastic activities and events,
24 including sports, pursuant to subsection 5.

25 4. The board of trustees of a school district may revoke its
26 approval for a pupil to participate in a class or extracurricular
27 activity at a public school pursuant to subsection 3 if the board of
28 trustees or the public school determines that the pupil has failed to
29 comply with applicable statutes, or applicable rules and regulations
30 of the board of trustees. If the board of trustees revokes its approval,
31 neither the board of trustees nor the public school is liable for any
32 damages relating to the denial of services to the pupil.

33 5. In addition to those interscholastic activities and events
34 governed by ~~[an association]~~ *the Nevada Interscholastic Activities*
35 *Association* pursuant to NRS 386.420 to 386.470, inclusive,
36 homeschooled children must be allowed to participate in
37 interscholastic activities and events, including sports. A
38 homeschooled child who participates in interscholastic activities and
39 events at a public school pursuant to this subsection must participate
40 within the school district of the child's residence through the public
41 school which the child is otherwise zoned to attend. Any rules or
42 regulations that apply to pupils enrolled in public schools who
43 participate in interscholastic activities and events, including sports,
44 apply in the same manner to homeschooled children who participate



- 1 in interscholastic activities and events, including, without limitation,
2 provisions governing:
- 3 (a) Eligibility and qualifications for participation;
 - 4 (b) Fees for participation;
 - 5 (c) Insurance;
 - 6 (d) Transportation;
 - 7 (e) Requirements of physical examination;
 - 8 (f) Responsibilities of participants;
 - 9 (g) Schedules of events;
 - 10 (h) Safety and welfare of participants;
 - 11 (i) Eligibility for awards, trophies and medals;
 - 12 (j) Conduct of behavior and performance of participants; and
 - 13 (k) Disciplinary procedures.

14 6. If a homeschooled child participates in interscholastic
15 activities and events pursuant to subsection 5:

16 (a) No challenge may be brought by ~~[an association,]~~ *the*
17 *Association*, a school district, a public school or a private school, a
18 parent or guardian of a pupil enrolled in a public school or a private
19 school, a pupil enrolled in a public school or a private school, or any
20 other entity or person claiming that an interscholastic activity or
21 event is invalid because the homeschooled child is allowed to
22 participate.

23 (b) Neither the school district nor a public school may prescribe
24 any regulations, rules, policies, procedures or requirements
25 governing the eligibility or participation of the homeschooled child
26 that are more restrictive than the provisions governing the eligibility
27 and participation of pupils enrolled in public schools.

28 7. The programs of special education and related services
29 required by subsection 2 may be offered at a public school or
30 another location that is appropriate.

31 8. The Department ~~[may]~~ *shall* adopt such regulations as are
32 necessary for the boards of trustees of school districts to provide the
33 programs of special education and related services required by
34 subsection 2.

35 9. As used in this section, "related services" has the meaning
36 ascribed to it in 20 U.S.C. § ~~[1401(22)]~~ *1401*.

37 **Sec. 4.** NRS 392.466 is hereby amended to read as follows:

38 392.466 1. Except as otherwise provided in this section, any
39 pupil who commits a battery which results in the bodily injury of an
40 employee of the school or who sells or distributes any controlled
41 substance while on the premises of any public school, at an activity
42 sponsored by a public school or on any school bus must, for the first
43 occurrence, be suspended or expelled from that school, although he
44 may be placed in another kind of school, for at least a period equal



1 to one semester for that school. For a second occurrence, the pupil
2 must be permanently expelled from that school and:

3 (a) ~~[Receive equivalent instruction authorized by the State~~
4 ~~Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a*
5 *private school pursuant to chapter 394 of NRS or be*
6 *homeschooled;* or

7 (b) Enroll in a program of independent study provided pursuant
8 to paragraph (b) of subsection 3 of NRS 389.155 or a program of
9 distance education provided pursuant to NRS 388.820 to 388.874,
10 inclusive, if he qualifies for enrollment and is accepted for
11 enrollment in accordance with the applicable requirements.

12 2. Except as otherwise provided in this section, any pupil who
13 is found in possession of a firearm or a dangerous weapon while on
14 the premises of any public school, at an activity sponsored by a
15 public school or on any school bus must, for the first occurrence, be
16 expelled from the school for a period of not less than 1 year,
17 although he may be placed in another kind of school for a period not
18 to exceed the period of the expulsion. For a second occurrence, the
19 pupil must be permanently expelled from the school and:

20 (a) ~~[Receive equivalent instruction authorized by the State~~
21 ~~Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a*
22 *private school pursuant to chapter 394 of NRS or be*
23 *homeschooled;* or

24 (b) Enroll in a program of independent study provided pursuant
25 to paragraph (b) of subsection 3 of NRS 389.155 or a program of
26 distance education provided pursuant to NRS 388.820 to 388.874,
27 inclusive, if he qualifies for enrollment and is accepted for
28 enrollment in accordance with the applicable requirements.

29 ➤ The superintendent of schools of a school district may, for good
30 cause shown in a particular case in that school district, allow a
31 modification to the expulsion requirement of this subsection if such
32 modification is set forth in writing.

33 3. Except as otherwise provided in this section, if a pupil is
34 deemed a habitual disciplinary problem pursuant to NRS 392.4655,
35 the pupil must be suspended or expelled from the school for a period
36 equal to at least one semester for that school. For the period of his
37 suspension or expulsion, the pupil must:

38 (a) ~~[Receive equivalent instruction authorized by the State~~
39 ~~Board pursuant to subsection 1 of NRS 392.070;]~~ *Enroll in a*
40 *private school pursuant to chapter 394 of NRS or be*
41 *homeschooled;* or

42 (b) Enroll in a program of independent study provided pursuant
43 to paragraph (b) of subsection 3 of NRS 389.155 or a program of
44 distance education provided pursuant to NRS 388.820 to 388.874,



1 inclusive, if he qualifies for enrollment and is accepted for
2 enrollment in accordance with the applicable requirements.

3 4. This section does not prohibit a pupil from having in his
4 possession a knife or firearm with the approval of the principal of
5 the school. A principal may grant such approval only in accordance
6 with the policies or regulations adopted by the board of trustees of
7 the school district.

8 5. Any pupil in grades 1 to 6, inclusive, except a pupil who has
9 been found to have possessed a firearm in violation of subsection 2,
10 may be suspended from school or permanently expelled from school
11 pursuant to this section only after the board of trustees of the school
12 district has reviewed the circumstances and approved this action in
13 accordance with the procedural policy adopted by the board for such
14 issues.

15 6. A pupil who is participating in a program of special
16 education pursuant to NRS 388.520, other than a pupil who is gifted
17 and talented, may, in accordance with the procedural policy adopted
18 by the board of trustees of the school district for such matters, be:

19 (a) Suspended from school pursuant to this section for not
20 more than 10 days. Such a suspension may be imposed pursuant to
21 this paragraph for each occurrence of conduct proscribed by
22 subsection 1.

23 (b) Suspended from school for more than 10 days or
24 permanently expelled from school pursuant to this section only after
25 the board of trustees of the school district has reviewed the
26 circumstances and determined that the action is in compliance with
27 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
28 et seq.

29 7. As used in this section:

30 (a) "Battery" has the meaning ascribed to it in paragraph (a) of
31 subsection 1 of NRS 200.481.

32 (b) "Dangerous weapon" includes, without limitation, a
33 blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
34 or dagger, a nunchaku, switchblade knife or trefoil, as defined in
35 NRS 202.350, a butterfly knife or any other knife described in NRS
36 202.350, or any other object which is used, or threatened to be used,
37 in such a manner and under such circumstances as to pose a threat
38 of, or cause, bodily injury to a person.

39 (c) "Firearm" includes, without limitation, any pistol, revolver,
40 shotgun, explosive substance or device, and any other item included
41 within the definition of a "firearm" in 18 U.S.C. § 921, as that
42 section existed on July 1, 1995.

43 8. The provisions of this section do not prohibit a pupil who is
44 suspended or expelled from enrolling in a charter school that is
45 designed exclusively for the enrollment of pupils with disciplinary



1 problems if he is accepted for enrollment by the charter school
2 pursuant to NRS 386.580. Upon request, the governing body of a
3 charter school must be provided with access to the records of the
4 pupil relating to his suspension or expulsion in accordance with
5 applicable federal and state law before the governing body makes a
6 decision concerning the enrollment of the pupil.

7 **Sec. 5.** The regulations adopted by the State Board of
8 Education which are codified as NAC 392.011 to 392.065,
9 inclusive, are hereby declared void. In preparing the supplements to
10 the Nevada Administrative Code on or after July 1, 2007, the
11 Legislative Counsel shall remove those regulations.

12 **Sec. 6.** This act becomes effective on July 1, 2007.

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