AN ACT relating to education; removing the requirement for a school to deem a pupil a habitual disciplinary problem under certain circumstances; revising provisions governing the notice provided to a parent or legal guardian concerning a pupil who is deemed a habitual disciplinary problem and the discipline imposed on such a pupil; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a school to suspend or expel a pupil for at least one semester if that pupil is deemed a habitual disciplinary problem under certain circumstances, and requires the pupil to enroll in a private school, a program of independent study or be homeschooled for the period of suspension or expulsion. (NRS 392.466) Existing law further requires a school to notify the parent or legal guardian of a pupil when the pupil is suspended for fighting or commits an act that may cause the pupil to be deemed a habitual disciplinary problem. (NRS 392.4655)

Section 2 of this bill removes the requirement that a pupil who is deemed a habitual disciplinary problem be suspended or expelled for at least one semester and instead authorizes the school to suspend the pupil from school for a period not to exceed one semester if the pupil is deemed a habitual disciplinary problem. Section 2 further requires that a pupil enroll in a private school, a program of independent study or be homeschooled for the period of suspension only if the suspension is for one semester. Section 1 of this bill revises the requirements of the written notice that a school must provide to the parent or legal guardian of a pupil relating to the possibility of suspension if the pupil is deemed a habitual disciplinary problem.
disciplinary problem. **Section 1** also makes the designation of a pupil as a habitual
disciplinary problem permissive rather than mandatory when the pupil commits
certain acts.

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

**Section 1.** NRS 392.4655 is hereby amended to read as
follows:

392.4655 1. Except as otherwise provided in this section, a
principal of a school [shall] may deem a pupil enrolled in the school
a habitual disciplinary problem if the school has written evidence
which documents that in 1 school year:

(a) The pupil has threatened or extorted, or attempted to threaten
or extort, another pupil or a teacher or other personnel employed by
the school;

(b) The pupil has been suspended for initiating at least two
fights on school property, at an activity sponsored by a public
school, on a school bus or, if the fight occurs within 1 hour of the
beginning or end of a school day, on the pupil’s way to or from
school; or

(c) The pupil has a record of five suspensions from the school
for any reason.

2. At least one teacher of a pupil who is enrolled in elementary
school and at least two teachers of a pupil who is enrolled in junior
high, middle school or high school may request that the principal of
the school deem a pupil a habitual disciplinary problem. Upon such
a request, the principal of the school shall meet with each teacher
who made the request to review the pupil’s record of discipline. If,
after the review, the principal of the school determines that the
provisions of subsection 1 do not apply to the pupil, a teacher who
submitted a request pursuant to this subsection may appeal that
determination to the board of trustees of the school district. Upon
receipt of such a request, the board of trustees shall review the initial
request and determination pursuant to the procedure established by
the board of trustees for such matters.

3. If a pupil is suspended for initiating a fight described in
paragraph (b) of subsection 1 and the fight is the first such fight that
the pupil has initiated during that school year, or if a pupil receives
one suspension on the pupil’s record, the school in which the pupil
is enrolled shall provide written notice to the parent or legal
 guardian of the pupil that contains:

(a) A description of the acts committed by the pupil and the
dates on which those acts were committed;
(b) An explanation that if the pupil is suspended for initiating one additional fight or if the pupil receives five suspensions on his or her record during the current school year, the pupil will be deemed a habitual disciplinary problem;

c) An explanation that, pursuant to subsection 3 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem [must] may be suspended [or expelled] from school for a period [equal to at least one school semester;] not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline;

d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil’s behavior is not a manifestation of the pupil’s disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

e) If applicable, a summary of the provisions of subsection 4.

A school shall provide the notice required by this subsection for each suspension on the record of a pupil during a school year. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

4. If a pupil is suspended for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives four suspensions on the pupil’s record within 1 school year, the school in which the pupil is enrolled may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend school with his or her child.

(b) The pupil and the pupil’s parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil’s parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.

If the pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of
behavior, the pupil may be deemed a habitual disciplinary problem.

5. If a pupil commits an act the commission of which qualifies the pupil to be deemed a habitual disciplinary problem pursuant to subsection 1, the school shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the qualifying act and any previous such acts committed by the pupil and the dates on which those acts were committed;

(b) An explanation that pursuant to subsection 3 of NRS 392.466, a pupil who is a habitual disciplinary problem may be suspended or expelled from that school for a period not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline;

(c) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. § 1415 that the pupil’s behavior is not a manifestation of the pupil’s disability, he or she may be suspended or expelled from that school in the same manner as a pupil without a disability; and

(d) If applicable, a summary of the provisions of subsection 6.

The school shall provide the notice at least 7 days before the school deems the pupil a habitual disciplinary problem. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.

6. Before a school deems a pupil a habitual disciplinary problem and suspends the pupil, the school may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:

(a) The parent or legal guardian to attend that school with his or her child.

(b) The pupil and the pupil’s parent or legal guardian to attend counseling, programs or services available in the school district or community.

(c) The pupil and the pupil’s parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.
If the pupil violates the conditions of the plan or commits the
same act for which notice was provided pursuant to subsection 5
after he or she enters into a plan of behavior, the pupil [shall] may
be deemed a habitual disciplinary problem.

7. A pupil may, pursuant to the provisions of this section, enter
into one plan of behavior per school year.

8. The parent or legal guardian of a pupil who has entered into
a plan of behavior with a school pursuant to this section may appeal
to the board of trustees of the school district a determination made
by the school concerning the contents of the plan of behavior or
action taken by the school pursuant to the plan of behavior. Upon
receipt of such a request, the board of trustees of the school district
shall review the determination in accordance with the procedure
established by the board of trustees for such matters.

Sec. 2. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any
pupil who commits a battery which results in the bodily injury of an
employee of the school or who sells or distributes any controlled
substance while on the premises of any public school, at an activity
sponsored by a public school or on any school bus must, for the first
occurrence, be suspended or expelled from that school, although the
pupil may be placed in another kind of school, for at least a period
equal to one semester for that school. For a second occurrence, the
pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or
be homeschooled; or

(b) Enroll in a program of independent study provided pursuant
to NRS 389.155 for pupils who have been suspended or expelled
from public school or a program of distance education provided
pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies
for enrollment and is accepted for enrollment in accordance with the
requirements of the applicable program.

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

(a) Enroll in a private school pursuant to chapter 394 of NRS or
be homeschooled; or

(b) Enroll in a program of independent study provided pursuant
to NRS 389.155 for pupils who have been suspended or expelled

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from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

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

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil may be suspended or expelled from the school for a period equal to at least one semester for that school. For not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline. If the period of the pupil’s suspension is for one school semester, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or
(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

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

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

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

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.
(b) Suspended from school for more than 10 days or
permanently expelled from school pursuant to this section only after
the board of trustees of the school district has reviewed the
circumstances and determined that the action is in compliance with
the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400
et seq.

7. As used in this section:
   (a) “Battery” has the meaning ascribed to it in paragraph (a) of
subsection 1 of NRS 200.481.
   (b) “Dangerous weapon” includes, without limitation, a
blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk
or dagger, a nunchaku, switchblade knife or trefoil, as defined in
NRS 202.350, a butterfly knife or any other knife described in NRS
202.350, or any other object which is used, or threatened to be used,
in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.
   (c) “Firearm” includes, without limitation, any pistol, revolver,
shotgun, explosive substance or device, and any other item included
within the definition of a “firearm” in 18 U.S.C. § 921, as that
section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is
suspended or expelled from enrolling in a charter school that is
designed exclusively for the enrollment of pupils with disciplinary
problems if the pupil is accepted for enrollment by the charter
school pursuant to NRS 386.580. Upon request, the governing body
of a charter school must be provided with access to the records of
the pupil relating to the pupil’s suspension or expulsion in
accordance with applicable federal and state law before the
governing body makes a decision concerning the enrollment of the
pupil.