

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 295
Mar 6, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30114-MT-50

Short Title: Prohibit Corporal Punishment in Public Schs. (Public)

Sponsors: Representatives Fisher and Johnson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT CORPORAL PUNISHMENT IN THE PUBLIC SCHOOLS.

3 Whereas, "corporal punishment" is defined in statute as "the intentional infliction of
4 physical pain upon the body of a student as a disciplinary measure"; and

5 Whereas, more than 80 research studies confirm that corporal punishment is not
6 associated with improvement in academic outcomes, but is associated with impeding students'
7 psychological and emotional development; and

8 Whereas, 31 states have enacted statutory bans on corporal punishment in public
9 schools; and

10 Whereas, none of this State's 115 local school administrative units currently allow the
11 use of corporal punishment; and

12 Whereas, the State Board of Education, the North Carolina Parent Teacher
13 Association, and virtually all professional and advocacy organizations related to children
14 recommend the prohibition of corporal punishment in public schools; Now, therefore,
15 The General Assembly of North Carolina enacts:

16 SECTION 1. G.S. 115C-390.4 reads as rewritten:

17 "**§ 115C-390.4. Corporal ~~punishment~~punishment prohibited.**

18 (a) ~~Each local board of education shall determine whether corporal punishment will be~~
19 ~~permitted in its school administrative unit.~~Corporal punishment is prohibited. ~~Notwithstanding a~~
20 ~~local board of education's prohibition on the use of corporal punishment, the foregoing,~~ school
21 personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and
22 reasonable force pursuant to G.S. 115C-390.3.

23 (b) ~~To the extent that corporal punishment is permitted, the policies adopted for the~~
24 ~~administration of corporal punishment shall include at a minimum the following:~~

- 25 (1) ~~Corporal punishment shall not be administered in a classroom with other~~
26 ~~students present.~~
- 27 (2) ~~Only a teacher, principal, or assistant principal may administer corporal~~
28 ~~punishment and may do so only in the presence of a principal, assistant~~
29 ~~principal, or teacher who shall be informed beforehand and in the student's~~
30 ~~presence of the reason for the punishment.~~
- 31 (3) ~~A school person shall provide the student's parent with notification that~~
32 ~~corporal punishment has been administered, and the person who administered~~
33 ~~the corporal punishment shall provide the student's parent a written~~
34 ~~explanation of the reasons and the name of the second person who was present.~~
- 35 (4) ~~The school shall maintain records of each administration of corporal~~
36 ~~punishment and the reasons for its administration.~~



1 (5) ~~In no event shall excessive force be used in the administration of corporal~~
 2 ~~punishment. Excessive force includes force that results in injury to the child~~
 3 ~~that requires medical attention beyond simple first aid.~~

4 (6) ~~Corporal punishment shall not be administered on a student whose parent or~~
 5 ~~guardian has stated in writing that corporal punishment shall not be~~
 6 ~~administered to that student. Parents and guardians shall be given a form to~~
 7 ~~make such an election at the beginning of the school year or when the student~~
 8 ~~first enters the school during the year. The form shall advise the parent or~~
 9 ~~guardian that the student may be subject to suspension, among other possible~~
 10 ~~punishments, for offenses that would otherwise not require suspension if~~
 11 ~~corporal punishment were available. If the parent or guardian does not return~~
 12 ~~the form, corporal punishment may be administered on the student.~~

13 (e) ~~Each local board of education shall report annually to the State Board of Education,~~
 14 ~~in a manner prescribed by the State Board of Education, on the number of times that corporal~~
 15 ~~punishment was administered. The report shall be in compliance with the federal Family~~
 16 ~~Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:~~

- 17 (1) ~~The number of students who received corporal punishment.~~
- 18 (2) ~~The number of students who received corporal punishment who were also~~
 19 ~~students with disabilities and were eligible to receive special education and~~
 20 ~~related services under the federal Individuals with Disabilities Education Act,~~
 21 ~~20 U.S.C. § 1400, et seq.~~
- 22 (3) ~~The grade level of the students who received corporal punishment.~~
- 23 (4) ~~The race, gender, and ethnicity of the students who received corporal~~
 24 ~~punishment.~~
- 25 (5) ~~The reason for the administration of the corporal punishment for each student~~
 26 ~~who received corporal punishment."~~

27 **SECTION 2.** G.S. 115C-12(27) reads as rewritten:

28 "**§ 115C-12. Powers and duties of the Board generally.**

29 The general supervision and administration of the free public school system shall be vested
 30 in the State Board of Education. The State Board of Education shall establish all needed rules
 31 and regulations for the system of free public schools, subject to laws enacted by the General
 32 Assembly. In accordance with Sections 7 and 8 of Article III of the North Carolina Constitution,
 33 the Superintendent of Public Instruction, as an elected officer and Council of State member, shall
 34 administer all needed rules and regulations adopted by the State Board of Education through the
 35 Department of Public Instruction. The powers and duties of the State Board of Education are
 36 defined as follows:

- 37 ...
- 38 (27) Reporting Dropout Rates, ~~Corporal Punishment~~, Suspensions, Expulsions,
 39 and Alternative Placements. – The State Board shall report by March 15 of
 40 each year to the Joint Legislative Education Oversight Committee on the
 41 numbers of students who have dropped out of school, ~~been subjected to~~
 42 ~~corporal punishment~~, been suspended, been expelled, been reassigned for
 43 disciplinary purposes, or been provided alternative education services. The
 44 data shall be reported in a disaggregated manner, reflecting the local school
 45 administrative unit, race, gender, grade level, ethnicity, and disability status
 46 of each affected student. Such data shall be readily available to the public. The
 47 State Board shall not include students that have been expelled from school
 48 when calculating the dropout rate. The Board shall maintain a separate record
 49 of the number of students who are expelled from school and the reasons for
 50 the expulsion.

51 "

1 **SECTION 3.** G.S. 115C-107.7 reads as rewritten:

2 "**§ 115C-107.7. Discipline, corporal punishment, Discipline and homebound instruction.**

3 (a) The policies and procedures for the discipline of students with disabilities shall be
4 consistent with federal laws and regulations.

5 ~~(a1) Any corporal punishment administered on students with disabilities shall be
6 consistent with the requirements of G.S. 115C-390.4.~~

7 (b) If a change of placement occurs under the discipline regulations of IDEA, a local
8 educational agency shall not assign a student to homebound instruction without a determination
9 by the student's IEP team that the homebound instruction is the least restrictive alternative
10 environment for that student. If it is determined that the homebound instruction is the least
11 restrictive alternative environment for the student, the student's IEP team shall meet to determine
12 the nature of the homebound educational services to be provided to the student. In addition, the
13 continued appropriateness of the homebound instruction shall be evaluated monthly by the
14 designee or designees of the student's IEP team.

15 (c) A local educational agency shall be deemed to have a "basis of knowledge" that a
16 child is a child with a disability if, prior to the behavior that precipitated the disciplinary action,
17 the behavior and performance of the child clearly and convincingly establishes the need for
18 special education. Prior disciplinary infractions shall not, standing alone, constitute clear and
19 convincing evidence."

20 **SECTION 4.** G.S. 115C-276(r) reads as rewritten:

21 "**§ 115C-276. Duties of superintendent.**

22 ...

23 (r) To Maintain Student Discipline. – The superintendent shall maintain student
24 discipline in accordance with Article 27 of this Chapter and shall keep data on each student ~~to~~
25 ~~whom corporal punishment was administered~~, who was suspended for more than 10 days, who
26 was reassigned for disciplinary reasons, or who was expelled. This data shall include the race,
27 gender, age, grade level, ethnicity, and disability status of each student, the duration of
28 suspension for each student, whether alternative education services were provided for each
29 student, and whether a student had multiple suspensions in that academic year.

30 "

31 **SECTION 5.** G.S. 115C-390.2(h) reads as rewritten:

32 "**§ 115C-390.2. Discipline policies.**

33 ...

34 (h) Board policies shall include the procedures to be followed by school officials in
35 ~~suspending, expelling, or administering corporal punishment to~~ suspending or expelling any
36 student, which shall be consistent with this Article.

37 "

38 **SECTION 6.** G.S. 6-21.4 is repealed.

39 **SECTION 7.** This act is effective when it becomes law and applies beginning with
40 the 2019-2020 school year. Section 6 of this act does not apply to civil actions arising from the
41 use of corporal punishment prior to the effective date of this act.