

**Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 04-0216.01 Michael Dohr

HOUSE BILL 04-1137

HOUSE SPONSORSHIP

Frangas, Cloer, Jahn, King, Paccione, Pommer, Vigil, and White

SENATE SPONSORSHIP

Groff,

House Committees

Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PUBLIC SCHOOL STUDENT'S RIGHT**
102 **TO HAVE A GUARDIAN PRESENT WHEN THE STUDENT SIGNS A**
103 **STATEMENT THAT COULD RESULT IN EXPULSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires that a parent, legal guardian, or legal or physical custodian be present when a student signs a statement or admission concerning an act that could result in expulsion.

Makes an exception to the requirement when:

The student is accompanied by a responsible adult acting as a custodian or parent;

The parent, legal guardian, or legal or physical custodian

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 9, 2004

and the student execute a waiver of the requirement; or
The student makes deliberate misrepresentations that affect
the applicability of the requirement and the school official
relies on those misrepresentations in good faith.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 33 of title 22, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **22-33-106.3. Disciplinary investigations - parental presence -**
6 **student statements.** (1) A PUBLIC SCHOOL EMPLOYEE SHALL NOT USE A
7 STUDENT'S STATEMENT CONCERNING AN ACT ALLEGED TO HAVE BEEN
8 COMMITTED BY THE STUDENT THAT RESULTS IN MANDATORY EXPULSION
9 PURSUANT TO SECTION 22-33-106 (1) (d), IN THE EXPULSION HEARING,
10 UNLESS THE STATEMENT IS SIGNED BY THE STUDENT AND A PARENT,
11 GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN IS PRESENT WHEN THE
12 STUDENT SIGNS THE STATEMENT OR ADMISSION OR A REASONABLE
13 ATTEMPT WAS MADE TO CONTACT THE PARENT, GUARDIAN, OR LEGAL OR
14 PHYSICAL CUSTODIAN TO HAVE THE PARENT, GUARDIAN, OR LEGAL OR
15 PHYSICAL CUSTODIAN PRESENT WHEN THE STUDENT SIGNED THE
16 STATEMENT. [REDACTED]

17 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF
18 THIS SECTION, THE STUDENT AND HIS OR HER PARENT, GUARDIAN, OR
19 LEGAL OR PHYSICAL CUSTODIAN MAY EXPRESSLY WAIVE THE
20 REQUIREMENT THAT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL
21 CUSTODIAN BE PRESENT WHEN A STUDENT SIGNS A STATEMENT OR
22 ADMISSION. THIS EXPRESS WAIVER SHALL BE IN WRITING AND SHALL BE
23 OBTAINED ONLY AFTER FULL ADVISEMENT OF THE STUDENT AND HIS OR

1 HER PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN OF THE
2 STUDENT'S RIGHTS PRIOR TO THE SIGNING OF THE STATEMENT OR
3 ADMISSION BY THE STUDENT.

4 (3) THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION SHALL
5 NOT APPLY IF THE STUDENT MAKES ANY DELIBERATE MISREPRESENTATIONS
6 AFFECTING THE APPLICABILITY OR REQUIREMENTS OF THIS SECTION AND
7 A SCHOOL OFFICIAL, ACTING IN GOOD FAITH AND IN REASONABLE RELIANCE
8 ON SUCH DELIBERATE MISREPRESENTATION, OBTAINS A SIGNED STATEMENT
9 OR ADMISSION OF THE STUDENT THAT DOES NOT COMPLY WITH THE
10 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION.

11 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT
12 OR INTERFERE WITH A FACT-FINDING OR INFORMATION-GATHERING
13 INVESTIGATION BY A SCHOOL OR SCHOOL EMPLOYEE.

14 (5) FOR THE PURPOSES OF THIS SECTION, "PHYSICAL CUSTODIAN"
15 SHALL HAVE THE SAME MEANING AS THAT TERM IS DEFINED IN SECTION
16 19-1-103 (84), C.R.S.

17 **SECTION 2. Effective date.** This act shall take effect at 12:01
18 a.m. on the day following the expiration of the ninety-day period after
19 final adjournment of the general assembly that is allowed for submitting
20 a referendum petition pursuant to article V, section 1 (3) of the state
21 constitution (August 4, 2004, if adjournment sine die is on May 5, 2004);
22 except that, if a referendum petition is filed against this act or an item,
23 section, or part of this act within such period, then the act, item, section,
24 or part, if approved by the people, shall take effect on the date of the
25 official declaration of the vote thereon by proclamation of the governor.