

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0216.01 Michael Dohr

**HOUSE BILL 04-1137**

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**HOUSE SPONSORSHIP**

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

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**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.**

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**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.*

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.

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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 22-103 (1)(d), IN THE EXPULSION HEARING, UNLESS  
10 THE STATEMENT IS SIGNED BY THE STUDENT AND A PARENT, GUARDIAN, OR  
11 LEGAL OR PHYSICAL CUSTODIAN IS PRESENT WHEN THE STUDENT SIGNS THE  
12 STATEMENT OR ADMISSION OR A REASONABLE ATTEMPT WAS MADE TO  
13 CONTACT THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN TO  
14 HAVE THE PARENT, GUARDIAN, OR LEGAL OR PHYSICAL CUSTODIAN  
15 PRESENT WHEN THE STUDENT SIGNED THE STATEMENT.

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

1 STUDENT'S RIGHTS PRIOR TO THE SIGNING OF THE STATEMENT OR  
2 ADMISSION BY THE STUDENT.

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

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

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

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