

## 1 HOUSE BILL NO. 384

2 INTRODUCED BY J. O'NEIL

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROCEDURES FOR SUSPENSION AND EXPULSION  
5 OF STUDENTS FOR VIOLATIONS RELATED TO FIREARMS; CLARIFYING THE DEFINITIONS OF "SCHOOL"  
6 AND "FIREARM"; PROVIDING THAT A FIREARM IN A LOCKED VEHICLE ON SCHOOL PROPERTY DOES  
7 NOT CONSTITUTE POSSESSION OF A FIREARM AT SCHOOL; PROTECTING THE INTEGRITY OF  
8 STUDENT RECORDS; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO MAKE PUBLIC CERTAIN  
9 INFORMATION; AMENDING SECTION 20-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
10 AND AN APPLICABILITY DATE."  
11

12 WHEREAS, hunting and shooting sports are an integral component of Montana history and culture; and  
13 WHEREAS, the Legislature finds that to honor that history and culture, public schools in Montana shall  
14 support hunting and shooting sports.  
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
17

18 **Section 1.** Section 20-5-202, MCA, is amended to read:

19 **"20-5-202. Suspension and expulsion -- firearms.** (1) As provided in 20-4-302, 20-4-402, and  
20 20-4-403, a pupil may be suspended by a teacher, superintendent, or principal. The trustees of the district shall  
21 adopt a policy defining the authority and procedure to be used by a teacher, superintendent, or principal in the  
22 suspension of a pupil and in defining the circumstances and procedures by which the trustees may expel a pupil.  
23 Procedures for expulsion must include an evidentiary hearing. Expulsion is any removal of a pupil for more than  
24 20 school days without the provision of educational services and is a disciplinary action available only to the  
25 trustees. A pupil may be suspended from school for an initial period not to exceed 10 school days. Upon a finding  
26 by a school administrator that the immediate return to school by a pupil would be detrimental to the health,  
27 welfare, or safety of others or would be disruptive of the educational process, a pupil may be suspended for one  
28 additional period not to exceed 10 school days if the pupil is granted an informal hearing with the school  
29 administrator prior to the additional suspension and if the decision to impose the additional suspension does not  
30 violate the Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

1           (2) (a) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to  
 2 have brought a firearm, as defined in 18 U.S.C. 921, to school or to have possessed a firearm at school and for  
 3 referring the matter to the appropriate local law enforcement agency. A student who is determined to have  
 4 brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from  
 5 school for a period of not less than 1 year, except that the trustees may authorize the school administration to  
 6 modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement  
 7 of a student with a disability who has been expelled pursuant to this section must be made in accordance with  
 8 the Individuals With Disabilities Education Act.

9           (b) Except as provided in subsection (2)(c), for the purposes of this section the term "school" means a  
 10 school building, grounds, or property.

11           (c) A firearm that is secured in a locked container approved by the district or in a locked motor vehicle  
 12 the entire time that it is on school grounds or property, except while in use for a school-sanctioned instructional  
 13 activity, is not considered to have been brought to school or possessed at school.

14           (3) In accordance with 20-4-302, 20-4-402, 20-4-403, and subsection (1) of this section, a teacher, a  
 15 superintendent, or a principal ~~shall suspend~~ may immediately suspend ~~for good cause~~ a student ~~who is~~  
 16 ~~determined to have~~ if there is probable cause to believe the student brought a firearm to school or possessed a  
 17 firearm at school.

18           (4) Nothing in this section prevents a school district from:

19           (a) offering instructional activities related to firearms or allowing ~~a student to bring~~ a firearm ~~to be brought~~  
 20 to school or to possess a firearm at school for instructional activities sanctioned by the district if:

21           (i) the district has in place appropriate safeguards to ensure student safety; and

22           (ii) the firearm is secured in a locked container approved by the school district when the firearm is on  
 23 school grounds and is not in use for the instructional activity; or

24           (b) providing educational services in an alternative setting to a student who has been expelled from the  
 25 student's regular school setting.

26           (5) The following are not included in the definition of a firearm:

27           (a) a picture of a firearm;

28           (b) a fractional-sized replica of a firearm such as on a toy soldier, a charm bracelet, a necklace, or a lapel  
 29 pin;

30           (c) a person imitating the sound of a firearm discharge; and

1           (d) a person forming the person's hand into the shape of a firearm.

2           (6) A student alleged to have brought a firearm to school or to have possessed a firearm at school has  
3 the right to due process before being expelled.

4           (7) The school record of a student who undergoes an evidentiary hearing and is found not to have  
5 violated this section must clearly indicate that the student was not found to have violated this section and was  
6 not disciplined under this section.

7           (8) Before holding a hearing to determine if a student has violated this section, the trustees of a district  
8 shall in a clear and timely manner notify the student, if an adult, or the parents or guardian of a minor student that  
9 they may waive the student's privacy interest and request a public hearing.

10           (9) The office of public instruction shall redact all personally identifiable information from and then make  
11 available on its official website the information that it gathers from school districts and annually provides to the  
12 federal government to meet its reporting obligations under the federal Gun-Free Schools Act, 20 U.S.C. 7151."

13

14           NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

15

16           NEW SECTION. Section 3. Applicability. [This act] applies to school years beginning after July 1,  
17 2013.

18

- END -