

106TH CONGRESS
2^D SESSION

S. 2517

To amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to allow school personnel to apply appropriate discipline measures to all students in cases involving weapons, illegal drugs, and assaults upon teachers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2000

Mr. ASHCROFT introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to allow school personnel to apply appropriate discipline measures to all students in cases involving weapons, illegal drugs, and assaults upon teachers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “School Safety Act of
5 2000”.

1 **SEC. 2. AMENDMENTS TO THE INDIVIDUALS WITH DISABIL-**
2 **ITIES EDUCATION ACT.**

3 (a) PROCEDURAL SAFEGUARDS.— Section 615 of the
4 Individuals with Disabilities Education Act (20 U.S.C.
5 1415) is amended by adding at the end the following:

6 “(n) DISCIPLINE BY LOCAL AUTHORITY WITH RE-
7 SPECT TO WEAPONS, DRUGS, AND TEACHER AS-
8 SAULTS.—

9 “(1) AUTHORITY OF SCHOOL PERSONNEL WITH
10 RESPECT TO WEAPONS, DRUGS, AND TEACHER AS-
11 SAULTS.—Notwithstanding any other provision of
12 this title, school personnel may discipline (including
13 expel or suspend) a child with a disability in the
14 same manner in which such personnel may discipline
15 a child without a disability if the child with a
16 disability—

17 “(A) carries or possesses a weapon to or at
18 a school, on school premises, or to or at a
19 school function under the jurisdiction of a State
20 or a local educational agency;

21 “(B) threatens to carry, possess, or use a
22 weapon to or at a school, on school premises, or
23 to or at a school function under the jurisdiction
24 of a State or a local educational agency;

25 “(C) possesses or uses illegal drugs or sells
26 or solicits the sale of a controlled substance

1 while at school, on school premises, or at a
2 school function under the jurisdiction of a State
3 or local educational agency; or

4 “(D) assaults or threatens to assault a
5 teacher, teacher’s aide, principal, school coun-
6 selor, or other school personnel, including inde-
7 pendent contractors and volunteers.

8 “(2) INDIVIDUAL DETERMINATIONS.—In car-
9 rying out any disciplinary action described in para-
10 graph (1), school personnel have discretion to con-
11 sider all germane factors in each individual case and
12 modify any disciplinary action on a case-by-case
13 basis.

14 “(3) DEFENSE.—Nothing in paragraph (1)
15 shall be construed to prevent a child with a disability
16 who is disciplined pursuant to the authority provided
17 under paragraph (1) from asserting a defense that
18 the alleged act was unintentional or innocent.

19 “(4) FREE APPROPRIATE PUBLIC EDU-
20 CATION.—

21 “(A) CEASING TO PROVIDE EDUCATION.—
22 Notwithstanding section 612(a)(1)(A), or any
23 other provision of this title, a child expelled or
24 suspended under paragraph (1) shall not be en-
25 titled to continued educational services, includ-

1 ing a free appropriate public education, under
2 this subsection, during the term of such expul-
3 sion or suspension, if the State in which the
4 local educational agency responsible for pro-
5 viding educational services to such child does
6 not require a child without a disability to re-
7 ceive educational services after being expelled or
8 suspended.

9 “(B) PROVIDING EDUCATION.—Notwith-
10 standing subparagraph (A), the local edu-
11 cational agency responsible for providing edu-
12 cational services to a child with a disability who
13 is expelled or suspended under paragraph (1)
14 may choose to continue to provide educational
15 services to such child. If the local educational
16 agency so chooses to continue to provide the
17 services—

18 “(i) nothing in this subsection shall be
19 construed to require the local educational
20 agency to provide such child with a free
21 appropriate public education, or any par-
22 ticular level of service; and

23 “(ii) the location where the local edu-
24 cational agency provides the services shall

1 be left to the discretion of the local edu-
2 cational agency.

3 “(5) RELATIONSHIP TO OTHER REQUIRE-
4 MENTS.—

5 “(A) PLAN REQUIREMENTS.—No agency
6 shall be considered to be in violation of section
7 612 or 613 because the agency has provided
8 discipline, services, or assistance in accordance
9 with this subsection.

10 “(B) PROCEDURE.—None of the proce-
11 dural safeguards or disciplinary procedures of
12 this Act shall apply to this subsection, and the
13 relevant procedural safeguards and disciplinary
14 procedures applicable to children without dis-
15 abilities may be applied to the child with a dis-
16 ability in the same manner in which such safe-
17 guards and procedures would be applied to chil-
18 dren without disabilities.

19 “(6) DEFINITIONS.—In this subsection:

20 “(A) THREATEN TO CARRY, POSSESS, OR
21 USE A WEAPON.—The term ‘threaten to carry,
22 possess, or use a weapon’ includes behavior in
23 which a child verbally threatens to kill another
24 person.

1 “(B) WEAPON, ILLEGAL DRUG, CON-
 2 TROLLED SUBSTANCE, AND ASSAULT.—The
 3 terms ‘weapon’, ‘illegal drug’, ‘controlled sub-
 4 stance’, ‘assault’, ‘unintentional’, and ‘innocent’
 5 have the meanings given such terms under
 6 State law.”.

7 (b) CONFORMING AMENDMENTS.—Section 615 of the
 8 Individuals with Disabilities Education Act (20 U.S.C.
 9 1415) is amended—

10 (1) in subsection (f)(1), by striking “Whenever”
 11 and inserting the following: “Except as provided in
 12 section 615(n), whenever”; and

13 (2) in subsection (k)—

14 (A) in paragraph (1), by striking subpara-
 15 graph (A) and inserting the following:

16 “(A) In any disciplinary situation except for
 17 such situations as described in subsection (n), school
 18 personnel under this section may order a change in
 19 the placement of a child with a disability to an ap-
 20 propriate interim alternative educational setting, an-
 21 other setting, or suspension, for not more than 10
 22 school days (to the extent such alternatives would
 23 apply to children without disabilities).”;

24 (B) by striking paragraph (3) and insert-
 25 ing the following:

1 “(3) Any interim alternative educational setting in
2 which a child is placed under paragraph (1) or (2) shall—

3 “(A) be selected so as to enable the child to
4 continue to participate in the general curriculum, al-
5 though in another setting, and to continue to receive
6 those services and modifications, including those de-
7 scribed in the child’s current IEP, that will enable
8 the child to meet the goals set out in that IEP; and

9 “(B) include services and modifications de-
10 signed to address the behavior described in para-
11 graphs (1) or (2) so that it does not recur.”;

12 (C) in paragraph (6)(B)—

13 (i) in clause (i), by striking “(i) In re-
14 viewing” and inserting “In reviewing”; and

15 (ii) by striking clause (ii);

16 (D) in paragraph (7)—

17 (i) in subparagraph (A), by striking
18 “paragraph (1)(A)(ii) or” each place it ap-
19 pears; and

20 (ii) in subparagraph (B), by striking
21 “paragraph (1)(A)(ii) or”; and

22 (E) by striking paragraph (10) and insert-
23 ing the following:

