

28 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
29 school or school property, to a person associated with the school, or property associated with
30 that person, regardless of where it occurs.

31 (2) (a) A student shall be suspended or expelled from a public school for any of the
32 following reasons:

33 (i) any serious violation affecting another student or a staff member, or any serious
34 violation occurring in a school building, in or on school property, or in conjunction with any
35 school activity, including:

36 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or
37 noxious or flammable material [~~under Section 53A-3-502~~];

38 (B) the actual or threatened use of a look alike weapon with intent to intimidate another
39 person or to disrupt normal school activities; or

40 (C) the sale, control, or distribution of a drug or controlled substance as defined in
41 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug
42 paraphernalia as defined in Section 58-37a-3; or

43 (ii) the commission of an act involving the use of force or the threatened use of force
44 which if committed by an adult would be a felony or class A misdemeanor.

45 (b) A student who commits a violation of Subsection (2)(a) involving a real or look
46 alike weapon, explosive, or flammable material shall be expelled from school for a period of
47 not less than one year subject to the following:

48 (i) within 45 days after the expulsion the student shall appear before the student's local
49 school board superintendent or the superintendent's designee, accompanied by a parent or legal
50 guardian; and

51 (ii) the superintendent shall determine:

52 (A) what conditions must be met by the student and the student's parent for the student
53 to return to school;

54 (B) if the student should be placed on probation in a regular or alternative school
55 setting consistent with Section 53A-11-907, and what conditions must be met by the student in
56 order to ensure the safety of students and faculty at the school the student is placed in; and

57 (C) if it would be in the best interest of both the school district and the student to
58 modify the expulsion term to less than a year, conditioned on approval by the local school

59 board and giving highest priority to providing a safe school environment for all students.

60 (3) A student may be denied admission to a public school on the basis of having been
61 expelled from that or any other school during the preceding 12 months.

62 (4) A suspension or expulsion under this section is not subject to the age limitations
63 under Subsection 53A-11-102(1).

64 (5) Each local school board shall prepare an annual report for the State Board of
65 Education on:

66 (a) each violation committed under this section; and

67 (b) each action taken by the school district against a student who committed the
68 violation.

69 Section 2. Section **76-10-503** is amended to read:

70 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
71 **dangerous weapons by certain persons.**

72 (1) For purposes of this section:

73 (a) A Category I restricted person is a person who:

74 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

75 (ii) is on probation or parole for any felony;

76 (iii) is on parole from a secure facility as defined in Section 62A-7-101; or

77 (iv) within the last ten years has been adjudicated delinquent for an offense which if
78 committed by an adult would have been a violent felony as defined in Section 76-3-203.5.

79 (b) A Category II restricted person is a person who:

80 (i) has been convicted of or is under indictment for any felony;

81 (ii) within the last seven years has been adjudicated delinquent for an offense which if
82 committed by an adult would have been a felony;

83 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

84 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
85 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

86 (v) has been found not guilty by reason of insanity for a felony offense;

87 (vi) has been found mentally incompetent to stand trial for a felony offense;

88 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
89 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed

90 to a mental institution;

91 (viii) is an alien who is illegally or unlawfully in the United States;

92 (ix) has been dishonorably discharged from the armed forces; or

93 (x) has renounced his citizenship after having been a citizen of the United States.

94 (2) A Category I restricted person who purchases, transfers, possesses, uses, or has
95 under his custody or control:

96 (a) any firearm is guilty of a second degree felony; or

97 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

98 (3) A Category II restricted person who purchases, transfers, possesses, uses, or has
99 under his custody or control:

100 (a) any firearm is guilty of a third degree felony; or

101 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

102 (4) A person may be subject to the restrictions of both categories at the same time.

103 (5) If a higher penalty than is prescribed in this section is provided in another section
104 for one who purchases, transfers, possesses, uses, or has under this custody or control any
105 dangerous weapon, the penalties of that section control.

106 (6) It is an affirmative defense to a charge based on the definition in Subsection
107 (1)(b)(iv) that the person was:

108 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
109 for use of a member of the person's household or for administration to an animal owned by the
110 person or a member of the person's household; or

111 (b) otherwise authorized by law to possess the substance.

112 Section 3. Section **76-10-505.5** is amended to read:

113 **76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on**
114 **or about school premises -- Penalties.**

115 (1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as
116 those terms are defined in Section 76-10-501, at a place that the person knows, or has
117 reasonable cause to believe, is on or about school premises as defined in Subsection
118 76-3-203.2(1).

119 (2) (a) Possession of a dangerous weapon on or about school premises is a class B
120 misdemeanor.

121 (b) Possession of a firearm or sawed-off shotgun on or about school premises is a class
122 A misdemeanor.

123 (3) This section [~~applies to any person, except persons~~] does not apply if:

124 (a) the person is authorized to possess a firearm as provided under Sections 53-5-704,
125 53-5-705, [~~53A-3-502,~~]76-10-511, 76-10-523, or § [~~Subsection [76-10-504(2), and]~~
126 ~~76-10-500(1), or~~] § as otherwise authorized by law[-];

127 (b) the possession is approved by the responsible school administrator; § [~~or~~] §

128 (c) the item is present or to be used in connection with a lawful, approved activity and
129 is in the possession or under the control of the person responsible for its possession or use § [-]; OR

129a (d) **THE POSSESSION IS:**

129b (i) **AT THE PERSON'S PLACE OF RESIDENCE OR ON THE PERSON'S PROPERTY;**

129c (ii) **IN ANY VEHICLE LAWFULLY UNDER THE PERSON'S CONTROL, OTHER THAN A VEHICLE**
129d **OWNED BY THE SCHOOL OR USED BY THE SCHOOL TO TRANSPORT STUDENTS; OR**

129e (iii) **AT THE PERSON'S PLACE OF BUSINESS WHICH IS NOT LOCATED IN THE AREAS**
129f **DESCRIBED IN SUBSECTIONS 76-3-203.2(1)(a)(i), (ii), OR (iv). §**

130 (4) This section does not prohibit prosecution of a more serious weapons offense that
131 may occur on or about school premises.

131a **§ Section 4. Section 76-10-530 is amended to read:**

131b **76-10-530. Trespass with a firearm in a house of worship or private residence -- Notice --**
131c **Penalty.**

131d (1) **A person, including a person licensed to carry a concealed firearm pursuant to Title 53,**
131e **Chapter 5, Part 7, Concealed Weapon Act, after [~~having received~~] notice HAS BEEN GIVEN as provided**
131f **in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:**

131g (a) **transport a firearm into:**

131h (i) **a house of worship; or**

131i (ii) **a private residence; or**

131j (b) **while in possession of a firearm, enter or remain in:**

131k (i) **a house of worship; or**

131l (ii) **a private residence.**

131m (2) **Notice that firearms are prohibited may be [~~made~~] GIVEN by:**

131n (a) **personal communication to the actor by:**

131o (i) **the church or organization operating the house of worship;**

131p (ii) **the owner, lessee, or person with lawful right of possession of the private residence; or**

131q (iii) **a person with authority to act for the person or entity in Subsections (2)(a)(i) and (ii); [~~or~~]**

131r (b) **posting of signs reasonably likely to come to the attention of persons entering the house**
131s **of worship or private residence[-];**

131t (c) **ANNOUNCEMENT, BY A PERSON WITH AUTHORITY TO ACT FOR THE CHURCH OR**
131u **ORGANIZATION OPERATING THE HOUSE OF WORSHIP, IN A REGULAR §**

- 131v § CONGREGATIONAL MEETING IN THE HOUSE OF WORSHIP;
 131w (d) PUBLICATION IN A BULLETIN, NEWSLETTER, WORSHIP PROGRAM OR SIMILAR
 131x DOCUMENT GENERALLY CIRCULATED OR AVAILABLE TO THE MEMBERS OF THE CONGREGATION
 131y REGULARLY MEETING IN THE HOUSE OF WORSHIP; OR
 131z (e) PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH
 131aa THE HOUSE OF WORSHIP IS LOCATED OR THE CHURCH OR ORGANIZATION OPERATING THE
 131ab HOUSE OF WORSHIP HAS ITS PRINCIPAL OFFICE IN THIS STATE.
 131ac (3) A CHURCH OR ORGANIZATION OPERATING A HOUSE OF WORSHIP AND GIVING NOTICE
 131ad THAT FIREARMS ARE PROHIBITED MAY:
 131ae (a) REVOKE THE NOTICE, WITH OR WITHOUT SUPERSEDURE, BY GIVING FURTHER NOTICE
 131af IN ANY MANNER PROVIDED IN SUBSECTION (2); AND
 131ag (b) PROVIDE OR ALLOW EXCEPTIONS TO THE PROHIBITION AS THE CHURCH OR
 131ah ORGANIZATION CONSIDERS ADVISABLE.
 131ai (4) (a) ^h (i) ^h WITHIN 30 DAYS OF GIVING OR REVOKING ANY NOTICE PURSUANT TO
 131ai1 SUBSECTION
 131aj (2)(c), (2)(d), OR (2)(e), A CHURCH OR ORGANIZATION OPERATING A HOUSE OF WORSHIP SHALL
 131ak NOTIFY THE DIVISION ON A FORM AND IN A MANNER AS THE DIVISION SHALL PRESCRIBE.
 131ak1 ^h (ii) THE DIVISION SHALL POST ON ITS WEBSITE A LIST OF THE CHURCHES AND
 131ak2 ORGANIZATIONS OPERATING HOUSES OF WORSHIP WHO HAVE GIVEN NOTICE UNDER
 131ak3 SUBSECTION 4(a)(i). ^h
 131ak4 (b) ANY NOTICE GIVEN PURSUANT TO SUBSECTION (2)(c), (2)(d), OR
 131am (2)(e) SHALL REMAIN IN EFFECT UNTIL REVOKED OR FOR A PERIOD OF ^h [FIVE-YEARS]
 131am1 ONE YEAR ^h FROM
 131an THE DATE THE NOTICE WAS ORIGINALLY GIVEN, WHICHEVER OCCURS FIRST.
 131ao ~~[(3)]~~ (5) Nothing in this section permits an owner who has granted the lawful right of
 131ap possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in
 131aq the residence.
 131ar ~~[(4)]~~ (6) A violation of this section is an infraction. §
 132 Section § ~~[4]~~ 5 § . Repealer.
 133 This act repeals:
 134 Section 53A-3-502, Dangerous materials in the public schools -- Class B
 135 misdemeanor -- Exceptions.

Legislative Review Note
 as of 12-18-02 6:33 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0108

Dangerous Weapons Amendments

24-Jan-03

8:47 AM

State Impact

No fiscal impact

Individual and Business Impact

None

Office of the Legislative Fiscal Analyst