

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 1135
Committee Substitute Favorable 4/24/03**

Short Title: Education Instead of Long-Term Suspension.

(Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ENSURE THAT STUDENTS RECOMMENDED FOR LONG-TERM
2 SUSPENSION RECEIVE A FREE AND APPROPRIATE EDUCATION.
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4 Whereas, providing students with a nurturing school experience in which they
5 are able to grow socially, intellectually, and emotionally is an effective strategy for
6 keeping them out of trouble; and

7 Whereas, unfortunately, too many young North Carolinians are deprived of
8 this school experience; and

9 Whereas, when suspended students are not otherwise involved, their
10 likelihood of getting into trouble and involved with the law and the juvenile justice
11 system dramatically increases; and

12 Whereas, most students with behavior problems should be maintained in their
13 regular schools and communities, to the extent possible; and

14 Whereas, to follow the letter and spirit of the *Leandro* decision, the schools
15 must give all suspended students, including the few who need to be placed in special
16 settings, a sound basic education; and

17 Whereas, these students should also receive special services as needed and as
18 directed under special education procedures under State and federal law; Now,
19 therefore,

20 The General Assembly of North Carolina enacts:

21 **SECTION 1.** The Department of Public Instruction, in conjunction with the
22 Department of Juvenile Justice and Delinquency Prevention and the Division of Mental
23 Health, Developmental Disabilities, and Substance Abuse Services, shall develop a
24 State plan to ensure that students recommended for long-term suspension receive a free
25 and appropriate education. In the course of developing the plan, these agencies shall
26 consult with the Communities In Schools Program, the North Carolina Child Advocacy
27 Institute, the North Carolina Justice and Community Development Center, and the
28 Covenant with North Carolina's Children.

1 **SECTION 2.** The committee shall consider and report on whether and to
2 what extent North Carolina should mandate the following:

- 3 (1) Local school administrative units in North Carolina shall provide or
4 cause to be provided a free appropriate education for all students
5 recommended for a long-term suspension.
- 6 (2) Each student recommended for long-term suspension shall receive a
7 multidisciplinary assessment and evaluation to (i) ascertain his or her
8 educational history, needs, and special learning problems and (ii)
9 assess the risk the child poses to staff and other students. The
10 assessment and evaluation shall include feedback and
11 recommendations from local mental health and juvenile justice
12 professionals.
- 13 (3) An individualized education and service plan shall be developed for all
14 students recommended for long-term suspension by a committee that
15 includes education, mental health, and juvenile justice professionals,
16 the child's parent or guardian, and any other person the committee
17 deems appropriate. The chair of the Juvenile Crime Prevention
18 Council or a designee shall serve as chair of the committee.
- 19 (4) All efforts shall be made to reduce the risk the child poses to staff and
20 other students and to allow the child to continue his or her education in
21 his or her regular school without disruption. These efforts shall include
22 the provision of related services and interventions from other agencies
23 when deemed necessary by the committee.
- 24 (5) During the first 10 days of suspension, the local school administrative
25 unit shall place the student recommended for suspension in a
26 diagnostic setting for purposes of ensuring there is no disruption to his
27 or her education and to complete the assessment process.
- 28 (6) The local education agency shall contract with private or public
29 agencies if an appropriate education cannot be provided within the
30 school system. Funds appropriated to a local school administrative unit
31 for the education of the child shall be used to pay for the program in
32 which the child is placed.
- 33 (7) The child's parent or guardian shall have the right to appeal the
34 recommendation for the long-term suspension or any placement
35 decision made by the local school administrative unit.
- 36 (8) No child shall be rejected for education and services by a local school
37 administrative unit unless a district court judge places the child in a
38 juvenile justice program or facility. In that circumstance, the
39 Department of Juvenile Justice and Delinquency Prevention is
40 responsible for providing the child's education.

41 **SECTION 3.** The Department of Public Instruction shall report to the Joint
42 Legislative Commission on Governmental Operations and the Joint Legislative
43 Education Oversight Committee prior to April 15, 2004, on the plan it developed, the

1 cost of implementing the plan beginning with the 2004-2005 school year, and any
2 statutory changes necessary to implement the plan.

3 **SECTION 4.** It is the intent of the General Assembly to implement a plan
4 beginning with the 2004-2005 school year to ensure that students recommended for
5 long-term suspension receive a free and appropriate education.

6 **SECTION 5.** This act is effective when it becomes law.