

SENATE BILL NO. 84

INTRODUCED BY JACOBSON, BIANCHI, BLAYLOCK, MANNING,  
DOHERTY, TOWE, FRANKLIN, YELLOWTAIL, VAN VALKENBURG,  
LYNCH, VAUGHN, ECK, WATERMAN, DARKO, STICKNEY, COHEN,  
MCCARTHY, BROOKE, WYATT, KADAS, REAM, BACHINI, L. NELSON,  
RANEY, HANSEN, SQUIRES, BARNHART, SCHYE, WANZENRIED, S. RICE,  
BRADLEY, RUSSELL, HARPER, J. BROWN, HARRINGTON, O'KEEFE,  
DRISCOLL, MEASURE, STRIZICH, DAVIS, COCCHIARELLA, TOOLE,  
CONNELLY, J. JOHNSON, PAVLOVICH, KIMBERLEY, COBB

IN THE SENATE

JANUARY 14, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON EDUCATION & CULTURAL RESOURCES.

  FIRST READING.

JANUARY 31, 1991                   COMMITTEE RECOMMEND BILL  
  DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 1, 1991                   PRINTING REPORT.

  SECOND READING, DO PASS.

FEBRUARY 2, 1991                   ENGROSSING REPORT.

  THIRD READING, PASSED.  
  AYES, 29; NOES, 19.

  TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
  ON EDUCATION & CULTURAL RESOURCES.

  FIRST READING.

MARCH 20, 1991                   COMMITTEE RECOMMEND BILL BE  
  CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1991                   SECOND READING, CONCURRED IN.

MARCH 25, 1991                   THIRD READING, CONCURRED IN.  
  AYES, 63; NOES, 32.

  RETURNED TO SENATE.

IN THE SENATE

MARCH 25, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 84

INTRODUCED BY

*Jacobson Clarke*  
*Bradley Wyatt* *Beaman* *Melton*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A PERSON EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT FROM INFLECTING CORPORAL PUNISHMENT ON A PUPIL; TO DEFINE CORPORAL PUNISHMENT OF PUPILS; TO CLARIFY SITUATIONS IN WHICH A PERSON WHO IS EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT MAY USE PHYSICAL RESTRAINT ON A PUPIL; TO PROVIDE A FINE FOR

UNREASONABLE OR UNNECESSARY PHYSICAL RESTRAINT; AMENDING SECTION 20-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-4-302, MCA, is amended to read:

"20-4-302. Power-of-teacher-or-principal-over-pupils--  
undue Discipline and punishment of pupils -- definition of  
corporal punishment -- penalty. (1) Any A teacher or  
principal shall--have has the authority to hold any a pupil  
to a strict accountability for any disorderly conduct in  
school, on the way to or from school, or during intermission  
or recess. Whenever-a-principal-shall-deem-it-necessary-to  
inflict-corporal-punishment-in-order--to--maintain--orderly  
conduct--of--a-pupil--he--shall--administer--such-corporal  
punishment without-undue-anger-and-only-in-the-presence-of-a

witness--Before-any-corporal-punishment-is-administered, the  
parent-or-guardian-shall--be--notified--of--the--principal's  
intention--to--so--punish-his-child--except-that-in-cases-of  
open-and-flagrant-defiance-of-the-teacher, principal, or--of  
the--authority--of--the-school, the-teacher-or-principal may  
administer-corporal-punishment-without-giving-such-notice.

(2) For the purposes of this section, "corporal  
punishment" means the willful infliction of physical pain on  
a pupil as a disciplinary measure.

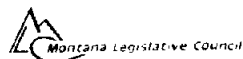
(3) A person who is employed or engaged by a school  
district may not inflict or cause to be inflicted corporal  
punishment on a pupil.

(4) (a) A person who is employed or engaged by a school  
district may use physical restraint on a pupil as is  
reasonable and necessary to:

- (i) quell a disturbance;
- (ii) provide self-protection;
- (iii) protect the pupil or others from physical injury;
- (iv) obtain possession of a weapon or other dangerous  
object on the person of the pupil or within control of the  
pupil; or
- (v) protect property from serious harm.

(b) The use of physical restraint may not be construed  
to constitute corporal punishment within the intent of this  
section.

INTRODUCED BILL  
SB 84



1       ~~{2}~~(5) Any A teacher in a district not employing  
2       neither a district superintendent or nor a principal of at  
3       the school where the teacher is assigned shall-have has the  
4       authority to suspend a pupil for good cause and---to  
5       administer corporal punishment in the presence of a witness,  
6       without---undue---anger. Where When either a district  
7       superintendent or a school principal is employed, only the  
8       superintendent or principal shall-have has the authority to  
9       suspend a pupil for good cause. Whenever a teacher suspends  
10      a pupil, he the teacher shall notify the trustees  
11      immediately of such the action.

12      ~~{3}~~(6) It shall be the duty of any A teacher has the  
13      duty to report the truancy or incorrigibility of any a pupil  
14      to the district superintendent, the principal, or the  
15      trustees, whichever is applicable.

16      ~~{4}~~(7) Any--teacher--or principal who shall maltreat or  
17      abuse--any pupil--by--administering--any--undue--or--severe  
18      punishment shall be deemed if a person who is employed or  
19      engaged by a school district uses more physical restraint  
20      than is reasonable or necessary, the person is guilty of a  
21      misdemeanor and, upon conviction of such the misdemeanor by  
22      a court of competent jurisdiction, shall be fined not less  
23      than \$25 or more than ~~\$100~~ \$500."

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

-End-

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

SENATE BILL NO. 84

1 INTRODUCED BY JACOBSON, BIANCHI, BLAYLOCK, MANNING,
2 DOHERTY, TOWE, FRANKLIN, YELLOWTAIL, VAN VALKENBURG,
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8 CONNELLY, J. JOHNSON, PAVLOVICH, KIMBERLEY, COBB

10 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A PERSON
11 EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT FROM INFLECTING
12 CORPORAL PUNISHMENT ON A PUPIL; TO DEFINE CORPORAL
13 PUNISHMENT OF PUPILS; TO CLARIFY SITUATIONS IN WHICH A
14 PERSON WHO IS EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT MAY
15 USE PHYSICAL RESTRAINT ON A PUPIL; TO PROVIDE A FINE FOR
16 UNREASONABLE OR UNNECESSARY PHYSICAL RESTRAINT; TO PROVIDE
17 AN AFFIRMATIVE DEFENSE; AMENDING SECTION 20-4-302, MCA; AND
18 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 20-4-302, MCA, is amended to read:

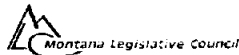
21 "20-4-302. Power-of-teacher-or-principal-over-pupils--
22 undue Discipline and punishment of pupils -- definition of
23 corporal punishment -- penalty -- DEFENSE. (1) Any A teacher

1 or principal shall--have has the authority to hold any a
2 pupil to a strict accountability for any disorderly conduct
3 in school, on the way to or from school, or during
4 intermission or recess. Whenever-a-principal-shall-deem-it
5 necessary--to--inflict--corporal--punishment--in--order---to
6 maintain--orderly--conduct--of--a-pupil, he shall administer
7 such-corporal-punishment-without-undue-anger-and-only-in-the
8 presence-of-a-witness. Before--any--corporal--punishment--is
9 administered,--the--parent--or-guardian-shall-be-notified-of
10 the-principal's-intention-to-so--punish--his--child,--except
11 that--in-cases-of-open-and-flagrant-defiance-of-the-teacher,
12 principal,--or-of-the-authority-of-the-school,--the-teacher-or
13 principal-may-administer-corporal-punishment-without--giving
14 such-notice.

15 (2) For the purposes of this section, "corporal
16 punishment" means the-willful-infliction--of KNOWINGLY AND
17 PURPOSELY INFLECTING physical pain on a pupil as a
18 disciplinary measure.

19 (3) A person who is employed or engaged by a school
20 district may not inflict or cause to be inflicted corporal
21 punishment on a pupil.

22 (4) (a) A person who is employed or engaged by a school
23 district may use physical restraint, DEFINED AS THE PLACING
24 OF HANDS on a pupil as IN A MANNER THAT is reasonable and
25 necessary to:



1        (i) quell a disturbance;  
 2        (ii) provide self-protection;  
 3        (iii) protect the pupil or others from physical injury;  
 4        (iv) obtain possession of a weapon or other dangerous  
 5 object on the person of the pupil or within control of the  
 6 pupil; or  
 7        (v) MAINTAIN THE ORDERLY CONDUCT OF A PUPIL INCLUDING  
 8 BUT NOT LIMITED TO RELOCATING A PUPIL IN A WAITING LINE,  
 9 CLASSROOM, LUNCHROOM, PRINCIPAL'S OFFICE, OR OTHER ON-CAMPUS  
 10 FACILITY; OR  
 11        (v)(VI) protect property from serious harm.  
 12        (b) ~~The use of physical restraints may not be construed~~  
 13 to constitute corporal punishment within the intent of this  
 14 section PHYSICAL PAIN RESULTING FROM THE USE OF PHYSICAL  
 15 RESTRAINT AS DEFINED IN SUBSECTION (4)(A) DOES NOT  
 16 CONSTITUTE CORPORAL PUNISHMENT AS LONG AS THE RESTRAINT IS  
 17 REASONABLE AND NECESSARY.  
 18        (2)(5) Any A teacher in a district not employing  
 19 neither a district superintendent or nor a principal of at  
 20 the school where the teacher is assigned shall have has the  
 21 authority to suspend a pupil for good cause and to  
 22 administer corporal punishment in the presence of a witness,  
 23 without undue anger. Where When either a district  
 24 sup. intendent or a school principal is employed, only the  
 25 superintendent or principal shall have has the authority to

1        suspend a pupil for good cause. Whenever a teacher suspends  
 2 a pupil, he the teacher shall notify the trustees AND THE  
 3 COUNTY SUPERINTENDENT immediately of such the action.  
 4        (3)(6) It shall be the duty of any A teacher has the  
 5 duty to report the truancy or incorrigibility of any a pupil  
 6 to the district superintendent, the principal, or the  
 7 trustees, OR THE COUNTY SUPERINTENDENT, whichever is  
 8 applicable.  
 9        (4)(7) Any teacher or principal who shall maltreat or  
 10 abuse any pupil by administering any undue or severe  
 11 punishment shall be deemed if a person who is employed or  
 12 engaged by a school district uses CORPORAL PUNISHMENT OR  
 13 more physical restraint than is reasonable or necessary, the  
 14 person is guilty of a misdemeanor and, upon conviction of  
 15 such the misdemeanor by a court of competent jurisdiction,  
 16 shall be fined not less than \$25 or more than \$100 \$500.  
 17        (8) A PERSON NAMED AS A DEFENDANT IN AN ACTION BROUGHT  
 18 UNDER THIS SFCTION MAY ASSERT AS AN AFFIRMATIVE DEFENSE THAT  
 19 THE USE OF PHYSICAL RESTRAINT WAS REASONABLE OR NECESSARY.  
 20 IF THAT DEFENSE IS DENIED BY THE PERSON BRINGING THE CHARGE,  
 21 THE ISSUE OF WHETHER THE RESTRAINT USED WAS REASONABLE OR  
 22 NECESSARY MUST BE DETERMINED BY THE TRIER OF FACT."  
 23        NEW SECTION. Section 2. Effective date. [This act] is  
 24 effective on passage and approval.

-End-

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INTRODUCED BY JACOBSON, BIANCHI, BLAYLOCK, MANNING,  
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or principal ~~shall~~ has the authority to hold any a  
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in school, on the way to or from school, or during  
intermission or recess. ~~Whenever a principal shall deem it~~  
~~necessary to inflict corporal punishment in order to~~  
~~maintain orderly conduct of a pupil, he shall administer~~  
~~such corporal punishment without undue anger and only in the~~  
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~~administered, the parent or guardian shall be notified of~~  
~~the principal's intention to so punish his child, except~~  
~~that in cases of open and flagrant defiance of the teacher,~~  
~~principal, or of the authority of the school, the teacher or~~  
~~principal may administer corporal punishment without giving~~  
~~such notice.~~

(2) For the purposes of this section, "corporal  
punishment" means the willful infliction of KNOWINGLY AND  
PURPOSELY INFLICTING physical pain on a pupil as a  
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(3) A person who is employed or engaged by a school  
district may not inflict or cause to be inflicted corporal  
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(4) (a) A person who is employed or engaged by a school  
district may use physical restraint, DEFINED AS THE PLACING  
OF HANDS on a pupil as IN A MANNER THAT is reasonable and  
necessary to:

THIRD READING

1 (i) quell a disturbance;  
 2 (ii) provide self-protection;  
 3 (iii) protect the pupil or others from physical injury;  
 4 (iv) obtain possession of a weapon or other dangerous  
 5 object on the person of the pupil or within control of the  
 6 pupil; or

7 (V) MAINTAIN THE ORDERLY CONDUCT OF A PUPIL INCLUDING  
 8 BUT NOT LIMITED TO RELOCATING A PUPIL IN A WAITING LINE,  
 9 CLASSROOM, LUNCHROOM, PRINCIPAL'S OFFICE, OR OTHER ON-CAMPUS  
 10 FACILITY; OR

11 ~~{2}(VI) protect property from serious harm.~~

12 ~~(b) The use of physical restraint may not be construed~~  
 13 ~~to constitute corporal punishment within the intent of this~~  
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 15 ~~RESTRAINT AS DEFINED IN SUBSECTION (4)(A) DOES NOT~~  
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17 ~~(8) A PERSON NAMED AS A DEFENDANT IN AN ACTION BROUGHT~~  
 18 ~~UNDER THIS SECTION MAY ASSERT AS AN AFFIRMATIVE DEFENSE THAT~~  
 19 ~~THE USE OF PHYSICAL RESTRAINT WAS REASONABLE OR NECESSARY.~~  
 20 ~~IF THAT DEFENSE IS DENIED BY THE PERSON BRINGING THE CHARGE,~~  
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23 NEW SECTION. Section 2. Effective date. [This act] is  
 24 effective on passage and approval.

-End-



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REFERENCE BILL

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