

SENATE BILL 378

Introduced by Jacobson, et al.

2/08	Introduced
2/08	Referred to Education & Cultural Resources
2/13	Hearing
2/16	Committee Rpoer5--Bill Not Passed
2/16	Adverse Committee Report Adopted
2/16	Reconsidered Previous Action
2/17	2nd Reading Do Pass Motion Failed
2/17	2nd Reading Indefinitely Postponed

1 *Amended* BILL NO. *378*  
 2 INTRODUCED BY *Jacobson Bradley*  
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT ANY PERSON  
 5 WHO IS EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT FROM  
 6 INFLECTING CORPORAL PUNISHMENT ON A PUPIL; TO DEFINE  
 7 CORPORAL PUNISHMENT OF PUPILS; TO CLARIFY SITUATIONS IN  
 8 WHICH A PERSON WHO IS EMPLOYED OR ENGAGED BY A SCHOOL  
 9 DISTRICT MAY USE PHYSICAL RESTRAINT ON A PUPIL; AMENDING  
 10 SECTION 20-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 11 DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 20-4-302, MCA, is amended to read:  
 15 "20-4-302. Power-of-teacher-or-principal-over-pupils  
 16 ---undue Discipline and punishment of pupils -- definition  
 17 of corporal punishment -- penalty. (1) Any A teacher or  
 18 principal ~~shall--have~~ has the authority to hold any a pupil  
 19 to a strict accountability for any disorderly conduct in  
 20 school, on the way to or from school, or during intermission  
 21 or recess. ~~Whenever-a-principal-shall-deem-it-necessary-to~~  
 22 ~~inflict-corporal-punishment-in--order--to--maintain--orderly~~  
 23 ~~conduct--of--a--pupil;--he--shall--administer--such-corporal~~  
 24 ~~punishment-without-undue-anger-and-only-in-the-presence-of-a~~  
 25 ~~witness;--Before-any-corporal-punishment-is-administered;--the~~

1 ~~parent-or-guardian-shall--be--notified--of--the--principal's~~  
 2 ~~intention--to--so--punish-his-child;--except-that-in-cases-of~~  
 3 ~~open-and-flagrant-defiance-of-the-teacher;--principal;--or--of~~  
 4 ~~the--authority--of--the-school;--the-teacher-or-principal-may~~  
 5 ~~administer-corporal-punishment-without-giving--such--notice.~~

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

9 (3) A person who is employed or engaged by a school  
 10 district may not inflict or cause to be inflicted corporal  
 11 punishment on a pupil in attendance at the school.

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

15 (i) quell a disturbance;  
 16 (ii) provide self-protection;  
 17 (iii) protect the pupil or others from physical injury;  
 18 (iv) obtain possession of a weapon or other dangerous  
 19 object on the person of the pupil or within control of the  
 20 pupil; or

21 (v) protect property from serious harm.

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

25 (2)(5) Any A teacher in a district not employing a

1 district superintendent or a principal of the school where  
2 the teacher is assigned ~~shall--have~~ has the authority to  
3 suspend a pupil for good cause and--to--administer--corporal  
4 ~~punishment--in--the--presence--of--a--witness, without undue~~  
5 ~~anger.~~ Where either a district superintendent or a school  
6 principal is employed, only the superintendent or principal  
7 ~~shall-have~~ has the authority to suspend a pupil for good  
8 cause. Whenever a teacher suspends a pupil, he the teacher  
9 shall notify the trustees immediately of such the action.

10 ~~(3)(6) It shall be the duty of any A teacher~~ has the  
11 duty to report the truancy or incorrigibility of any a pupil  
12 to the district superintendent, principal, or the trustees,  
13 whichever is applicable.

14 ~~(4)(7) Any teacher or principal who shall maltreat--or~~  
15 ~~abuse--any--pupil--by--administering--any--undue--or--severe~~  
16 ~~punishment--shall--be--deemed~~ If a person who is employed or  
17 engaged by a school district uses more physical restraint  
18 than is reasonable or necessary, he is guilty of a  
19 misdemeanor and, upon conviction of such the misdemeanor by  
20 a court of competent jurisdiction, shall be fined not less  
21 than \$25 or more than \$100 \$500."

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

-End-

BILL NO. 378

INTRODUCED BY

*James Bradley*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT ANY PERSON WHO IS EMPLOYED OR ENGAGED BY A SCHOOL DISTRICT FROM INFLICTING 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; 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 in attendance at the school.

(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.

(2)(5) Any A teacher in a district not employing a

district superintendent or a principal of the school where the teacher is assigned ~~shall--have~~ has the authority to suspend a pupil for good cause ~~and--to--administer--corporal punishment--in--the--presence--of--a--witness, without undue~~ anger. Where either a district superintendent or a school principal is employed, only the superintendent or principal ~~shall--have~~ has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, ~~he~~ the teacher shall notify the trustees immediately of ~~such~~ the action.

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

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

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

-End-