

JUDICIARY: Mann, Chair; Horn and Ritsema

SENATE FILE 477

BY MANN

FILED MAR 18 1985

Passed Senate, Date 4-9-85 (p. 1265) Passed House, Date 4-1-86 (ip 1114)

Vote: Ayes 29 Nays 18 Vote: Ayes 81 Nays 10

Approved April 28, 1986

### A BILL FOR

1 An Act relating to the search of students or protected stu-  
2 dent areas.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S-3465

SENATE FILE 477

1 Amend Senate File 477 as follows:

A 2 1. Page 1, line 31, by striking the word "and"  
3 and inserting the word "or".

B 4 2. Page 3, line 5, by striking the words "or"  
5 disciplinary".

S-3465 Filed March 25, 1985

By COMMITTEE ON JUDICIARY

*Adopted 4/9/85 (p. 1265)*

S-3671

SENATE FILE 477

1 Amend Senate File 477 as follows:

2 1. Page 3, by striking lines 2 through 6.

S-3671 Filed April 9, 1985

By TAYLOR

*Placed o/c 4/9 (p. 1265)*

*87  
477*

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1 Section 1. NEW SECTION. 808A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise re-  
3 quires:

4 1. "Student" means a person enrolled in a school for any  
5 of grades kindergarten through twelve.

6 2. "School" means a public or nonpublic educational in-  
7 stitution offering any of grades kindergarten through twelve.

8 3. "School official" means a certificated school employee,  
9 and includes noncertificated school employees employed for  
10 security or supervision purposes.

11 4. "Protected student area" includes, but is not limited  
12 to:

13 a. A student's body.

14 b. Clothing worn or carried by a student.

15 c. A student's pocketbook, briefcase, duffelbag, bookbag,  
16 backpack, knapsack, or any other container used by a student  
17 for holding or carrying personal belongings of any kind and in  
18 the possession or immediate proximity of the student.

19 d. A school locker, desk, or other facility or space is-  
20 sued or assigned to, or chosen by, the student for the storage  
21 of personal belongings of any kind, which the student locks or  
22 is permitted to lock.

23 5. "Student search rule" means a rule established by the  
24 school board of a public school, pursuant to section 279.8 or  
25 279.9, or the authorities in charge of a nonpublic school con-  
26 trolling the manner of the searching of students or protected  
27 student areas. A student search rule, to be valid for pur-  
28 poses of this chapter, must be reasonable and shall be based  
29 upon relevant factors which include, but are not limited to,  
30 the following:

31 a. The prevalence and seriousness of the problem for which  
32 a search may be instituted.

33 b. The age or ages of the students which may be searched  
34 pursuant to the rule.

35 c. The information or suspicion which must exist to war-

1 want the institution of a search.

2 Sec. 2. NEW SECTION. 808A.2 SEARCH OF STUDENT OR PRO-  
3 TECTED STUDENT AREA BY SCHOOL OFFICIAL.

4 1. A school official may conduct a search of a student or  
5 a protected student area only if all of the following apply:

6 a. The school official has a reasonable and articulable  
7 suspicion that a criminal offense or a school rule or regula-  
8 tion bearing significantly on school order has been violated.

9 b. The school official has a reasonable and articulable  
10 belief that the search will produce evidence of such  
11 violation.

12 c. If the search is of an individual student, the suspi-  
13 cion and belief required by paragraphs "a" and "b" is particu-  
14 lar to the student to be searched.

15 d. If the search is of more than one student or of a  
16 protected student area, the search must be based upon and  
17 pursuant to a valid and reasonable student search rule.

18 2. Under no circumstances may a search be made which is  
19 unreasonable in light of the following:

20 a. The age of the student.

21 b. The nonseriousness of the violation.

22 c. The sex of the student.

23 d. The nature of the suspected violation.

24 3. A school official shall not conduct a search which  
25 involves:

26 a. A strip search.

27 b. A body cavity search.

28 c. The use of a drug sniffing animal to search a student's  
29 body.

30 Sec. 3. NEW SECTION. 808A.3 STUDENT SEARCH BY PEACE OF-  
31 FICER.

32 The search of a student or of a protected student area by a  
33 peace officer who is not a school official, or by a school of-  
34 ficial at the invitation or direction of a peace officer who  
35 is not a school official, shall be governed by the statutory

1 and common law requirements for police searches.

2 Sec. 4. NEW SECTION. 808A.4 EXCLUSION OF EVIDENCE.

3 Material or evidence obtained directly or indirectly as a  
4 result of a search conducted in violation of this chapter is  
5 inadmissible in a criminal or disciplinary proceeding against  
6 a student.

7 EXPLANATION

8 This bill provides the requirements and procedures which  
9 must be followed to allow the search of a student or of a  
10 student protected area by a school official or a peace offi-  
11 cer.

12 This bill also provides that material or evidence obtained  
13 in violation of the requirements and procedures set out shall  
14 be excluded from resulting criminal or disciplinary proceed-  
15 ings.

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SENATE FILE 477

BY MANN

(AS AMENDED AND PASSED BY THE SENATE APRIL 9, 1985)

Passed Senate, Date 4-9-86 (p. 1134) Passed House, Date 4-1-86 (p. 1114)  
Vote: Ayes 28 Nays 20 Vote: Ayes 81 Nays 10  
Approved April 28, 1986 (p. 1425)  
By amending House 4-16-86 (p. 1515)  
79-15

### A BILL FOR

1 An Act relating to the search of students or protected student  
2 areas.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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\_\_\_\_\_ = New Language  
by the Senate  
\* = Language Stricken  
by the Senate

1 Section 1. NEW SECTION. 808A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise re-  
3 quires:

4 1. "Student" means a person enrolled in a school for any  
5 of grades kindergarten through twelve.

6 2. "School" means a public or nonpublic educational in-  
7 stitution offering any of grades kindergarten through twelve.

8 3. "School official" means a certificated school employee,  
9 and includes noncertificated school employees employed for  
10 security or supervision purposes.

11 4. "Protected student area" includes, but is not limited  
12 to:

13 a. A student's body.

14 b. Clothing worn or carried by a student.

15 c. A student's pocketbook, briefcase, duffelbag, bookbag,  
16 backpack, knapsack, or any other container used by a student  
17 for holding or carrying personal belongings of any kind and in  
18 the possession or immediate proximity of the student.

19 d. A school locker, desk, or other facility or space is-  
20 sued or assigned to, or chosen by, the student for the storage  
21 of personal belongings of any kind, which the student locks or  
22 is permitted to lock.

23 5. "Student search rule" means a rule established by the  
24 school board of a public school, pursuant to section 279.8 or  
25 279.9, or the authorities in charge of a nonpublic school con-  
26 trolling the manner of the searching of students or protected  
27 student areas. A student search rule, to be valid for pur-  
28 poses of this chapter, must be reasonable and shall be based  
29 upon relevant factors which include, but are not limited to,  
30 the following:

31 a. The prevalence or seriousness of the problem for which  
32 a search may be instituted.

33 b. The age or ages of the students which may be searched  
34 pursuant to the rule.

35 c. The information or suspicion which must exist to war-

1 rant the institution of a search.

2 Sec. 2. NEW SECTION. 808A.2 SEARCH OF STUDENT OR PRO-  
3 TECTED STUDENT AREA BY SCHOOL OFFICIAL.

4 1. A school official may conduct a search of a student or  
5 a protected student area only if all of the following apply:

6 a. The school official has a reasonable and articulable  
7 suspicion that a criminal offense or a school rule or regula-  
8 tion bearing significantly on school order has been violated.

9 b. The school official has a reasonable and articulable  
10 belief that the search will produce evidence of such  
11 violation.

12 c. If the search is of an individual student, the suspi-  
13 cion and belief required by paragraphs "a" and "b" is particu-  
14 lar to the student to be searched.

15 d. If the search is of more than one student or of a  
16 protected student area, the search must be based upon and  
17 pursuant to a valid and reasonable student search rule.

18 2. Under no circumstances may a search be made which is  
19 unreasonable in light of the following:

20 a. The age of the student.

21 b. The nonseriousness of the violation.

22 c. The sex of the student.

23 d. The nature of the suspected violation.

24 3. A school official shall not conduct a search which  
25 involves:

26 a. A strip search.

27 b. A body cavity search.

28 c. The use of a drug sniffing animal to search a student's  
29 body.

30 Sec. 3. NEW SECTION. 808A.3 STUDENT SEARCH BY PEACE OF-  
31 FICER.

32 The search of a student or of a protected student area by a  
33 peace officer who is not a school official, or by a school of-  
34 ficial at the invitation or direction of a peace officer who  
35 is not a school official, shall be governed by the statutory

1 and common law requirements for police searches.

2 Sec. 4. NEW SECTION. 808A.4 EXCLUSION OF EVIDENCE.

3 Material or evidence obtained directly or indirectly as a  
4 result of a search conducted in violation of this chapter is

\* 5 inadmissible in a criminal proceeding against a student.

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SENATE FILE 477

H-5518

- 1 Amend Senate File 477 as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 1, by striking line 22 and inserting the  
4 following: "is permitted to lock. School officials  
5 may conduct a periodic inspection of all school  
6 lockers. However, the school district shall provide  
7 notice to the students, at least twenty-four hours  
8 prior to the inspection, of the date and time of the  
9 inspection."  
10 2. Page 1, by striking lines 31 and 32 and  
11 inserting the following:  
12 "a. The seriousness of the violation for which a  
13 search may be instituted."  
14 3. Page 2, line 8, by striking the word  
15 "significantly".

H-5518 FILED MARCH 21, 1986 BY ROSENBERG of Story  
*Adopted as amended by 5629A 4/1 (p. 1113)*

SENATE FILE 477

H-5609

- A 1 Amend Senate File 477 as amended, passed, and  
2 reprinted by the Senate as follows:  
3 1. Page 2, by striking line 22.  
B 4 2. Page 2, by inserting after line 29, the  
5 following:  
6 "d. The search of a student by a school official  
7 not of the same sex as the student."  
8 3. By relettering as necessary.

H-5609 FILED MARCH 28, 1986 BY SPEAR of Lee  
*B- Adopted, A- w/d 4/1 (p. 1113)*

SENATE FILE 477

H-5629

- 1 Amend amendment H-5518 to Senate File 477 as  
2 amended, passed and reprinted by the Senate, as  
3 follows:  
4 1. Page 1, by striking lines 3 through 9 and  
A 5 inserting the following:  
6 "\_\_\_\_. Page 1, by striking lines 19 through 22."  
7 2. Page 1, by inserting after line 13 the  
B 8 following:  
9 "\_\_\_\_. Page 2, line 5, by striking the word "all"  
10 and inserting the word "any"."  
All 3. By renumbering as necessary.

H-5629 FILED APRIL 1, 1986 BY VAN CAMP of Scott  
DIVISION A - ADOPTED, DIVISION B - WITHDRAWN (p. 1113)  
*(p. 1113)*

HOUSE AMENDMENT TO  
SENATE FILE 477

S-5558

- 1 Amend Senate File 477 as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 1, by striking lines 19 through 22.  
4 2. Page 1, by striking lines 31 and 32 and  
5 inserting the following:  
6 "a. The seriousness of the violation for which a  
7 search may be instituted."  
8 3. Page 2, line 8, by striking the word  
9 "significantly".  
10 4. Page 2, by inserting after line 29, the  
11 following:  
12 "d. The search of a student by a school official  
13 not of the same sex as the student."  
14 5. By renumbering, relettering, or redesignating  
15 and correcting internal references as necessary.

S-5558 Filed April 3, 1986 REC'D FROM THE HOUSE

*Senate adopted (5656) + concurred 4/7 (p. 1134)*

SENATE FILE 477

S-5656

- 1 Amend the House amendment, S-5558, to Senate File  
2 477, as amended, passed and reprinted by the Senate,  
3 as follows:  
4 1. Page 1, by striking line 3 and inserting the  
5 following:  
6 "\_\_\_\_\_. Page 1, by striking line 22, and inserting  
7 the following: "is permitted to lock. School  
8 officials may conduct periodic inspections of all  
9 school lockers. However, the school district shall  
10 provide notice to the students, at least twenty-four  
11 hours prior to the inspection, of the date and time of  
12 the inspection.""

S-5656 Filed and adopted April 9, 1986 BY MANN

*(p. 1138)*

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 477  
H-5810

- 1 Amend the House amendment, S-5558, to Senate File  
2 477, as amended, passed and reprinted by the Senate,  
3 as follows:  
4 1. Page 1, by striking line 3 and inserting the  
5 following:  
6 "\_\_\_\_\_. Page 1, by striking line 22, and inserting  
7 the following: "is permitted to lock. School  
8 officials may conduct periodic inspections of all  
9 school lockers. However, the school district shall  
10 provide notice to the students, at least twenty-four  
11 hours prior to the inspection, of the date and time of  
12 the inspection.""

H-5810 FILED APRIL 11, 1986 RECEIVED FROM THE SENATE

*House concurred 4/16 (p. 1515)*

SENATE FILE 477

AN ACT

RELATING TO THE SEARCH OF STUDENTS OR PROTECTED STUDENT AREAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 808A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Student" means a person enrolled in a school for any of grades kindergarten through twelve.
2. "School" means a public or nonpublic educational institution offering any of grades kindergarten through twelve.
3. "School official" means a certificated school employee, and includes noncertificated school employees employed for security or supervision purposes.

4. "Protected student area" includes, but is not limited to:

- a. A student's body.
- b. Clothing worn or carried by a student.
- c. A student's pocketbook, briefcase, duffelbag, bookbag, backpack, knapsack, or any other container used by a student for holding or carrying personal belongings of any kind and in the possession or immediate proximity of the student.
- d. A school locker, desk, or other facility or space issued or assigned to, or chosen by, the student for the storage of personal belongings of any kind, which the student locks or is permitted to lock. School officials may conduct periodic inspections of all school lockers. However, the school district shall provide notice to the students, at least twenty-four hours prior to the inspection, of the date and time of the inspection.

5. "Student search rule" means a rule established by the school board of a public school, pursuant to section 279.8 or 279.9, or the authorities in charge of a nonpublic school controlling the manner of the searching of students or protected student areas. A student search rule, to be valid for purposes of this chapter, must be reasonable and shall be based upon relevant factors which include, but are not limited to, the following:

- a. The seriousness of the violation for which a search may be instituted.
- b. The age or ages of the students which may be searched pursuant to the rule.
- c. The information or suspicion which must exist to warrant the institution of a search.

Sec. 2. NEW SECTION. 808A.2 SEARCH OF STUDENT OR PROTECTED STUDENT AREA BY SCHOOL OFFICIAL.

1. A school official may conduct a search of a student or a protected student area only if all of the following apply:

a. The school official has a reasonable and articulable suspicion that a criminal offense or a school rule or regulation bearing on school order has been violated.

b. The school official has a reasonable and articulable belief that the search will produce evidence of such violation.

c. If the search is of an individual student, the suspicion and belief required by paragraphs "a" and "b" is particular to the student to be searched.

d. If the search is of more than one student or of a protected student area, the search must be based upon and pursuant to a valid and reasonable student search rule.

2. Under no circumstances may a search be made which is unreasonable in light of the following:

- a. The age of the student.
- b. The nonseriousness of the violation.
- c. The sex of the student.
- d. The nature of the suspected violation.

3. A school official shall not conduct a search which involves:

- a. A strip search.
- b. A body cavity search.
- c. The use of a drug sniffing animal to search a student's body.
- d. The search of a student by a school official not of the same sex as the student.

Sec. 3. NEW SECTION. 808A.3 STUDENT SEARCH BY PEACE OFFICER.

The search of a student or of a protected student area by a peace officer who is not a school official, or by a school official at the invitation or direction of a peace officer who is not a school official, shall be governed by the statutory and common law requirements for police searches.

Sec. 4. NEW SECTION. 808A.4 EXCLUSION OF EVIDENCE.

Material or evidence obtained directly or indirectly as a result of a search conducted in violation of this chapter is inadmissible in a criminal proceeding against a student.

\_\_\_\_\_  
ROBERT T. ANDERSON  
President of the Senate

\_\_\_\_\_  
DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 477, Seventy-first General Assembly.

\_\_\_\_\_  
K. MARIE THAYER  
Secretary of the Senate

Approved April 28, 1986

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TERRY E. BRANSTAD  
Governor