

## Legislative Council Hansard – 18 October 2017 – Proof

**EDUCATION AMENDMENT (SCHOOL SAFETY) BILL 2017***First Reading*

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell .**

*Second Reading*

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) ( 17:40 ): I move:**

That this bill be now read a second time.

Among the most important roles of government in a civilised society and among the most important obligations that this Parliament imposes on the parents of New South Wales is the duty to see that all our children receive an education. We impose that duty by requiring all school aged children to attend school, be homeschooled or receive distance education. It is well known that in requiring children to attend school, school authorities have a duty of reasonable care for all their students. Particularly for young children or students with disability, the duty is a high one.

Arising from a number of recent episodes, the Education Department has received advice that it needs additional powers to ensure that government schools have the power to deal with students who pose a risk of seriously violent conduct where the grounds for reasonable concern about such a risk arise in circumstances that do not relate to the school. I will give two quick examples of the kinds of rare but serious cases that would require the use of this power. A student has a serious psychiatric disorder in which the student is obsessed with the rape and murder of younger students at school and has a pattern of seriously socially unacceptable behaviour which has not yet included violence at school but which has included acts of serious violence against persons or animals away from school. A student goes to the international airport with detailed and real instructions on how to join the Islamic State in Syria. The student has a one-way air ticket to the Middle East and is in possession of a communication device that has accessed information about the Islamic State. The student is stopped at the airport and the next day seeks to return to school.

These examples, although thankfully rare, are not far-fetched nor fanciful. They are based on real situations which a school system that caters for nearly 800,000 students is occasionally called upon to confront. This bill will enable the Minister for Education to direct a student to not attend school for a specified period if the Minister believes on reasonable grounds that there is a significant risk that the student will engage in serious violent conduct or the student supports terrorism or violent extremism, and issuing a non-attendance direction is necessary to protect the health and safety of school students and staff.

This bill will also require the Minister to assess whether the attendance of the student at school constitutes a health and safety risk and, if appropriate, develop risk management strategies to enable the student to attend school. Lastly, the bill extends school disciplinary powers to student conduct that significantly affects or is likely to significantly affect the health or safety of students or staff regardless of whether that conduct occurs on or outside school premises or within or outside school hours. The bill's amendments are designed to ensure that risks to the health or safety of anyone attending a school in New South Wales—including students and staff—can be appropriately managed.

New South Wales schools are among the safest places in the community. Schools work in partnership with parents, carers and other agencies, organisations and individuals to provide an environment that encourages students to succeed and thrive. All students and staff in schools have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment and discrimination. There will be cases of unacceptable behaviour where it will be in the best interests of the school community and the student involved for the student to be removed from the school for a period of time or completely.

In accordance with the powers already provided in section 35 of the Education Act 1990, suspension and expulsion are the options available to a principal in these situations. Part 5A of the Education Act also provides some power to assess the risk to health and safety in a school, but only in relation to enrolment decisions. However, this bill seeks to deal with the risk posed by the potential for a student to engage in seriously violent conduct before that risk eventuates. The bill will provide the education Minister with the power to issue a non-attendance direction which would require a student to be temporarily kept away from school until strategies are identified to manage the foreseeable risks posed by the student's potential for seriously violent conduct.

The non-attendance direction is not designed or intended to be a disciplinary power. It will not be used to punish students or to achieve a correction in their behaviour. The non-attendance direction will be used as a risk assessment and management tool to enable schools to continue to provide a healthy and safe environment for all students and staff, whilst working with teachers, other government agencies, parents and community organisations to develop a plan for the education of a student who poses a risk of seriously violent conduct. An express, unambiguous and transparent power to proactively protect a school community from the risk posed is required. The power sought is similar to the power under the Public Health Act to prevent unvaccinated students from attending school during the outbreak of a serious vaccine-preventable disease. Its purpose is to prevent further harm until effective counter-measures can be implemented.

A parent may volunteer or agree to keep a student away from school for a defined period while a risk assessment is undertaken. In that circumstance, a delegate of the Minister can exempt the student from attending school in accordance with the power already in section 25 of the Education Act. This would make it unnecessary to issue a non-attendance direction. The bill also facilitates the gathering of information about students by the Minister in relation to non-attendance directions by extending existing provisions that relate to enrolment directions. This amendment will ensure that relevant information from various bodies such as the Department of Family and Community Services and the NSW Police Force can be considered as part of the risk assessment process.

Importantly, the bill also provides protections for the non-disclosure of information obtained in certain circumstances, including where disclosure of information could endanger a person's life. The bill also creates a power for the education Minister to issue guidelines governing the use of the non-attendance direction. The Department of Education will consult with a range of government agencies on the development of those guidelines, including the Department of Family and Community Services and the Advocate for Children and Young People, NSW Health and the Child and Adolescent Mental Health Service, the NSW Police Force and the departments of Justice and Premier and Cabinet before those guidelines will commence. Consultation on the guidelines will also occur with non-government schools and with educational stakeholders such as principals councils, the Federation of Parents and Citizens Associations, the Teachers Federation and disability advocacy groups.

The bill provides the student with a right of internal review of a decision to issue a non-attendance direction of greater than five school days' duration. A student who is given a non-attendance direction will also have a right of external merits review by the NSW Civil and Administrative Tribunal [NCAT] if he or she was directed against attending school for more than 20 school days in a year. If necessary, the application to NCAT can be made on the student's behalf by a parent or carer. The bill will also amend section 35 of the Education Act to enable disciplinary sanctions to be imposed on students for significant non-school related conduct that has a significant impact on the school community. New South Wales government schools need a clear and unambiguous power in the Education Act to deal with misconduct where it affects their school, whether or not the behaviour occurs inside the school gate.

Members would recall reports in the media last year involving a website where people were encouraged to post explicit photographs of female school students for the purposes of the images being shared and rated by those visiting the site. Some of the people posting the photos were students at the same schools as the victims of this abuse. This incident caused a great deal of distress and harm to female school students at a number of schools. This amendment will ensure that in that example, a government school would be able to use its disciplinary powers to discipline the student and stop the misconduct even though the conduct may have occurred outside school hours and away from the school site. These important amendments are necessary to protect students and staff from the risk of seriously violent behaviour affecting the health and safety of a school. I commend the bill to the House.

**Debate adjourned.**