

ASSEMBLY BILL

No. 1216

Introduced by Assembly Member Campos

February 22, 2013

An act to amend Section 48900 of, and to add Section 48901.2 to, the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

AB 1216, as introduced, Campos. Pupil discipline: bullying.

(1) Existing law prohibits a pupil from being suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed any of various specified acts. Under existing law, a pupil who engages in bullying, as defined, may be suspended from school or recommended for expulsion or, at the discretion of the superintendent of the school district or the principal of the school in which the pupil is enrolled, be subject to alternatives to suspension or expulsion, as specified.

This bill would instead provide that a pupil who engages in one or more acts of bullying is, at the option of his or her parent or legal guardian, subject either to suspension or expulsion or the alternatives specified in existing law or to attendance at a class designed to prevent and eradicate bullying, conducted by the school district in which the pupil is enrolled.

Because this bill imposes new duties on school districts, it constitutes a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48900 of the Education Code is amended
2 to read:

3 48900. A pupil shall not be suspended from school or
4 recommended for expulsion, unless the superintendent of the school
5 district or the principal of the school in which the pupil is enrolled
6 determines that the pupil has committed an act as defined pursuant
7 to any of subdivisions (a) to (r), inclusive:

8 (a) (1) Caused, attempted to cause, or threatened to cause
9 physical injury to another person.

10 (2) Willfully used force or violence upon the person of another,
11 except in self-defense.

12 (b) Possessed, sold, or otherwise furnished a firearm, knife,
13 explosive, or other dangerous object, unless, in the case of
14 possession of an object of this type, the pupil had obtained written
15 permission to possess the item from a certificated school employee,
16 which is concurred in by the principal or the designee of the
17 principal.

18 (c) Unlawfully possessed, used, sold, or otherwise furnished,
19 or been under the influence of, a controlled substance listed in
20 Chapter 2 (commencing with Section 11053) of Division 10 of the
21 Health and Safety Code, an alcoholic beverage, or an intoxicant
22 of any kind.

23 (d) Unlawfully offered, arranged, or negotiated to sell a
24 controlled substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code, an alcoholic
26 beverage, or an intoxicant of any kind, and either sold, delivered,
27 or otherwise furnished to a person another liquid, substance, or
28 material and represented the liquid, substance, or material as a
29 controlled substance, alcoholic beverage, or intoxicant.

30 (e) Committed or attempted to commit robbery or extortion.

- 1 (f) Caused or attempted to cause damage to school property or
2 private property.
- 3 (g) Stole or attempted to steal school property or private
4 property.
- 5 (h) Possessed or used tobacco, or products containing tobacco
6 or nicotine products, including, but not limited to, cigarettes, cigars,
7 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
8 packets, and betel. However, this section does not prohibit use or
9 possession by a pupil of his or her own prescription products.
- 10 (i) Committed an obscene act or engaged in habitual profanity
11 or vulgarity.
- 12 (j) Unlawfully possessed or unlawfully offered, arranged, or
13 negotiated to sell drug paraphernalia, as defined in Section 11014.5
14 of the Health and Safety Code.
- 15 (k) Disrupted school activities or otherwise willfully defied the
16 valid authority of supervisors, teachers, administrators, school
17 officials, or other school personnel engaged in the performance of
18 their duties.
- 19 (l) Knowingly received stolen school property or private
20 property.
- 21 (m) Possessed an imitation firearm. As used in this section,
22 “imitation firearm” means a replica of a firearm that is so
23 substantially similar in physical properties to an existing firearm
24 as to lead a reasonable person to conclude that the replica is a
25 firearm.
- 26 (n) Committed or attempted to commit a sexual assault as
27 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
28 Code or committed a sexual battery as defined in Section 243.4
29 of the Penal Code.
- 30 (o) Harassed, threatened, or intimidated a pupil who is a
31 complaining witness or a witness in a school disciplinary
32 proceeding for purposes of either preventing that pupil from being
33 a witness or retaliating against that pupil for being a witness, or
34 both.
- 35 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
36 sold the prescription drug Soma.
- 37 (q) Engaged in, or attempted to engage in, hazing. For purposes
38 of this subdivision, “hazing” means a method of initiation or
39 preinitiation into a pupil organization or body, whether or not the
40 organization or body is officially recognized by an educational

1 institution, which is likely to cause serious bodily injury or personal
 2 degradation or disgrace resulting in physical or mental harm to a
 3 former, current, or prospective pupil. For purposes of this
 4 subdivision, “hazing” does not include athletic events or
 5 school-sanctioned events.

6 (r) Engaged in an act of bullying, *except as provided in Section*
 7 *48901.2*. For purposes of this subdivision, the following terms
 8 have the following meanings:

9 (1) “Bullying” means any severe or pervasive physical or verbal
 10 act or conduct, including communications made in writing or by
 11 means of an electronic act, and including one or more acts
 12 committed by a pupil or group of pupils as defined in Section
 13 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
 14 that has or can be reasonably predicted to have the effect of one
 15 or more of the following:

16 (A) Placing a reasonable pupil or pupils in fear of harm to that
 17 pupil’s or those pupils’ person or property.

18 (B) Causing a reasonable pupil to experience a substantially
 19 detrimental effect on his or her physical or mental health.

20 (C) Causing a reasonable pupil to experience substantial
 21 interference with his or her academic performance.

22 (D) Causing a reasonable pupil to experience substantial
 23 interference with his or her ability to participate in or benefit from
 24 the services, activities, or privileges provided by a school.

25 (2) (A) “Electronic act” means the transmission, by means of
 26 an electronic device, including, but not limited to, a telephone,
 27 wireless telephone, or other wireless communication device,
 28 computer, or pager, of a communication, including, but not limited
 29 to, any of the following:

30 (i) A message, text, sound, or image.

31 (ii) A post on a social network Internet Web site including, but
 32 not limited to:

33 (I) Posting to or creating a burn page. “Burn page” means an
 34 Internet Web site created for the purpose of having one or more
 35 of the effects listed in paragraph (1).

36 (II) Creating a credible impersonation of another actual pupil
 37 for the purpose of having one or more of the effects listed in
 38 paragraph (1). “Credible impersonation” means to knowingly and
 39 without consent impersonate a pupil for the purpose of bullying
 40 the pupil and such that another pupil would reasonably believe, or

1 has reasonably believed, that the pupil was or is the pupil who was
2 impersonated.

3 (III) Creating a false profile for the purpose of having one or
4 more of the effects listed in paragraph (1). “False profile” means
5 a profile of a fictitious pupil or a profile using the likeness or
6 attributes of an actual pupil other than the pupil who created the
7 false profile.

8 (B) Notwithstanding paragraph (1) and subparagraph (A), an
9 electronic act shall not constitute pervasive conduct solely on the
10 basis that it has been transmitted on the Internet or is currently
11 posted on the Internet.

12 (3) “Reasonable pupil” means a pupil, including, but not limited
13 to, an exceptional needs pupil, who exercises average care, skill,
14 and judgment in conduct for a person of his or her age, or for a
15 person of his or her age with his or her exceptional needs.

16 (s) A pupil shall not be suspended or expelled for any of the
17 acts enumerated in this section unless the act is related to a school
18 activity or school attendance occurring within a school under the
19 jurisdiction of the superintendent of the school district or principal
20 or occurring within any other school district. A pupil may be
21 suspended or expelled for acts that are enumerated in this section
22 and related to a school activity or school attendance that occur at
23 any time, including, but not limited to, any of the following:

24 (1) While on school grounds.

25 (2) While going to or coming from school.

26 (3) During the lunch period whether on or off the campus.

27 (4) During, or while going to or coming from, a
28 school-sponsored activity.

29 (t) A pupil who aids or abets, as defined in Section 31 of the
30 Penal Code, the infliction or attempted infliction of physical injury
31 to another person may be subject to suspension, but not expulsion,
32 pursuant to this section, except that a pupil who has been adjudged
33 by a juvenile court to have committed, as an aider and abettor, a
34 crime of physical violence in which the victim suffered great bodily
35 injury or serious bodily injury shall be subject to discipline pursuant
36 to subdivision (a).

37 (u) As used in this section, “school property” includes, but is
38 not limited to, electronic files and databases.

39 (v) For a pupil subject to discipline under this section, a
40 superintendent of the school district or principal may use his or

1 her discretion to provide alternatives to suspension or expulsion
2 that are age appropriate and designed to address and correct the
3 pupil’s specific misbehavior as specified in Section 48900.5.

4 (w) It is the intent of the Legislature that alternatives to
5 suspension or expulsion be imposed against a pupil who is truant,
6 tardy, or otherwise absent from school activities.

7 SEC. 2. Section 48901.2 is added to the Education Code, to
8 read:

9 48901.2. Notwithstanding any other law, a pupil who engages
10 in one or more acts of bullying, as defined in subdivision (r) of
11 Section 48900, is subject to either of the means of correction
12 specified in subdivisions (a) and (b), at the option of the pupil’s
13 parent or legal guardian:

14 (a) Suspension or expulsion pursuant to Section 48900, or an
15 alternative to expulsion provided by the superintendent of the
16 school district or the principal pursuant to subdivision (v) of
17 Section 48900.

18 (b) Attendance at a class designed to prevent and eradicate
19 bullying, conducted by the school district in which the pupil is
20 enrolled.

21 SEC. 3. If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.