

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1261 (Berman) – As Amended March 30, 2017

**SUBJECT:** Pupil discipline: expulsions: pupil suicide prevention

**SUMMARY:** Requires school administrators to consider additional factors, including a pupil's risk for suicide, when determining whether a pupil should be recommended for expulsion, for possession, use, or being under the influence of a controlled substance, alcoholic beverage or intoxicant. Specifically, **this bill:**

- 1) Requires the principal or superintendent to consider all of the following, consistent with the local suicide prevention policy, in determining whether a pupil in any of grades 7 to 12 inclusive, should be recommended for expulsion or an alternative means of correction, on the grounds of having unlawful possession of any controlled substance:
  - a) Whether the pupil has risk factors for suicide, including, but not limited to, substance abuse disorders, mental illness, medical conditions and disabilities, self-harm, or attempted suicide;
  - b) Whether the pupil should meet with a school-employed mental health professional;
  - c) Whether the pupil reached out to a school employee and proactively disclosed committing the offense;
  - d) If the local education agency (LEA) has a zero-tolerance policy relating to substance abuse, whether that policy deterred the pupil from seeking help.
- 2) Specifies that nothing in this bill authorizes or encourages a school employee to diagnose or treat mental illness unless the employee is specifically licensed and employed to do so.
- 3) Requires that, if a LEA has a policy that recommends expulsion for unlawfully possessing, using, or being under the influence of an alcoholic beverage or intoxicant, the principal or superintendent to consider all of the following, consistent with the local suicide prevention policy, in determining whether a pupil in any of grades 7 to 12, inclusive, should be recommended for expulsion or whether an alternative means of correction would address the conduct of unlawfully possessing, using, or being under the influence of an alcoholic beverage or intoxicant:
  - a) Whether the pupil has risk factors for suicide, including, but not limited to, substance abuse disorders, mental illness, medical conditions and disabilities, self-harm, or attempted suicide;
  - b) Whether the pupil should meet with a school-employed mental health professional;
  - c) Whether the pupil reached out to a school employee and proactively disclosed committing the offense;

- d) If the LEA has a zero-tolerance policy relating to substance abuse, whether that policy deterred the pupil from seeking help.
- 4) Specifies that nothing in this bill would authorize or encourage a school employee to diagnose or treat mental illness unless the employee is specifically licensed and employed to do so.
- 5) Specifies that nothing in this bill would authorize mandatory expulsion for the offense of unlawfully possessing, using, or being under the influence of an alcoholic beverage or intoxicant.
- 6) Clarifies that nothing in this bill would change existing law related to selling an alcoholic beverage or intoxicant.

**EXISTING LAW:**

- 1) 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, determines that the pupil has committed any of the following offenses:
  - a) Causing, attempting to cause, or threatening to cause physical injury to another person; or willfully using force or violence upon another person, except in self-defense;
  - b) Possessing, selling, or otherwise furnishing a firearm, knife, explosive, or other dangerous object, unless the student had obtained prior written permission to possess the item;
  - c) Unlawfully possessing, using, selling or otherwise furnishing a controlled substance;
  - d) Unlawfully offering, arranging or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
  - e) Committing or attempting to commit robbery or extortion;
  - f) Causing or attempting to cause damage to school property or private property;
  - g) Stealing or attempting to steal school property or private property;
  - h) Possessing or using tobacco, or products containing tobacco or nicotine products;
  - i) Committing an obscene act or engaging in habitual profanity or vulgarity;
  - j) Unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;

- k) Disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials or other school personnel engaged in the performance of their duties;
  - l) Knowingly receiving stolen school property or private property;
  - m) Possessing an imitation firearm;
  - n) Committing or attempting to commit a sexual assault or sexual battery;
  - o) Harassing, threatening or intimidating a pupil who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the pupil from being a witness or retaliating against that pupil for being a witness, or both;
  - p) Unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;
  - q) Engaging in or attempting to engage in hazing;
  - r) Engaging in the act of bullying, including, but not limited to, bullying committed by means of an electronic act (EC 48900).
- 2) Requires that a suspension only be imposed when other means of correction have failed to bring about proper conduct. Specifies that other means of correction may include, but are not limited to, the following:
- a) A conference between school personnel, the pupil's parent or guardian, and the pupil;
  - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling;
  - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents;
  - d) Referral for a comprehensive psychosocial or psychoeducational assessment;
  - e) Enrollment in a program for teaching prosocial behavior or anger management;
  - f) Participation in a restorative justice program;
  - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus;

- h) After school programs that address specific behavioral issues or expose pupils to positive activities and behaviors. (EC 48900.5)
- 3) Requires the governing board or body of a county office of education, school district, state special school, or charter school that serves pupils in grades 7 to 12, inclusive, to, before the beginning of the 2017–18 school year, adopt, at a regularly scheduled meeting, a policy on pupil suicide prevention in grades 7 to 12, inclusive. (EC 215)
  - 4) Requires the suicide prevention policy be developed in consultation with school and community stakeholders, school-employed mental health professionals, and suicide prevention experts and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention and must specifically address the needs of high-risk groups, including, but not limited to, all of the following:
    - a) Youth bereaved by suicide;
    - b) Youth with disabilities, mental illness, or substance use disorders;
    - c) Youth experiencing homelessness or in out-of-home settings, such as foster care;
    - d) Lesbian, gay, bisexual, transgender, or questioning youth.
  - 5) Requires the suicide prevention policy to address any training to be provided to teachers on suicide awareness and prevention, including training on how to identify appropriate mental health services, both at the schoolsite and within the larger community, and when and how to refer youth and their families to those services.
  - 6) Requires the Instructional Quality Commission during the next revision of the health framework, to consider developing, and recommending for adoption by the state board, a distinct category on mental health, including mental health challenges such as depression, suicidal thoughts and behaviors, as well as chemical dependence and substance abuse. (EC 51900.5)

**FISCAL EFFECT:** The Office of Legislative Counsel has keyed this as a state-mandated local program.

**COMMENTS:**

*Need for the bill.* According to the author,

“Both mental illness and substance use disorders are known risk factors for suicide. Some schools have zero-tolerance policies, where students can be expelled for committing a particular offense, including the unlawful possession of any controlled substance or being under the influence of an alcoholic beverage or an intoxicant, subject to certain conditions. After recent tragedies of teen suicides in Fresno County, questions were raised regarding zero-tolerance policies and the concern of students worrying that asking for help, especially if substance abuse is involved, will get them in trouble.

This bill highlights the nexus between substance abuse and suicidal behavior. The goal of this bill is to have schools take into account that substance abuse disorders are a risk factor of

suicidal behavior and to determine whether expulsion for substance abuse is appropriate. The bill does not prevent expulsion for these offenses, but instead adds specified factors that schools must consider before expelling a student, as schools are in a prime position to recognize the warning signs of suicidal behavior”.

***Youth suicide in California.*** According to the Lucile Packard Foundation for Children’s Health, which compiles and reports data from state agency sources:

- In 2013-15, nearly 20% of California public school students in grades 9, 11, and nontraditional classes reported seriously considered attempting suicide in the past year;
- In 2013, 481 California youth ages 5-24 were known to have committed suicide;
- The state’s youth suicide rate in 2011-13 was 7.7 per 100,000 youth ages 15-24, slightly higher than previous years, but substantially lower than the rate in 1995-97 (9.4 per 100,000);
- In 2013, males accounted for almost 80% of youth suicides in California. Statewide and nationally, many more male youth, ages 15-24, than female youth commit suicide;
- In 2013, there were 3,322 hospitalizations for non-fatal self-inflicted injuries among children and youth ages 5-20 in California;
- In 2013, 62% of hospitalizations for self-inflicted injuries in California involved youth ages 16-20.

***High risk factors associated with youth suicide.*** Research has demonstrated that certain characteristics among youth contribute to a higher propensity to consider or attempt suicide. These include:

- Youth with disabilities: Research shows that adolescents with particular disabilities, such as chronic pain, loss of mobility, disfigurement, multiple sclerosis, and spinal cord injuries are at higher risk of suicide;
- Youth with mental illness and substance abuse disorders: Nearly 90% of all suicides are associated with a diagnosable mental health or substance-abuse disorder;
- Youth experiencing homelessness: Limited research suggests that more than half of homeless and runaway youth have attempted suicide;
- Youth in foster care: Limited research suggests that youth in foster care are more than twice as likely to commit suicide and nearly four times as likely to attempt suicide as their peers;
- Youth in juvenile detention: Youth involved with the juvenile justice system are four times more likely to commit suicide than their peers;

- Lesbian, gay and bisexual youth: LGBTQ youth are four times more likely to attempt suicide than their straight peers. Nearly half of young transgender people have seriously considered suicide, and one-quarter report having made a suicide attempt.

**Arguments in support.** Supporters note that suicide is the third leading cause of death for young people and substance abuse is linked to a substantial number of suicides and suicide attempts. Zero tolerance policies can be counterproductive, and prevent students from seeking help for mental illness and substance abuse issues. If instead they know that they may receive help, it is far more likely that tragedy can be prevented. Zero tolerance policies treat substance use as a behavioral issue that can be controlled with discipline, which is not always true and can lead to unnecessarily tragic results.

AB 1261 seeks to rectify this by giving schools the opportunity to focus on possible underlying causes of the student's substance abuse rather than simply expelling the student. The bill recognizes that substance abuse disorders cannot simply be punished away. The drastic measure of expulsion can and does have detrimental, and sometimes, disastrous effects on vulnerable students.

**Purpose of the bill.** This bill requires school personnel to consider whether a pupil is at risk for suicide prior to recommending expulsion for unlawful possession, use, or being under the influence, of a controlled substance, alcoholic beverage or intoxicant. The bill also requires consideration of alternative means of correction, as authorized by current law, to correct such conduct. The bill also requires LEAs with zero tolerance policies to consider whether such policies deter pupils suffering from substance abuse issues from seeking help. **The committee may wish to consider** whether these are workable solutions to address these important issues.

**Staff recommends** the following amendments to the bill:

- 1) Delete Sections 2 and 3 of the bill.
- 2) Add a provision to the existing requirement that LEAs adopt a suicide policy, to require those LEAs with mandatory expulsion policies related to the possession, use, or being under the influence of alcoholic beverages, intoxicants, or controlled substances, to consider whether those policies are deterring pupils from seeking help with substance abuse issues.
- 3) Clarify that one of the options of alternative means of correction that may be attempted, before suspension or expulsion of a pupil, be a referral to a mental health professional.

**Prior and similar legislation:** AB 667 (Reyes) of this Session, requires that, at the informal conference required before a student is suspended from school, the pupil be informed of other means of correction that were attempted before the suspension was imposed. This bill is currently pending in the Assembly Appropriations Committee.

AB 2246 (O'Donnell) Chapter 642, Statutes of 2016, requires LEAs that serve students in grades 7 to 12 to adopt policies on the prevention of student suicides and also requires the CDE to develop and maintain a model suicide prevention policy.

AB 739 (Lowenthal) of the 2011-12 Session, would have required the inclusion of suicide prevention instruction and mental illness awareness instruction in the health education

framework for pupils in grades 7 to 12 during the next revision of the framework. This bill was held in the Assembly Appropriations Committee.

AB 420 (Dickinson), Chapter 660, Statutes of 2014 eliminates the authority to suspend a pupil enrolled in kindergarten through 3rd grade, and the authority to recommend for expulsion a pupil enrolled in grades kindergarten through 12<sup>th</sup> grade, for disrupting school activities or otherwise willfully defying the valid authority of school personnel engaged in the performance of their duties. These provisions are due to sunset on July 1, 2018.

AB 1729 (Ammiano), Chapter 425, Statutes of 2012 reaffirms that superintendents and school principals have the discretion to implement alternatives to suspension and expulsion and expands the list of other means of correction that must be implemented prior to suspension or expulsion to address most student misbehavior.

**REGISTERED SUPPORT / OPPOSITION:****Support**

American Foundation for Suicide Prevention  
California School Nurses Organization  
Law Foundation of Silicon Valley  
Palo Alto Unified School District Board of Education  
Numerous individuals

**Opposition**

None on file

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