

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 1273 (Bradford) – As Amended June 13, 2022

SENATE VOTE: 21-12

SUBJECT: School safety: mandatory notifications

SUMMARY: Eliminates criminal penalties for “willful disturbance” of a school or school meeting by students and grants a school principal discretion to report an incident to law enforcement if it does not include a firearm or weapon, as specified. Specifically, **this bill:**

- 1) Requires that the provision in current law related to a willful disturbance of any public school or any public school meeting and the fine associated not apply to a pupil who is currently enrolled in the school district.
- 2) Eliminates the provision related to mandatory reporting of incidences in which an employee of a school district or county office of education (COE) is attacked, assaulted, or physically threatened by a pupil and the fine associated with impeding or inhibiting the submission of an incident report to law enforcement.
- 3) Deletes the provision related to mandatory reporting to law enforcement before or after a pupil’s expulsion or suspension for specified offenses by the principal of a school or their designee.
- 4) Retains the section related to reporting an incident to law enforcement if a pupil violates Section 626.9 (Gun-Free School Zone Act of 1995) or 626.10 of the Penal Code, but excludes a violation involving an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, carbon dioxide pressure, or spring action, a spot marker gun, a razor blade, or a box cutter.

EXISTING LAW:

- 1) Provides that any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than \$500, and requires LEAs to notify law enforcement. (Education Code (EC) 32210)
- 2) Requires an employee of an LEA or COE to promptly report the incident to local law enforcement if an employee is attacked, assaulted, or physically threatened by any pupil. Failure to make the report is an infraction punishable by a fine of not more than \$1,000. A member of the governing school board, a county superintendent of schools, or an employee of an LEA or COE who directly or indirectly inhibits or impedes the making of the report is subject to a fine not less than \$500 and not more than \$1,000. Prohibits the governing school board, a county superintendent of schools, or an employee of an LEA or COE from imposing any sanctions against a person under a duty to make the report. (EC 44014)
- 3) Requires the principal of a school, or their designee, to notify law enforcement of any acts of assault before a pupil is suspended or expelled. (EC 48902)

- 4) Requires the principal of a school, or their designee, to notify law enforcement by telephone or any other appropriate method of any violations of Section 245 of the Penal Code (relating to assault and battery), within one day of a pupil's expulsion or suspension. (EC 48902)
- 5) Requires the principal of a school, or their designee, to notify law enforcement of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance. (EC 48902)
- 6) Authorizes the governing board of a school district to establish a school police department under the supervision of a school chief of police, and to employ peace officers to ensure the safety of school district personnel and pupils, and the security of the real and personal property of the school district. Specifies that persons employed and compensated as members of a police department of a school district, when appointed and duly sworn, are peace officers, for the purposes of carrying out their duties of employment. (EC 38000 and 38001)
- 7) Requires each school district or COE to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. (EC 32281)
- 8) Encourages that, as school safety plans are reviewed, plans be updated to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers (SROs), and police officers on school campuses, if the school district employs these people. (EC 32282.1)
- 9) Requires a charter petition to establish a charter school to contain the procedures that the charter will follow to ensure the health and safety of pupils and staff. (EC 47605 and 47605.6)
- 10) Prohibits a pupil in kindergarten through fifth grade from being suspended for disrupting school activities or otherwise willfully defying the valid authority of school personnel, and from July 1, 2020 through July 1, 2025 a pupil enrolled in grades six through eight cannot be suspended for these acts, and prohibits these acts as grounds for any pupil from kindergarten through 12th grade to be recommended for expulsion. (EC 48900).
- 11) 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 specific offenses, including, but not limited to, the following:
 - 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;
 - 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;
 - Unlawfully possessing, using, selling, or otherwise furnishing a controlled substance;

- Unlawfully offering, arranging, or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
- Committing or attempting to commit robbery or extortion;
- Causing or attempting to cause damage to school property or private property;
- Stealing or attempting to steal school property or private property;
- Unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;
- 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; (Grades 4-12 only)
- Possessing an imitation firearm;
- Committing or attempting to commit a sexual assault or sexual battery; and
- 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. (EC 48900)

12) Exempts specific employers, including elementary and secondary schools, from the requirement to keep Cal/OSHA injury and illness records, but requires all employers to report to the Division of Occupational Safety and Health any workplace incident resulting in serious injury, illness, or death. (LAB 14300.2)

FISCAL EFFECT: Unknown

COMMENTS:

This bill would repeal the requirement in current law for school officials to report to law enforcement for specific offenses, including the following:

- An employee of a school district or COE is attacked, assaulted, or physically threatened by a pupil;
- A pupil who is suspended or expelled for acts in violation of Section 245 of the Penal Code, which include assault with a deadly weapon or instrument, and assault by any means of force likely to cause great bodily injury;
- A pupil who is expelled for possessing, selling, or otherwise furnishing a firearm;
- A pupil who is expelled for possession of an explosive; and

- A pupil in unlawful possession, sale, furnishing, or being under the influence of a controlled substance, as specified, an alcoholic beverage, or an intoxicant of any kind.

This bill would also repeal provisions in current law which provide protections to school employees related to the current requirements to report to law enforcement, including the following:

- Prohibits any school official from directly or indirectly inhibiting or impeding the making of a report as prescribed, and imposes a fine for such acts; and
- Specifies that the principal or any other person reporting a known or suspected act is not civilly or criminally liable as a result of making any report, as authorized, unless it can be proved to be a known false report.

Need for the bill. According to the author, “SB 1273 will reduce law enforcement involvement in schools and give teachers and administrators, who are often best suited to determine the appropriate response, the flexibility and power they need to support students. Our existing system has led to alarming disparities in the type of students who are most likely to suffer these harms. Black students, Latinx students, students of color, and students with disabilities are disproportionately referred to law enforcement, cited, and arrested. Teachers and administrators will still be able to call law enforcement if they believe that is the right response to a particular incident, but they will not be required to do so.”

Schools have a responsibility to provide a safe environment. According to the CDE, “The California Constitution guarantees California children the right to attend public schools that are safe, secure, and peaceful. The CDE, public school districts, COEs, and schools and their personnel are responsible for creating learning environments that are safe and secure. First responders, community partners, and families play an essential role, as well. Schools must be prepared to respond to emergencies including natural and man-made hazards, and strive to prevent violence and behavior issues that undermine safety and security.”

Current law requires every K-12 school, including public, charter, community, and court schools to develop and maintain a comprehensive school safety plan. The plan must address campus risks, prepare for emergencies, and create a safe, secure learning environment for students and school personnel. Among other elements, these plans must include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus and aspects of social, emotional, and physical safety for both youth and adults. ***The Committee may wish to consider*** whether removing requirements for school officials to report serious incidents to law enforcement is counter to the need to protect students and employees at school.

Suspensions and expulsions in California public schools. Schools are required to submit data on suspensions and expulsions, including by the most serious offense involved. Data from the 2018-19 school year shows that serious offenses continue to occur on school campuses with 13% of total suspensions and 23% of total expulsions due to a violent incident with injury. In addition, 14% of expulsions were due to weapons possession and 33% related to illicit drugs.

Offense	Total # of suspensions	% of total suspensions	Total # of expulsions	% of total expulsions
Violent incident with injury	45,201	13%	1,213	23%
Violent incident without injury	171,942	48%	1,422	27%
Weapons possession	10,470	3%	711	14%
Illicit drug related	63,132	18%	1,754	33%
Defiance only	51,185	14%	24	.04%
Other reasons	12,586	4%	112	2%
Total suspensions	354,516	100%	5,236	100%

CDE Dataquest 2018-19 school year.

Offenses committed at California schools. The 2017-18 Civil Rights Data Collection identifies the number of school offenses by type reported by the over 10,000 schools in California, including violations that would no longer be required to be reported should this bill be enacted.

Offense	# reported in California schools 2017-18
Rape or attempted rape	118
Sexual assault	1,417
Robbery with a weapon	127
Robbery with a firearm or explosive	76
Robbery without a weapon	1,760
Physical attack or fight with a weapon	2,218
Physical attack with a firearm or explosive device	363
Physical attack without a weapon	99,330
Threats of physical attack with a weapon	1,828
Threats of physical attack with a firearm or explosive device	878
Threats of physical attack without a weapon	50,304
Possession of a firearm or explosive device	2,219

USDOE Office of Civil Rights Data Collection, 2017-18

Concerns regarding law enforcement presence on school campuses. In recent years, concerns have been raised regarding the role of law enforcement officers on school campuses, as in some cases, police officers have become involved in administering disciplinary actions. Some contend that the increase in student-police interactions has resulted in thousands of students being pushed into the school-to-prison pipeline. A 2016 report by the American Civil Liberties Union (ACLU) of California notes that student-police interactions may be disproportionately impacting certain student groups.

Ensuring safety of school employees. In addition to protecting students, California schools have a responsibility to provide their employees with a safe working environment. According to Cal/OSHA, “Workplace safety and health hazards affecting California employees have traditionally been viewed as arising from unsafe work practices, hazardous industrial conditions, or exposures to harmful chemical, biologic or physical agents, not from violent acts committed by other human beings. Recently, though, employees, as well as supervisors and managers, have become all too frequent victims of assaults or other violent acts in the workplace which entail a substantial risk of physical or emotional harm. Many of these assaults result in fatal injury, but an even greater number result in nonfatal injury, or in the threat of injury, which can lead to medical treatment, missed work, lost wages and decreased productivity.”

Cal/OHSA characterizes a type II event as a workplace violence event which involves an assault by someone who is either the recipient or the object of a service provided by the affected workplace or the victim. They note that of increasing concern are type II events involving assaults to certain categories of service providers, including teaching, administrative, and support staff in schools where students have a history of violent behavior.

California regulations require many categories of employers to report to Cal/OHSA all fatalities, illnesses, and specified injuries which occur as a result of workplace violence, including those that result in loss of consciousness, restriction of work or motion, transfer to another job or termination of employment, or medical treatment beyond first aid.

Arguments in support. The American Civil Liberties Union California Action, a co-sponsor, states, “Decades of research show the long-term harm to young people of even minimal contact with justice systems. Young people arrested in school are less likely to graduate from high school and more likely to wind up incarcerated. Alarming, Black, Indigenous, and Latinx students, as well as students with disabilities, are disproportionately referred to law enforcement, cited, and arrested.

Data show that the very offenses that schools are required to report to law enforcement are, unsurprisingly, some of the most common reasons for student interaction with law enforcement. Data collected under the Racial and Identity Profiling Act (RIPA) from the 15 largest police agencies in the state shows law enforcement “stops” of students on school campuses broken down by the offense that was the reason for the stop. Cannabis possession is the single largest category of offense for which students were stopped, accounting for 21.5% of all stops for reasonable suspicion of a crime. Another 1.6% of stops were for alcohol related offenses, another 1.9% for possession or sale of controlled substances, and another 1.1% for being under the influence. Non-firearm weapons possession offenses account for an additional 7.7% of stops. Together, these mandated notification offenses account for approximately one in three on-campus law enforcement stops reported for suspicion of a crime.

What these numbers show is that mandated reporting statutes are causing schools to bring in police where they are not necessarily needed, using them in response to incidents that would be better handled by school personnel, at the cost of enormous harm to the students involved, and also to school climate and safety. SB 1273 will keep students in school by allowing educators to decide how best to handle student misbehavior and by protecting students from unnecessary contact with the justice system.”

Arguments in opposition. According to the Peace Officers’ Research Association, “PORAC is deeply concerned with SB 1273. This bill presents serious obstacles for our officers seeking to protect and serve the most vulnerable among us, our children. For example, in Section 1 of the bill, a student can willfully disrupt any public school or school board meeting without any consequence. If the behavior occurs on the school site and the site administrator cannot stop the staff or student, law enforcement would be unable to assist until that student batters or threatens another, making the entire school unsafe. This situation will ultimately lead to the school locking down and causing more psychological trauma to the students and staff.

In addition, Section 2 repeals Education Code §44014 and allows schools to under-report injuries to school employees. It also allows schools and districts to forbid an employee from calling law enforcement when “attacked, assaulted, or physically threatened by a pupil.” Not only does this section directly obstruct victims’ rights, but it also encourages the hiding and covering up of crimes on school campuses by deleting the consequences of not reporting certain violent acts. Administrators, who may be more concerned about the perception of their school than safety, will be motivated to not properly report crimes.

Lastly, similar to Section 1, Section 3 amends Education Code §48902 and removes the requirement that a school call law enforcement if a student has committed a CPC §245(a)(1) (Assault with A Deadly Weapon). This language also removes the civil or criminal protection of the caller should they be physically assaulted or suspect that a deadly weapon has been brought onto the school site. Therefore, if a principal, teacher, or any other person calls in a report of a deadly weapon, serious controlled substance, assault, or attack by a student on campus, that individual will have exposed themselves to potential civil and criminal liability. Also, SB 1273 removes the language protecting teachers and other school employees from potential employer discipline, including dismissal, for contacting law enforcement when the employer may have a policy forbidding such action—even if that employee feels their life was in danger.

There can be no doubt that school safety should be of the utmost priority. Studies have shown that students and teachers returning to school after the pandemic have faced a more violent environment. We must work together to improve the safety of our children and staff on school campuses. We need communication, collaboration, and accountability between our school administrators and law enforcement more now than ever before. SB 1273 goes in the opposite direction.”

Related legislation. AB 610 (Kalra) of the 2021-22 Session was similar to this bill. It was held in the Assembly Education Committee.

AB 424 (McCarty), Chapter 779, Statutes of 2017 deletes the authority of a school district superintendent or equivalent school authority to provide written permission for a person to possess a firearm within a school zone, and exempts sanctioned shooting sports or activities from the prohibition.

SB 607 (Skinner) of the 2017-18 Session would have permanently prohibited the suspension of any pupil in kindergarten or grades 1 to 5, commencing July 1, 2019, and the expulsion of any pupil in kindergarten or in any of grades 1 to 12, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties; prohibited, until July 1, 2023, the suspension of any pupil or grades 6 to 8, inclusive, for that same act; and made these provisions applicable to charter schools. This bill was vetoed by the Governor, with the following message:

Teachers and principals are on the front lines educating our children and are in the best position to make decisions about order and discipline in the classroom. That's why I vetoed a similar bill in 2012. In addition, I just approved \$15 million in the 2018 Budget Act to help local schools improve their disciplinary practices. Let's give educators a chance to invest that money wisely before issuing any further directives from the state.

AB 420 (Dickinson), Chapter 660, Statutes of 2014, eliminated 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 12th grade, for disrupting school activities or otherwise willfully defying the valid authority of school personnel engaged in the performance of their duties. These requirements sunset on July 1, 2018.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action (Co-sponsor)
Alliance for Boys and Men of Color (Co-sponsor)
Black Organizing Project (Co-sponsor)
Black Parallel School Board (Co-sponsor)
Coleman Advocates for Children & Youth (Co-sponsor)
Disability Rights California (Co-sponsor)
Dolores Huerta Foundation (Co-sponsor)
East Bay Community Law Center (Co-sponsor)
Public Counsel (Co-sponsor)
Advancement Project
Alliance for Children's Rights
Alliance San Diego
Anti-defamation League
Arts for Healing and Justice Network
Association of California School Administrators
Brothers, Sons, Selves Coalition
Brown Issues
California Association of School Counselors
California Coalition for Women Prisoners
California for Safety and Justice
California Public Defenders Association
California School-based Health Alliance
Californians for Justice

Child Care Law Center
Children Now
Children's Defense Fund-California
Communities United for Restorative Youth Justice
Community Asset Development Redefining Education
Community Coalition for Substance Abuse Prevention and Treatment
Congregations Organized for Prophetic Engagement
Corazon Healdsburg
Courage California
Democrats of Rossmoor
Drug Policy Alliance
Educators for Excellence - Los Angeles
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Equal Justice Society
Fresno Barrios Unidos
Friends Committee on Legislation of California
Genders and Sexualities Alliance Network
Generation Up
Gente Organizada
Great Public Schools Now
H.e.r.o. Tent
Improve Your Tomorrow, INC.
Initiate Justice
Inland Empire United, a Project of Tides Advocacy
John Burton Advocates for Youth
Juvenile Justice & Delinquency Prevention Commission of Marin County
Law Foundation of Silicon Valley
Lawyers Committee for Civil Rights of The San Francisco Bay Area
Loud for Tomorrow
Mid-city Community Advocacy Network
Motivating Individual Leadership for Public Advancement
National Center for Youth Law
National Institute for Criminal Justice Reform
Pacific Juvenile Defender Center
Parent Organization Network
Pittsburg Youth Action
Project Knucklehead
Public Advocates
Riverside County Public Defender's Office
San Jose Unified Equity Coalition
Sigma Beta Xi, INC.
Social Justice Learning Institute
Starting Over, INC.
Students Deserve
Surj Marin - Showing Up for Racial Justice
The Collective for Liberatory Lawyering
The Democrats of Rossmoor
The Gathering for Justice

The Los Angeles Trust for Children's Health
Trauma Informed Los Angeles
United Teachers Los Angeles
Youth Alive!
Youth Alliance
Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School
Youth Law Center
Numerous individuals

Opposition

Administrators Association of San Diego City Schools
Arcadia Police Officers Association
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California Police Chiefs Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
Los Angeles School Police Officers Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officer Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Santa Ana Police Officers Political Action Committee
Upland Police Officers Association
Numerous individuals

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