

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 596 (Portantino) – As Amended March 30, 2023

**SENATE VOTE:**

**[Note: This bill is double referred to the Assembly Public Safety Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** School employees: protection

**SUMMARY:** Makes a person who subjects a school employee to threats or harassment while the employee is away from a schoolsite or after school hours for reasons related to the employee's course of duties guilty of a misdemeanor. Specifically, **this bill:**

- 1) Makes a person who subjects a school employee to threats or harassment while the employee is away from a schoolsite or after school hours for reasons related to the employee's course of duties guilty of a misdemeanor.
- 2) Requires that violations as described in (1) be subject to the same level of fines and terms of imprisonment as apply to disruptions occurring in a place where a school employee is required to be in the course of their duties.
- 3) Defines "harassment" to mean unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.
- 4) Defines "code of conduct" to mean a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or email.

**EXISTING LAW:**

- 1) Provides that any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and punishable by a fine of not more than \$500, and requires local educational agencies (LEAs) to notify law enforcement. (Education Code (EC) 32210)
- 2) Requires an employee of an LEA or county office of education (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) Makes any parent, guardian, or other person whose conduct, in a place where a school employee is required to be in the course of the employee's duties, materially disrupts classwork or extra-curricular activities or involves substantial disorder guilty of a misdemeanor punishable by a fine of not less than \$500, nor more than \$1,000, or by imprisonment in a county jail not exceeding one year, or by both imprisonment and the fine, upon first conviction, and additional fines or imprisonment for subsequent convictions. (EC 44811)
- 4) 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. (Labor Code (LAB) 14300.2)

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

While this bill would create a new misdemeanor offense, it is unknown how many additional prosecutions will be brought under its provisions. Misdemeanor charges carry the potential for incarceration, therefore certain defendants' rights are attached to the proceedings. These include the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation) which could lead to lengthier and more complex court proceedings. It generally costs about \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased staff time and resources may create a need for increased funding for courts from the General Fund to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past decade. As a result, the 2023-24 Governor's Budget anticipates an ongoing annual allocation of \$109.3 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.

**COMMENTS:**

***Need for the bill.*** According to the author, "No one should be threatened or harassed for providing academic instruction in accordance with California state law. Actions that incite fear amongst school employees who are teaching pursuant to state standards are counterproductive, unacceptable and potentially dangerous. Unfortunately, these incidents do not solely occur while educators are at their respective school sites; some also receive threats in off campus settings. SB 596 will ensure that educators can safely continue to help their students thrive in supportive and inclusive classroom environments, unencumbered by fear and intimidation."

***Growing political conflict is impacting schools.*** Schools employees and officials are increasingly being subject to criticism from parents and community members based on diverging public opinions on a wide range of topics. In *Educating for a Diverse Democracy*, authors note, "Public schools increasingly are targets of conservative political groups focusing on what they term Critical Race Theory, as well as issues of sexuality and gender identity. Schools also are impacted by political conflict tied to the growing partisan divides in our society. These political conflicts have created a broad chilling effect that has limited opportunities for students to

practice respectful dialogue on controversial topics and made it harder to address rampant misinformation. The chilling effect also has led to marked declines in general support for teaching about race, racism, and racial and ethnic diversity. Principals also report sizable growth in harassment of LGBTQ+ youth.” (Rogers, 2022)

***Growing violence against educators and schools is increasing employee turnover.*** According to a report from the American Psychological Association, “The US is experiencing trends of dramatic employee turnover in our nation’s schools. Current and future decisions to leave the field of education affect the quality of our schools and the next generations of learners, educators, and school leaders in the nation. Physical and verbal violence directed against educators may be exacerbating reports of high stress, transfers, and leaving the profession.” (McMahon, 2022)

This report is based on a national survey of school personnel, including teachers, administrators, school psychologists, school social workers, and other school personnel, conducted during the 2020-21 school year. The survey found the rates of interest in quitting their careers or transferring schools are troubling and high across the board, ranging from 29% to 34% for school staff, administrators, and mental health personnel. Almost half of all teachers reported they desire or plan to quit or transfer their jobs due to concerns about school climate and school safety. One-third of surveyed teachers reported they experienced at least one incident of verbal and/or threatening violence from students during COVID (e.g., verbal threats, cyber bullying, intimidation, sexual harassment). Over 40% of school administrators reported verbal or threatening violence from parents during COVID. These rates of violence are extremely problematic and may contribute to teachers and school personnel wanting to quit or transfer.

***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.”

***Arguments in support.*** The Association of California School Administrators writes, “Regrettably, schools continue to be a highly politicized environment and those dutifully serving in public schools are the target of hostility from both school community members and individuals without any direct connection to the local educational agency.

This bill would make threats or harassment towards a school employee directly related to the employee’s course of duties, either away from the school site or after hours, subject to a misdemeanor penalty that can carry fines, jail time, or both. It includes acts that cause substantial emotional distress such as stalking, making harassing phone calls, sending harassing correspondence, and making credible threats, including through email or other online platforms. This builds upon existing statute that provides a misdemeanor penalty for disruptive acts by a parent, guardian or other persons while the school employee is carrying out their duties.

SB 596 creates an additional, meaningful consequence for those disrupting efforts to establish safe learning spaces. It also acknowledges the very challenging environment that educators face. At a time when recruitment and retention efforts struggle, this measure rightfully acknowledges the important responsibilities of those who serve in public education.”

***Arguments in opposition.*** Our Duty writes, “California is consistently eroding both parents’ rights and first amendment rights. SB596 is another expansion of law designed to stifle public discourse. This bill will not withstand judiciary scrutiny. First Amendments rights are the cornerstone of democracy and California is leading the charge to use its legislative power to threaten parents from voicing their dissent as California schools take over their parenting rights.

There are extant laws protecting all persons from harassment and violence. This bill contains overbroad and vague language that will serve to chill speech. The term harassment is absurdly defined. It includes any communications that seriously alarms or annoys a school employee. Neither of these terms are defined and will open a Pandora’s Box of claims - all designed to shut those pesky parents up, and let the state decide what is best for our children. Anything dissention can be determined – or at least – alleged to be harassment. The overbroad language is not saved by the reasonable person standard because the entire bill will serve to scare parents into silence.”

***Related legislation.*** AB 1323 (Kalra) of the 2023-24 Session would have eliminated criminal penalties for “willful disturbance” of a school or school meeting by students, and granted a school principal discretion to report an incident to law enforcement if it did not include a firearm or weapon, as specified. This bill was held in the Assembly Education Committee.

SB 1273 (Bradford) of the 2021-22 Session would have eliminated criminal penalties for “willful disturbance” of a school or school meeting by students and grant a school principal discretion to report an incident to law enforcement if it does not include a firearm or weapon, as specified. This bill was held in the Assembly Education Committee.

SB 570 (Alarcon) Chapter 1013, Statutes of 1999, increased penalties for disrupting or threatening school personnel on school grounds.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of California School Administrators  
 California Association of Joint Powers Authorities  
 California Federation of Teachers  
 California School Employees Association  
 California Teachers Association  
 Glendale Teachers Association  
 Glendale Unified School District  
 Los Angeles County Office of Education  
 Torrance Unified School District  
 YWCA Glendale and Pasadena

### **Opposition**

California Parents Union

Defendingconstitutionalrights.com  
Foundation Against Intolerance & Racism  
Our Duty  
4 individuals

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