
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: SB 1273 **Hearing Date:** April 26, 2022
Author: Bradford
Version: February 18, 2022
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *School safety: mandatory notifications*

HISTORY

Source: Alliance for Boys and Men of Color
ACLU California Action
Black Organizing Project
Black Parallel School Board
Coleman Advocates for Children and Youth
Disability Rights California
Dolores Huerta Foundation
East Bay Community Law Center
Public Counsel

Prior Legislation: SB 419 (Skinner), Ch. 279, Stats. 2019
AB 420 (Dickerson), Ch. 660, Stats. 2014

Support: Advancement Project; Alliance for Children's Rights; Alliance San Diego; Anti-Defamation League; Arts for Healing and Justice Network; Association of California School Administrators; Brother, Sons, Selves Coalition; Brown Issues; California Association of School Counselors; California Coalition for Women Prisoners; California Public Defenders Association; California School-Based Health Alliance; Californians for Justice; Californians for Safety and 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; Educators for Excellences – Los Angeles; Ella Baker Center for Human Rights; Empowering Pacific Islander Communities; Equality Justice Society; Friends Committee on Legislation of California; Generation Up; Gente Organizada; Great Public Schools Now; H.E.R.O. Tent; Improve Your Tomorrow, Inc.; Initiate Justice; John Burton Advocates for Youth; Juvenile Justice and 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 Advancement; National Center for Youth Law; National Institute for Criminal Justice Reform; Parent Organization Network; Pittsburg Youth Action; Project Knucklehead; Public Advocates; Riverside County Public Defender's Office; San Jose Unified Equity Coalition; Showing Up for Racial Justice- Marin; Sigma Beta Xi, Inc.;

Starting Over Inc.; Students Deserve; The Collective for Liberatory Lawyering; Trauma Informed Los Angeles; United Teachers Los Angeles; Youth Alive!; Youth Alliance; Youth Justice Education Clinic, Loyola Law School; Youth Law Center

Opposition: California State Sheriffs Association

PURPOSE

The purpose of this bill is to: 1) eliminate criminal penalties for willful disturbance of a school or school meeting; 2) repeal the mandatory reporting of incidents in which a school district or county office of education employee is attacked, assaulted, or physically threatened by a student; and 3) grant a school principal discretion to report an incident to law enforcement if it does not include a firearm or other specified weapons.

Existing law provides that any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor punishable by a fine of not more than \$500. (Ed. Code, § 32210.)

Existing law requires any employee of a school district or of the office of a county superintendent of schools who is attacked, assaulted, or physically threatened by any pupil to promptly report the incident to the appropriate law enforcement authorities of the county or city in which the incident occurred. Requires the employee's supervisor to report the incident as well. Provides that failure to make the report is an infraction punishable by a fine of \$1,000. (Ed. Code, § 44014, subd. (a).)

Existing law provides that compliance with school district governing board procedures relating to the reporting of, or facilitation of reporting of, an incident in an employee is attacked, assaulted, or physically threatened does not exempt a person under a duty to make the report from making the report. (Ed. Code, § 44014, subd. (b).)

Existing law prohibits a member of the governing board of a school district, a county superintendent of schools, or an employee of any school district or the office of any county superintendent of schools, from directly or indirectly inhibiting or impeding the making of the report by a person under a duty to make the report. Provides that an act to inhibit or impede the making of a report is an infraction punishable by a fine of not less than \$500 and not more than \$1,000. (Ed. Code, § 44014, subd. (c).)

Existing law prohibits the governing board of a school district, a member of the governing board, a county superintendent of schools, and an employee of a school district or of the office of any county superintendent of schools from imposing any sanctions against a person under a duty to make the report for making the report. (Ed. Code, § 44014, subd. (d).)

Existing law 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. (Ed. Code, § 48902, subd. (a).)

Existing law requires the principal of a school, or their designee, to notify law enforcement by phone or any other appropriate method of any acts the pupil that may violate within one day of a pupil's expulsion or suspension. (Ed. Code, § 48902, subd. (b).)

Existing law 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, or possession or discharge of a firearm in a school zone, or bringing or possessing upon the grounds of a school specified weapons. (Ed. Code, § 48902, subd (c).)

Existing law provides that a principal, their designee, or any other person reporting a known or suspected criminal act, as specified, is not civilly or criminally liable as a result of making any report authorized unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report. (Ed. Code, § 48902, subd (d).)

Existing law requires the principal of a school or their designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined, to ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in the federal Individuals with Disabilities Education Act, for consideration by the appropriate authorities to whom he or she reports the criminal act. Provides that any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act. (Ed. Code, § 48902, subd (e).)

This bill repeals the misdemeanor of willfully disturbing a public school or public school meeting.

This bill repeals the mandatory reporting of incidents in which a school district or county office of education employee is attacked, assaulted, or physically threatened by any pupil.

This bill deletes the provision related to reporting an incident to law enforcement before or after a pupil's expulsion or suspension by the principal of a school or their designee.

This bill retains mandatory reporting to law enforcement if a pupil is in possession of or discharges a firearm in a school zone, or brings or possesses upon the grounds of a school, as defined, specified weapons, 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. Provides that notification only applies to a violation that where notification would be consistent with the requirements under the federal Gun-Free Schools Act.

COMMENTS

1. Need For This Bill

According to the author:

Under existing California statutes, educators are mandated to report a broad range of student behavior to law enforcement, including things as minor as possession of cannabis or alcohol. Teachers and other school personnel are denied the discretion to decide how to handle various kinds of behavior based on the specifics of the particular incident. The result is unnecessary student contact with law enforcement, leaving students less likely to graduate high school and more likely to wind up in jail or prison. This system disproportionately affects Black students, Latinx students, Indigenous students, other students of color, and

students with disabilities, who are more likely to be referred to law enforcement, cited, and arrested. Educators and school administrators are in a better position to support students by responding to behavioral issues in an appropriate manner. SB 1273 will eliminate the mandatory requirements for notification of law enforcement under Education Code section 48902 (drug and alcohol offenses, certain dangerous objects possession) and 44014 (criminal penalties for school staff who fail to report any assault or physical threat to a school employee, no matter how minor). The bill would also eliminate criminal penalties for “willful disturbance” of a school or school meeting, a provision that has led to the arrest of a student for an offense as simple as knocking on classroom doors when class is in session. By eliminating mandatory notification of law enforcement for incidents involving drugs and alcohol, the bill removes provisions that limit educator discretion to handle school related misbehaviors in ways that do not criminalize students.

2. Background

Congress passed the Gun-Free Schools Act in 1994 which required states receiving federal funds to enact legislation requiring local education agencies to expel, for at least one year, any student who is determined to have brought a firearm or weapon to school. The GFSA also required local education agencies to develop policies requiring referral to the criminal justice or juvenile delinquency system for any student who brings a firearm or weapon to school. These zero-tolerance policies have been heavily critiqued, and the Legislature has enacted bills in recent years to limit or remove zero-tolerance policies while still protecting student and employee safety.

In recent years the Legislature has also sought to limit the use of suspensions and to promote alternatives to suspension. As a result of recent reforms, suspensions have been declining. Data from the California Department of Education indicate that of the 396,751 total suspensions during the 2015-16 school year, disruption or willful defiance accounted for approximately 24 percent of those suspensions compared to 354,516 total suspensions during the 2018-19 school year with 14 percent of those suspensions being for disruption or willful defiance. (<https://dq.cde.ca.gov/dataquest/dqCensus/DisSuspCount.aspx?cds=00&aggllevel=State&year=2020-21&ro=y>)

Despite the overall decline in suspensions, black students, other students of color, students with disabilities, and LGBTQ students continue to be disproportionately suspended for lower level subjective offenses, such as defiance/disruption. For example, in the 2018-2019 school year, black students accounted for 5.5 percent of total enrolled students but 15.9 percent of suspensions for willful defiance. Conversely, white pupils accounted for 22.6 percent of enrollment but just 18 percent of suspensions for willful defiance that same school year. (<https://dq.cde.ca.gov/dataquest/dqCensus/DisSuspCount.aspx?cds=00&aggllevel=State&year=2018-19&initrow=Eth&ro=y>)

3. Effect of This Bill

The proponents of the bill argue that contact with the criminal justice system is harmful to students and that some discretion should be maintained by school employees with respect to reporting the types of behavior covered in the bill. To that end, this bill makes a number of changes to existing law. First, this bill repeals the misdemeanor of willfully disturbing a public

school or public school meeting. Next, this bill repeals the mandatory reporting of incidents in which a school district or county office of education employee is attacked, assaulted, or physically threatened by a student. This bill additionally deletes the provision related to reporting an incident to law enforcement before or after a student's expulsion or suspension by the school principal. Finally, this bill retains mandatory reporting to law enforcement if a student is in possession of or discharges a firearm in a school zone, or brings or possesses upon the grounds of a school specified weapons.

4. Amendment

The author intends to amend the bill in committee to restore Education Code section 32210 which makes it a misdemeanor to willfully disturb any public school or public school meeting but specify that this provision of law does not apply to a person under the age of 18 or to a person who are currently enrolled at the school.

32210.

(a) 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 five hundred dollars (\$500).

(b) This section shall not apply to any person under the age of 18 or who is a pupil currently enrolled at the school.

5. Argument in Support

According to Alliance for Boys and Men of Color, one of the bill's co-sponsors:

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.

Yet existing law forces school administrators and staff to notify law enforcement of certain types of incidents, even when they know doing so will be harmful and regardless of the particular circumstances of the incident....

SB 1273 makes several positive and 21st century changes to existing law. First, it eliminates overreaching state mandates for school notification of law enforcement, thereby encouraging schools to adopt non-punitive, trauma-informed, and health-based approaches to school-related behaviors. By eliminating these mandates, the bill increases educator discretion in determining when to notify law enforcement about a student's school-related behaviors so that they can take into consideration the totality of the circumstances.

Second, the bill eliminates criminal penalties for school staff who fail to report incidents of alleged assaults or physical threats against school employees.

Finally, SB 1273 repeals Education Code section 32210, which makes it a misdemeanor to "willfully disturb" a public school or public school meeting. Section 32210 has been used to criminalize student behavior more appropriately handled through behavioral supports or school discipline. Moreover, this

provision is unneeded: other Penal Code provisions exist that may apply if someone is creating a serious disturbance on a school campus.

SB 1273 will keep students in school by increasing educator discretion to decide how to handle student behavior and by protecting students from unnecessary contact with the legal system.

6. Argument in Opposition

The California State Sheriffs' Association writes:

School officials and law enforcement should work collaboratively, especially when it comes to students whose behavior violates the law and jeopardizes school safety. Removing requirements that information about these incidents be shared with law enforcement runs counter to that notion and impedes law enforcement from being able to best protect our schools.

Successful models of school and law enforcement partnerships benefit from this collaboration aimed at keeping classrooms and campuses safe. Removing the requirement that educators report unlawful behavior on campus will only reduce the level of student safety.

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