
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No:	SB 906	Hearing Date:	April 20, 2022
Author:	Portantino		
Version:	April 7, 2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Lynn Lorber		

Subject: School safety: mass casualty threats: firearm disclosure.

NOTE: This bill has been referred to the Committees on Education and Public Safety. A "do pass" motion should include a referral to the Committee on Public Safety.

NOTE: This bill was previously heard by this Committee on March 30, 2022, and failed passage. This bill has since been significantly amended and is being heard on reconsideration.

SUMMARY

This bill 1) requires local educational agencies (LEAs) to annually provide information to parents or guardians about California's child access prevention laws and laws relating to the safe storage of firearms; 2) requires school officials to report to law enforcement any threat or perceived threat of an incident of mass casualties; 3) requires law enforcement or the school police to conduct an investigation and threat assessment, including a review of Department of Justice's (DOJ's) firearm registry and a search of the school and/or students' property by law enforcement or school police.

BACKGROUND

Existing law:

- 1) Requires each school district or county office of education to be responsible for the overall development of all comprehensive school safety plans for its schools. Existing law provides that the schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (Education Code § 32281)
- 2) Requires school safety plans to include an (a) assessment of the current status of school crime committed on school campuses and at school-related functions, and (b) identification of appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including the development of, among other things, policies for students who committed serious acts that would lead to suspension, expulsion, or mandatory expulsion recommendations, and procedures to notify teachers of dangerous students. (EC § 32282)
- 3) Prohibits school employees from conducting a body cavity search of a student, or removing or arranging any or all of the clothing of a student to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the student. (EC

§ 49050)

- 4) Requires LEA, at the beginning of the first semester or quarter of the regular school term, to send several specified notifications to parents or guardians. (EC § 48980)
- 5) Authorizes the governing board of a school district to establish a security department under the supervision of a chief of security as designated by, and under the direction of, the superintendent of the school district, and authorizes the employment of personnel in the security department. States it is the intent of the Legislature that a school district security department is supplementary to city and county law enforcement agencies and is *not* vested with general police powers. (EC § 38000)
- 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. (EC § 38000)
- 7) Provides for qualifications of and training for school security officers. (EC § 38001.5)
- 8) Requires a personal firearm importer to report specified information to the Department of Justice (DOJ), within 60 days of bringing any firearm into this state. (Penal Code § 27560)
- 9) Provides that it is “criminal storage of a firearm” if a person should have known that a child could gain access to a firearm, and sets forth penalties. (Penal Code § 25000 et seq)

ANALYSIS

This bill 1) requires LEAs to annually provide information to parents or guardians about California’s child access prevention laws and laws relating to the safe storage of firearms; 2) requires school officials to report to law enforcement any threat or perceived threat of an incident of mass casualties; 3) requires law enforcement or the school police to conduct an investigation and threat assessment, including a review of DOJ’s firearm registry and a search of the school and/or students’ property by law enforcement or school police. Specifically, this bill:

Notification

- 1) Requires, beginning with the 2023–24 school year, a LEA to include in the existing annual notifications to parents and guardians information related to the safe storage of firearms using the model content developed by the California Department of Education (CDE) (see # 9-11 below).

Reporting threat to law enforcement

- 2) Requires a school official to immediately report to law enforcement if the school official is alerted to or observes any threat or perceived threat of an incident of

mass casualties at a school.

- 3) Requires the report to include copies of any documentary or other evidence associated with the threat or perceived threat.
- 4) Authorizes a single report to be made when two or more school officials jointly have an obligation to report and when there is agreement among them.
- 5) Requires a school official who has knowledge that the designated reporting school official has failed to make the single report to thereafter make the report.
- 6) Requires law enforcement to keep a record of any report received from an LEA.

Investigation, assessment, and searches

- 7) Requires the local law enforcement agency or the schoolsite police, as appropriate and with the support of the LEA or school, to immediately conduct an investigation and assessment of any threat or perceived threat to prevent an incident of mass casualties at the school.
- 8) Requires the investigation and threat assessment to include, but not be limited to, both of the following:
 - a) A review of DOJ's firearm registry.
 - b) Appropriate searches conducted by the local law enforcement agency or the schoolsite police, as appropriate. Authorizes the search to include, as appropriate, either or both of the following:
 - i) A search of the schoolsite.
 - ii) A search of the student's property located at the schoolsite.

Model content

- 9) Requires CDE, on or before June 1, 2023, in consultation with relevant LEAs and the DOJ, to assess best practices currently being used and develop model content for use by LEAs to inform parents or guardians of California's child access prevention laws and laws relating to the safe storage of firearms.
- 10) Requires the model content to include, at a minimum, content that informs parents or guardians of California's child access prevention laws and laws relating to the safe storage of firearms, including but not limited to criminal penalties for storage of a firearm where a child gains access to that firearm.
- 11) Requires CDE to annually update the model content as necessary to reflect any changes in law.

Miscellaneous

- 12) Provides that a LEA and school is immune from civil liability for any damages allegedly caused by, arising out of, or relating to the requirements of this article.

Definitions

- 13) Provides the following definitions:

- a) "Law enforcement" means any of the following:
- i) A peace officer employed or contracted by a school, school district, or local educational agency for school safety purposes.
 - ii) A police or security department of a school, school district, or local educational agency.
 - iii) A local law enforcement agency with geographic jurisdiction over a school.
- b) "Local educational agency" means a school district, county office of education, or charter school serving students in any of grades 6 to 12 as part of a middle school or high school.
- c) "Reasonable suspicion" means articulable facts, together with rational inferences from those facts, warranting an objective suspicion.
- d) "School" means a school of a school district or county office of education or a charter school serving students in any of grades 6 to 12 as part of a middle school or high school.
- e) "School official" means any individual who has any oversight responsibility of a LEA or a school, or whose official duties bring the individual in contact with students in any of grades 6 to 12 as part of a middle school or high school, on a regular basis. "School official" includes, but is not limited to, any of the following:
- i) An administrator, principal, superintendent, corporate officer, or board member.
 - ii) A teacher.
 - iii) An instructional aide.
 - iv) A teacher's aide or teacher's assistant employed by a school.
 - v) A classified employee of a school.
 - vi) A certificated pupil personnel employee of a school.

- vii) An employee of a local educational agency whose duties bring the employee into contact with students on a regular basis.
 - viii) An employee of a school district police or security department.
 - ix) A school resource officer.
 - x) An athletic coach, athletic administrator, or athletic director employed or contracted by a school.
 - xi) A school counselor that provides education counseling.
- f) "Threat or perceived threat" means any of the following:
- i) Any writing or other content of a student that, based on a reasonable suspicion, is homicidal in nature. The content may include depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death. The content may be from a social media post, journal, class note, or other media associated with the pupil. Excludes content that is reasonably part of or included in a school-sanctioned activity such as Reserve Officers' Training Corps (ROTC).
 - ii) Any student behavior that leads to a reasonable suspicion that the student has homicidal thoughts or urges, including the student's unlawful possession or use of a firearm, or acts described above. Excludes content that is reasonably part of or included in a school-sanctioned activity such as Reserve Officers' Training Corps (ROTC).
 - iii) Any warning by a parent, student, or other individual that leads to a reasonable suspicion that the student is preparing to commit a homicidal act.

STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "While California has adopted strenuous fire-arm storage safety laws in recent years, increased measures are needed to ensure that parents are aware of safe storage regulations that protect their children and their peers. Warning signs frequently forecast subsequent school tragedies, and local educators should be able to investigate perceived threats to their students' safety. Prioritizing the safety of students by increasing transparency, ensuring safe at-home storage, and empowering educators and law enforcement to investigate threats is crucial to keeping California students safe.

"In California, it is illegal to negligently store firearms. However, in approximately 68% of firearm-related incidents that occur in schools, the firearm was taken from the student's home, friend, or relative. Many parents also wrongly believe that their children do not know the location of their household firearm. Including in the parent handbook information on safe storage and accessibility of firearms, as

outlined by the California Department of Education (CDE), can increase accountability and aware-ness of safety precautions. Teachers and school administrators can also help educate parents and guardians about the safe storage of firearms.

“In almost every case of a school shooting, there were clear warning signs, and research shows that knowing the signs of gun violence can help prevent it. In 93% of incidents, school shooters planned their attack in advance. Most made threatening or concerning communications prior to the attack that elicited concern from parents, friends, or educators. Allowing concerned teachers or school administrators to investigate perceived threats would lessen the chance of a tragedy.”

- 2) *Significant changes from prior version of this bill.* This bill has been significantly amended since it was heard by this Committee on March 30, 2022. The most significant changes are:
 - a) This bill no longer requires LEAs to send a questionnaire to parents about their possession and storage of firearms, or in any way inquire or collect information about firearms.
 - b) The definition of “threat or perceived threat” has been narrowed to no longer reference “disobedience of school rules or policies related to school safety or firearms, such as a ban on backpacks in classrooms.”
 - c) This bill requires law enforcement or school police to conduct the investigations and threat assessment, rather than requiring LEAs or schools to conduct investigations and assessments.
 - d) Searches are limited to the schoolsite and a student’s property that is on the schoolsite (no searches of a student’s body).
 - e) Limits the scope of this bill to middle and high schools (grades 6-12, but not grade 6 that is part of an elementary school).
 - f) Exempts ROTC activities.
- 3) *Firearms used in school shootings.* A 2004 report by the United States Secret Service and United States Department of Education found that over two-thirds of school shooters acquired the gun (or guns) used in their attacks from their own home or that of a relative (68 percent). [The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the US \(PDF\) \(ed.gov\)](#)
- 4) *Existing DOJ firearm registry.* The California DOJ maintains several reports submitted by owners of firearms, such as when firearms are transferred to a new owner, or a person owns a curio or assault weapon. *This bill does not create a new registry of firearms and does not affect DOJ’s registry.* The only reference to a firearm registry in this bill is its requirement that investigations and assessments of threats by law enforcement or school police include a review of

DOJ's firearm registry.

- 5) *Searching students.* The 4th Amendment of the United States Constitution states “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” Existing law prohibits school employees from conducting a body cavity search of a student or removing or arranging any or all of the clothing of a student to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the student. In *New Jersey v. T.L.O.*, the United States Supreme Court held that a) “The [Fourth Amendment](#)'s prohibition on unreasonable searches and seizures applies to searches conducted by public school officials and is not limited to searches carried out by law enforcement officers; b) Schoolchildren have legitimate expectations of privacy. They may find it necessary to carry with them a variety of legitimate, noncontraband items, and there is no reason to conclude that they have necessarily waived all rights to privacy in such items by bringing them onto school grounds. But striking the balance between schoolchildren's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning can take place requires some easing of the restrictions to which searches by public authorities are ordinarily subject. Thus, school officials need not obtain a warrant before searching a student who is under their authority. Moreover, school officials need not be held subject to the requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search involves a determination of whether the search was justified at its inception and whether, as conducted, it was reasonably related in scope to the circumstances that justified the interference in the first place. Under ordinary circumstances, the search of a student by a school official will be justified at its inception where there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. And such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the student's age and sex and the nature of the infraction.”

This bill requires investigations and assessments of threats or perceived threats, based on reasonable suspicion, to include appropriate searches by law enforcement or school police of the schoolsite and/or a student's property on the schoolsite. Limiting searches to those circumstances is consistent with the aforementioned case law.

- 6) *Civil immunity.* This bill provides that a LEA and school is immune from civil liability for any damages allegedly caused by, arising out of, or relating to the requirements of this bill. Consideration of whether this provision is appropriate policy is within the jurisdiction of the Senate Judiciary Committee.

- 7) *Double-referred to Senate Public Safety.* This bill has been double-referred to this Committee and the Senate Public Safety Committee.
- 8) *Related legislation.* AB 452 (Friedman) requires LEAs to annually inform parents or guardians of enrolled students about California's child access prevention laws and laws relating to the safe storage of firearms. AB 452 is awaiting referral in the Senate.

SB 1273 (Bradford) eliminates criminal penalties for "willful disturbance" of a school or school meeting, and grants a school principal discretion to report an incident to law enforcement if it does not include a firearm. SB 1273 is scheduled to be heard in this committee on March 30.

- 9) *Prior legislation.* SB 1203 (Bates, 2018) required each public, charter, and private school to establish lockdown training procedures. SB 1203 was held in the Assembly Appropriations Committee.

AB 1747 (Rodriguez, Chapter 806, 2018) expanded the required elements of school safety plans, including procedures to respond to active shooter situations, required schools to conduct annual active shooter drills, and required the CDE to provide additional guidance and oversight of safety plans.

AB 58 (Rodriguez, 2015) would have made each COE the entity responsible for the overall development of all comprehensive school safety plans and requires school safety plans to include procedures in response to individuals with guns on school campuses. AB 58 was held in the Senate Appropriations Committee.

SB 49 (Lieu, 2013) would have required school safety plans to include procedures related to response to a person with a gun on campus, extended from annually to every third year the frequency of review of safety plans, and required charter school petitions to include a description of a school safety plan. SB 49 was held in the Assembly Appropriations Committee.

SUPPORT {for amended version of bill}

Democratic Party of the San Fernando Valley
Riverside County Superintendent of Schools
Women Against Gun Violence

OPPOSITION {for amended version of bill}

ACLU California Action

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