
THIRD READING

Bill No: AB 2441
Author: Kalra (D), et al.
Amended: 7/3/24 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-2, 7/3/24
AYES: Newman, Cortese, Glazer, Gonzalez, Smallwood-Cuevas
NOES: Ochoa Bogh, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 41-22, 5/23/24 - See last page for vote

SUBJECT: School safety: mandatory notifications

SOURCE: ACLU California Action
Alliance for Boys and Men of Color
Black Organizing Project
Disability Rights California
Dolores Huerta Foundation
Public Counsel

DIGEST: This bill eliminates criminal penalties for “willful disturbance” of a school or school meeting by students, removes mandatory notifications, as specified, and grants a school principal discretion to report specified incidents, including the possession of narcotics or other controlled substances, to law enforcement if it does not include a firearm, as specified.

ANALYSIS:

Existing law:

Education Code (EC)

- 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 local educational agencies (LEAs) notify law enforcement. (EC § 32210)
- 2) Authorizes an employee of a 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 shall be 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 a LEA or COE shall not directly or indirectly inhibit or impede the making of the report prescribed by a person under a duty to make the report or shall be subject to a fine not less than \$500 and not more than \$1,000. Current law also specifies that the governing school board, a county superintendent of schools, or an employee of a LEA or COE shall impose 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 acts the pupil that may violate within one day of a pupil's expulsion or suspension. (EC § 48902)
- 5) Requires the principal of a school, or their designee, shall 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) Requires the principal or superintendent of schools to immediately suspend and recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds as specified. (EC § 48915 (c)(1)-(5))

This bill:

- 1) Clarifies existing law regarding 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, does not apply to a pupil who is enrolled in the school district at the time of the willful disturbance.
- 2) Allows, rather than requires, a school employee of a LEA or of the county superintendent of schools who is physically threatened by any pupil, to notify the appropriate law enforcement authorities of the county or city in which the incident occurred and removes the related provision regarding compliance with a school district governing boards reporting procedures.
- 3) Requires a school employee of a LEA or of the county superintendent of schools who is subject to an attack by a pupil that causes bodily harm sufficient to require immediate medical attention, to notify appropriate law enforcement authorities of the county or city in which the incident occurred.
- 4) Clarifies 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 cannot directly or indirectly inhibiting or impeding a school employee from making of the report and specifies such an act to inhibit or impede a school employee from making a report must be an infraction and punishable by a fine of not less than \$500 and not more than \$1000.
- 5) Clarifies the governing board or member of a school district, a county superintendent of schools cannot impose any sanctions against a person for making a report to law enforcement
- 6) Requires the principal of a school or the principal's designee to notify the appropriate law enforcement authorities of the county or city in which the school is located of an act of a pupil that requires notification pursuant to the federal Gun-Free Schools Act of 1994, an act of a pupil that violates Penal code, as specified, or acts committed by a pupil or nonpupil on a schoolsite, as specified.

Comments

- 1) *Need for the bill.* According to the author, “For far too long, the over-policing of children in our public schools has fueled the school-to-prison pipeline, and it is time to end this harmful practice and protect future generations of students. Research shows that there are long-term effects on youth when they come in contact with law enforcement, juvenile, or criminal legal systems. Students are less likely to graduate high school and more likely to wind up in jail or prison if they make contact with law enforcement. Our existing system has led to alarming disparities in the type of students who are most likely to suffer from these actions. Black students, Latino students, students of color, and students with disabilities are disproportionately referred to law enforcement, cited, and arrested. Referring students to law enforcement will only cause further harm to the minor than correcting their behavior or addressing the issue.

“Teachers and staff still retain the right to call law enforcement if they feel that is the right response. However, giving California educators the flexibility to support students with alternative methods and needed services for their behavioural issues will give students an opportunity to get the help and resources they need. These laws require notification regardless of the particular circumstances of the incident or the individual student’s situation. Furthermore, California students can also be criminally prosecuted for “willful disturbance” of public schools or public school meetings. This provision has led to students being arrested for offenses such as knocking on classroom doors during class.

“AB 2441 is the next step to keep students in the classroom where they can safely learn and thrive. This bill will eliminate some state mandates for schools to notify law enforcement, thereby empowering schools to adopt non-punitive, supportive, trauma-informed, and health-based approaches to school-related behaviors, which will give educators the flexibility to determine when to notify law enforcement, eliminate prosecution of school staff who choose to not report incidents, and eliminate the criminal penalty against students for “willful disturbance” of public schools and public school meetings.”

- 2) *Guns Free Schools Act (GFSA) of 1994.* In 1994, Congress passed the Gun-Free Schools Act, which required states receiving federal funds to enact legislation requiring LEAs to expel, for at least one year, any student who is determined to have brought a firearm or weapon to school. The GFSA further required LEAs to develop policies requiring referral to the criminal justice or juvenile delinquency system for any student who brings a firearm or weapon to school.

In a law review published the University of Illinois Chicago (UIC), they found that “detering violence and disruptive outbursts can be an important part of maintaining classroom order and safety, both of which are important goals in educational environments. However, by outlawing otherwise normal behavior and calling it disruptive, zero tolerance policies have created an environment where children are not students who are there to learn, but are treated as suspected criminals.” Since 2010, the Legislature has made tremendous strides in removing zero-tolerance policies while ensuring student and employee safety.

This bill allows, rather than require, a school employee who is physically threatened by any pupil, to notify the appropriate law enforcement authorities while maintaining the requirement that a principal of a school or their designee must notify law enforcement authorities of an act by a pupil that requires notification to law enforcement pursuant to the federal Gun-Free Schools Act of 1994, which includes possession of a firearm or weapon, as specified, or the sale of narcotics or a controlled substances.

- 3) *Students Of Color Are Disproportionally Suspended or Expelled.* A 2018 report by the U.S. Government Accountability Office (GAO) highlighted the disproportionate discipline rates for black students, boys, and students with disabilities in K-12 schools, based on Civil Rights Data Collection (CRDC) data. Despite a 2% decline in overall exclusionary discipline practices in U.S. public schools from 2015-16 to 2017-18, there was an increase in school-related arrests, expulsions with educational services, and referrals to law enforcement. According to the report, the disproportionate disciplinary actions result from implicit bias among teachers and staff, leading to differential judgment of student behaviors based on race and sex.

Progress in California’s suspension and expulsion rates, but disproportionality still remains. Data from the CDE shows that while the number of suspensions and expulsions decreased over the 10-year period from 2012-13 to 2022-23, the number of African American students suspended or expelled remains significantly above their proportionate enrollment:

- a) Total suspensions for all offenses dropped 44%, from 609,810 to 337,507;
- b) African American students made up 6% of enrollment in 2012-13 and 5% in 2022-23, but received 19% of total suspensions in 2012-13 and 15% in 2022-23.

- c) Total expulsions dropped by 44% over the 10-year period, from 8,564 in 2012-13 to 4,750 in 2022-23.
- d) African American students accounted for 13% of total expulsions in 2012-13 and 12% in 2022-23.

4) *Restorative Justice in Schools*. In a 2019 study conducted by WestEd, *Restorative Justice in U.S. Schools*, “Educators across the United States have been looking to restorative justice as an alternative to exclusionary disciplinary actions. Two significant developments have partly driven the popularity of restorative justice in schools. First, there is a growing perception that zero-tolerance policies, popular in the United States during the 1980s– 1990s, have harmed students and schools, generally, and had a particularly pernicious impact on Black students and students with disabilities.”

“Restorative justice is viewed as a remedy to the uneven enforcement and negative consequences that many people associate with exclusionary punishment,” according to the study. Exclusionary discipline can leave the victim without closure and fail to resolve the harmful situation. In contrast, because restorative justice involves the victim and the community in the process, it can open the door for more communication and resolutions to problems that do not include exclusionary punishments like suspension. Unlike punitive approaches, which rely on deterrence as the sole preventative measure for misconduct, restorative justice uses community-building to improve relationships, reducing the frequency of punishable offenses while yielding a range of benefits. There are a variety of practices that fall under the restorative justice umbrella that schools may implement. These practices include victim-offender mediation conferences; group conferences; and various circles that can be classified as community-building, peace-making, or restorative.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/5/24)

ACLU California Action (Co-Source)
 Alliance for Boys and Men of Color (Co-Source)
 Black Organizing Project (Co-Source)
 Disability Rights California (Co-Source)
 Dolores Huerta Foundation (Co-Source)
 Public Counsel (Co-Source)

Alliance for Children's Rights
Asian Americans Advancing Justice-Southern California
Association of California School Administrators
Back to the Start
Bill Wilson Center
Brothers, Sons, Selves
California Black Power Network
California Federation of Teachers
California Immigrant Policy Center
California School-Based Health Alliance
California Youth Empowerment Network
Californians for Justice
Cancel the Contract
Center for Public Interest Law/Children's Advocacy Institute/University of San Diego
Center on Juvenile and Criminal Justice
Children Now
Children's Defense Fund-California
Chispa
Communities United for Restorative Youth Justice
Courage California
Culver City Democratic Club
East Bay Community Law Center
Equal Justice Society
Fresh Lifelines for Youth
Indivisible CA StateStrong
Initiate Justice
Mental Health America of California
National Center for Youth Law
National Health Law Program
On the Move
Orange County Justice Initiative
Pacific Juvenile Defender Center
Public Advocates
Santa Clara County Office of Education
Small School Districts Association
Social Justice Learning Institute
Southeast Asia Resource Action Center
The Children's Partnership
The Collective for Liberatory Lawyering
Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School

OPPOSITION: (Verified 8/5/24)

Administrators Association of San Diego City Schools
California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California
Sacramento County Sheriff Jim Cooper

ARGUMENTS IN SUPPORT: According to the American Civil Liberties Union California Action, “California’s Education Code contains outdated zero-tolerance mandates for law enforcement involvement in student behavioral issues. These mandates force teachers, school administrators, and staff to notify law enforcement about all instances of several categories of student behavior, even when the educator would prefer to address the issue with more effective alternative approaches. AB 2441 makes positive and commonsense changes to existing law. First, the bill protects students from criminal charges for “willful disturbance” of a school or school meeting. Closing this loophole will protect students from being criminally prosecuted for age-appropriate behavior, such as knocking on classroom doors or running inside a school. Second, the bill amends some of the Education Code’s mandatory notification requirements, changing law enforcement notifications for two categories of student behaviors from mandatory to optional. Educators still retain their right to engage law enforcement in response to behavior if they choose. The first category of behavior covered by this part of AB 2441 is instances of student possession or use of alcohol or controlled substances (not sale or distribution of those substances). This Legislature has affirmed in recent legislation that youth substance use is a public health issue, not a criminal issue, and deserves a health-focused response.”

ARGUMENTS IN OPPOSITION: According to the Peace Officers' Research Association of California, “AB 2441 is a problematic bill because in a case where a student assaults a teacher, the student will not be held accountable for their actions. This bill removes the requirement to report these incidents and merely turns it into a suggestion. Mandatory notifications and positive law enforcement encounters protect all parties involved. This legislation is bad and may result in more egregious behavior by students without consequences and more potential violent incidents, up to and including death, on our campuses.”

ASSEMBLY FLOOR: 41-22, 5/23/24

AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Juan Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Haney, Hart, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty,

McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Quirk-Silva, Rendon, Reyes,
Santiago, Ting, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Bains, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher,
Grayson, Hoover, Irwin, Lackey, Pacheco, Jim Patterson, Joe Patterson, Petrie-
Norris, Ramos, Rodriguez, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Boerner, Calderon, Wendy Carrillo, Cervantes, Megan
Dahle, Essayli, Gipson, Holden, Maienschein, Mathis, Stephanie Nguyen, Luz
Rivas, Blanca Rubio, Schiavo, Soria, Valencia, Villapudua

Prepared by: Kordell Hampton / ED. / (916) 651-4105
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