

AMENDED IN SENATE AUGUST 21, 2002

AMENDED IN SENATE JUNE 24, 2002

AMENDED IN ASSEMBLY APRIL 16, 2002

AMENDED IN ASSEMBLY APRIL 1, 2002

AMENDED IN ASSEMBLY MARCH 18, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1901

Introduced by Assembly Member Cohn

February 7, 2002

An act to amend Sections 48900 and 48900.4 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1901, as amended, Cohn. Pupils: expulsion.

(1) Existing law specifies those acts for which a pupil may be suspended from school or recommended for expulsion, including the damage, theft, or receipt of stolen school property.

This bill would ~~define school property as anything over which a school district has a proprietary interest, including~~ *specifically include* electronic files and databases: *within the meaning of "school property."*

(2) Under existing law, a pupil in any of grades 4 to 12, inclusive, may be suspended or expelled for intentionally engaging in harassment, threats, or intimidation directed against a group of pupils.

This bill would also authorize a pupil to be suspended or expelled for harassing, threatening, or intimidating school district personnel.

(3) This bill would incorporate additional changes in Section 48900 of the Education Code proposed by AB 662 that would become operative only if AB 662 and this bill are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48900 of the Education Code is
2 amended to read:

3 48900. A pupil may not be suspended from school or
4 recommended for expulsion unless the superintendent or the
5 principal of the school in which the pupil is enrolled determines
6 that the pupil has committed an act as defined pursuant to one or
7 more of subdivisions (a) to (q), inclusive:

8 (a) (1) Caused, attempted to cause, or threatened to cause
9 physical injury to another person.

10 (2) Willfully used force or violence upon the person of another,
11 except in self-defense.

12 (b) Possessed, sold, or otherwise furnished any firearm, knife,
13 explosive, or other dangerous object, unless, in the case of
14 possession of any object of this type, the pupil had obtained written
15 permission to possess the item from a certificated school
16 employee, which is concurred in by the principal or the designee
17 of the principal.

18 (c) Unlawfully possessed, used, sold, or otherwise furnished,
19 or been under the influence of, any controlled substance listed in
20 Chapter 2 (commencing with Section 11053) of Division 10 of the
21 Health and Safety Code, an alcoholic beverage, or an intoxicant of
22 any kind.

23 (d) Unlawfully offered, arranged, or negotiated to sell any
24 controlled substance listed in Chapter 2 (commencing with
25 Section 11053) of Division 10 of the Health and Safety Code, an
26 alcoholic beverage, or an intoxicant of any kind, and then either
27 sold, delivered, or otherwise furnished to any person another
28 liquid, substance, or material and represented the liquid,
29 substance, or material as a controlled substance, alcoholic
30 beverage, or intoxicant.

31 (e) Committed or attempted to commit robbery or extortion.



1 (f) Caused or attempted to cause damage to school property or
2 private property.

3 (g) Stolen or attempted to steal school property or private
4 property.

5 (h) Possessed or used tobacco, or any products containing
6 tobacco or nicotine products, including, but not limited to,
7 cigarettes, cigars, miniature cigars, clove cigarettes, smokeless
8 tobacco, snuff, chew packets, and betel. However, this section
9 does not prohibit use or possession by a pupil of his or her own
10 prescription products.

11 (i) Committed an obscene act or engaged in habitual profanity
12 or vulgarity.

13 (j) Unlawfully possessed or unlawfully offered, arranged, or
14 negotiated to sell any drug paraphernalia, as defined in Section
15 11014.5 of the Health and Safety Code.

16 (k) Disrupted school activities or otherwise willfully defied the
17 valid authority of supervisors, teachers, administrators, school
18 officials, or other school personnel engaged in the performance of
19 their duties.

20 (l) Knowingly received stolen school property or private
21 property.

22 (m) Possessed an imitation firearm. As used in this section,
23 “imitation firearm” means a replica of a firearm that is so
24 substantially similar in physical properties to an existing firearm
25 as to lead a reasonable person to conclude that the replica is a
26 firearm.

27 (n) Committed or attempted to commit a sexual assault as
28 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
29 Code or committed a sexual battery as defined in Section 243.4 of
30 the Penal Code.

31 (o) Harassed, threatened, or intimidated a pupil who is a
32 complaining witness or witness in a school disciplinary
33 proceeding for the purpose of either preventing that pupil from
34 being a witness or retaliating against that pupil for being a witness,
35 or both.

36 (p) A pupil may not be suspended or expelled for any of the acts
37 enumerated unless that act is related to school activity or school
38 attendance occurring within a school under the jurisdiction of the
39 superintendent or principal or occurring within any other school
40 district. A pupil may be suspended or expelled for acts that are



1 enumerated in this section and related to school activity or
2 attendance that occur at any time, including, but not limited to, any
3 of the following:

4 (1) While on school grounds.

5 (2) While going to or coming from school.

6 (3) During the lunch period whether on or off the campus.

7 (4) During, or while going to or coming from, a school
8 sponsored activity.

9 (q) A pupil who aids or abets, as defined in Section 31 of the
10 Penal Code, the infliction or attempted infliction of physical injury
11 to another person may suffer suspension, but not expulsion,
12 pursuant to the provisions of this section.

13 Except that a pupil who has been adjudged by a juvenile court
14 to have committed, as an aider and abettor, a crime of physical
15 violence in which the victim suffered great bodily injury or serious
16 bodily injury shall be subject to discipline pursuant to subdivision
17 (a).

18 (r) As used in this section, “school property” ~~means anything~~
19 ~~over which a school district has a proprietary interest, including~~
20 *includes, but is not limited to*, electronic files and databases.

21 (s) A superintendent or principal may use their discretion to
22 provide alternatives to suspension or expulsion, including, but not
23 limited to, counseling and an anger management program, for a
24 pupil subject to discipline under this section.

25 (t) It is the intent of the Legislature that alternatives to
26 suspensions or expulsion be imposed against any pupil who is
27 truant, tardy, or otherwise absent from school activities.

28 SEC. 1.5. Section 48900 of the Education Code is amended
29 to read:

30 48900. A pupil may not be suspended from school or
31 recommended for expulsion unless the superintendent or the
32 principal of the school in which the pupil is enrolled determines
33 that the pupil has committed an act as defined pursuant to one or
34 more of subdivisions (a) to (p), inclusive:

35 (a) (1) Caused, attempted to cause, or threatened to cause
36 physical injury to another person.

37 (2) Willfully used force or violence upon the person of another,
38 except in self-defense.

39 (b) Possessed, sold, or otherwise furnished any firearm, knife,
40 explosive, or other dangerous object, unless, in the case of



1 possession of any object of this type, the pupil had obtained written
2 permission to possess the item from a certificated school
3 employee, which is concurred in by the principal or the designee
4 of the principal.

5 (c) Unlawfully possessed, used, sold, or otherwise furnished,
6 or been under the influence of, any controlled substance listed in
7 Chapter 2 (commencing with Section 11053) of Division 10 of the
8 Health and Safety Code, an alcoholic beverage, or an intoxicant of
9 any kind.

10 (d) Unlawfully offered, arranged, or negotiated to sell any
11 controlled substance listed in Chapter 2 (commencing with
12 Section 11053) of Division 10 of the Health and Safety Code, an
13 alcoholic beverage, or an intoxicant of any kind, and then either
14 sold, delivered, or otherwise furnished to any person another
15 liquid, substance, or material and represented the liquid,
16 substance, or material as a controlled substance, alcoholic
17 beverage, or intoxicant.

18 (e) Committed or attempted to commit robbery or extortion.

19 (f) Caused or attempted to cause damage to school property or
20 private property.

21 (g) Stolen or attempted to steal school property or private
22 property.

23 (h) Possessed or used tobacco, or any products containing
24 tobacco or nicotine products, including, but not limited to,
25 cigarettes, cigars, miniature cigars, clove cigarettes, smokeless
26 tobacco, snuff, chew packets, and betel. However, this section
27 does not prohibit use or possession by a pupil of his or her own
28 prescription products.

29 (i) Committed an obscene act or engaged in habitual profanity
30 or vulgarity.

31 (j) Unlawfully possessed or unlawfully offered, arranged, or
32 negotiated to sell any drug paraphernalia, as defined in Section
33 11014.5 of the Health and Safety Code.

34 (k) Disrupted school activities or otherwise willfully defied the
35 valid authority of supervisors, teachers, administrators, school
36 officials, or other school personnel engaged in the performance of
37 their duties.

38 (l) Knowingly received stolen school property or private
39 property.



1 (m) Possessed an imitation firearm. As used in this section,
2 “imitation firearm” means a replica of a firearm that is so
3 substantially similar in physical properties to an existing firearm
4 as to lead a reasonable person to conclude that the replica is a
5 firearm.

6 (n) Committed or attempted to commit a sexual assault as
7 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
8 Code or committed a sexual battery as defined in Section 243.4 of
9 the Penal Code.

10 (o) Harassed, threatened, or intimidated a pupil who is a
11 complaining witness or witness in a school disciplinary
12 proceeding for the purpose of either preventing that pupil from
13 being a witness or retaliating against that pupil for being a witness,
14 or both.

15 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
16 sold the prescription drug Soma.

17 (q) A pupil may not be suspended or expelled for any of the acts
18 enumerated unless that act is related to school activity or school
19 attendance occurring within a school under the jurisdiction of the
20 superintendent or principal or occurring within any other school
21 district. A pupil may be suspended or expelled for acts that are
22 enumerated in this section and related to school activity or
23 attendance that occur at any time, including, but not limited to, any
24 of the following:

25 (1) While on school grounds.

26 (2) While going to or coming from school.

27 (3) During the lunch period whether on or off the campus.

28 (4) During, or while going to or coming from, a school
29 sponsored activity.

30 (r) A pupil who aids or abets, as defined in Section 31 of the
31 Penal Code, the infliction or attempted infliction of physical injury
32 to another person may suffer suspension, but not expulsion,
33 pursuant to the provisions of this section, except that a pupil who
34 has been adjudged by a juvenile court to have committed, as an
35 aider and abettor, a crime of physical violence in which the victim
36 suffered great bodily injury or serious bodily injury shall be
37 subject to discipline pursuant to subdivision (a).

38 (s) As used in this section, “school property” ~~means anything~~
39 ~~over which a school district has a proprietary interest, including~~
40 *includes, but is not limited to*, electronic files and databases.



1 (t) A superintendent or principal may use their discretion to
2 provide alternatives to suspension or expulsion, including, but not
3 limited to, counseling and an anger management program, for a
4 pupil subject to discipline under this section.

5 (u) It is the intent of the Legislature that alternatives to
6 suspensions or expulsion be imposed against any pupil who is
7 truant, tardy, or otherwise absent from school activities.

8 SEC. 2. Section 48900.4 of the Education Code is amended
9 to read:

10 48900.4. In addition to the grounds specified in Sections
11 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12,
12 inclusive, may be suspended from school or recommended for
13 expulsion if the superintendent or the principal of the school in
14 which the pupil is enrolled determines that the pupil has
15 intentionally engaged in harassment, threats, or intimidation,
16 directed against school district personnel or pupils, that is
17 sufficiently severe or pervasive to have the actual and reasonably
18 expected effect of materially disrupting classwork, creating
19 substantial disorder, and invading the rights of either school
20 personnel or pupils by creating an intimidating or hostile
21 educational environment.

22 SEC. 3. Section 1.5 of this bill incorporates amendments to
23 Section 48900 of the Education Code proposed by both this bill
24 and AB 662. It shall only become operative if (1) both bills are
25 enacted and become effective on or before January 1, 2003, (2)
26 each bill amends Section 48900 of the Education Code, and (3) this
27 bill is enacted after AB 662, in which case Section 1 of this bill
28 shall not become operative.

