

ASSEMBLY BILL

No. 1156

Introduced by Assembly Member Eng

February 18, 2011

An act to amend Sections 32283, 48204, and 48900 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1156, as introduced, Eng. Pupils: bullying.

(1) Existing law establishes the public school system in this state, and, among other things, provides for the establishment of school districts throughout the state and for their provision of instruction at the public elementary and secondary schools they operate and maintain.

Existing law requires the Department of Justice and the State Department of Education to contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel to assist them in the development of school safety and crisis response plans.

(2) Existing law provides for residency requirements for school attendance at a particular district.

This bill, as of July 1, 2012, would require the training of schoolsite personnel in the prevention of bullying, as defined in the bill, under this provision to be a component in the development of school safety plans.

This bill, as of July 1, 2012, would provide that a pupil complies with the residency requirements for school attendance in a school district if that pupil's residence is located within the boundaries of another school district, but the pupil has been determined by personnel of that other district to have been the victim of an act of bullying, as defined, committed by a pupil of that other district.

(3) Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the principal determines that the pupil has committed any of various specified acts, including, but not limited to, bullying, as defined to include sexual harassment, hate violence, or harassment, threats, or intimidation.

This bill, as of July 1, 2012, would amend the definition of bullying in this provision by specifying that bullying includes harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying, and further specifying that bullying has the effect or can reasonably be predicted to have the effect of placing the pupil or pupils in reasonable fear of harm to that pupil's or those pupils' person or property, causing a substantially detrimental effect on the pupil's or pupils' physical or mental health, substantially interfering with the pupil's or pupils' academic performance, or substantially interfering with the pupil's or pupils' ability to participate in or benefit from the services, activities, or privileges provided by a school.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) A safe and civil school environment is necessary for pupils
- 4 to learn and achieve.
- 5 (b) Bullying causes physical, psychological, and emotional harm
- 6 to pupils, and interferes with pupils' ability to learn and participate
- 7 in school activities.
- 8 (c) Bullying has been linked to other forms of antisocial
- 9 behavior, such as vandalism, shoplifting, truancy and dropping
- 10 out of school, fighting, using drugs and alcohol, sexual harassment,
- 11 and sexual violence.
- 12 (d) Because of the negative outcomes associated with bullying
- 13 in schools, pupils, parents, and school personnel should be
- 14 informed about what behaviors constitute prohibited bullying.
- 15 (e) If victims of bullying feel unsafe at the schools where they
- 16 have been victimized, they should be accommodated if they desire

1 to attend another school, even if that school is located in another
2 school district.

3 SEC. 2. Section 32283 of the Education Code is amended to
4 read:

5 32283. The Department of Justice and the State Department
6 of Education, in accordance with Section 32262, shall contract
7 with one or more professional trainers to coordinate statewide
8 workshops for school districts, county offices of education, and
9 schoolsite personnel, and in particular school principals, to assist
10 them in the development of their respective school safety and crisis
11 response plans. *Training of schoolsite personnel in the prevention*
12 *of bullying, as defined in subdivision (r) of Section 48900, shall*
13 *be a component in the development of school safety plans under*
14 *this section.* The Department of Justice and the State Department
15 of Education shall work in cooperation with regard to the
16 workshops coordinated and presented pursuant to the contracts.
17 Implementation of this section shall be contingent upon the
18 availability of funds in the annual Budget Act.

19 SEC. 3. Section 48204 of the Education Code, as amended by
20 Section 2 of Chapter 33 of the Statutes of 2007, is amended to
21 read:

22 48204. Notwithstanding Section 48200, a pupil complies with
23 the residency requirements for school attendance in a school
24 district, if he or she is:

25 (a) (1) A pupil placed within the boundaries of that school
26 district in a regularly established licensed children's institution,
27 or a licensed foster home, or a family home pursuant to a
28 commitment or placement under Chapter 2 (commencing with
29 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
30 Code.

31 (2) An agency placing a pupil in the home or institution
32 described in paragraph (1) shall provide evidence to the school
33 that the placement or commitment is pursuant to law.

34 (b) A pupil for whom interdistrict attendance has been approved
35 pursuant to Chapter 5 (commencing with Section 46600) of Part
36 26.

37 (c) A pupil whose residence is located within the boundaries of
38 that school district and whose parent or legal guardian is relieved
39 of responsibility, control, and authority through emancipation.

1 (d) A pupil who lives in the home of a caregiving adult that is
2 located within the boundaries of that school district. Execution of
3 an affidavit under penalty of perjury pursuant to Part 1.5
4 (commencing with Section 6550) of Division 11 of the Family
5 Code by the caregiving adult is a sufficient basis for a
6 determination that the pupil lives in the home of the caregiver,
7 unless the school district determines from actual facts that the pupil
8 is not living in the home of the caregiver.

9 (e) A pupil residing in a state hospital located within the
10 boundaries of that school district.

11 (f) *A pupil whose residence is located within the boundaries of*
12 *another school district, but who has been determined by personnel*
13 *of that other district to have been the victim of an act of bullying,*
14 *as defined in subdivision (r) of Section 48900, committed by a*
15 *pupil of that other district.*

16 (f)

17 (g) This section shall become operative on July 1, 2012.

18 SEC. 4. Section 48900 of the Education Code is amended to
19 read:

20 48900. A pupil shall not be suspended from school or
21 recommended for expulsion, unless the superintendent or the
22 principal of the school in which the pupil is enrolled determines
23 that the pupil has committed an act as defined pursuant to any of
24 subdivisions (a) to (r), inclusive:

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

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

29 (b) Possessed, sold, or otherwise furnished a firearm, knife,
30 explosive, or other dangerous object, unless, in the case of
31 possession of an object of this type, the pupil had obtained written
32 permission to possess the item from a certificated school employee,
33 which is concurred in by the principal or the designee of the
34 principal.

35 (c) Unlawfully possessed, used, sold, or otherwise furnished,
36 or been under the influence of, a controlled substance listed in
37 Chapter 2 (commencing with Section 11053) of Division 10 of the
38 Health and Safety Code, an alcoholic beverage, or an intoxicant
39 of any kind.

- 1 (d) Unlawfully offered, arranged, or negotiated to sell a
2 controlled substance listed in Chapter 2 (commencing with Section
3 11053) of Division 10 of the Health and Safety Code, an alcoholic
4 beverage, or an intoxicant of any kind, and either sold, delivered,
5 or otherwise furnished to a person another liquid, substance, or
6 material and represented the liquid, substance, or material as a
7 controlled substance, alcoholic beverage, or intoxicant.
- 8 (e) Committed or attempted to commit robbery or extortion.
- 9 (f) Caused or attempted to cause damage to school property or
10 private property.
- 11 (g) Stolen or attempted to steal school property or private
12 property.
- 13 (h) Possessed or used tobacco, or products containing tobacco
14 or nicotine products, including, but not limited to, cigarettes, cigars,
15 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
16 packets, and betel. However, this section does not prohibit use or
17 possession by a pupil of his or her own prescription products.
- 18 (i) Committed an obscene act or engaged in habitual profanity
19 or vulgarity.
- 20 (j) Unlawfully possessed or unlawfully offered, arranged, or
21 negotiated to sell drug paraphernalia, as defined in Section 11014.5
22 of the Health and Safety Code.
- 23 (k) Disrupted school activities or otherwise willfully defied the
24 valid authority of supervisors, teachers, administrators, school
25 officials, or other school personnel engaged in the performance of
26 their duties.
- 27 (l) Knowingly received stolen school property or private
28 property.
- 29 (m) Possessed an imitation firearm. As used in this section,
30 “imitation firearm” means a replica of a firearm that is so
31 substantially similar in physical properties to an existing firearm
32 as to lead a reasonable person to conclude that the replica is a
33 firearm.
- 34 (n) Committed or attempted to commit a sexual assault as
35 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
36 Code or committed a sexual battery as defined in Section 243.4
37 of the Penal Code.
- 38 (o) Harassed, threatened, or intimidated a pupil who is a
39 complaining witness or a witness in a school disciplinary
40 proceeding for the purpose of either preventing that pupil from

1 being a witness or retaliating against that pupil for being a witness,
 2 or both.

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

5 (q) Engaged in, or attempted to engage in, hazing. For purposes
 6 of this subdivision, “hazing” means a method of initiation or
 7 preinitiation into a pupil organization or body, whether or not the
 8 organization or body is officially recognized by an educational
 9 institution, which is likely to cause serious bodily injury or personal
 10 degradation or disgrace resulting in physical or mental harm to a
 11 former, current, or prospective pupil. For purposes of this
 12 subdivision, “hazing” does not include athletic events or
 13 school-sanctioned events.

14 (r) *(1)* Engaged in an act of bullying, including, but not limited
 15 to, ~~bullying committed by means of an electronic act, as defined~~
 16 ~~in subdivisions (f) and (g) of Section 32261, directed specifically~~
 17 ~~toward a pupil or school personnel harassment, threats,~~
 18 *intimidation, stalking, physical violence, sexual harassment, sexual*
 19 *violence, theft, public humiliation, destruction of property, or*
 20 *retaliation for asserting or alleging an act of bullying.*

21 *(2)* As used in this subdivision, “bullying” means any severe or
 22 pervasive physical or verbal act or conduct, including
 23 communications made in writing or electronically, and including
 24 one or more acts committed by a pupil or group of pupils as defined
 25 in Section 48900.2, 48900.3, or 48900.4, directed toward a pupil
 26 or pupils that has or can be reasonably predicted to have the effect
 27 of one or more of the following:

28 *(A)* Placing the pupil or pupils in reasonable fear of harm to
 29 that pupil’s or those pupils’ person or property.

30 *(B)* Causing a substantially detrimental effect on the pupil’s or
 31 pupils’ physical or mental health.

32 *(C)* Substantially interfering with the pupil’s or pupils’ academic
 33 performance.

34 *(D)* Substantially interfering with the pupil’s or pupils’ ability
 35 to participate in or benefit from the services, activities, or
 36 privileges provided by a school.

37 (s) A pupil shall not be suspended or expelled for any of the
 38 acts enumerated in this section, unless that act is related to school
 39 activity or school attendance occurring within a school under the
 40 jurisdiction of the superintendent of the school district or principal

1 or occurring within any other school district. A pupil may be
2 suspended or expelled for acts that are enumerated in this section
3 and related to school activity or attendance that occur at any time,
4 including, but not limited to, any of the following:

- 5 (1) While on school grounds.
- 6 (2) While going to or coming from school.
- 7 (3) During the lunch period whether on or off the campus.
- 8 (4) During, or while going to or coming from, a school
9 sponsored activity.

10 (t) A pupil who aids or abets, as defined in Section 31 of the
11 Penal Code, the infliction or attempted infliction of physical injury
12 to another person may be subject to suspension, but not expulsion,
13 pursuant to this section, except that a pupil who has been adjudged
14 by a juvenile court to have committed, as an aider and abettor, a
15 crime of physical violence in which the victim suffered great bodily
16 injury or serious bodily injury shall be subject to discipline pursuant
17 to subdivision (a).

18 (u) As used in this section, “school property” includes, but is
19 not limited to, electronic files and databases.

20 (v) A superintendent of the school district or principal may use
21 his or her discretion to provide alternatives to suspension or
22 expulsion, including, but not limited to, counseling and an anger
23 management program, for a pupil subject to discipline under this
24 section.

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

28 SEC. 5. This act shall become operative on July 1, 2012.