

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2478

Introduced by Assembly Member Mendoza

February 19, 2010

An act to amend Section 626.8 of the Penal Code, relating to school safety.

LEGISLATIVE COUNSEL’S DIGEST

AB 2478, as amended, Mendoza. School safety: ~~disruptive messages.~~
disruption threatening pupil’s immediate physical safety.

(1) Existing law provides that a person who comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, whose presence or acts interfere with or disrupt a school activity, without lawful business, or who remains after having been asked to leave, as specified, is guilty of a public offense. “School” is defined to mean any preschool or public or private school having kindergarten or any of grades 1 to 12, inclusive.

This bill would expand this provision to also apply to any person who comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and ~~conveys disruptive messages where~~
~~the willfully or knowingly creates a disruption~~ *threatens with the intent to threaten the immediate physical safety of school children in preschool, elementary school, or middle school while they are coming to, leaving from, or attending school any pupil arriving at, attending, or leaving any preschool or public or private school having kindergarten or any of grades 1 to 8, inclusive.* Because this bill would expand the definition of an existing public offense, it would create a state-mandated local program.

~~(2) Existing law provides an exclusionary clause to the provision that provides that the provision shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.~~

~~This bill would revise the exclusionary clause to instead provide that the provision shall not apply to any person who engages in activities protected by the California Constitution or the United States Constitution.~~

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 626.8 of the Penal Code is amended to
2 read:

3 626.8. (a) Any person who comes into any school building or
4 upon any school ground, or street, sidewalk, or public way adjacent
5 thereto, without lawful business thereon, and whose presence or
6 acts interfere with the peaceful conduct of the activities of the
7 school or disrupt the school or its pupils or school activities, is
8 guilty of a misdemeanor if he or she does any of the following:

9 (1) Remains there after being asked to leave by the chief
10 administrative official of that school or his or her designated
11 representative, or by a person employed as a member of a security
12 or police department of a school district pursuant to Section 39670
13 of the Education Code, or a city police officer, or sheriff or deputy
14 sheriff, or a Department of the California Highway Patrol peace
15 officer.

16 (2) Reenters or comes upon that place within seven days of
17 being asked to leave by a person specified in paragraph (1).

18 (3) Has otherwise established a continued pattern of
19 unauthorized entry.

20 ~~(4) Conveys disruptive messages where the disruption threatens~~
21 ~~the physical safety of school children in preschool, elementary~~

1 ~~school, or middle school while they are coming to, leaving from,~~
2 ~~or attending school.~~

3 ~~This section shall not apply to any person who engages in~~
4 ~~activities protected by the California Constitution or the United~~
5 ~~States Constitution.~~

6 *(4) Willfully or knowingly creates a disruption with the intent*
7 *to threaten the immediate physical safety of any pupil arriving at,*
8 *attending, or leaving school.*

9 *(5) For the purposes of this subdivision, “school” means any*
10 *preschool or public or private school having kindergarten or any*
11 *of grades 1 to 8, inclusive.*

12 (b) Punishment for violation of this section shall be as follows:

13 (1) Upon a first conviction by a fine not exceeding five hundred
14 dollars (\$500), by imprisonment in a county jail for a period of
15 not more than six months, or by both that fine and imprisonment.

16 (2) If the defendant has been previously convicted once of a
17 violation of any offense defined in this chapter or Section 415.5,
18 by imprisonment in a county jail for a period of not less than 10
19 days or more than six months, or by both imprisonment and a fine
20 not exceeding five hundred dollars (\$500), and shall not be released
21 on probation, parole, or any other basis until he or she has served
22 not less than 10 days.

23 (3) If the defendant has been previously convicted two or more
24 times of a violation of any offense defined in this chapter or Section
25 415.5, by imprisonment in a county jail for a period of not less
26 than 90 days or more than six months, or by both imprisonment
27 and a fine not exceeding five hundred dollars (\$500), and shall not
28 be released on probation, parole, or any other basis until he or she
29 has served not less than 90 days.

30 (c) As used in this section, the following definitions apply:

31 (1) “Lawful business” means a reason for being present upon
32 school property which is not otherwise prohibited by statute, by
33 ordinance, or by any regulation adopted pursuant to statute or
34 ordinance.

35 (2) “Continued pattern of unauthorized entry” means that on at
36 least two prior occasions in the same school year the defendant
37 came into any school building or upon any school ground, or street,
38 sidewalk, or public way adjacent thereto, without lawful business
39 thereon, and his or her presence or acts interfered with the peaceful
40 conduct of the activities of the school or disrupted the school or

1 its pupils or school activities, and the defendant was asked to leave
2 by a person specified in paragraph (1) of subdivision (a).

3 (3) ~~“School”~~ *Except as provided in paragraph (4) of subdivision*
4 *(a), “school” means any preschool or public or private school*
5 *having kindergarten or any of grades 1 to 12, inclusive.*

6 (d) When a person is directed to leave pursuant to paragraph
7 (1) of subdivision (a), the person directing him or her to leave shall
8 inform the person that if he or she reenters the place within seven
9 days he or she will be guilty of a crime.

10 (e) *This section shall not be utilized to impinge upon the lawful*
11 *exercise of constitutionally protected rights of speech or assembly.*

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.