

AMENDED IN ASSEMBLY JULY 12, 2011

AMENDED IN ASSEMBLY JUNE 28, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 919

Introduced by Senator Lieu

February 18, 2011

An act to amend Sections 32261, 32265, 32270, and 48900 of the Education Code, relating to school safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 919, as amended, Lieu. School Safety: sexting.

(1) Existing law, the Interagency School Safety Demonstration Act of 1985, establishes the School/Law Enforcement Partnership, and requires the partnership to establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration to reduce school violence and crime, truancy rates, bullying, teen relationship violence, and discrimination and harassment. Existing law requires the partnership to sponsor at least 2 regional conferences to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism. The conferences may include, but need not be limited to, information on specified topics.

This bill would define sexting for purposes of that act as the dissemination of, or the solicitation or incitement to disseminate, a

photograph or other visual recording ~~that depicts specified areas of a minor's body~~ by a pupil to another pupil or school personnel *by means of an electronic act* with the intent to humiliate or harass. *A photograph or other visual recording to which the bill would apply would be required to depict a specified area of the minor's body or a sexually explicit photograph or other visual recording of an identifiable minor.* The bill would further define sexting to not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school sanctioned activities. The bill would require the partnership's school safety programs to also have the purpose of reducing sexting, and would include sexting as a topic that may be included in the partnership's conferences.

(2) Existing law prohibits the suspension of a pupil from school or the recommendation of a pupil for expulsion from school unless the school district superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed any of several specified acts.

This bill would include engaging in an act of sexting, as defined above, as an act for which a pupil may be suspended or expelled from 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. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The phenomenon of disseminating sexually suggestive or
- 4 explicit materials, known as sexting, has become a pervasive
- 5 problem for many school districts.
- 6 (2) The State of California is committed to a safe and civil
- 7 education environment for all pupils that is free from harassment,
- 8 bullying, and inappropriate messages that sexualize young men
- 9 and women and breaches their privacy.
- 10 (3) The intent of this act is to clarify and supplement existing
- 11 law regarding administrators' and teachers' ability to address
- 12 sexting in public schools.

1 (4) Pupils who are subjected to sexting may suffer long-term
2 social, emotional, and psychological harms as a result of
3 harassment and bullying.

4 (5) The public policy of the state is to reduce, and ultimately
5 eliminate, sexting so all pupils can have a safe school environment.

6 (b) The Legislature encourages school districts to provide
7 grade-level appropriate instruction, counseling, and other conflict
8 resolution practices for pupils on the potential risks and
9 consequences of creating and disseminating sexually suggestive
10 or explicit materials through mobile telephones and other electronic
11 devices.

12 (c) The Legislature encourages school districts to provide
13 professional development training to school personnel and to adopt
14 district policies to prevent and discourage sexting that can be shared
15 with parents and children advocacy organizations or posted on the
16 school district's Internet Web site.

17 SEC. 2. Section 32261 of the Education Code is amended to
18 read:

19 32261. (a) The Legislature hereby recognizes that all pupils
20 enrolled in the state public schools have the inalienable right to
21 attend classes on school campuses that are safe, secure, and
22 peaceful. The Legislature also recognizes that pupils cannot fully
23 benefit from an educational program unless they attend school on
24 a regular basis. In addition, the Legislature further recognizes that
25 school crime, vandalism, truancy, and excessive absenteeism are
26 significant problems on far too many school campuses in the state.

27 (b) The Legislature hereby finds and declares that the
28 establishment of an interagency coordination system is the most
29 efficient and long-lasting means of resolving school and community
30 problems of truancy and crime, including vandalism, drug and
31 alcohol abuse, gang membership, gang violence, and hate crimes.

32 (c) It is the intent of the Legislature in enacting this chapter to
33 support California public schools as they develop their mandated
34 comprehensive safety plans that are the result of a systematic
35 planning process, that include strategies aimed at the prevention
36 of, and education about, potential incidents involving crime and
37 violence on school campuses, and that address the safety concerns
38 of local law enforcement agencies, community leaders, parents,
39 pupils, teachers, administrators, school police, and other school

1 employees interested in the prevention of school crime and
2 violence.

3 (d) It is the intent of the Legislature in enacting this chapter to
4 encourage school districts, county offices of education, law
5 enforcement agencies, and agencies serving youth to develop and
6 implement interagency strategies, in-service training programs,
7 and activities that will improve school attendance and reduce
8 school crime and violence, including vandalism, drug and alcohol
9 abuse, gang membership, gang violence, hate crimes, bullying,
10 including bullying committed personally or by means of an
11 electronic act, teen relationship violence, sexting, and
12 discrimination and harassment, including, but not limited to, sexual
13 harassment.

14 (e) It is the intent of the Legislature in enacting this chapter that
15 the School/Law Enforcement Partnership shall not duplicate any
16 existing gang or drug and alcohol abuse program currently provided
17 for schools.

18 (f) As used in this chapter, “bullying” means one or more acts
19 by a pupil or group of pupils as defined in Section 48900.2,
20 48900.3, or 48900.4.

21 (g) As used in this chapter, an “electronic act” means the
22 transmission of a communication, including, but not limited to, a
23 message, text, sound, or image by means of an electronic device,
24 including, but not limited to, a telephone, wireless telephone or
25 other wireless communication device, computer, or pager.

26 (h) As used in this chapter, “sexting” means the dissemination
27 of a photograph or visual recording by a pupil as defined in
28 subdivision (s) of Section 48900.

29 SEC. 3. Section 32265 of the Education Code is amended to
30 read:

31 32265. (a) The partnership shall sponsor at least two regional
32 conferences for school districts, county offices of education,
33 agencies serving youth, allied agencies, community-based
34 organizations, and law enforcement agencies to identify exemplary
35 programs and techniques that have been effectively used to reduce
36 school crime, including hate crimes, vandalism, drug and alcohol
37 abuse, gang membership and gang violence, truancy, and excessive
38 absenteeism.

39 (b) The conference may include, but need not be limited to,
40 information on all of the following topics:

(1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Drug and alcohol abuse.

(6) Child abuse prevention, detection, and reporting.

(7) Parental education.

(8) Crisis response training.

(9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.

(10) Threat assessment.

(11) Conflict resolution and youth mediation.

(12) Teen relationship violence.

(13) Sexting.

(14) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.

(15) Hate crime reporting and prevention.

(16) Reporting and prevention of abuse against pupils with disabilities.

SEC. 4. Section 32270 of the Education Code is amended to read:

32270. (a) The partnership shall establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence, sexting, and discrimination and harassment, including, but not limited to, sexual harassment.

(b) The partnership may appoint up to 100 professionals from educational agencies, community-based organizations, allied agencies, and law enforcement to the statewide cadre.

(c) The partnership shall provide training to the statewide cadre representatives to enable them to initiate and maintain school

1 community safety programs among school districts, county offices
2 of education, agencies serving youth, allied agencies,
3 community-based organizations, and law enforcement agencies
4 in each region.

5 SEC. 5. Section 48900 of the Education Code is amended to
6 read:

7 48900. A pupil shall not be suspended from school or
8 recommended for expulsion, unless the superintendent or the
9 principal of the school in which the pupil is enrolled determines
10 that the pupil has committed an act as defined pursuant to any of
11 subdivisions (a) to (s), inclusive:

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

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

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

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

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

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

35 (f) Caused or attempted to cause damage to school property or
36 private property.

37 (g) Stolen or attempted to steal school property or private
38 property.

39 (h) Possessed or used tobacco, or products containing tobacco
40 or nicotine products, including, but not limited to, cigarettes, cigars,

1 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
2 packets, and betel. However, this section does not prohibit use or
3 possession by a pupil of his or her own prescription products.

4 (i) Committed an obscene act or engaged in habitual profanity
5 or vulgarity.

6 (j) Unlawfully possessed or unlawfully offered, arranged, or
7 negotiated to sell drug paraphernalia, as defined in Section 11014.5
8 of the Health and Safety Code.

9 (k) Disrupted school activities or otherwise willfully defied the
10 valid authority of supervisors, teachers, administrators, school
11 officials, or other school personnel engaged in the performance of
12 their duties.

13 (l) Knowingly received stolen school property or private
14 property.

15 (m) Possessed an imitation firearm. As used in this section,
16 “imitation firearm” means a replica of a firearm that is so
17 substantially similar in physical properties to an existing firearm
18 as to lead a reasonable person to conclude that the replica is a
19 firearm.

20 (n) Committed or attempted to commit a sexual assault as
21 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
22 Code or committed a sexual battery as defined in Section 243.4
23 of the Penal Code.

24 (o) Harassed, threatened, or intimidated a pupil who is a
25 complaining witness or a witness in a school disciplinary
26 proceeding for the purpose of either preventing that pupil from
27 being a witness or retaliating against that pupil for being a witness,
28 or both.

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

31 (q) Engaged in, or attempted to engage in, hazing. For purposes
32 of this subdivision, “hazing” means a method of initiation or
33 preinitiation into a pupil organization or body, whether or not the
34 organization or body is officially recognized by an educational
35 institution, that is likely to cause serious bodily injury or personal
36 degradation or disgrace resulting in physical or mental harm to a
37 former, current, or prospective pupil. For purposes of this
38 subdivision, “hazing” does not include athletic events or
39 school-sanctioned events.

(r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.

(s) (1) Engaged in an act of sexting.

(2) For purposes of this subdivision, “sexting” means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording ~~that depicts a minor’s exposed or visible genitals, pubic area, rectal area, or the nipple or areola of a female’s breast~~ by a pupil to another pupil or to school personnel *by means of an electronic act* with the intent to humiliate or harass. *A photograph or other visual recording, as described above, shall include the depiction of any of the following:*

(A) *A minor’s exposed or visible genitals, pubic area, or rectal area, or the nipple or areola of a minor female’s breast.*

(B) *A sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph or visual recording or the electronic act.*

(3) For purposes of this subdivision, “sexting” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school sanctioned activities.

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

(1) While on school grounds.

(2) While going to or coming from school.

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

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

(u) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a

1 crime of physical violence in which the victim suffered great bodily
2 injury or serious bodily injury shall be subject to discipline pursuant
3 to subdivision (a).

4 (v) As used in this section, “school property” includes, but is
5 not limited to, electronic files and databases.

6 (w) A superintendent of the school district or principal may use
7 his or her discretion to provide alternatives to suspension or
8 expulsion, including, but not limited to, counseling and an anger
9 management program, for a pupil subject to discipline under this
10 section.

11 (x) It is the intent of the Legislature that alternatives to
12 suspension or expulsion be imposed against a pupil who is truant,
13 tardy, or otherwise absent from school activities.