

ASSEMBLY BILL

No. 1390

Introduced by Assembly Member Havice

February 26, 1999

An act to amend Section 48915 of, and to add Section 48915.02 to, the Education Code, relating to pupil expulsion.

LEGISLATIVE COUNSEL'S DIGEST

AB 1390, as introduced, Havice. Pupils: expulsion: physical injury or violence.

Under existing law, a pupil may not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed one of certain enumerated acts including, among others, that the pupil caused, attempted to cause, or threatened to cause physical injury to another person, or willfully used force or violence upon the person of another, except in self-defense.

Existing law requires the principal or superintendent of schools to immediately suspend and to recommend the expulsion of a pupil that he or she determines has committed any of certain acts.

This bill would require the principal or superintendent of schools to immediately suspend and to recommend the expulsion of a pupil that he or she determines has committed a third confirmed act wherein the pupil caused, attempted to cause, or threatened to cause physical injury to another person, or willfully used force or violence upon the person of

another, except in self-defense regardless of whether the fist 2 such acts resulted in suspension or expulsion.

The bill would prohibit any pupil who is immediately suspended, and recommended for expulsion for that reason from being readmitted to any school under the jurisdiction of the school district until the pupil provides verification to the school district of completing a counseling program designed to prevent youth violence. The bill would require the State Department of Education to develop a list of counseling programs which, based on the determination of the department, provide effective counseling designed to prevent youth violence. By imposing new duties on school districts regarding the suspension, expulsion, and readmission of pupils, the bill would impose a state-mandated local program.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 48915 of the Education Code is
 2 amended to read:
 3 48915. (a) Except as provided in subdivisions (c) and
 4 (e), the principal or the superintendent of schools shall
 5 recommend the expulsion of a pupil, *unless the principal*
 6 *or superintendent finds that expulsion is inappropriate*
 7 *due to the particular circumstances*, for any of the
 8 following acts committed at school or at a school activity
 9 off school grounds, ~~unless the principal or superintendent~~



1 ~~finds that expulsion is inappropriate, due to the particular~~
2 ~~circumstance:~~

3 (1) Causing serious physical injury to another person,
4 except in self-defense.

5 (2) Possession of any knife, explosive, or other
6 dangerous object of no reasonable use to the pupil.

7 (3) Unlawful possession of any controlled substance
8 listed in Chapter 2 (commencing with Section 11053) of
9 Division 10 of the Health and Safety Code, except for the
10 first offense for the possession of not more than one
11 avoirdupois ounce of marijuana, other than concentrated
12 cannabis.

13 (4) Robbery or extortion.

14 (5) Assault or battery, as defined in Sections 240 and
15 242 of the Penal Code, upon any school employee.

16 (b) Upon recommendation by the principal,
17 superintendent of schools, or by a hearing officer or
18 administrative panel appointed pursuant to subdivision
19 (d) of Section 48918, the governing board may order a
20 pupil expelled upon finding that the pupil committed an
21 act listed in subdivision (a) or in subdivision (a), (b), (c),
22 (d), or (e) of Section 48900. A decision to expel shall be
23 based on a finding of one or both of the following:

24 (1) Other means of correction are not feasible or have
25 repeatedly failed to bring about proper conduct.

26 (2) Due to the nature of the act, the presence of the
27 pupil causes a continuing danger to the physical safety of
28 the pupil or others.

29 (c) The principal or superintendent of schools shall
30 immediately suspend, pursuant to Section 48911, and shall
31 recommend expulsion of a pupil that he or she
32 determines has committed any of the following acts at
33 school or at a school activity off school grounds:

34 (1) Possessing, selling, or otherwise furnishing a
35 firearm. This subdivision does not apply to an act of
36 possessing a firearm if the pupil had obtained prior
37 written permission to possess the firearm from a
38 certificated school employee, which is concurred in by
39 the principal or the designee of the principal. This
40 subdivision applies to an act of possessing a firearm only



1 if the possession is verified by an employee of a school
2 district.

3 (2) Brandishing a knife at another person.

4 (3) Unlawfully selling a controlled substance listed in
5 Chapter 2 (commencing with Section 11053) of Division
6 10 of the Health and Safety Code.

7 (4) Committing or attempting to commit a sexual
8 assault as defined in subdivision (n) of Section 48900 or
9 committing a sexual battery as defined in subdivision (n)
10 of Section 48900.

11 (5) *Committing a third confirmed act of physical*
12 *injury or violence as described in paragraph (1) or (2), or*
13 *both, of subdivision (a) of Section 48900, regardless of*
14 *whether the first two such acts resulted in suspension or*
15 *expulsion.*

16 (d) The governing board shall order a pupil expelled
17 upon finding that the pupil committed an act listed in
18 subdivision (c), and shall refer that pupil to a program of
19 study that meets all of the following conditions:

20 (1) Is appropriately prepared to accommodate pupils
21 who exhibit discipline problems.

22 (2) Is not provided at a comprehensive middle, junior,
23 or senior high school, or at any elementary school.

24 (3) Is not housed at the schoolsite attended by the
25 pupil at the time of suspension.

26 (e) Upon recommendation by the principal,
27 superintendent of schools, or by a hearing officer or
28 administrative panel appointed pursuant to subdivision
29 (d) of Section 48918, the governing board may order a
30 pupil expelled upon finding that the pupil, at school or at
31 a school activity off of school grounds violated subdivision
32 (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or
33 Section 48900.2 , 48900.3, or 48900.4, and either of the
34 following:

35 (1) That other means of correction are not feasible or
36 have repeatedly failed to bring about proper conduct.

37 (2) That due to the nature of the violation, the
38 presence of the pupil causes a continuing danger to the
39 physical safety of the pupil or others.



1 (f) The governing board shall refer a pupil who has
2 been expelled pursuant to subdivision (b) or (e) to a
3 program of study that meets all of the conditions specified
4 in subdivision (d). Notwithstanding this subdivision, with
5 respect to a pupil expelled pursuant to subdivision (e), if
6 the county superintendent of schools certifies that an
7 alternative program of study is not available at a site away
8 from a comprehensive middle, junior, or senior high
9 school, or an elementary school, and that the only option
10 for placement is at another comprehensive middle,
11 junior, or senior high school, or another elementary
12 school, the pupil may be referred to a program of study
13 that is provided at a comprehensive middle, junior, or
14 senior high school, or at an elementary school.

15 (g) As used in this section, “knife” means any dirk,
16 dagger, or other weapon with a fixed, sharpened blade
17 fitted primarily for stabbing, a weapon with a blade fitted
18 primarily for stabbing, a weapon with a blade longer than
19 3¹/₂ inches, a folding knife with a blade that locks into
20 place, or a razor with an unguarded blade.

21 SEC. 2. Section 48915.02 is added to the Education
22 Code, immediately following Section 48915.01, to read:

23 48915.02. Any pupil who is immediately suspended,
24 and recommended for expulsion because he or she
25 committed a violation described in paragraph (5) of
26 subdivision (c) of Section 48915 shall not be readmitted
27 to any school under the jurisdiction of the school district
28 until the pupil provides verification to the school district
29 of completing a counseling program designed to prevent
30 youth violence. On or before October 1, 2000, the State
31 Department of Education shall develop a list of
32 counseling programs which, based on the determination
33 of the department, provide effective counseling designed
34 to prevent youth violence.

35 SEC. 3. Notwithstanding Section 17610 of the
36 Government Code, if the Commission on State Mandates
37 determines that this act contains costs mandated by the
38 state, reimbursement to local agencies and school
39 districts for those costs shall be made pursuant to Part 7
40 (commencing with Section 17500) of Division 4 of Title



1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

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