

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1390

Introduced by Assembly Member Havice

February 26, 1999

An act to amend ~~Section 48915~~ *Sections 32228 and 32228.1* of, and to add ~~Section 48915.02~~ *to Article 4.5 (commencing with Section 32246) to Chapter 2 of Part 19 of, the Education Code, relating to pupil expulsion—pupils, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1390, as amended, Havice. Pupils: ~~expulsion: physical injury or violence~~ *violence prevention.*

Existing law establishes the School Safety and Violence Prevention Act, a statewide program administered by the Superintendent of Public Instruction, who, pursuant to the act, allocates funds to school districts that maintain any of grades 8 to 12, inclusive, that certify the funds will be used as required by the act. Funds allocated pursuant to this program are required to be expended for purposes that include, but are not limited to, providing conflict resolution personnel, providing on-campus communication devices, establishing staff training programs, and establishing cooperative arrangements with law enforcement agencies.

This bill would also make school districts that maintain grades 5 and 6 eligible for funds allocated pursuant to this program.

This bill would establish the Bullying Prevention Grant Program for Grades 5 and 6. Schools maintaining grades 5 and 6 would be authorized to apply to the State Department of Education for a maximum \$5,000 grant to implement a 2-year program. The bill would require the Superintendent of Public Instruction to develop criteria by which grant recipients will be selected. The bill would authorize grant funds to be expended to implement a locally designed program or to purchase existing bullying prevention materials and programs.

This bill would appropriate \$150,000 from the General Fund to the State Department of Education for purposes of implementing the Bullying Prevention Grant Program for Grades 5 and 6.

~~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 first two 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~~—yes. Fiscal committee: yes. State-mandated local program: ~~yes~~—no.~~

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

1 ~~SECTION 1.—Section 48915 of the Education Code is~~
2 *SECTION 1. Section 32228 of the Education Code is*
3 *amended to read:*

4 32228. (a) It is the intent of the Legislature that
5 public schools serving pupils in grades 8 to 12, inclusive,
6 have access to supplemental resources to establish
7 programs and strategies that promote school safety and
8 emphasize violence prevention among children and
9 youth in the public schools.

10 (b) It is further the intent of the Legislature that
11 schoolsites receiving funds pursuant to this article
12 accomplish all of the following goals:

13 (1) Teach pupils techniques for resolving conflicts
14 without violence.

15 (2) Train school staff and administrators to support
16 and promote conflict resolution and mediation



1 techniques for resolving conflicts between and among
2 pupils.

3 (3) Reduce incidents of violence at the schoolsite.

4 *SEC. 2. Section 3228.1 of the Education Code is*
5 *amended to read:*

6 32228.1. (a) The Carl Washington School Safety and
7 Violence Prevention Act is hereby established. This
8 statewide program shall be administered by the
9 Superintendent of Public Instruction, who shall provide
10 funds to school districts serving pupils in any of grades 8
11 6 to 12, inclusive, for the purpose of promoting school
12 safety and reducing schoolsite violence. As a condition of
13 receiving funds pursuant to this article, an eligible school
14 district shall certify, on forms and in a manner required
15 by the Superintendent of Public Instruction, that the
16 funds will be used as described in this section.

17 (b) From funds appropriated in the annual Budget
18 Act or any other measure, funds shall be allocated to
19 school districts on the basis of enrollment of pupils in
20 grades 8 6 to 12, inclusive, for any one or more of the
21 following purposes:

22 (1) Providing schools with personnel, including, but
23 not limited to, licensed or certificated school counselors,
24 school social workers, school nurses, and school
25 psychologists, who are trained in conflict resolution. Any
26 law enforcement personnel hired pursuant to this article
27 shall be trained and sworn peace officers.

28 (2) Providing effective and accessible on-campus
29 communication devices and other school safety
30 infrastructure needs.

31 (3) Establishing an in-service training program for
32 school staff to learn to identify at-risk pupils, to
33 communicate effectively with those pupils, and to refer
34 those pupils to appropriate counseling.

35 (4) Establishing cooperative arrangements with local
36 law enforcement agencies for appropriate
37 school-community relationships.

38 (5) For any other purpose that the school or school
39 district determines that would materially contribute to
40 meeting the goals and objectives of current law in



1 providing for safe schools and preventing violence among
2 pupils.

3 *SEC. 3. Article 4.5 (commencing with Section 32246)*
4 *is added to Chapter 2 of Part 19 of the Education Code,*
5 *to read:*

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*Article 4.5. Bullying Prevention Grant Program for
Grades 5 and 6*

10 *32246. There is hereby established the Bullying*
11 *Prevention Grant Program for Grades 5 and 6.*

12 *32247. Subject to an appropriation being made for this*
13 *purpose, a school district that has jurisdiction over schools*
14 *maintaining grades 5 and 6 may apply to the State*
15 *Department of Education for a grant to implement a*
16 *two-year bullying prevention program. The*
17 *Superintendent of Public Instruction shall develop*
18 *criteria by which grant recipients will be selected.*

19 *32248. The maximum amount of a grant shall be five*
20 *thousand dollars (\$5,000) for a two-year program. Grant*
21 *funds may be expended to implement a locally designed*
22 *program or to purchase existing bullying prevention*
23 *materials and programs.*

24 *SEC. 4. The sum of one hundred fifty thousand dollars*
25 *(\$150,000) is hereby appropriated from the General Fund*
26 *to the State Department of Education for purposes of*
27 *implementing the Bullying Prevention Grant Program*
28 *for Grades 5 and 6 pursuant to Article 4.5 (commencing*
29 *with Section 32246) of Chapter 2 of Part 19 of the*
30 *Education Code.*

31 ~~amended to read:~~

32 ~~48915. (a) Except as provided in subdivisions (c) and~~
33 ~~(e), the principal or the superintendent of schools shall~~
34 ~~recommend the expulsion of a pupil, unless the principal~~
35 ~~or superintendent finds that expulsion is inappropriate~~
36 ~~due to the particular circumstances, for any of the~~
37 ~~following acts committed at school or at a school activity~~
38 ~~off school grounds:~~

39 ~~(1) Causing serious physical injury to another person;~~
40 ~~except in self defense.~~



- 1 ~~(2) Possession of any knife, explosive, or other~~
- 2 ~~dangerous object of no reasonable use to the pupil.~~
- 3 ~~(3) Unlawful possession of any controlled substance~~
- 4 ~~listed in Chapter 2 (commencing with Section 11053) of~~
- 5 ~~Division 10 of the Health and Safety Code, except for the~~
- 6 ~~first offense for the possession of not more than one~~
- 7 ~~avoirdupois ounce of marijuana, other than concentrated~~
- 8 ~~cannabis.~~
- 9 ~~(4) Robbery or extortion.~~
- 10 ~~(5) Assault or battery, as defined in Sections 240 and~~
- 11 ~~242 of the Penal Code, upon any school employee.~~
- 12 ~~(b) Upon recommendation by the principal,~~
- 13 ~~superintendent of schools, or by a hearing officer or~~
- 14 ~~administrative panel appointed pursuant to subdivision~~
- 15 ~~(d) of Section 48918, the governing board may order a~~
- 16 ~~pupil expelled upon finding that the pupil committed an~~
- 17 ~~act listed in subdivision (a) or in subdivision (a), (b), (c),~~
- 18 ~~(d), or (e) of Section 48900. A decision to expel shall be~~
- 19 ~~based on a finding of one or both of the following:~~
- 20 ~~(1) Other means of correction are not feasible or have~~
- 21 ~~repeatedly failed to bring about proper conduct.~~
- 22 ~~(2) Due to the nature of the act, the presence of the~~
- 23 ~~pupil causes a continuing danger to the physical safety of~~
- 24 ~~the pupil or others.~~
- 25 ~~(c) The principal or superintendent of schools shall~~
- 26 ~~immediately suspend, pursuant to Section 48911, and shall~~
- 27 ~~recommend expulsion of a pupil that he or she~~
- 28 ~~determines has committed any of the following acts at~~
- 29 ~~school or at a school activity off school grounds:~~
- 30 ~~(1) Possessing, selling, or otherwise furnishing a~~
- 31 ~~firearm. This subdivision does not apply to an act of~~
- 32 ~~possessing a firearm if the pupil had obtained prior~~
- 33 ~~written permission to possess the firearm from a~~
- 34 ~~certificated school employee, which is concurred in by~~
- 35 ~~the principal or the designee of the principal. This~~
- 36 ~~subdivision applies to an act of possessing a firearm only~~
- 37 ~~if the possession is verified by an employee of a school~~
- 38 ~~district.~~
- 39 ~~(2) Brandishing a knife at another person.~~



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

4 ~~(4) Committing or attempting to commit a sexual~~
5 ~~assault as defined in subdivision (n) of Section 48900 or~~
6 ~~committing a sexual battery as defined in subdivision (n)~~
7 ~~of Section 48900.~~

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

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

17 ~~(1) Is appropriately prepared to accommodate pupils~~
18 ~~who exhibit discipline problems.~~

19 ~~(2) Is not provided at a comprehensive middle, junior,~~
20 ~~or senior high school, or at any elementary school.~~

21 ~~(3) Is not housed at the schoolsite attended by the~~
22 ~~pupil at the time of suspension.~~

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

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

34 ~~(2) That due to the nature of the violation, the~~
35 ~~presence of the pupil causes a continuing danger to the~~
36 ~~physical safety of the pupil or others.~~

37 ~~(f) The governing board shall refer a pupil who has~~
38 ~~been expelled pursuant to subdivision (b) or (c) to a~~
39 ~~program of study that meets all of the conditions specified~~
40 ~~in subdivision (d). Notwithstanding this subdivision, with~~



1 respect to a pupil expelled pursuant to subdivision (c), if
2 the county superintendent of schools certifies that an
3 alternative program of study is not available at a site away
4 from a comprehensive middle, junior, or senior high
5 school, or an elementary school, and that the only option
6 for placement is at another comprehensive middle,
7 junior, or senior high school, or another elementary
8 school, the pupil may be referred to a program of study
9 that is provided at a comprehensive middle, junior, or
10 senior high school, or at an elementary school.

11 (g) As used in this section, “knife” means any dirk,
12 dagger, or other weapon with a fixed, sharpened blade
13 fitted primarily for stabbing, a weapon with a blade fitted
14 primarily for stabbing, a weapon with a blade longer than
15 3½ inches, a folding knife with a blade that locks into
16 place, or a razor with an unguarded blade.

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

19 48915.02. Any pupil who is immediately suspended,
20 and recommended for expulsion because he or she
21 committed a violation described in paragraph (5) of
22 subdivision (c) of Section 48915 shall not be readmitted
23 to any school under the jurisdiction of the school district
24 until the pupil provides verification to the school district
25 of completing a counseling program designed to prevent
26 youth violence. On or before October 1, 2000, the State
27 Department of Education shall develop a list of
28 counseling programs which, based on the determination
29 of the department, provide effective counseling designed
30 to prevent youth violence.

31 SEC. 3. Notwithstanding Section 17610 of the
32 Government Code, if the Commission on State Mandates
33 determines that this act contains costs mandated by the
34 state, reimbursement to local agencies and school
35 districts for those costs shall be made pursuant to Part 7
36 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide cost of the
38 claim for reimbursement does not exceed one million



1 ~~dollars (\$1,000,000), reimbursement shall be made from~~
2 ~~the State Mandates Claims Fund.~~

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