

Education (Vice Chair Ochoa Bogh)

**AB 2441 (Kalra)
Oppose**

DISCLAIMER: The following analysis is a professional staff recommendation and does not necessarily represent the formal opinion of all the members of the Senate Republican Caucus.

MEDIA CONTACT: For any inquiries or to arrange interviews with Republican Senators to discuss this analysis, please contact Jacqui Nguyen at Jacqui.Nguyen@sen.ca.gov, 916-651-1756).

Vote requirement: 21
Version Date: 07/03/2024

Summary

Eliminates the requirement that schools notify law enforcement regarding instances involving the possession of narcotics or a controlled substance by a student if it does not include a firearm.

Removes the requirement that schools notify law enforcement if an employee is attacked, assaulted, or physically threatened by a student, and instead only requires law enforcement to be notified when an attack causes bodily harm sufficient to require immediate medical attention.

Exempts currently enrolled students from being charged with a misdemeanor or being fined up to \$500 for willful disturbance at a public school or public school meeting.

Vote History

Assembly Floor: 41-22 (5/23/2024)

(NO: All Republicans, except; ABS: Megan Dahle, Essayli, Mathis)

Senate Education: 5-2 (7/03/2024)

(NO: Ochoa Bogh, Wilk)

Senate Appropriations: (Senate Rule 28.8)

Support & Opposition Received

Support: ACLU California Action (co-sponsor); Alliance for Boys and Men of Color (co-sponsor); Black Organizing Project (co-sponsor); Black Parallel School Board (co-sponsor); Coleman Advocates for Children and Youth (co-sponsor); Disability Rights California (co-sponsor); Dolores Huerta Foundation (co-sponsor); Public Counsel (co-sponsor); Social Justice Learning Institute (co-sponsor); Alliance for Children's Rights; Alliance San Diego; Asian Americans Advancing Justice-Southern California; Association of California School Administrators; Back to the Start; Be Smooth, Inc.; Bill Wilson Center; Brothers, Sons, Selves Coalition; California Black Power Network; California Federation of Teachers; California Youth Empowerment Network; California Federation of Teachers; California for Safety and Justice; California Immigrant Policy Center; California Public Defenders Association; California School-Based Health Alliance; Californians for Justice; Californians United for a Responsible Budget; Cancel the Contract; Center for Public Interest Law/Children's Advocacy Center/University of San Diego; Center on Juvenile and Criminal Justice; Child Care Law Center; Children Now; Children's Advocacy Institute; Children's Defense Fund - California; Chispa, A Project of Tides Advocacy; Civil Rights Enforcement and Education Center; Communities United for Restorative Youth Justice; Community Asset Development Re-Defining Education; Community Interventions; Congregations Organized for Prophetic Engagement; Courage California; Culver City Democratic Club; East Bay Community Law Center; Equal Justice Society; Freedom 4 Youth; Fresh Lifelines for Youth; Grace Institute - End Child Poverty in CA; Indivisible CA Statestrong; Initiate Justice; Legal Services for Prisoners with Children; Mental Health America of California; Milpa Collective; National Center for Youth Law; National Health Law Program; On the Move; Orange County Justice Initiative; Pacific Juvenile Defender Center; Public Advocates Inc.; San Jose Unified Equity Coalition; Santa Clara County Office of Education; Small School Districts Association; Southeast Asia Resource Action Center; Students Deserve; The Amelia Ann Adams Whole Life Center; The Children's Partnership; The Collective for Liberatory Lawyering; United Teachers Los Angeles; Voices for Progress; Young Women's Freedom Center; Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School; Youth Law Center.

Opposition: Administrators Association of San Diego City Schools; Arcadia Police Officers' Association; Burbank Police Officers' Association; California Coalition of School Safety Professionals; California Narcotic Officers' Association; California Police Chiefs Association; California Reserve Peace Officers Association; California State Sheriffs' Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Novato Police Officers Association; Orange County Sheriff's Department; Palos Verdes Police Officers Association; Peace Officers Research Association of California; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; Santa Ana Police Officers Association; Sacramento County Sheriff Jim Cooper; Upland Police Officers Association.

Fiscal Effect

MINOR STATE COSTS

Likely minor Proposition 98 General Fund costs for Local Education Agencies to update their guidance to reflect the provisions of the bill. The Department of Justice estimates no fiscal impact.

Fiscal Consultant: *Megan De Sousa*

Arguments in Support

Mandatory notification statutes are harmful to the students involved. The author's office writes, "For far too long, the over-policing of children in our public schools has fueled the school-to-prison pipeline, and it is time to end this harmful practice and protect future generations of students. Research shows that there are long-term effects on youth when they come in contact with law enforcement, juvenile, or criminal legal systems. Students are less likely to graduate high school and more likely to wind up in jail or prison if they make contact with law enforcement. Our existing system has led to alarming disparities in the type of students who are most likely to suffer from these actions. Black students, Latino students, students of color, and students with disabilities are disproportionately referred to law enforcement, cited, and arrested. Referring students to law enforcement will only cause further harm to the minor than correcting their behavior or addressing the issue.

"Teachers and staff still retain the right to call law enforcement if they feel that is the right response. However, giving California educators the flexibility to support students with alternative methods and needed services for their behavioral issues will give students an opportunity to get the help and resources they need. These laws require notification regardless of the particular circumstances of the incident or the individual student's situation. Furthermore, California students can also be criminally prosecuted for "willful disturbance" of public schools or public school meetings. This provision has led to students being arrested for offenses such as knocking on classroom doors during class.

"AB 2441 is the next step to keep students in the classroom where they can safely learn and thrive. This bill will eliminate some state mandates for schools to notify law enforcement, thereby empowering schools to adopt non-punitive, supportive, trauma-informed, and health-based approaches to school-related behaviors, which will give educators the flexibility to determine when to notify law enforcement, eliminate prosecution of school staff who choose to not report incidents, and eliminate the criminal penalty against students for "willful disturbance" of public schools and public school meetings.

Provides discretion to school leaders to decide when they need the support of law enforcement. The Association of California School Administrators writes, "Many school districts are using restorative practices to address behavioral issues with great success. AB 2441 will grant school leaders greater discretion to decide when they can manage a behavioral issue within their resources and when they need the support of law enforcement. AB 2441 will keep more students in school and prevent unnecessary referrals to the justice system."

Arguments in Opposition

Negatively impacts the safety of students and employees at California schools.

Sacramento County Sheriff Jim Cooper writes, "This bill will have a negative impact on the safety and security of students in California. Specifically, AB 2441 will result in a concerning reduction in options available to School Resource Officers (SROs) to protect schools throughout the state of California. School districts throughout the state have already enacted policies and procedures to curtail law enforcement's involvement in areas which only require behavioral interventions. Currently, memorandums of understanding between the Sacramento County Sheriff's Office and various school districts, generally limit the role of SROs to investigations of criminal matters and restricts them from participating in the disciplinary and administrative process. AB 2441 will negatively impact the safety of students and employees at California schools. Current training and policies which govern School Resource Officers have addressed the concerns the author is trying to address with this legislation. Standard law enforcement practices with respect to students and school employees already mirror the author's concerns. At some point, any further limits on law enforcement's ability to investigate and respond to serious crimes will only endanger students and school employees, not protect them."

How does a principal determine that a student is merely "in possession" of a controlled substance and not intending to sell it? Existing law refers to the sale or possession of controlled substances or narcotics when it comes to notifying law enforcement. This bill eliminates the requirement for a principal or their designee to notify law enforcement authorities of any acts of a student involving the possession of narcotics or a controlled substance. This leaves just the sale of controlled substances or narcotics as an offense which necessitates that law enforcement be notified. How does one decide that a student is merely "in possession" of a controlled substance (which would not require the involvement of law enforcement), and does not intend to provide it to others? Are principals or their designees trained to make that judgment call? It is extremely troubling that possession of a controlled substance or narcotics would no longer be required to be reported to law enforcement under this bill.

Why shouldn't law enforcement be notified in all instances of students being suspended or expelled due to controlled substances? This bill also eliminates the requirement that the principal of a school or the principal's designee to, within one schoolday after suspension or expulsion of a pupil, notify the appropriate law enforcement authorities if

a pupil has committed the following acts: unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind. However, unlawfully offering, arranging, or negotiating to sell a controlled substance, an alcoholic beverage, or an intoxicant of any kind, and either selling, delivering, or otherwise furnishing to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant still necessitates that law enforcement be called. Why shouldn't law enforcement be called in all instances related to students when they are suspended or expelled due to controlled substances?

May result in more egregious behavior by students without consequences, and more potentially violent incidents. The Peace Officers' Research Association of California writes, "AB 2441 is a problematic bill because in a case where a student assaults a teacher, the student will not be held accountable for their actions. This bill removes the requirement to report these incidents and merely turns it into a suggestion. Mandatory notifications and positive law enforcement encounters protect all parties involved. This legislation is bad and may result in more egregious behavior by students without consequences and more potential violent incidents, up to and including death, on our campuses."

Erodes the collaboration between law enforcement and school staff, and creates liability issues. The California Police Chiefs Association writes, "By eliminating requirements for school personnel to notify law enforcement of unlawful activity, this bill erodes the collaboration between law enforcement and school staff that is necessary to prevent threats and keep our students safe. In turn, by making these notifications permissible, AB 2441 inserts questioning and liability issues for school personnel that will unnecessarily complicate these critical decisions."

Digest

Exempts students enrolled in the school district from being charged with a misdemeanor or being fined up to \$500 for willful disturbance of any public school or any public school meeting.

Authorizes, rather than requires, the reporting to law enforcement of incidents in which an employee of a school district or county office of education is physically threatened by a student.

Eliminates the duty of a supervisor who has knowledge of incidents relating to attacks, assaults, or physical threats on school employees by students to report it, and eliminates infraction provisions for failure to make that report.

Requires, whenever an employee is subject to an attack by a student that causes bodily harm sufficient to require immediate medical attention, the employee to notify specified law enforcement authorities and would eliminate the duty of a person under whose

direction or supervision the employee is employed who has knowledge of the incident to report it. ***(Existing law requires the reporting of all attacks and assaults by students against school employees to law enforcement without specifying the severity of the incident).***

Eliminates the requirement that the principal of a school or the principal's designee to, within one schoolday after suspension or expulsion of a pupil, notify the appropriate law enforcement authorities if a pupil has committed the following acts: unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

Eliminates the requirement for a principal or their designee to notify law enforcement authorities of any acts of a student involving the possession of narcotics or a controlled substance.

Requires the principal of a school or the principal's designee to notify law enforcement for an act by a student that requires notification pursuant to the federal Gun-Free School Act of 1994, which conditions certain federal funding on a criminal or juvenile delinquency referral policy for a student who brings a firearm or weapon to a school.

Background

Existing State Law:

Provides that any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor and subject to a fine of not more than \$500. (EDC § 32210.)

Whenever any employee of a school district or county superintendent of schools is attacked, assaulted, or physically threatened by any pupil, the employee and any person under whose direction or supervision the employee is employed who has knowledge of the incident are required to promptly report the incident to specified law enforcement authorities. Failure to make the report is an infraction punishable by a fine of not more than \$1,000. An act by specified persons to inhibit or impede the making of the report is an infraction punishable by a fine of not less than \$500 and not more than \$1,000. (EDC § 44014.)

Requires the principal of a school or the principal's designee to, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code (assault and battery including assault with a deadly weapon and assault with a firearm). (EDC § 48902.)

Requires the principal of a school or the principal's designee to, within one schoolday

after suspension or expulsion of any pupil, to notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) (unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind) or subdivision (d) (unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.) of Section 49000. (EDC § 48902.)

Requires the principal of a school or the principal's designee to notify the appropriate law enforcement authorities of the county or city in which the school is situated of certain acts committed by a pupil that may be unlawful, including, among others, the selling or possession of narcotics or other designated controlled or regulated substances. (EDC § 48902.)

Requires the principal of or the principal's designee to report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 (possessing, selling, or otherwise furnishing a firearm; and possession of an explosive) committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable. (EDC § 48902.)

Provides that a principal, the principal's designee, or any other person reporting a known or suspected act is not civilly or criminally liable as a result of making any report unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report. (EDC § 48902.)

Prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district, or the principal of the school, determines that the pupil has committed specific offenses, including, but not limited to, the following:

- Causing, attempting to cause, or threatening to cause physical injury to another person, or willfully using force or violence upon another person, except in self-defense;
- Possessing, selling, or otherwise furnishing a firearm, knife, explosive, or other dangerous object, unless the student had obtained prior written permission to possess the item;
- Unlawfully possessing, using, selling, or otherwise furnishing a controlled substance;

- Unlawfully offering, arranging, or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
- Committing or attempting to commit robbery or extortion;
- Causing or attempting to cause damage to school property or private property;
- Stealing or attempting to steal school property or private property;
- Unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;
- Possessing an imitation firearm;
- Committing or attempting to commit a sexual assault or sexual battery; and
- Harassing, threatening, or intimidating a pupil who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the pupil from being a witness or retaliating against that pupil for being a witness, or both. (EDC § 48900.)

Specifies additional grounds for suspension or recommendations for expulsion:

- Committing sexual harassment (grades 4 through 12 only);
- Causing or attempting to cause, threatening to cause, or participating in an act of hate violence (grades 4 through 12 only);
- Engaging in harassment, threats, or intimidation against school district personnel or pupils that have the effect of disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment (grades 4 through 12 only); and
- Making a terroristic threat against school officials or school property, or both. (EDC §§ 48900.2, 48900.3, 48900.4, 48900.7.)

Requires a principal or superintendent to recommend the expulsion of a student for any of the following acts committed at school or at a school activity off school grounds, unless there is a determination that expulsion is not recommended under the circumstances or that an alternative means of correction would address the conduct:

- Causing serious physical injury to another person, except in self-defense;
- Possession of any knife or other dangerous object of no reasonable use to the pupil;
- Unlawful possession of any controlled substance listed in Chapter 2 of Division 10 of the Health and Safety Code, except for either of the following:
 - The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or
 - The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician;
- Robbery or extortion; and
- Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee. (EDC § 48915.)

Requires a principal or superintendent of schools to immediately suspend and recommend the expulsion of a student that has committed any of the following acts at school or at a school activity off school grounds:

- Possessing, selling, or otherwise furnishing a firearm;
- Brandishing a knife at another person;
- Unlawfully selling a controlled substance;
- Committing or attempting to commit a sexual assault; or
- Possession of an explosive. (EDC § 48915.)

Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction may include, but are not limited to, the following:

- A conference between school personnel, the student's parent or guardian, and the student;
- Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support personnel for case management and counseling;
- Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, develop and implement individualized plans to address the behavior in partnership with the student and his or her parents;
- Referral for a comprehensive psychosocial or psychoeducational assessment;
- Enrollment in a program for teaching prosocial behavior or anger management;
- Participation in a restorative justice program;
- A positive behavior support approach with tiered interventions that occur during the schoolday on campus; and,
- After school programs that address specific behavioral issues or expose students to positive activities and behaviors. (EDC § 48900.5.)

Defines "assault" as an unlawful attempt, coupled with a present ability, to commit a violent injury on another person. (PEN § 240.)

Defines "battery" as any willful and unlawful use of force or violence on another person. (PEN § 242.)

Existing Federal Law:

The federal Gun-Free Schools Act prohibits a local educational agency (LEA) from receiving certain federal funds unless the LEA has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by the LEA. (20 U.S.C. § 7961(h).)

Related Legislation

AB 1323 (Kalra, 2024) Would have authorized, instead of require, the employee who was the target of the incident to make that notification and would have prohibited the governing board of a school district, a member of the governing board, a county superintendent of schools, and an employee of a school district or of the office of any county superintendent of schools from imposing any sanctions against a person making that notification. The bill would have strongly encouraged an employee of a school district or of the office of a county superintendent of schools to employ other means of correction, as provided, before considering a law enforcement referral. This bill was held in the Assembly Education Committee.

AB 1919 (Weber, 2024) Requires an LEA to adopt at least one of the best practices for restorative justice practice implementation developed by the California Department of Education (CDE). This bill is pending in the Senate. Current Senate Republican Members' Votes: (NO: Jones, Seyarto; ABS: Ochoa Bogh, Wilk).

AB 2711 (Ramos, 2024) Prohibits the suspension of a pupil who voluntarily discloses, in order to seek help through services or supports, their use of a controlled substance, alcohol, intoxicants of any kind, or a tobacco product, solely for that disclosure. This bill is pending in the Senate. Current Senate Republican Members' Votes: (AYE: Wilk; NO: Jones, Ochoa Bogh, Seyarto).

AB 599 (Ward, 2023) Would have prohibited a pupil from being suspended or expelled from school for possessing or using tobacco or nicotine products beginning July 1, 2025. This bill would have also required CDE to develop and make available a model policy for a public health approach to addressing student possession and use of drugs on school property by July 1, 2025. This bill was held in the Senate Appropriations Committee. Current Senate Republican Members' Votes: (ABS: Ochoa Bogh, Wilk).

SB 274 (Skinner, Ch. 597, Stats. of 2023) Extended the prohibition against the suspension of pupils from school for willful defiance that applied to pupils in kindergarten to grade 8, (including those enrolled in charter schools), to all grades. Prohibited a suspension or expulsion from being imposed against a pupil based solely on the fact that they are truant, tardy, or otherwise absent from school activities. This bill passed the Senate 32-6. Current Senate Republican Members' Votes: (AYE: Alvarado-Gil, Dahle; NO: Grove, Jones, Nguyen, Niello, Seyarto, Wilk; ABS: Ochoa Bogh).

SB 1273 (Bradford, 2022) Would have eliminated reporting requirements by schools to law enforcement related to pupil possession or sale of narcotics or other controlled substances, and acts of assault (including incidents of attacks, assaults, or physical threats by pupils against school employees). This bill passed the Senate 21-12, but was held in the Assembly Education Committee. Current Senate Republican Members' Votes: (NO: Dahle, Grove, Ochoa Bogh, Seyarto, Wilk; ABS: Jones).

AB 610 (Kalra, 2021) This bill was nearly identical to the introduced version of SB 1273 (Bradford), but was never heard in the Assembly Education Committee.

SB 796 (Bradford, 2021 - as introduced) As introduced this bill would have prohibited a peace officer employed by a school district from sharing information collected from a pupil with other law enforcement agencies. It would have required information gathered from a pupil by a peace officer employed by a school district to only be collected for the purpose of the pupil's school records and prohibited the records from being shared with other law enforcement agencies unless the agency has a search warrant. This bill was gutted and amended to deal with state parks prior to being heard, and was subsequently chaptered.

SB 419 (Skinner, Ch. 279, Stats. of 2019) Prohibited, indefinitely, the suspension of a pupil in kindergarten or any of grades 4 and 5 for disrupting school activities or otherwise willfully defying the valid authority of school personnel (current law prohibits this for grades K-3). Prohibited, until January 1, 2025, the suspension of a pupil in any of grades 6 through 8 for those acts. Applied these restrictions to charter schools. This bill passed the Senate 31-8. Current Senate Republican Members' Votes: (AYE: Wilk; NO: Dahle, Grove; ABS: Jones).

Senate Republican Policy Office/*Amanda Richie*