

AMENDED IN ASSEMBLY JUNE 26, 2017

AMENDED IN SENATE APRIL 18, 2017

AMENDED IN SENATE MARCH 27, 2017

SENATE BILL

No. 607

Introduced by Senator Skinner

~~(Coauthor: Assembly Member Reyes)~~

(Coauthors: Assembly Members Reyes and Weber)

February 17, 2017

An act to amend Section 48900 ~~of~~ *of*, and to add Section 48900.10 to, the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

SB 607, as amended, Skinner. Pupil discipline: suspensions and expulsions: willful defiance.

Existing law 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 in which the pupil is enrolled determines that the pupil has committed a specified act, including, among other acts, disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

Existing law prohibits the suspension of a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, and recommending the expulsion of a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, for disrupting school activities or otherwise willfully defying the valid authority of those school personnel engaged in the performance

of their duties. Existing law makes these prohibitions inoperative on July 1, 2018.

This bill would instead make those provisions indefinitely applicable to pupils enrolled in kindergarten or any of grades 1 to 5, inclusive, and, with respect to pupils enrolled in grades 6 to 12, inclusive, would make those provisions applicable until July 1, ~~2028~~. 2023. *The bill would also provide that a pupil enrolled in a charter school in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended or recommended for expulsion for disrupting school activities or otherwise willfully defying the valid authority of school personnel engaged in the performance of their duties, and, until July 1, 2023, would make those prohibitions applicable to charter school pupils enrolled in any of grades 6 to 12, inclusive.* The bill would make other related changes.

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

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

- 1 SECTION 1. (a) It is the intent of the Legislature to provide
- 2 teachers and school administrators with the means to foster safe
- 3 and supportive learning environments for all children in California.
- 4 (b) It is further the intent of the Legislature to ensure that pupils
- 5 who transfer between multiple classrooms, taught by multiple
- 6 teachers, be allowed to attend all remaining classes from which
- 7 they have not been removed for disciplinary reasons.
- 8 SEC. 2. Section 48900 of the Education Code is amended to
- 9 read:
- 10 48900. A pupil shall not be suspended from school or
- 11 recommended for expulsion, unless the superintendent of the school
- 12 district or the principal of the school in which the pupil is enrolled
- 13 determines that the pupil has committed an act as defined pursuant
- 14 to any of subdivisions (a) to (r), inclusive:
- 15 (a) (1) Caused, attempted to cause, or threatened to cause
- 16 physical injury to another person.
- 17 (2) Willfully used force or violence upon the person of another,
- 18 except in self-defense.
- 19 (b) Possessed, sold, or otherwise furnished a firearm, knife,
- 20 explosive, or other dangerous object, unless, in the case of
- 21 possession of an object of this type, the pupil had obtained written

1 permission to possess the item from a certificated school employee,
2 which is concurred in by the principal or the designee of the
3 principal.

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

9 (d) Unlawfully offered, arranged, or negotiated to sell a
10 controlled substance listed in Chapter 2 (commencing with Section
11 11053) of Division 10 of the Health and Safety Code, an alcoholic
12 beverage, or an intoxicant of any kind, and either sold, delivered,
13 or otherwise furnished to a person another liquid, substance, or
14 material and represented the liquid, substance, or material as a
15 controlled substance, alcoholic beverage, or intoxicant.

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

17 (f) Caused or attempted to cause damage to school property or
18 private property.

19 (g) Stole or attempted to steal school property or private
20 property.

21 (h) Possessed or used tobacco, or products containing tobacco
22 or nicotine products, including, but not limited to, cigarettes, cigars,
23 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
24 packets, and betel. However, this section does not prohibit the use
25 or possession by a pupil of his or her own prescription products.

26 (i) Committed an obscene act or engaged in habitual profanity
27 or vulgarity.

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

31 (k) (1) Disrupted school activities or otherwise willfully defied
32 the valid authority of supervisors, teachers, administrators, school
33 officials, or other school personnel engaged in the performance of
34 their duties.

35 (2) Except as provided in Section 48910, a pupil enrolled in
36 kindergarten or any of grades 1 to 5, inclusive, shall not be
37 suspended for any of the acts specified in paragraph (1) and those
38 acts shall not constitute grounds for a pupil enrolled in kindergarten
39 or any of grades 1 to 5, inclusive, to be recommended for
40 expulsion.

1 (3) Except as provided in Section 48910, a pupil enrolled in any
2 of grades 6 to 12, inclusive, shall not be suspended for any of the
3 acts specified in paragraph (1) and those acts shall not constitute
4 grounds for a pupil enrolled in any of grades 6 to 12, inclusive, to
5 be recommended for expulsion. This paragraph is inoperative on
6 July 1, ~~2028~~. 2023.

7 (l) Knowingly received stolen school property or private
8 property.

9 (m) Possessed an imitation firearm. As used in this section,
10 “imitation firearm” means a replica of a firearm that is so
11 substantially similar in physical properties to an existing firearm
12 as to lead a reasonable person to conclude that the replica is a
13 firearm.

14 (n) Committed or attempted to commit a sexual assault as
15 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
16 Code or committed a sexual battery as defined in Section 243.4
17 of the Penal Code.

18 (o) Harassed, threatened, or intimidated a pupil who is a
19 complaining witness or a witness in a school disciplinary
20 proceeding for purposes of either preventing that pupil from being
21 a witness or retaliating against that pupil for being a witness, or
22 both.

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

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

34 (r) Engaged in an act of bullying. For purposes of this
35 subdivision, the following terms have the following meanings:

36 (1) “Bullying” means any severe or pervasive physical or verbal
37 act or conduct, including communications made in writing or by
38 means of an electronic act, and including one or more acts
39 committed by a pupil or group of pupils as defined in Section
40 48900.2, 48900.3, or 48900.4, directed toward one or more pupils

1 that has or can be reasonably predicted to have the effect of one
2 or more of the following:

3 (A) Placing a reasonable pupil or pupils in fear of harm to that
4 pupil's or those pupils' person or property.

5 (B) Causing a reasonable pupil to experience a substantially
6 detrimental effect on his or her physical or mental health.

7 (C) Causing a reasonable pupil to experience substantial
8 interference with his or her academic performance.

9 (D) Causing a reasonable pupil to experience substantial
10 interference with his or her ability to participate in or benefit from
11 the services, activities, or privileges provided by a school.

12 (2) (A) "Electronic act" means the creation or transmission
13 originated on or off the schoolsite, by means of an electronic
14 device, including, but not limited to, a telephone, wireless
15 telephone, or other wireless communication device, computer, or
16 pager, of a communication, including, but not limited to, any of
17 the following:

18 (i) A message, text, sound, video, or image.

19 (ii) A post on a social network Internet Web site, including, but
20 not limited to:

21 (I) Posting to or creating a burn page. "Burn page" means an
22 Internet Web site created for the purpose of having one or more
23 of the effects listed in paragraph (1).

24 (II) Creating a credible impersonation of another actual pupil
25 for the purpose of having one or more of the effects listed in
26 paragraph (1). "Credible impersonation" means to knowingly and
27 without consent impersonate a pupil for the purpose of bullying
28 the pupil and such that another pupil would reasonably believe, or
29 has reasonably believed, that the pupil was or is the pupil who was
30 impersonated.

31 (III) Creating a false profile for the purpose of having one or
32 more of the effects listed in paragraph (1). "False profile" means
33 a profile of a fictitious pupil or a profile using the likeness or
34 attributes of an actual pupil other than the pupil who created the
35 false profile.

36 (iii) An act of cyber sexual bullying.

37 (I) For purposes of this clause, "cyber sexual bullying" means
38 the dissemination of, or the solicitation or incitement to
39 disseminate, a photograph or other visual recording by a pupil to
40 another pupil or to school personnel by means of an electronic act

1 that has or can be reasonably predicted to have one or more of the
2 effects described in subparagraphs (A) to (D), inclusive, of
3 paragraph (1). A photograph or other visual recording, as described
4 above, shall include the depiction of a nude, semi-nude, or sexually
5 explicit photograph or other visual recording of a minor where the
6 minor is identifiable from the photograph, visual recording, or
7 other electronic act.

8 (II) For purposes of this clause, “cyber sexual bullying” does
9 not include a depiction, portrayal, or image that has any serious
10 literary, artistic, educational, political, or scientific value or that
11 involves athletic events or school-sanctioned activities.

12 (B) Notwithstanding paragraph (1) and subparagraph (A), an
13 electronic act shall not constitute pervasive conduct solely on the
14 basis that it has been transmitted on the Internet or is currently
15 posted on the Internet.

16 (3) “Reasonable pupil” means a pupil, including, but not limited
17 to, an exceptional needs pupil, who exercises average care, skill,
18 and judgment in conduct for a person of his or her age, or for a
19 person of his or her age with his or her exceptional needs.

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

28 (1) While on school grounds.

29 (2) While going to or coming from school.

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

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

33 (t) A pupil who aids or abets, as defined in Section 31 of the
34 Penal Code, the infliction or attempted infliction of physical injury
35 to another person may be subject to suspension, but not expulsion,
36 pursuant to this section, except that a pupil who has been adjudged
37 by a juvenile court to have committed, as an aider and abettor, a
38 crime of physical violence in which the victim suffered great bodily
39 injury or serious bodily injury shall be subject to discipline pursuant
40 to subdivision (a).

1 (u) As used in this section, “school property” includes, but is
2 not limited to, electronic files and databases.

3 (v) For a pupil subject to discipline under this section, a
4 superintendent of the school district or principal is encouraged to
5 provide alternatives to suspension or expulsion, using a
6 research-based framework with strategies that improve behavioral
7 and academic outcomes, that are age appropriate and designed to
8 address and correct the pupil’s specific misbehavior as specified
9 in Section 48900.5.

10 (w) (1) It is the intent of the Legislature that alternatives to
11 suspension or expulsion be imposed against a pupil who is truant,
12 tardy, or otherwise absent from school activities.

13 (2) It is further the intent of the Legislature that the department’s
14 Multi-Tiered System of Supports, which includes restorative justice
15 practices, trauma-informed practices, social and emotional learning,
16 and schoolwide positive behavior interventions and support, may
17 be used to help pupils gain critical social and emotional skills,
18 receive support to help transform trauma-related responses,
19 understand the impact of their actions, and develop meaningful
20 methods for repairing harm to the school community.

21 *SEC. 3. Section 48900.10 is added to the Education Code, to*
22 *read:*

23 *48900.10. Notwithstanding any other law, the following*
24 *provisions apply to charter schools:*

25 (a) *A pupil enrolled in a charter school in kindergarten or any*
26 *of grades 1 to 5, inclusive, shall not be suspended on the basis of*
27 *having disrupted school activities or otherwise willfully defied the*
28 *valid authority of supervisors, teachers, administrators, school*
29 *officials, or other school personnel engaged in the performance*
30 *of their duties and those acts shall not constitute grounds for a*
31 *pupil enrolled in kindergarten or any of grades 1 to 5, inclusive,*
32 *to be recommended for expulsion.*

33 (b) *A pupil enrolled in a charter school in any of grades 6 to*
34 *12, inclusive, shall not be suspended for any of the acts specified*
35 *in subdivision (a) and those acts shall not constitute grounds for*
36 *a pupil enrolled in any of grades 6 to 12, inclusive, to be*
37 *recommended for expulsion. This subdivision is inoperative on*
38 *July 1, 2023.*

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