An act to amend Sections 32283, 48204, and 48900 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL’S DIGEST

AB 1156, as introduced, Eng. Pupils: bullying.

(1) Existing law establishes the public school system in this state, and, among other things, provides for the establishment of school districts throughout the state and for their provision of instruction at the public elementary and secondary schools they operate and maintain.

Existing law requires the Department of Justice and the State Department of Education to contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel to assist them in the development of school safety and crisis response plans.

(2) Existing law provides for residency requirements for school attendance at a particular district.

This bill, as of July 1, 2012, would require the training of schoolsite personnel in the prevention of bullying, as defined in the bill, under this provision to be a component in the development of school safety plans.

This bill, as of July 1, 2012, would provide that a pupil complies with the residency requirements for school attendance in a school district if that pupil’s residence is located within the boundaries of another school district, but the pupil has been determined by personnel of that other district to have been the victim of an act of bullying, as defined, committed by a pupil of that other district.
(3) Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the principal determines that the pupil has committed any of various specified acts, including, but not limited to, bullying, as defined to include sexual harassment, hate violence, or harassment, threats, or intimidation.

This bill, as of July 1, 2012, would amend the definition of bullying in this provision by specifying that bullying includes harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying, and further specifying that bullying has the effect or can reasonably be predicted to have the effect of placing the pupil or pupils in reasonable fear of harm to that pupil’s or those pupils’ person or property, causing a substantially detrimental effect on the pupil’s or pupils’ physical or mental health, substantially interfering with the pupil’s or pupils’ academic performance, or substantially interfering with the pupil’s or pupils’ ability to participate in or benefit from the services, activities, or privileges provided by a school.


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

SECTION 1. The Legislature finds and declares all of the following:
(a) A safe and civil school environment is necessary for pupils to learn and achieve.
(b) Bullying causes physical, psychological, and emotional harm to pupils, and interferes with pupils’ ability to learn and participate in school activities.
(c) Bullying has been linked to other forms of antisocial behavior, such as vandalism, shoplifting, truancy and dropping out of school, fighting, using drugs and alcohol, sexual harassment, and sexual violence.
(d) Because of the negative outcomes associated with bullying in schools, pupils, parents, and school personnel should be informed about what behaviors constitute prohibited bullying.
(e) If victims of bullying feel unsafe at the schools where they have been victimized, they should be accommodated if they desire
to attend another school, even if that school is located in another
school district.
SEC. 2. Section 32283 of the Education Code is amended to
read:
32283. The Department of Justice and the State Department
of Education, in accordance with Section 32262, shall contract
with one or more professional trainers to coordinate statewide
workshops for school districts, county offices of education, and
schoolsite personnel, and in particular school principals, to assist
them in the development of their respective school safety and crisis
response plans. *Training of schoolsite personnel in the prevention
of bullying, as defined in subdivision (r) of Section 48900, shall
be a component in the development of school safety plans under
this section.* The Department of Justice and the State Department
of Education shall work in cooperation with regard to the
workshops coordinated and presented pursuant to the contracts.
Implementation of this section shall be contingent upon the
availability of funds in the annual Budget Act.
SEC. 3. Section 48204 of the Education Code, as amended by
Section 2 of Chapter 33 of the Statutes of 2007, is amended to
read:
48204. Notwithstanding Section 48200, a pupil complies with
the residency requirements for school attendance in a school
district, if he or she is:
(a) (1) A pupil placed within the boundaries of that school
district in a regularly established licensed children’s institution,
or a licensed foster home, or a family home pursuant to a
commitment or placement under Chapter 2 (commencing with
Section 200) of Part 1 of Division 2 of the Welfare and Institutions
Code.
(2) An agency placing a pupil in the home or institution
described in paragraph (1) shall provide evidence to the school
that the placement or commitment is pursuant to law.
(b) A pupil for whom interdistrict attendance has been approved
pursuant to Chapter 5 (commencing with Section 46600) of Part
26.
(c) A pupil whose residence is located within the boundaries of
that school district and whose parent or legal guardian is relieved
of responsibility, control, and authority through emancipation.
(d) A pupil who lives in the home of a caregiving adult that is located within the boundaries of that school district. Execution of an affidavit under penalty of perjury pursuant to Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code by the caregiving adult is a sufficient basis for a determination that the pupil lives in the home of the caregiver, unless the school district determines from actual facts that the pupil is not living in the home of the caregiver.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) A pupil whose residence is located within the boundaries of another school district, but who has been determined by personnel of that other district to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of that other district.

(g) This section shall become operative on July 1, 2012.

SEC. 4. Section 48900 of the Education Code is amended to read:

48900. A pupil shall 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 an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

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

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

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

(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.
(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) (1) 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 harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

(2) As used in this subdivision, “bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward a pupil or pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing the pupil or pupils in reasonable fear of harm to that pupil’s or those pupils’ person or property.

(B) Causing a substantially detrimental effect on the pupil’s or pupils’ physical or mental health.

(C) Substantially interfering with the pupil’s or pupils’ academic performance.

(D) Substantially interfering with the pupil’s or pupils’ ability to participate in or benefit from the services, activities, or privileges provided by a school.

(s) 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.
5. 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 crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).
6. As used in this section, “school property” includes, but is not limited to, electronic files and databases.
7. A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.
8. It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

SEC. 5. This act shall become operative on July 1, 2012.