

AMENDED IN SENATE JUNE 19, 2012  
AMENDED IN ASSEMBLY MAY 16, 2012  
AMENDED IN ASSEMBLY MAY 1, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2537**

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**Introduced by Assembly Member V. Manuel Pérez**

February 24, 2012

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An act to amend Sections 48902 and 48915 of the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

AB 2537, as amended, V. Manuel Pérez. Pupil discipline: suspensions and expulsions.

Existing law requires the principal of a school or the principal's designee to notify the appropriate law enforcement agencies of the county or city in which the school is situated of certain unlawful acts committed by a pupil that may result in suspension, expulsion, or criminal liability of the pupil, as specified. Existing law provides that a willful failure to make a report required by these provisions is an infraction punishable by a fine of not more than \$500.

This bill would delete the provision making a violation of that reporting requirement an infraction.

Under existing law, the principal or the superintendent of schools is required to recommend the expulsion of a pupil for certain acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance. These acts include the unlawful possession of certain controlled substances, except for the first offense

for the possession of marijuana, as specified. For these acts, the governing board of the school district is authorized, but not required, to order the expulsion of the pupil.

This bill would instead require the principal or superintendent *of schools* to make that recommendation unless he or she determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct. The bill would encourage the principal or superintendent of schools to make that determination as quickly as possible to ensure that the pupil does not lose instructional time. The bill would include the act of possessing an over-the-counter medication or medication prescribed for the pupil by a physician as an additional exception to the act of possessing a controlled substance for purposes of the expulsion provisions described above.

Under existing law, the principal or superintendent of schools is required to immediately suspend, and to recommend expulsion of, a pupil that he or she determines has committed certain acts at school or at a school activity off school grounds, including the unlawful selling of certain controlled substances, and the governing board of the school district is required to order a pupil expelled upon the finding that the pupil did commit one of these acts.

This bill, *among other things*, would include the act of unlawfully selling those controlled substances among the acts for which the principal or the superintendent of schools is required to recommend the expulsion of a pupil, except as specified, but for which the governing board of the school district is authorized, but not required, to order the expulsion of the pupil.

This bill would declare the intent of the Legislature that the acts enumerated in specified provisions form the exclusive bases for the imposition of suspension or expulsion.

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. It is the intent of the Legislature that the acts  
2 enumerated in Article 1 (commencing with Section 48900) of  
3 Chapter 6 of Part 27 of Division 4 of Title 2 of the Education Code  
4 form the exclusive bases for the imposition of suspension or  
5 expulsion.

1 SEC. 2. Section 48902 of the Education Code is amended to  
2 read:

3 48902. (a) The principal of a school or the principal's designee  
4 shall, before the suspension or expulsion of any pupil, notify the  
5 appropriate law enforcement authorities of the county or city in  
6 which the school is situated, of any acts of the pupil that may  
7 violate Section 245 of the Penal Code.

8 (b) The principal of a school or the principal's designee shall,  
9 within one schoolday after suspension or expulsion of any pupil,  
10 notify, by telephone or any other appropriate method chosen by  
11 the school, the appropriate law enforcement authorities of the  
12 county or the school district in which the school is situated of any  
13 acts of the pupils that may violate subdivision (c) or (d) of Section  
14 48900.

15 (c) Notwithstanding subdivision (b), the principal of a school  
16 or the principal's designee shall notify the appropriate law  
17 enforcement authorities of the county or city in which the school  
18 is located of any acts of a pupil that may involve the possession  
19 or sale of narcotics or of a controlled substance or a violation of  
20 Section 626.9 or 626.10 of the Penal Code. The principal of a  
21 school or the principal's designee shall report any act specified in  
22 paragraph (1) or (5) of subdivision (c) of Section 48915 committed  
23 by a pupil or nonpupil on a schoolsite to the city police or county  
24 sheriff with jurisdiction over the school and the school security  
25 department or the school police department, as applicable.

26 (d) A principal, the principal's designee, or any other person  
27 reporting a known or suspected act described in subdivision (a) or  
28 (b) is not civilly or criminally liable as a result of making any  
29 report authorized by this article unless it can be proven that a false  
30 report was made and that the person knew the report was false or  
31 the report was made with reckless disregard for the truth or falsity  
32 of the report.

33 (e) The principal of a school or the principal's designee reporting  
34 a criminal act committed by a schoolage individual with  
35 exceptional needs, as defined in Section 56026, shall ensure that  
36 copies of the special education and disciplinary records of the pupil  
37 are transmitted, as described in paragraph ~~(9)~~ (6) of subsection (k)  
38 of Section 1415 of Title 20 of the United States Code, for  
39 consideration by the appropriate authorities to whom he or she  
40 reports the criminal act. Any copies of the pupil's special education

1 and disciplinary records may be transmitted only to the extent  
2 permissible under the federal Family Educational Rights and  
3 Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

4 SEC. 3. Section 48915 of the Education Code is amended to  
5 read:

6 48915. (a) (1) Except as provided in subdivisions (c) and (e),  
7 the principal or the superintendent of schools shall recommend  
8 the expulsion of a pupil for any of the following acts committed  
9 at school or at a school activity off school grounds, unless the  
10 principal or superintendent determines that expulsion should not  
11 be recommended under the circumstances or that an alternative  
12 means of correction would address the conduct:

13 (A) Causing serious physical injury to another person, except  
14 in self-defense.

15 (B) Possession of any knife or other dangerous object of no  
16 reasonable use to the pupil.

17 (C) Unlawful possession of any controlled substance listed in  
18 Chapter 2 (commencing with Section 11053) of Division 10 of the  
19 Health and Safety Code, except for either of the following:

20 (i) The first offense for the possession of not more than one  
21 avoirdupois ounce of marijuana, other than concentrated cannabis.

22 (ii) The possession of over-the-counter medication for use by  
23 the pupil for medical purposes or medication prescribed for the  
24 pupil by a physician.

25 (D) Unlawfully selling a controlled substance listed in Chapter  
26 2 (commencing with Section 11053) of Division 10 of the Health  
27 and Safety Code.

28 (E) Robbery or extortion.

29 (F) Assault or battery, as defined in Sections 240 and 242 of  
30 the Penal Code, upon any school employee.

31 (2) If the principal or the superintendent of schools makes a  
32 determination as described in paragraph (1), he or she is encouraged  
33 to do so as quickly as possible to ensure that the pupil does not  
34 lose instructional time.

35 (b) Upon recommendation by the principal or the superintendent  
36 of schools, or by a hearing officer or administrative panel appointed  
37 pursuant to subdivision (d) of Section 48918, the governing board  
38 of a school district may order a pupil expelled upon finding that  
39 the pupil committed an act listed in subdivision (a) or in  
40 subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision

1 to expel a pupil for an act listed in subparagraph (A), (B), (C), (E),  
2 or (F) of paragraph (1) of subdivision (a) or in subdivision (a), (b),  
3 (c), (d), or (e) of Section 48900 shall be based on a finding of one  
4 or both of the following:

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

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

9 (c) The principal or superintendent of schools shall immediately  
10 suspend, pursuant to Section 48911, and shall recommend  
11 expulsion of a pupil that he or she determines has committed any  
12 of the following acts at school or at a school activity off school  
13 grounds:

14 (1) Possessing, selling, or otherwise furnishing a firearm. This  
15 subdivision does not apply to an act of possessing a firearm if the  
16 pupil had obtained prior written permission to possess the firearm  
17 from a certificated school employee, which is concurred in by the  
18 principal or the designee of the principal, ~~or to the act of possessing~~  
19 ~~an imitation firearm, as defined in subdivision (m) of Section~~  
20 ~~48900.~~ This subdivision applies to an act of possessing a firearm  
21 only if the possession is verified by an employee of a school  
22 district. *The act of possessing an imitation firearm, as defined in*  
23 *subdivision (m) of Section 48900, is not an offense for which*  
24 *suspension or expulsion is mandatory pursuant to this subdivision*  
25 *and subdivision (d), but it is an offense for which suspension, or*  
26 *expulsion pursuant to subdivision (e), may be imposed.*

27 (2) Brandishing a knife at another person.

28 (3) Committing or attempting to commit a sexual assault as  
29 defined in subdivision (n) of Section 48900 or committing a sexual  
30 battery as defined in subdivision (n) of Section 48900.

31 (4) Possession of an explosive.

32 (d) The governing board *of a school district* shall order a pupil  
33 expelled upon finding that the pupil committed an act listed in  
34 subdivision (c), and shall refer that pupil to a program of study  
35 that meets all of the following conditions:

36 (1) Is appropriately prepared to accommodate pupils who exhibit  
37 discipline problems.

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

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

3 (e) Upon recommendation by the principal or the superintendent  
4 of schools, or by a hearing officer or administrative panel appointed  
5 pursuant to subdivision (d) of Section 48918, the governing board  
6 *of a school district* may order a pupil expelled upon finding that  
7 the pupil, at school or at a school activity off of school grounds  
8 violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section  
9 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the  
10 following:

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

13 (2) That due to the nature of the violation, the presence of the  
14 pupil causes a continuing danger to the physical safety of the pupil  
15 or others.

16 (f) The governing board *of a school district* shall refer a pupil  
17 who has been expelled pursuant to subdivision (b) or (e) to a  
18 program of study which meets all of the conditions specified in  
19 subdivision (d). Notwithstanding this subdivision, with respect to  
20 a pupil expelled pursuant to subdivision (e), if the county  
21 superintendent of schools certifies that an alternative program of  
22 study is not available at a site away from a comprehensive middle,  
23 junior, or senior high school, or an elementary school, and that the  
24 only option for placement is at another comprehensive middle,  
25 junior, or senior high school, or another elementary school, the  
26 pupil may be referred to a program of study that is provided at a  
27 comprehensive middle, junior, or senior high school, or at an  
28 elementary school.

29 (g) As used in this section, “knife” means any dirk, dagger, or  
30 other weapon with a fixed, sharpened blade fitted primarily for  
31 stabbing, a weapon with a blade fitted primarily for stabbing, a  
32 weapon with a blade longer than 3 ½ inches, a folding knife with  
33 a blade that locks into place, or a razor with an unguarded blade.

34 (h) As used in this section, the term “explosive” means  
35 “destructive device” as described in Section 921 of Title 18 of the  
36 United States Code.

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