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## SB-596 School employees: protection. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

### SENATE BILL

### NO. 596

Introduced by Senator Portantino

February 15, 2023

An act to amend Section 44811 of the Education Code, relating to school employees.

### LEGISLATIVE COUNSEL'S DIGEST

SB 596, as amended, Portantino. School employees: protection.

Existing law provides that any parent, guardian, or other person whose conduct in a place where a school employee is required to be in the course of the employee's duties materially disrupts classwork or extracurricular activities or involves substantial disorder is guilty of a misdemeanor punishable by a fine of not less than \$500, nor more than \$1,000, or by imprisonment in a county jail not exceeding one year, or by both imprisonment and the fine. Existing law provides for certain minimum periods of imprisonment in a county jail for subsequent convictions for the above-described offenses, as specified.

*This bill would specify, for purposes of the above-described offense, that "substantial disorder" includes substantial disorder at any meeting of the governing board of a school district, the governing body of a charter school, a county board of education, or the State Board of Education. The bill would define a "school employee" as any employee or official of a school district, a charter school, a county office of education, a county board of education, the state board, or the State Department of Education. To the extent the bill expands the scope of an existing crime, the bill would impose a state-mandated local program.*

This bill would provide that any ~~person~~ *adult* who subjects a school ~~employee to threats or harassment, as defined,~~ *employee, as defined above, to harassment or makes a credible threat against the employee or the employee's family,* while the employee is away from a schoolsite or after school ~~hours~~ *hours*, for reasons related to the employee's course of duties is guilty of a ~~misdemeanor punishable as for the offense described above.~~ *misdemeanor. The bill would define harassment and credible threat for these purposes.* By defining a new crime, this 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 44811 of the Education Code is amended to read:

**44811.** (a) Any parent, guardian, or other person whose conduct in a place where a school employee is required to be in the course of the *school* employee's duties materially disrupts classwork or extracurricular activities or involves substantial ~~disorder~~ *disorder, including substantial disorder at any meeting of the governing board of a school district, the governing body of a charter school, a county board of education, or the state board*, is guilty of a misdemeanor.

(b) Any ~~person adult~~ who subjects a school employee to ~~threats or~~ harassment *or makes a credible threat against the school employee or member of the school employee's family*, while the *school* employee is away from a schoolsite or after school ~~hours~~ *hours*, for reasons related to the *school* employee's course of duties, including, but not limited to, instruction pursuant to Sections 51204.5 and 51930, is guilty of a misdemeanor.

(c) For purposes of this section, the following definitions apply:

(1) "Course of conduct" means a pattern of conduct composed of ~~a series of two or more~~ acts *occurring* over a period of time, however short, evidencing a continuity of ~~purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, facsimile, or email.~~ *purpose*. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Harassment" means ~~unlawful violence, a credible threat of violence, or~~ a knowing and willful course of conduct directed at a specific person that seriously alarms, ~~annoys, or harasses~~ *torments, or terrorizes* the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.

(3) "*Credible threat*" means *a verbal, written, or electronic communication, a communication implied by a pattern of conduct, or a combination of a verbal, written, or electronic communication and conduct, made with the specific intent to place the person that is the target of the communication in reasonable fear for their safety or the safety of their family, that, on its face and under the circumstances in which it is made, expresses serious intent to commit an act of unlawful violence, and is made by an individual that possesses the apparent ability to carry out the act so as to cause the person who is the target of the communication to reasonably be in a sustained state of fear for their safety or the safety of their family. A credible threat does not require the individual making the communication to actually carry out the act. Constitutionally protected activity is not included within the meaning of "credible threat."*

(4) "*School employee*" means *any employee or official of a school district, a charter school, a county office of education, a county board of education, the state board, or the department.*

(d) A violation of subdivision (a) ~~or (b)~~ shall be punished as follows:

(1) Upon the first conviction, by a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(2) Upon a second conviction, by imprisonment in a county jail for a period of not less than 10 days, and not more than one year, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000). The defendant shall not be released on probation, or for any other basis until the defendant has served not less than 10 days in a county jail.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than 90 days, and not more than one year, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000). The defendant shall not be released on probation, or for any other basis until the defendant has served not less than 90 days in a county jail.

(4) Upon a showing of good cause, the court may find that for any mandatory minimum imprisonment specified by paragraph (2) or (3) of this subdivision, the imprisonment shall not be imposed, and the court may grant probation, or the suspension of the execution or imposition of the sentence.

(e) This section shall not apply to any otherwise lawful employee concerted activity, including, but not limited to, picketing and the distribution of handbills.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.