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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 2212  
**Author:** Harper  
**Version:** March 30, 2016  
**Urgency:** No  
**Consultant:** Olgalilia Ramirez  
**Hearing Date:** June 8, 2016  
**Fiscal:** No

**Subject:** Pupils: suspensions and expulsions: bullying: electronic acts: video

## SUMMARY

This bill expands the definition of “bullying by an electronic act,” to include communication by video.

## BACKGROUND

Existing law:

- 1) Prohibits a pupil from being suspended or recommended for expulsion unless the principal of the school determines that the pupil has committed certain acts, and gives schools the discretion to take action for most offenses.  
(Education Code § 48900)
- 2) Authorizes, schools to suspend or recommend for expulsion a pupil who engages in an act of bullying, which is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
  - a) Placing a reasonable student or students in fear of harm to that student’s or those students’ person or property.
  - b) Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health.
  - c) Causing a reasonable student to experience substantial interference with his or her academic performance.
  - d) Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school. (EC § 48900(r)(1))
- 3) Defines “electronic act” as the creation or transmission of a communication originated on or off school sites, by means of an electronic device, including but not limited to a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including but not limited to any of the following:

- a) A message, text, sounds, or image.
- b) A post on a social network website including, but not limited to:
  - i. Posting to or creating a burn page, as defined, created for the purpose of having one or more of the effects listed above.
  - ii. Creating a credible impersonation of another actual student, as defined, for the purpose of having one or more of the effects listed above.
  - iii. Creating a false profile, as defined, for the purpose of having one or more of the effects listed above. (EC § 48900(r)(2))

## ANALYSIS

- 1) This bill expands the definition of “bullying by an electronic act,” to include communication by video.

## STAFF COMMENTS

- 1) ***Need for the bill.*** Existing law specifies that bullying by an electronic act means the creation or transmission of a communication that includes but is not limited to a message, text, sound or image. The California School Board Association writing in support of the bill, states that posting of a video was not included in the prior legislation and some question if an “image” would include a video and that adding the term video would provide clarity.

This bill broadens the definition of bullying via an electronic act, by clarifying that an “electronic act” means the creation or transmission of communication by video.

- 2) ***Existing authorization to suspend or recommend for expulsion.*** Existing law authorizes schools to suspend, or recommend for expulsion, a student who has been found to engage in an act of bullying which is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act provided that the behavior is related to attendance or school activity regardless of the time of day. Prior to suspending a student for bullying, schools must first determine that the victim is in fear of harm, the act has a substantially detrimental effect on the victim’s health, academic performance, or the victim experiences substantial interference with his or her ability to participate in or benefit from school services or activities. As such, a student cannot be suspended or recommended for expulsion unless the act disrupts a school activity or attendance.
- 3) ***Alternatives to suspension.*** Existing law provides that suspension may be imposed only when other means of correction fail to bring about proper conduct. Before a student can be suspended, an informal conference between the principal, student and whenever practicable, the teacher, supervisor or school

employee must take place. Schools may also consider alternative forms of corrective action, such as in-school suspension.

- 4) ***Is existing law sufficient?*** As mentioned, current law already defines an electronic act to mean the creation or transmission of a communication by means of an electronic device. Given that creating or transmitting a video must be done by means of these devices, it could be argued that current law provides school districts with the sufficient authority to suspend or expel a student who engages in bullying by means of posting, sending or sharing video. The author's office maintains that while current law authorizes the suspension or expulsion of students who engage in bullying by means of an electronic act, the law does not expressly include communication by video in definition of how one may communicate by an electronic act.

## **SUPPORT**

American Foundation for Suicide Prevention  
Association of Regional Center Agencies  
California School Boards Association  
Junior League of Long Beach  
Junior League of Orange County, California, INC.  
Junior Leagues of California State Public Affairs Committee  
Regional Center of Orange County  
UCLA, Undergraduate Student Association Council

## **OPPOSITION**

ACLU California

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