

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 2096 (Petrie-Norris)
Version: May 16, 2024
Hearing Date: June 11, 2024
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Restraining orders: educational institutions

DIGEST

This bill, for purposes of allowing a postsecondary educational institution's chief administrative officer to obtain a temporary restraining order or order after hearing on behalf of a student, expands the definition of "postsecondary educational institution" to include public institutions.

EXECUTIVE SUMMARY

In 2009, the Legislature enacted SB 188 (Runner, Ch. 566, Stats. 2009), which allowed the chief executive officer of a private postsecondary educational institution to seek a protective order---including a temporary restraining order or an order after hearing -- on behalf of a student who has experienced an off-campus threat of on-campus violence. The bill originated from a school at which a former student was harassing current students; the school was told that there was no way for the school to obtain a protective order for the campus as a whole, and that it instead would have to seek 375 separate protective orders to prevent the former student from entering the campus. The bill was modeled after existing provisions allowing an employer to seek a protective order on behalf of an employee who suffered a credible threat of violence that could be construed to be carried out at the workplace.

This bill extends the protective order authority granted to private postsecondary educational institutions in SB 188 to public postsecondary educational institutions, effective January 1, 2026. This bill would, therefore, grant the same protections for students at a public postsecondary educational institution that are currently available to students at private postsecondary educational institutions.

This bill is sponsored by the author and is supported by the American Association of University Women of California and the Consumer Protection Policy Center at the

Center for Public Interest Law. The Committee has not received timely opposition to this bill. If this Committee passes this bill, it will then be heard by the Senate Education Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Defines the following relevant terms:
 - a) "Chief administrative officer" means the principal, president, or highest-ranking official of a postsecondary educational institution.
 - b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including (1) following or stalking to or from school; (2) entering the school campus or facility; (3) following a student during school hours; (4) making telephone calls to a student; and (5) sending correspondence to a student by any means.
 - c) "Credible threat of violence" means a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety, or the safety of their immediate family, and that serves no legitimate purpose.
 - d) "Petitioner" means the chief administrative officer, or their designee, who files a petition under 2).
 - e) "Postsecondary educational institution" means a private institution of vocational, professional, or postsecondary education.
 - f) "Student" means an adult currently enrolled in or applying for admission to a postsecondary educational institution.
 - g) "Temporary restraining order" and "order after hearing" mean orders that include any of the following restraining orders, whether issued ex parte, or after notice and hearing:
 - i. An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including making annoying telephones as defined, destroying personal property, contacting (directly or indirectly), or coming within a specified distance of, or disturbing the peace of, the student.
 - ii. An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in (g)(i).
 - h) "Unlawful violence" means any assault or battery, or stalking as defined, but does not include lawful acts of self-defense or defense of others. (Code Civ. Proc., § 527.85(b).)

- 2) Permits a chief executive officer of a postsecondary educational institution, or an officer or employee designated by the chief executive officer, to seek a temporary restraining order and an order after hearing on behalf of the student, as follows:
 - a) The student must have suffered a credible threat of violence made off the school campus or facility from any individual which can reasonably be construed to be carried out or to have been carried out at the school campus or facility.
 - b) The chief executive officer or their designee must obtain the written consent of the student.
 - c) The chief executive officer or their designee may, at the discretion of the court, seek a temporary order or order after hearing on behalf of any other students at the campus or facility who are similarly situated.
 - d) The court may not issue a temporary restraining order or order after hearing prohibiting speech or other activities that are constitutionally protected.
 - e) In the discretion of the court, for good cause shown, a temporary restraining order or order after hearing may include other named family or household members of the student, or other students at the campus or facility. (Code Civ. Proc., § 527.85(a), (c), (d).)

- 3) Establishes procedures and timelines for obtaining a temporary restraining order or order after hearing under 2), as follows:
 - a) After filing a petition, a petitioner may obtain a temporary restraining order if they file a declaration that, to the satisfaction of the court, shows reasonable proof that a student has suffered a credible threat of violence made off the school or campus by the respondent, and that great or irreparable harm would result to the student.
 - b) A request for the issuance of a temporary restraining order without notice shall be granted or denied the same day the petition is submitted, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business.
 - c) A temporary restraining order shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or for 25 days upon a showing of good cause, unless otherwise modified or terminated by the court.
 - d) The respondent must be personally served with a copy of the petition, temporary restraining order (if any), and notice of the hearing; service must be made at least five days before the hearing, unless the court shortens the notice period for good cause.
 - e) Within 21 (or 25) days from the date that the temporary order is granted or denied, the court shall hold a hearing on the petition; if no temporary order was requested, the court shall hold the hearing 21 (or 25) days from when the petition was filed.
 - f) The respondent may file a response that explains, excuses, justifies, or denies the alleged credible threats of violence.

- g) The respondent is entitled to one continuance for a reasonable period to respond to the petition, and the court may grant a continuance upon the request of either party, or on its own motion, for good cause. If the hearing is continued, a temporary restraining order that has been granted shall remain in effect until the hearing unless the court provides otherwise.
 - h) At the hearing, the judge shall receive any relevant testimony and may make an independent inquiry.
 - i) If the judge finds, by clear and convincing evidence, that the respondent made a credible threat of violence off the school campus or facility, the order shall issue prohibiting further threats of violence.
 - j) An order may have a duration of not more than three years, subject to termination or modification by further order or stipulation of the parties, and may be renewed, upon the request of a party, for a duration of not more than three years. (Code Civ. Proc., § 527.85(e)-(k), (m), (o), (p).)
- 4) Provides that a person who is subject to a protective order issued under 3) shall not own, possess, receive, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.
- a) The court shall order a person subject to a protective order to relinquish any firearms or ammunition they own or possess pursuant to the provisions set forth in Code of Civil Procedure section 527.9.
 - b) Any person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm or ammunition while the protective order is in effect is punishable pursuant to Penal Code section 29825.
- 5) Provides that nothing in 2)-4) prevents either party from representation by private counsel or from appearing on their own behalf. (Code Civ. Proc., § 527.85(l).)

This bill:

- 1) Amends, effective January 1, 2026, the definition of “postsecondary educational institution” to include public institutions of vocational, professional, or postsecondary education.
- 2) Makes nonsubstantive technical and conforming changes.

COMMENTS

1. Author's comment

According to the author:

AB 2096 will better protect students, faculty, and staff at California's many public postsecondary institutions by expanding the eligible use of School Violence Restraining Orders (SVROs).

SVROs were originally established in California in 2009 out of a situation at a **private**, postsecondary institution where, although a student had made threats of violence, a general restraining order to protect everyone on campus was unavailable because restraining orders are generally limited to protecting specific, named individuals. An SVRO allows an official of the postsecondary institution to seek and receive, first, a temporary restraining order against an individual and, later, a longer-lasting order against an individual who has made threats against a student, teacher, or the campus at large. This type of restraining order may only be granted if the threat of violence is for an act that would likely take place on the school's campus. These orders prohibit the restrained party from having firearms and ammunition while the order is in place and can include the threatened student's family and household members as protected parties.

Unfortunately, students and staff at public, postsecondary institutions in California cannot currently utilize this remedy. All they can do under current law is ask for their Chief Administrative Officer to notify the threatening person that they are not welcome on campus or rely on law enforcement and criminal remedies, including trespassing and disorderly conduct offenses, which are misdemeanor offenses, and neither are firearm prohibiting.

2. Current law allows the chief administrative officer of a private school to seek a protective order on behalf of a student when certain conditions are met

In 2009, the Legislature enacted SB 188 (Runner, Ch. 566, Stats. 2009), which allowed the chief executive officer of a private postsecondary educational institution to seek a protective order---including a temporary restraining order or an order after hearing---on behalf of a student who has experienced an off-campus threat of on-campus violence.¹ The bill originated from a school at which a former student was harassing current students; the school was told that there was no way for the school to obtain a protective order for the campus as a whole, and that it instead would have to seek 375 separate protective orders to prevent the former student from entering the campus.²

¹ See Code Civ. Proc., § 527.85.

² Sen. Com. on Judiciary, Analysis of SB 188 (2009-2010 Reg. Sess.) as introduced, p. 1.

The bill was modeled after existing provisions allowing an employer to seek a protective order on behalf of an employee who suffered a credible threat of violence that could be construed to be carried out at the workplace.³

The protective order provision established in SB 188 is more limited in scope than protective order regimes that allow the victim themselves to seek an order. A chief executive officer may file a petition on behalf of a student only if the student suffered a credible threat of violence made off-campus and the threat can be reasonably construed to be carried out, or to have been carried out, on campus.⁴ In other words, an officer cannot seek a protective order on behalf of a student for any harassment the student might be suffering; the officer is limited to seeking a protective order in response to a credible threat of violence that could occur on the campus or facility. Additionally, an officer may not seek an order on behalf of an unwilling student – the officer must obtain the written consent of the student before seeking a protective order.⁵

The procedure for obtaining a protective order under this provision is also slightly more permissive towards the respondent than, say, the Domestic Violence Prevention Act (DVPA). A respondent may obtain a continuance of the hearing for a reasonable time to respond to the petition as a matter of course.⁶ A protective order issued after hearing may run for only three years initially, rather than the five years permitted under the DVPA.⁷ The scope of a protective order, however, is similar to those permitted under other regimes; a respondent may be prohibited from engaging in a range of activity to harass or intimidate the subject of the order, and, consistent with other protective order regimes, a respondent is prohibited from possessing firearms or ammunition for the duration of the order.⁸

Finally, existing law is clear that a postsecondary institution is not required, and does not have a duty, to seek a protective order on behalf of a student or students.⁹ Committee staff did not locate any cases suggesting that an institution has been sued for failing to seek such a protective order.

3. This bill allows the chief administrative officer of a public postsecondary institution, beginning January 1, 2026, to seek a protective order on behalf of a student

All of the protections discussed above in Part 2 are available only to administrators at private postsecondary institutions, not public ones. This bill removes that limitation, effective January 1, 2026. This bill would, therefore, grant the same protections for

³ See Code Civ. Proc., § 527.8.

⁴ *Id.*, § 527.85(a).

⁵ *Ibid.*

⁶ *Id.*, § 527.85(o).

⁷ *Id.*, § 527.85(k).

⁸ *Id.*, § 527.85(b); see *id.*, § 527.9.

⁹ *Id.*, § 527.85(u).

students at public postsecondary educational institutions that are currently available to students at private postsecondary educational institutions.

According to the American Association of University Women of California, writing in support of the bill:

This important measure will help ensure a safe and inclusive environment for those studying and working within our educational institutions. The safety and well-being of students and faculty members are pivotal to the overall success of any academic community. By granting chief administrative officers the authority to request temporary restraining orders and injunctions, AB 2096 authorizes critical assistance to those who live with threats or acts of violence and provides a necessary tool to help mitigate these threats.

AB 2096 will contribute significantly to a safe and secure educational environment and protect faculty and students who have endured violence or the threat of violence.

SUPPORT

American Association of University Women of California
Consumer Protection Policy Center at the Center for Public Interest Law

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: SB 899 (Skinner, 2024) harmonizes the firearms and ammunition seizure provisions in various restraining order, protective order, and injunction regimes, including the provisions at issue in this bill. SB 899 is pending before the Assembly Public Safety Committee.

Prior Legislation:

AB 36 (Gabriel, 2023) would have prohibited, beginning July 1, 2024, a person subject to a protective order, including an educational protective order, from owning, possessing, purchasing, or receiving a firearm or ammunition within three years after the expiration of the order, and expanded the grounds on which a search warrant may be issued when a person is prohibited from owning a firearm and the person has failed to relinquish the firearm. AB 36 died in the Assembly Appropriations Committee.

AB 1081 (Quirk, Ch. 411, Stats. 2015) granted, as a matter of course, a respondent in an action for an educational protective order to one continuance, for a reasonable period,

to respond to the petition, and clarified that the court could grant a request for a continuance by any party or on its own motion for good cause.

SB 188 (Runner, Ch. 566, Stats. 2009) implemented the protective order statute at issue in this bill. SB 188 is discussed in greater detail in Part 2 of this analysis.

PRIOR VOTES:

Assembly Floor (Ayes 74, Noes 0)

Assembly Appropriations Committee (Ayes 11, Noes 0)

Assembly Higher Education Committee (Ayes 11, Noes 0)

Assembly Judiciary Committee (Ayes 10, Noes 0)
