AB 960 (Mathis)
Version: June 6, 2024
Hearing Date: June 25, 2024
Fiscal: No
Urgency: No
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SUBJECT

School safety: web-based or app-based school safety programs

DIGEST

This bill encourages public schools to implement a web-based or app-based school safety program that includes specified parameters, including remote access to schoolsites' surveillance systems. The bill exempts the program from disclosure pursuant to the California Public Records Act (CPRA).

EXECUTIVE SUMMARY

According to Everytown for Gun Safety, more than 4,000 children and teens are shot and killed every year and over 17,000 more are shot and wounded. An estimated 3 million children in the US are exposed to shootings per year, and firearms are the leading cause of death for children and teens. Specifically, school shootings are a constant, grim reality. Since just 2021, there have been 594 incidents of gunfire on school grounds injuring 425 people and resulting in 185 deaths.

This bill encourages schools to implement internet-based school safety programs in order to prepare for school safety incidents. The bill calls for certain elements to be included in these programs, including detailed information about the school grounds and personnel and the provision of real-time access to a schoolsite's surveillance system to law enforcement and other first responders. Given the sensitive nature of some of this information, the bill restricts disclosure of the information connected with such programs.

The bill is author-sponsored. It is supported by several groups, including the Peace Officers' Research Association of California. No timely opposition was received. The bill passed out of the Senate Education Committee on a vote of 6 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Requires each school district and county office of education (COE) to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12, and specifies that the school site council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (Educ. Code § 32281.)

2) Specifies that the comprehensive school safety plan must include an assessment of the current status of school crime committed on school campuses and at school-related functions and identification of appropriate strategies and programs to provide or maintain a high level of school safety, and address the school's procedures for complying with existing laws related to school safety, including, but not limited to, disaster procedures; an earthquake emergency procedure system; policies regarding pupils who commit specified acts that would lead to suspension or expulsion; procedures to notify teachers of dangerous pupils; procedures for safe ingress and egress of pupils, parents, and school employees to and from school; a safe and orderly environment conducive to learning; and procedures for conducting tactical responses to criminal incidents, including procedures related to individuals with guns on school campuses and at school-related functions. (Educ. Code § 32282.)

3) Requires the schoolsite council to consult with a representative from a law enforcement agency, a fire department, and other first responder entities in the writing and development of the comprehensive school safety plan. Requires the comprehensive school safety plan and any updates to the plan to be shared with the law enforcement agency, the fire department, and the other first responder entities. (Educ. Code § 32281.)

4) Authorizes the portions of a school safety plan that include tactical responses to criminal incidents to be developed by school district or COE administrators in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of school district or COE employees, if they choose to participate. Authorizes the school district or COE to elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents. (Educ. Code § 32281.)

5) Defines "tactical responses to criminal incidents" as steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrators. (Educ. Code § 32281.)

6) Establishes protections for the privacy of student education records through the federal Family Educational Rights and Privacy Act (FERPA). (20 U.S.C. § 1232g.)

7) Establishes the Student Online Personal Information Privacy Act (SOPIPA) to restrict the use and disclosure of students' "covered information," which means personally identifiable information or materials, in any media or format that meets any of the following:
   a) Is created or provided by a student, or the student's parent or legal guardian, to an operator in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for K-12 school purposes.
   b) Is created or provided by an employee or agent of the K-12 school, school district, local education agency, or county office of education, to an operator.
   c) Is gathered by an operator through the operation of a site, service, or application and is descriptive of a student or otherwise identifies a student, including information in the student's educational record or email, first and last name, home address, telephone number, email address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information. (Bus. & Prof. Code § 22584.)

8) Prohibits, pursuant to SOPIPA, operators from knowingly engaging in targeting advertising, using information about students to create a profile about them except in furtherance of K-12 school purposes, selling students' information, or disclosing their information, except as provided. (Bus. & Prof. Code § 22584(b).)

9) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
   a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
   b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)

10) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 792.000 et seq.)
   a) States that, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
   b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
   c) Defines "public agency" as any state or local agency. (Gov. Code § 7920.525(a).)

11) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.525.)

This bill:

1) Encourages, on or before July 1, 2030, each public school, including charter schools, with an enrollment of 100 pupils or more, to implement a web-based or app-based school safety program that includes the following program parameters:
   a) A common alphanumeric grid mapping system for the identification of all buildings and locations upon the schoolsite that is replicable across all schoolsites in the state, with each building within the mapped system having conspicuous signage upon all corners of the structure listing the alphanumeric identification and any other pertinent information.
   b) A multilayered digital map of the schoolsite that contains key information, including detailed building floor plans, gate locations, shut-off valve locations, first aid equipment locations, links to 360-degree interior and 360-degree aerial photography, and the location of, and field of view of, schoolsite surveillance cameras.
   c) The ability to place time stamped event markers on the digital map that identify important information about a crisis, including injuries, hazards, suspect sightings, and safety zones.
   d) The ability to alert first responders from multiple agencies within a reasonable geographic area from the school in the event of an emergency on or around the schoolsite.
   e) Remote access for first responders to connect to a schoolsite's surveillance system, with each camera having alphanumeric identification, displaying the direction of the camera's view, and including a brief description of what is seen within the camera's field of view.

      f) Detailed schoolsite information, including the general schoolsite location and size, pupil populations, the Wi-Fi connection information, an organizational chart, and the emergency procedures for that schoolsite.

      g) The ability for school administrators to know the location and condition of pupils and staff through an information relay built into the application in order to allow for schoolsite staff to designate pupils as "absent," "present," "missing," "injured," and "reconnect," based upon their accurate accounting, with the "reconnect" feature including a messaging system that notifies each pupil's emergency contacts when that pupil has been safely secured by an authorized emergency contact.

      h) A one-directional message service that allows the program director and the schoolsite primary contact to keep schoolsite staff up to date with current, urgent details.

      i) The ability to operate the program to conduct emergency practice drills and archive dates, times, and comments related to an emergency practice drill.

2) Requires a school, if it implements a web-based or app-based school safety program, to ensure that the program developers ensure that best practices are implemented to protect the security and data of all pupils and staff listed within the program.

3) Clarifies that it does not preclude the governing board or body of a local educational agency from implementing more stringent or additional requirements regarding school safety programs.

4) Exempts the information implemented pursuant hereto from any school safety plan disclosure requirements and from disclosure under the California Public Records Act. Requires the information to be kept confidential, except as provided.

5) Provides findings and declarations supporting the above exemptions.

COMMENTS

1. <u>Stated intent of the author</u>

According to the author:

> Our children deserve to be able to attend school in peace; however, as long as there are evil people in the world intent on harming them, I want our schools to have the best and most modern security possible. In my district, the Tulare County Office of Education has developed ActVnet, a web-based program that improves emergency response and school safety.

> Schools can use programs similar to ActVnet to share crucial information, including live camera access and real-time communication, with First Responders so they can get an accurate picture of the situation and save lives. This low-cost program has a proven track record of success in my district. In the safety tests conducted in Tulare County, once on scene, it takes law enforcement an average of **53 seconds to subdue the threat** to the schools when using ActVnet. I believe that the entire nation needs to implement a similar system for all of its schools. We must do our best to keep our children and staff at schools safe. A society and school system that takes advantage of modern resources, in the best interest of our children, is the society I want to live in and the school system I want to send my children to.

2. Encouraging the use of internet-based school safety programs

As stated, this bill simply *encourages* public schools to implement a web-based or app-based school safety program that includes certain specified parameters. The parameters include communication tools, detailed schoolsite information, and location monitoring functions. Many of these functions will assist first responders in responding to a tragic, but increasingly common, safety incident at a schoolsite.

The bill envisions web- or app-based programs to maintain and share sensitive information about schools and their response to safety incidents. While these are invaluable tools in the hands of school personnel and first responders at the right time, care must be given to ensuring that it is only those hands and at the right time. More oversight should be required to ensure that any such programs thoughtfully detail the required cybersecurity requirements, including use and access limitations.

For instance, the bill encourages the provision of real-time access to surveillance systems on schoolsites. While such information can be crucial in the midst of an active shooter incident, it is arguably problematic to provide such real-time, remote access without any clear guidelines or limitations on when it can be accessed.

The bill does require that schools must ensure that the program developers ensure that best practices are implemented to protect the security and data of all pupils and staff listed within the program, though there is no clarity on what that might entail or who, if anyone, would be auditing or overseeing such practices.

In fact, the bill exempts the details of the programs from disclosure pursuant to the CPRA and any school safety plan disclosure requirements. The CPRA was enacted to balance the privacy rights of individuals[1] and the right of the people to know about the

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[1] Article I, Section 1 of the California Constitution provides: "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty,

conduct of public business.[2] (Gov. Code § 7921.000.) Certain records and information are prohibited from being disclosed under the CPRA, while other records are permissively exempt from disclosure. A record prohibited from disclosure is generally done expressly. [3]

While it certainly makes sense that certain data included, like the surveillance footage and detailed maps of the schools, should be protected to ensure it is not used by perpetrators of the relevant crimes, arguably there should be some transparency about how and when access to the information is being provided and to whom. The balance here must be between the very real threats to cybersecurity and the information being used by those intent on doing harm at our schools against the public's right to know how such information is being used.

On the various issues raised above, the Assembly Privacy and Consumer Protection Committee has opined:

> No one can disagree that, in the event of a catastrophe such as a school shooting, a fire, or an earthquake, that real-time information from a school site would be invaluable in saving lives. But provision of such information should be considered in light of very real cybersecurity risks presented.
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> As has been repeatedly and recently shown, public entities possess significant cybersecurity vulnerabilities, and are consequently vulnerable to cyberattack. The same is true of private companies that provide technology services to public entities. For example, security researchers recently found an unsecured U.S. Department of Defense server, hosted in Microsoft's government cloud service, which exposed sensitive emails on the public internet. In other words, one of the country's most sophisticated technology companies and its most well-funded federal agency were unable to ensure cybersecurity of sensitive information. Closer to home, security researchers found that the company implementing California digital license plates, authorized by AB 984, Chap. 746, Stats. 2022, had a security vulnerability "giving access to GPS location and all information of registered users: this info includes 'vehicles people owned, their physical address, phone number, and email address.'" Luckily, in both of these cases, the companies involved were able to close the identified vulnerabilities before they were hacked. But other entities have not been

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acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and *privacy*." (emphasis added)

[2] *N.Y. Times v. Superior Court* (1990) 218 Cal. App. 3d 1579, at 1584.

[3] *See* e.g. § 8592.45 of the Government Code: "any public records relating to any communication made pursuant to, or in furtherance of the purposes of, subdivision (c) of Section 8592.40 are confidential and *shall not be disclosed* pursuant to any state law, *including, but not limited to, the California Public Records Act[…].*" (emphasis added)

so fortunate. In February 2023, the City of Oakland was hacked, leading to many city services being disabled for weeks and an ensuing data breach. Each of these incidents occurred in the past few months.

It stands to reason that school districts, software providers, and law enforcement agencies involved in implementing this bill could be hacked. Such a hack might allow a school shooter to glean information about school vulnerabilities that could facilitate a more-deadly attack. It is also worth considering that trusted insiders, such as employees of a software provider, might gain the ability to use cameras to spy in sensitive locations such as school bathrooms and student psychologists' offices. None of this is to say that the cybersecurity risks involved outweigh the benefits of the bill; simply, that they ought to be considered in order to ensure a complete assessment of the bill's strengths and weaknesses.

In response, the author has agreed to a series of amendments that provide some guardrails and require oversight of these programs. Specifically, the amendments circumscribe outside access to the program to limit it to only emergency response, including limiting access to the school's surveillance system. The amendments also prohibit use of biometric information and requiring staff or pupils to use or install local tracking technology. Importantly, the amendments also require developers to consult with the Department of Education to ensure the requirements laid out in the bill are met and to adhere to FERPA and SOPIPA. Finally, the amendments narrow the materials that are to be kept confidential and exempt from disclosure, and specifically require the contracts to be made publically available.

The Eric Paredes Save A Life Foundation explains its support:

> Thank you for amending your measure to add in 32280.5. (a) (2) that the location of an AED be included in the site map, in addition to first aid. AEDs are critical to save lives not only in situations contemplated by your bill, but in responding to significantly more common situations that have struck many families and school communities - the loss of a student to Sudden Cardiac Arrest (SCA).

SUPPORT

Administrators Association of San Diego City Schools
Eric Paredes Save A Life Foundation
Peace Officers' Research Association of California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 2816 (Gipson, 2024) establishes, upon appropriation by the Legislature, the School Mapping Data Grant Program under the administration of the Office of Emergency Services to provide one-time grants to participating school districts, county offices of education, and charter schools to enter into contracts with qualified vendors providing school mapping data, as provided, for purposes of assisting public safety agencies in efficiently responding to on-campus emergencies at schools. AB 2816 is currently in the Senate Governmental Organization Committee.

Prior Legislation: AB 1747 (Rodriguez, Ch. 806, Stats. 2018) required charter schools to develop a school safety plan and procedures for conducting tactical responses to criminal incidents; required comprehensive school safety plans to include procedures for conducting tactical responses to criminal incidents; increased the California Department of Education's responsibilities relating to school safety plans; and required schoolsite councils to consult with the fire department and other first responder entities in the writing and development of the comprehensive school safety plan.

PRIOR VOTES:

Senate Education Committee (Ayes 6, Noes 0)
Assembly Floor (Ayes 66, Noes 0)
Assembly Education Committee (Ayes 6, Noes 0)

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