

AB 123 (Mendoza)

School Safety

Summary

AB 123 would add language to Penal Code 626.8 addressing disruptive messages where the disruption threatens the physical safety of school children in preschool, elementary school, or middle school while they are coming to, leaving or attending school.

Background

On March 24, 2003, at approximately 7:30 a.m., two vehicles driven by two members of the group Center for Bio-Ethical Reform, drove around the perimeter of a middle school as students were walking and being dropped off for classes. The two vehicles consisted of a truck displaying billboard-sized graphic photographs of aborted fetuses and an escort "security vehicle" equipped with a security cage, red and amber flashing lights, push bars and antennae mounted on the roof.

Between 7:15 a.m. and 7:45 a.m., all 1,900 students of the school arrived on campus in the same location; the cul de sac where the two vehicles were driving. Because of the disturbing nature of the photographs, some students became angry, some began to cry, and others stared while standing in the street and on the sidewalk, creating a traffic safety hazard. School officials contacted the Los Angeles County Sheriff's Department. Deputy Sheriff's officers arrived, detained the two drivers of the vehicles and eventually determined that California Penal Code section 626.8 was in violation and asked the drivers to leave the area around the school.

The Center for Bio-Ethical Reform filed a lawsuit contending school officials and the sheriff's officers violated their First and Fourth Amendment rights. The district court granted summary judgment in favor of the Sheriff's Dept. and Los Angeles Unified School District (defendants), at which point the Center for Bio-Ethical Reform (Plaintiffs) appealed. The Ninth Circuit Court of Appeals held that Penal Code section 626.8 does not, as written, permit school administrators to contact local law enforcement in the event that a person or entity conveys disruptive messages on an adjacent street where the disruption threatens the physical safety of children where they are coming to, leaving from, or attending school.

However, in that opinion, the Ninth Circuit Court of Appeals acknowledged that should the California Legislature choose to adopt statutory language to address this situation, the outcome may be different.

Why AB 123 Is Needed

California schools have the constitutional obligation to provide safe campuses to students and employees. The right to free expression is also protected by the State and Federal Constitutions. However, the right to free expression is not absolute, and has been limited within the school context by reasonable time, manner and place regulations to ensure safety and to minimize disruption to educational operations.

If school administrators are unable to rely on Penal Code section 626.8 to address disruptions of schools that may result in physical harm to students, schools will lose an important tool in ensuring safe campuses. This change will help school administrators ensure student safety without unduly burdening the right of free expression.

Support

Los Angeles Unified School District LAUSD (Sponsor)
AFSCME
Ocean View School District
County of Los Angeles Sheriff's Dept

Opposition

None on file.

For More Information

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