

GRAY BILL - PROPOSED AMENDMENTS IN RED

1 SENATE BILL NO. 198

2 INTRODUCED BY S. KITZENBERG

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A DIRECTING THE BOARD OF PUBLIC
5 EDUCATION TO REQUIRE EACH SCHOOL DISTRICT TO ADOPT A POLICY PROHIBITING
6 HARASSMENT, INTIMIDATION, OR BULLYING ON SCHOOL PROPERTY, AT A SCHOOL-SPONSORED
7 FUNCTION, OR ON A SCHOOL BUS; AND PROVIDING FOR A REPORT TO THE LEGISLATURE BY THE
8 BOARD OF PUBLIC EDUCATION UPON REQUEST."

9
10 WHEREAS, THE 2003 LEGISLATURE INTRODUCED HOUSE BILL NO. 449,
11 WHICH, IF ENACTED, WOULD HAVE REQUIRED EACH SCHOOL DISTRICT TO
12 ADOPT A POLICY PROHIBITING HARASSMENT, INTIMIDATION, OR BULLYING
13 ON SCHOOL PROPERTY, AT A SCHOOL-SPONSORED FUNCTION, OR ON A SCHOOL
14 BUS; AND

15 WHEREAS, WHILE OPPONENTS FROM EDUCATIONAL ORGANIZATIONS
16 LABELED AS "LAUDABLE" THE GOAL OF HOUSE BILL NO. 449 TO ENSURE
17 SAFE SCHOOL ENVIRONMENTS, THE EDUCATIONAL ORGANIZATIONS DECLARED
18 HOUSE BILL NO. 449 AN UNNECESSARY INTRUSION INTO LOCAL CONTROL AND
19 TESTIFIED THAT SINCE THE ISSUE OF BULLYING AND HARASSMENT WAS
20 ALREADY BEING ADDRESSED IN AND AMONG MONTANA'S PUBLIC SCHOOLS,
21 SCHOOL DISTRICTS DID NOT NEED A LAW REQUIRING THEM TO DO WHAT THEY
22 WERE ALREADY DOING; AND

23 WHEREAS, DESPITE THE CLAIMS OF THE BOARD OF PUBLIC EDUCATION
24 AND EDUCATIONAL ORGANIZATIONS, THE LEGISLATURE BELIEVES THAT
25 HARASSMENT, INTIMIDATION, AND BULLYING OF STUDENTS REMAINS A
26 PROBLEM IN MONTANA'S PUBLIC SCHOOLS BECAUSE IT CREATES AN
27 ENVIRONMENT OF FEAR THAT DISRUPTS A STUDENT'S ABILITY TO LEARN AND
28 THE DISTRICT'S ABILITY TO ENSURE A SAFE LEARNING ENVIRONMENT AND
29 NEGATIVELY IMPACTS THE STATE'S OBLIGATION TO PROVIDE EACH PERSON

1 WITH EQUALITY OF EDUCATIONAL OPPORTUNITY.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4
5 NEW SECTION. Section 1. Legislative findings and declarations. (1) The legislature finds that:

6 (a) a safe and civil environment in school is necessary for students to learn and achieve high
7 academic standards;

8 (b) harassment, intimidation, or bullying, like other disruptive or violent behaviors, disrupts both a
9 student's ability to learn and a school's ability to educate its students in a safe environment; and

10 (c) school personnel should demonstrate appropriate behavior by refusing to tolerate harassment,
11 intimidation, or bullying.

12 (2) The legislature declares that there is a compelling public need for school districts to adopt policies
13 that prohibit harassment, intimidation, or bullying of students.

14
15 ~~NEW SECTION. Section 2. Definition.~~ (1) ~~As used in [sections 1 through 5], "harassment,~~
16 ~~intimidation, or bullying" means any gesture or written, verbal, or physical act that:~~

17 ~~(a) a reasonable person should know will have the effect of harming a student, damaging a student's~~
18 ~~property, or placing a student in reasonable fear of harm to the student's person or damage to the student's~~
19 ~~property; or~~

20 ~~(b) has the effect of insulting or demeaning a student or group of students in such a way as to disrupt~~
21 ~~or interfere with the school's educational mission or is sufficiently severe, persistent, or pervasive that it~~
22 ~~creates an intimidating, threatening, or abusive educational environment for a student.~~

23 ~~(2) The term includes but is not limited to any gesture or written, verbal, or physical act that is~~
24 ~~reasonably perceived as being motivated by:~~

25 ~~(a) an actual or perceived characteristic, such as race, color, religion, ancestry, sexual orientation,~~
26 ~~national origin, gender, social or economic status, language barrier, or homeless status;~~

27 ~~(b) a mental, physical, or sensory handicap; or~~

28 ~~(c) any other actual or perceived distinguishing characteristic.~~

29
30 ~~NEW SECTION. Section 3. Harassment policy -- contents.~~ (1) ~~The trustees shall adopt a policy~~

1 that prohibits harassment, intimidation, or bullying on school property, at a school-sponsored function, or on a
 2 school bus. The trustees shall consult with parents, school personnel, students, and members of the
 3 community in developing the policy.

4 ~~_____ (2) At a minimum, the policy must include:~~

5 ~~_____ (a) a statement prohibiting harassment, intimidation, or bullying of a student;~~

6 ~~_____ (b) a definition of harassment, intimidation, or bullying that may not be less inclusive than the definition
 7 provided in [section 2];~~

8 ~~_____ (c) a description of the type of behavior expected from each student;~~

9 ~~_____ (d) a procedure for reporting an act of harassment, intimidation, or bullying, including a provision that
 10 permits a person to report the act anonymously. Formal disciplinary action may not be initiated solely on the
 11 basis of an anonymous report.~~

12 ~~_____ (e) a procedure for the prompt investigation of a report of a violation or complaint. The principal of the
 13 school or the principal's designee shall conduct the investigation.~~

14 ~~_____ (f) a statement that prohibits reprisal or retaliation against a person who reports an act of harassment,
 15 intimidation, or bullying; and~~

16 ~~_____ (g) the consequences and appropriate remedial action for a person who:~~

17 ~~_____ (i) commits an act of harassment, intimidation, or bullying; or~~

18 ~~_____ (ii) retaliates against a person who reports an act of harassment, intimidation, or bullying.~~

19 ~~_____ (3) The policy must be included in any school district publication that sets forth policies and
 20 procedures or standards of conduct for employees or students.~~

21 ~~_____ (4) A copy of the policy must be sent to the county superintendent.~~

22
 23 ~~_____ **NEW SECTION. Section 4. School district responsibilities.** (1) The trustees shall ensure that
 24 every school district employee, person working under contract with the school district, school volunteer, and
 25 student is made aware of the district's policy on harassment, intimidation, or bullying.~~

26 ~~_____ (2) (a) If a school district has a training or orientation program for school district employees or school
 27 volunteers, the provisions of the district's policy must be incorporated into the program.~~

28 ~~_____ (b) To the extent funds are available, a school district shall provide training on the district's policy to
 29 school district employees and school volunteers who have contact with students.~~

30 ~~_____ (3) A school district or a school is encouraged to establish a program for the prevention of~~

1 harassment, intimidation, or bullying.

2
3 ~~NEW SECTION. Section 5. School personnel responsibilities. (1) A school district employee or a~~
4 ~~school volunteer who has witnessed or has reliable information that a student has been subjected to~~
5 ~~harassment, intimidation, or bullying shall promptly report the incident to the appropriate school official~~
6 ~~designated in the district's policy.~~

7 ~~(2) A school district employee or a school volunteer may not engage in reprisal or retaliation against a~~
8 ~~victim, a witness, or a person with reliable information about an act of harassment, intimidation, or bullying.~~

9
10 NEW SECTION. SECTION 2. HARASSMENT POLICY -- REPORT TO
11 LEGISLATURE. (1) THE BOARD OF PUBLIC EDUCATION SHALL DIRECT EACH
12 SCHOOL DISTRICT TO ADOPT A POLICY THAT PROHIBITS HARASSMENT,
13 INTIMIDATION, OR BULLYING ON SCHOOL PROPERTY, AT A SCHOOL-
14 SPONSORED FUNCTION, OR ON A SCHOOL BUS.

15 (2) THE BOARD SHALL ENSURE THAT EACH DISTRICT'S POLICY:

16 (A) PROVIDES FOR CONSULTATION WITH PARENTS, SCHOOL
17 PERSONNEL, STUDENTS, AND MEMBERS OF THE COMMUNITY IN DEVELOPING OR
18 AMENDING THE DISTRICT'S POLICY;

19 (B) INCLUDES A PROCEDURE FOR A STUDENT OR EMPLOYEE TO
20 ANONYMOUSLY REPORT AN ACT OF HARASSMENT, INTIMIDATION, OR
21 BULLYING, BUT PROHIBITS THE INITIATION OF FORMAL DISCIPLINARY
22 ACTION SOLELY ON THE BASIS OF AN ANONYMOUS REPORT;

23 (C) PROVIDES A PROCEDURE FOR PROMPT INVESTIGATION BY A
24 PRINCIPAL OR THE PRINCIPAL'S DESIGNEE OF A REPORT OF A VIOLATION
25 OF THE POLICY;

26 (D) PROHIBITS STUDENTS, SCHOOL DISTRICT EMPLOYEES, OR
27 VOLUNTEERS FROM ENGAGING IN REPRISAL OR RETALIATION AGAINST A
28 VICTIM, WITNESS, OR PERSON WHO PROVIDES RELIABLE INFORMATION ABOUT
29 AN ACT OF HARASSMENT, INTIMIDATION, OR BULLYING;

30 (E) OUTLINES THE CONSEQUENCES AND APPROPRIATE REMEDIAL

1 ACTION FOR A PERSON WHO COMMITS AN ACT OF HARASSMENT,
2 INTIMIDATION, OR BULLYING OR RETALIATES AGAINST A PERSON WHO
3 REPORTS AN ACT OF HARASSMENT, INTIMIDATION, OR BULLYING; AND

4 (F) TO THE EXTENT THAT FUNDS ARE AVAILABLE, PROVIDES
5 TRAINING ON THE DISTRICT'S POLICY FOR SCHOOL DISTRICT EMPLOYEES OR
6 VOLUNTEERS.

7 (3) UPON REQUEST, THE BOARD OF PUBLIC EDUCATION SHALL REPORT
8 TO THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE ON:

9 (A) THE NUMBER OF SCHOOL DISTRICTS THAT HAVE ADOPTED
10 POLICIES PROHIBITING HARASSMENT, INTIMIDATION, OR BULLYING OF
11 STUDENTS;

12 (B) THE MOST RECENT STATISTICS ON THE NUMBER AND TYPES OF
13 REPORTED ACTS OF HARASSMENT, INTIMIDATION, OR BULLYING IN PUBLIC
14 SCHOOLS; AND

15 (C) THE BOARD'S EFFORTS TO ASSIST SCHOOL DISTRICTS IN
16 IMPLEMENTING POLICIES TO REDUCE INCIDENTS OF HARASSMENT,
17 INTIMIDATION, AND BULLYING IN MONTANA PUBLIC SCHOOLS.

18 (4) AS USED IN [SECTIONS 1 AND 2], "HARASSMENT, INTIMATION,
19 OR BULLYING" MEANS ANY GESTURE OR WRITTEN, VERBAL, OR PHYSICAL ACT
20 THAT:

21 (A) A REASONABLE PERSON SHOULD KNOW WILL HAVE THE EFFECT OF
22 HARMING A STUDENT, DAMAGING A STUDENT'S PROPERTY, OR PLACING A
23 STUDENT IN REASONABLE FEAR OF HARM TO THE STUDENT'S PERSON OR
24 DAMAGE TO THE STUDENT'S PROPERTY; OR

25 (B) HAS THE EFFECT OF INSULTING OR DEMEANING A STUDENT OR
26 GROUP OF STUDENTS IN SUCH A WAY AS TO DISRUPT OR INTERFERE WITH
27 THE SCHOOL'S EDUCATIONAL MISSION OR THE EDUCATION OF THE STUDENT.

28 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through-5 AND 2] are intended to
29 be codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3,
30 apply to [sections 1 through-5 AND 2].

1

- END -

2