

## SENATE BILL NO. 141

INTRODUCED BY K. GILLAN, WILMER, BROWN, SHOCKLEY, C. WILLIAMS, MCCLAFFERTY, SESSO,  
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A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING SAFE SCHOOLS AND CREATING THE MONTANA  
SCHOOLS ARE FOR EDUCATION ACT; PROVIDING DEFINITIONS; ADDRESSING AND PROHIBITING  
BULLYING, HARASSMENT, OR INTIMIDATION OF STUDENTS; REQUIRING EACH SCHOOL DISTRICT TO  
ADOPT A POLICY PROHIBITING BULLYING, HARASSMENT, OR INTIMIDATION; PROVIDING MINIMUM  
REQUIREMENTS FOR THE CONTENTS OF A SCHOOL DISTRICT POLICY; ~~AND REQUIRING THE OFFICE~~  
~~OF PUBLIC INSTRUCTION TO DEVELOP A MODEL POLICY~~ ESTABLISHING THE STANDARD OF CARE FOR  
LIABILITY OF SCHOOL DISTRICTS; AND PROVIDING PERSONAL IMMUNITY FROM SUIT FOR  
INDIVIDUALS."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~4~~ 6] may be cited as the "Schools Are for  
Education Act".

NEW SECTION. **Section 2. Definitions.** (1) "Bullying, harassment, or intimidation" means any  
PERSISTENT threatening, insulting, or demeaning gesture or physical conduct ~~or~~, INCLUDING any intentional written,  
verbal, or electronic communication or threat directed against a student that ~~a reasonable person under the~~  
~~circumstances should know will have the effect of:~~

(a) ~~placing~~ CAUSES A STUDENT PHYSICAL HARM, DAMAGES A STUDENT'S PROPERTY, OR PLACES a student in  
reasonable fear of harm to the student or the student's property;

(b) substantially ~~interfering with a student's educational performance or opportunities~~ AND MATERIALLY  
INTERFERES WITH A STUDENT'S ACCESS TO AN EDUCATIONAL OPPORTUNITY OR BENEFIT; or

(c) substantially ~~disrupting~~ AND MATERIALLY DISRUPTS the orderly operation of a school.

(2) The term includes retaliation against a victim or witness who reports information about an act of  
bullying, harassment, or intimidation.

1            NEW SECTION. Section 3. Bullying of student prohibited. (1) Bullying, harassment, or intimidation  
 2 of a student enrolled in a public K-12 school or nonpublic accredited school by another student or an employee  
 3 is ~~strictly~~ prohibited. THIS PROHIBITION INCLUDES BUT IS NOT LIMITED TO BULLYING, HARASSMENT, OR INTIMIDATION:

4            ~~(1)(A)~~ in a classroom or other location on school premises;

5            ~~(2)(B)~~ during any school-sponsored program, activity, or function where the school is responsible for the  
 6 student, including WHEN THE STUDENT IS TRAVELING TO AND FROM SCHOOL OR on a school bus or other  
 7 school-related vehicle; or

8            ~~(3)(C)~~ through the use of electronic communication, as defined in 45-8-213, that substantially AND  
 9 MATERIALLY disrupts the orderly operation of a school or any school-sponsored program, activity, or function  
 10 where the school is responsible for the student.

11            (2) A STUDENT WHO IS DETERMINED BY A SCHOOL DISTRICT TO HAVE ENGAGED IN BULLYING, HARASSMENT, OR  
 12 INTIMIDATION IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH THE PROVISIONS OF 20-5-201 AND 20-5-202, INCLUDING  
 13 SUSPENSION, EXPULSION, AND ANY OTHER SANCTION AUTHORIZED BY LAW.

14  
 15            NEW SECTION. Section 4. School district implementation, minimum requirements, model policy,  
 16 and compliance. (1) By August 1, 2012, each school district shall adopt a policy ~~prohibiting~~ ADDRESSING bullying,  
 17 harassment, or intimidation.

18            ~~(2) The policy must be implemented in a manner that is ongoing throughout the school year and~~  
 19 ~~integrated with a school's curriculum, professional development programs, discipline policies, and other violence~~  
 20 ~~prevention efforts.~~

21            ~~(3)(2)~~ Each district has discretion and control over the development of its policy, but each district's policy  
 22 must include at a minimum:

23            (a) a definition of bullying, harassment, or intimidation that includes the definitions provided in [section  
 24 2];

25            (b) a statement prohibiting bullying, harassment, or intimidation of any student as described in [section  
 26 3];

27            (c) a procedure for reporting and documenting reports of acts of bullying, harassment, or intimidation;

28            (d) a procedure for prompt investigation, AS DEFINED IN THE DISTRICT POLICY, of all reports of bullying,  
 29 harassment, or intimidation and response to all reported acts of bullying, harassment, or intimidation that identifies  
 30 the persons responsible for the investigation and response;

1 (e) a procedure for determining whether the reported act is ~~outside~~ SUBJECT TO the jurisdiction of the  
 2 school or district OR OF ANOTHER PUBLIC AGENCY, INCLUDING LAW ENFORCEMENT, and a procedure for referral to the  
 3 necessary persons or entity with appropriate jurisdiction;

4 (f) a procedure for prompt notification, AS DEFINED IN THE DISTRICT POLICY, of the parents or guardian of  
 5 the victim and perpetrator;

6 (g) a procedure to protect the victim from further bullying, harassment, or intimidation and to refer victims  
 7 for appropriate remedial assistance, ~~including counseling~~ AS DEFINED IN THE DISTRICT POLICY;

8 (h) a procedure for establishing consequences and appropriate remedial action, ~~including counseling~~  
 9 AS DEFINED IN THE DISTRICT POLICY, for persons found to have committed acts of bullying, harassment, or  
 10 intimidation; and

11 (i) a process for publicizing the policy, including ~~prominent~~ inclusion in each district's or school's student  
 12 handbook.

13 ~~(4) To assist school districts in developing a policy under [sections 1 through 4], the office of public~~  
 14 ~~instruction shall develop a model policy that must be available to the school districts no later than March 1, 2012.~~

15 ~~(5)(3)~~ (3) Compliance with ~~[sections 1 through 4]~~ 2 THROUGH 6 must be considered during a school's  
 16 accreditation review pursuant to 20-7-102.

17  
 18 NEW SECTION. SECTION 5. LIABILITY -- STANDARD OF CARE. (1) [THIS ACT] MAY NOT BE CONSTRUED TO  
 19 CREATE ANY NEW CAUSE OF ACTION AGAINST OR LIABILITY OF A SCHOOL DISTRICT BEYOND CAUSES OF ACTION AND  
 20 THEORIES OF LIABILITY THAT EXISTED PRIOR TO [THE EFFECTIVE DATE OF THIS ACT].

21 (2) A SCHOOL DISTRICT MAY BE HELD LIABLE FOR BULLYING, HARASSMENT, OR INTIMIDATION IF IT IS SHOWN BY  
 22 A PREPONDERANCE OF THE EVIDENCE THAT THE SCHOOL DISTRICT HAD ACTUAL KNOWLEDGE OF THE BULLYING,  
 23 HARASSMENT, OR INTIMIDATION, THAT THE BULLYING, HARASSMENT, OR INTIMIDATION WAS SO SEVERE, PERVASIVE, AND  
 24 OBJECTIVELY OFFENSIVE THAT IT EFFECTIVELY DEPRIVED A PUPIL OF ACCESS TO AN EDUCATIONAL OPPORTUNITY OR  
 25 BENEFIT, AND THAT THE SCHOOL DISTRICT WAS DELIBERATELY INDIFFERENT TO THE BULLYING, HARASSMENT, OR  
 26 INTIMIDATION.

27  
 28 NEW SECTION. SECTION 6. PERSONAL IMMUNITY FROM SUIT. AN INDIVIDUAL INVESTIGATING OR REPORTING  
 29 AN INCIDENT OF BULLYING, HARASSMENT, OR INTIMIDATION OR PARTICIPATING IN RESULTING ADMINISTRATIVE OR JUDICIAL  
 30 PROCEEDINGS IS PERSONALLY IMMUNE FROM ANY SUIT, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE ARISE AND FROM ANY

1 LIABILITY THAT MIGHT OTHERWISE BE IMPOSED UNLESS THE INDIVIDUAL WAS GROSSLY NEGLIGENT, ACTED IN BAD FAITH  
2 OR WITH MALICIOUS PURPOSE, OR PROVIDED INFORMATION KNOWING THE INFORMATION TO BE FALSE.

3  
4 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 4 6] are intended to be  
5 codified as an integral part of Title 20, chapter 5, and the provisions of Title 20, chapter 5, apply to [sections 1  
6 through 4 6].

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