

DATE 2-21-11
PAGE NO 13
SB 141

Amendments to Senate Bill No. 141
1st Reading Copy

For the Senate Education and Cultural Resources Committee

Prepared by Casey Barrs
February 5, 2011 (10:15am)

1. Title, line 8.

Following: "POLICY;"

Strike: "AND"

2. Title, line 9.

Following: "DEVELOP"

Insert: "AND MAKE AVAILABLE"

Following: "POLICY"

Insert: "; ESTABLISHING THE STANDARD OF CARE FOR LIABILITY OF SCHOOL DISTRICTS; AND PROVIDING PERSONAL IMMUNITY FROM SUIT FOR INDIVIDUALS"

3. Page 1, line 16.

Following: line 16

Insert: "persistent"

4. Page 1, line 17.

Following: "conduct"

Strike: "or"

Insert: ", including"

5. Page 1, line 18 through line 19.

Following: "that"

Strike: "a reasonable" on line 18 through "effect of" on line 19

6. Page 1, line 20.

Strike: "placing"

Insert: "causes a student physical harm, damages a student's property, or places"

7. Page 1, line 21.

Following: "substantially"

Strike: "interfering with a student's educational performance or opportunities"

Insert: "and materially interferes with a student's access to an educational opportunity or benefit"

8. Page 1, line 22.

Following: "substantially"

Strike: "disrupting"

Insert: "and materially disrupts"

Following: "school"

Insert: ", regardless of whether the conduct originates on or off school premises and whether the conduct occurs during normal school hours or at any other time"

9. Page 1, line 26.

Following: "prohibited."

Insert: "(1)"

10. Page 1, line 28.

Strike: "strictly"

Following: "prohibited"

Insert: ". This prohibition includes but is not limited to bullying, harassment, or intimidation"

11. Page 1, line 29.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections

12. Page 2, line 1.

Following: "including"

Insert: "when the student is traveling to and from school,"

13. Page 2, line 2.

Following: "substantially"

Insert: "and materially"

14. Page 2, line 5.

Insert: "(2) A student who is determined by a school district to have engaged in bullying, harassment, or intimidation as defined in [section 2] is subject to discipline in accordance with the provisions of 20-5-201 and 20-5-202, including suspension, expulsion, and any other sanction authorized by law."

15. Page 2, line 7.

Strike: "prohibiting"

Insert: "addressing"

16. Page 2, line 9 through line 11.

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

17. Page 2, line 19.

Following: "investigation"

Insert: ", as defined in the district policy,"

18. Page 2, line 22.

Strike: "outside"

Insert: "subject to"

Following: "school"

Strike: "or"

Insert: ", "

Following: "district"

Insert: ", or authority of another public agency, including law enforcement,"

19. Page 2, line 24.

Following: "notification"

Insert: ", as defined in the district policy,"

20. Page 2, line 26.

Strike: "including counseling"

Insert: "as defined in the district policy"

21. Page 2, line 27.

Strike: "including counseling"

Insert: "as defined in the district policy"

22. Page 2, line 29.

Strike: "prominent"

23. Page 3, line 1 through line 2.

Strike: "To assist" on line 1 through "March 1, 2012" on line 2

Insert: "The office of public instruction shall develop and make available to school districts a model policy that meets the criteria in [sections 2 through 4]. This subsection may not be construed to prohibit a school district from exercising its control and discretion to develop policy that meets the criteria in [sections 2 through 4] independent of the model policy."

24. Page 3, line 3.

Following: "sections"

Strike: "1"

Insert: "2"

25. Page 3, line 5.

Insert: "NEW SECTION. **Section 5. Liability -- standard of care.** (1) This act may not be construed to create any new cause of action against or liability of a school district beyond causes of action and theories of liability that existed prior to [the effective date of this act].

(2) A school district may be held liable for bullying, harassment, or intimidation if it is shown by a preponderance of the evidence that the school district had actual knowledge of the bullying, harassment, or intimidation, that the bullying, harassment, or intimidation was so severe, pervasive, and objectively offensive that it effectively deprived a pupil of access to an educational opportunity or benefit, and that the

school district was deliberately indifferent to the bullying, harassment, or intimidation."

26. Page 3, line 5.

Insert: "NEW SECTION. **Section 6. Personal immunity from suit.** An individual investigating or reporting an incident of bullying, harassment, or intimidation as defined in [section 2] or participating in resulting administrative or judicial proceedings is personally immune from any suit, civil or criminal, that might otherwise arise and from any liability that might otherwise be imposed unless the person was grossly negligent, acted in bad faith or with malicious purpose, or provided information knowing the information to be false."

Renumber: subsequent section

- END -