

HOUSE BILL NO. 284

INTRODUCED BY K. DUDIK, R. PEPPERS, SWANDAL

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A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING SAFE SCHOOLS AND CREATING THE BULLY-FREE MONTANA ACT; PROVIDING DEFINITIONS; PROHIBITING BULLYING OF STUDENTS; REQUIRING EACH SCHOOL DISTRICT OR NONPUBLIC ACCREDITED SCHOOL TO ADOPT A POLICY ADDRESSING BULLYING; AND PROVIDING MINIMUM REQUIREMENTS FOR THE CONTENTS OF A POLICY; AND PROVIDING FOR ENFORCEMENT AGAINST A VIOLATION IN DISTRICT COURT AND CLARIFYING REDRESS."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through ~~4~~ 5 ~~4~~] may be cited as the "Bully-Free Montana Act".

NEW SECTION. **Section 2. Definitions.** (1) "Bullying" means any harassment, intimidation, hazing, or threatening, insulting, or demeaning gesture or physical contact, including any intentional written, verbal, or electronic communication or threat directed against a student ~~OR EMPLOYEE~~ that is ~~repeated or has the potential to be repeated over time~~ PERSISTENT, SEVERE, OR REPEATED and that:

(a) causes a ~~student~~ PERSON STUDENT physical harm, damages a ~~student's~~ PERSON'S STUDENT'S property, or places a ~~student~~ PERSON STUDENT in reasonable fear of harm to the ~~student~~ PERSON STUDENT or the ~~student's~~ PERSON'S STUDENT'S property;

(b) creates a hostile environment by interfering with or denying a student's access to an educational opportunity or benefit; ~~or~~ OR

(c) substantially and materially disrupts the orderly operation of a school; ~~or~~

~~(d) WITH RESPECT TO AN EMPLOYEE IN RELATION TO A STUDENT OR ANOTHER EMPLOYEE, CAUSES A STUDENT OR EMPLOYEE TO BELIEVE THAT THE EXERCISE OF THE STUDENT'S OR EMPLOYEE'S FIRST AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION IS BEING UNREASONABLY SUPPRESSED.~~

(2) The term includes retaliation against a victim or witness who reports information about an act of bullying and includes acts of hazing associated with athletics or school-sponsored organizations or groups.

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2 **NEW SECTION. Section 3. Bullying of student prohibited.** (1) Bullying of a student enrolled in a
3 public K-12 or PK-12 school or nonpublic accredited school by another student or an employee is prohibited:

4 ~~_____ (a) on any location in a school building or on school premises;~~

5 ~~_____ (b) during any school-sponsored program, event, activity, or function where the school is responsible~~
6 ~~for the student, including when the student is traveling to and from school or on a school bus or other~~
7 ~~school-related vehicle; or~~

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

11 ~~_____ (2) A student who is determined by a school district to have engaged in bullying is subject to discipline~~
12 ~~in accordance with the provisions of 20-5-201 and 20-5-202, including suspension, expulsion, and any other~~
13 ~~sanction authorized by law.~~

14 ~~_____ (3) A district or school employee or contracted employee found to have engaged in bullying of a student~~
15 ~~of the district or school is subject to discipline in accordance with district and school policy and, other controlling~~
16 ~~contractual agreements, AND ANY OTHER SANCTION AUTHORIZED BY LAW.~~

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18 ~~_____ **NEW SECTION. Section 4. School district implementation.** (1) Each school district or nonpublic~~
19 ~~accredited school shall MUST have a policy addressing bullying.~~

20 ~~_____ (2) Each district or nonpublic accredited school has discretion and control over the development and~~
21 ~~implementation of its policy, but each district's or school's policy must include at a minimum:~~

22 ~~_____ (a) a definition of bullying that includes the definitions provided in [section 2];~~

23 ~~_____ (b) a statement prohibiting bullying of any student as described in [section 3];~~

24 ~~_____ (c) a procedure for reporting and documenting reports of acts of bullying;~~

25 ~~_____ (d) a procedure for prompt investigation, as defined in policy, of all reports of bullying and response to~~
26 ~~all reported acts of bullying that identifies the persons responsible for the investigation and response;~~

27 ~~_____ (e) a procedure for determining whether the reported act is also subject to the jurisdiction of the district~~
28 ~~or school or of another public agency, including law enforcement, and a procedure for referral to the necessary~~
29 ~~persons or entity with appropriate jurisdiction;~~

30 ~~_____ (f) a procedure for prompt notification, as defined in the policy, of the parents or guardians of the victim~~

1 and perpetrator;

2 ~~—— (g) a procedure to protect the victim from further bullying and to refer the victim for appropriate remedial~~
3 ~~assistance, as defined in policy;~~

4 ~~—— (h) a procedure for establishing disciplinary consequences and appropriate remedial action to eliminate~~
5 ~~the hostile environment created by the bullying; and~~

6 ~~—— (i) a process for publicizing the policy, including inclusion in each district's or school's student handbook~~
7 ~~and personnel policy.~~

8 ~~—— (3) Compliance with [sections 2 through 4] must be considered during a school's accreditation review~~
9 ~~pursuant to 20-7-102.~~

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11 NEW SECTION. SECTION 4. ENFORCEMENT -- EXHAUSTION OF ADMINISTRATIVE REMEDIES NOT REQUIRED.

12 A PERSON ALLEGING A VIOLATION OF [SECTIONS 1 THROUGH 5 4] MAY BRING AN ACTION IN DISTRICT COURT TO ENJOIN
13 ANOTHER PERSON FROM CONTINUING TO ENGAGE IN THE VIOLATION OR FOR DOING ANY ACT THAT CONTRIBUTES TO THE
14 VIOLATION. THE PERSON ALLEGING A VIOLATION IS NOT REQUIRED TO EXHAUST ANY SEEK REDRESS UNDER ANY AVAILABLE
15 LAW, EITHER CIVIL OR CRIMINAL, AFTER EXHAUSTING ALL ADMINISTRATIVE REMEDIES PRIOR TO BRINGING THE ACTION.

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

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