

SENATE BILL No. 105

By Committee on Education

1-31

1 AN ACT concerning school districts; relating to policies against bullying;
2 amending K.S.A. 2012 Supp. 72-8256 and repealing the existing
3 section.

4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) Bullying, harassment or cyberbullying of a public
7 school student or employee is prohibited.

8 (b) Each school district shall adopt a policy prohibiting bullying,
9 harassment or cyberbullying on campus or other school premises, in a
10 school vehicle or during a school-sponsored activity or event whether on
11 or off school premises. The school district shall adopt the policy through a
12 process that includes representation of parents and guardians, school
13 employees, volunteers, students, administrators and community
14 representatives. Such policy shall include provisions for the training and
15 education of students and employees of such school district.

16 (c) Any policy adopted pursuant to this section shall contain, at a
17 minimum, the following:

18 (1) A statement prohibiting bullying, harassment or cyberbullying of
19 a student or employee;

20 (2) a definition of bullying, harassment and cyberbullying that is no
21 less inclusive than the definitions for those terms set forth in K.S.A. 72-
22 8256, and amendments thereto;

23 (3) a description of the type of behavior expected from each student;

24 (4) consequences and appropriate remedial action for a person who
25 commits an act of bullying, harassment or cyberbullying;

26 (5) a procedure for reporting an act of bullying, harassment or
27 cyberbullying, including a provision that permits a person to report an act
28 of bullying, harassment or cyberbullying anonymously. Such procedure
29 shall require that:

30 (A) All acts of bullying, harassment or cyberbullying be reported
31 verbally to the school principal within 24 hours after the school student,
32 employee, volunteer, school board member or contracted service provider
33 witnessed or received reliable information regarding any such incident;

34 (B) the school principal shall inform the parents or guardians of all
35 students involved in the alleged incident within 24 hours after receiving
36 the verbal report, and discuss, as appropriate, the availability of counseling

1 and other intervention services; and

2 (C) all acts of bullying, harassment or cyberbullying be reported in
3 writing to the school principal within two school days after the school
4 student, employee, volunteer, school board member or contracted service
5 provider witnessed or received reliable information regarding any such
6 incident.

7 (6) a procedure for prompt investigation of reports of bullying,
8 harassment and cyberbullying, which procedure, at a minimum, shall
9 provide that:

10 (A) The investigation shall be initiated by the school principal, or the
11 principal's designee, within one school day of the report of the incident.
12 The principal may appoint additional personnel to assist in the
13 investigation. The investigation shall be completed not later than 10 school
14 days from the date of the initial report of the incident, whether verbal or
15 written. In the event that there is information relative to the investigation
16 that is anticipated, but not yet received by the end of the 10-day period, the
17 original report may be amended to include such additional information;

18 (B) the results of the investigation shall be reported to the school
19 district superintendent within two school days after the completion of the
20 investigation, and the superintendent, in accordance with rules and
21 regulations adopted by the state board of education, may decide to provide
22 intervention services, establish training programs to reduce bullying,
23 harassment and cyberbullying, impose discipline, order counseling or take
24 other appropriate action;

25 (C) to the extent permitted by federal and state laws and rules and
26 regulations, parents or guardians of the students and the school employees
27 involved in the investigation shall be entitled to receive information about
28 the investigation, including the nature of the investigation, whether the
29 school district found evidence of bullying, harassment or cyberbullying,
30 and whether discipline was imposed or services provided to address the
31 incident. This information shall be provided in writing within five school
32 days after the results of the investigation are completed. A parent,
33 guardian or school employee may request a hearing before the school
34 district board after receiving the investigative report. The hearing shall be
35 held within 10 days after receipt of the written request. The hearing shall
36 be conducted in executive session to protect the confidentiality of the
37 students. At the hearing the board may hear from the investigator, the
38 students involved in the investigation, whether victims or perpetrators, the
39 parents or guardians of such students and the school employees involved
40 in the investigation. The board shall consider the information presented at
41 the hearing when deciding whether to affirm, reject or modify the
42 superintendent's decision;

43 (D) at the next school district board meeting following the board's

1 receipt of the completed report, the board shall issue a decision, in writing,
2 to affirm, reject or modify the superintendent's decision. The board's
3 decision may be appealed to the commissioner of education, in accordance
4 with rules and regulations adopted by the state board of education, no later
5 than 90 days after the issuance of the board's decision.

6 (7) a list of appropriate responses to an incident of bullying,
7 harassment or cyberbullying, including, but not limited to, counseling,
8 support services, intervention services and other programs recommended
9 by the commissioner of education;

10 (8) a statement that prohibits reprisal or retaliation against any person
11 who reports an act of bullying, harassment or cyberbullying and the
12 consequence and appropriate remedial action for a person who engages in
13 reprisal or retaliation;

14 (9) consequences and appropriate remedial action for a person found
15 to have falsely accused another individual of bullying, harassment or
16 cyberbullying;

17 (10) a statement of how the policy is to be publicized, including
18 notice that the policy applies to participation in school-sponsored
19 functions;

20 (11) a requirement that a link to the policy be prominently posted on
21 the home page of the school district's website and distributed annually to
22 parents and guardians who have children enrolled in a school in the school
23 district; and

24 (12) a requirement that the name, phone number, address and email
25 address of the person designated by the school district to receive reports of
26 bullying, harassment or cyberbullying be listed on the home page of the
27 school district's website and the home page of each school building's
28 website. Such contact information also shall be maintained on the
29 department of education website.

30 (d) Each school year at the school district board meetings held in
31 December and June, the superintendent of the school district shall report to
32 the board on all acts of bullying, harassment and cyberbullying that were
33 reported during the immediately preceding six-month period. The report
34 shall include the number of reports of bullying, harassment and
35 cyberbullying, the status of the investigation of each incident, the type and
36 nature of any discipline imposed and any training, educational programs or
37 other measures taken to reduce the incidence of bullying, harassment and
38 cyberbullying. The report shall present the information on both a district-
39 wide basis and by each school within the district. The superintendent shall
40 also submit the report to the department of education within 30 days after
41 the school district board meeting.

42 (e) To assist school districts in developing policies for the prevention
43 of bullying, harassment or cyberbullying, the commissioner of education

1 shall develop a model policy applicable to grades kindergarten through 12
2 that reflects the provisions of this section. Such model policy shall include
3 an age-appropriate range of consequences for bullying, harassment or
4 cyberbullying which shall include, at a minimum, disciplinary action or
5 counseling as appropriate under the circumstances. The model policy shall
6 be issued on or before September 1, 2013.

7 (f) On or before November 1, 2013, each school district shall revise
8 its policy on bullying, harassment and cyberbullying, and transmit a copy
9 of such policy to the state board of education. Each school district
10 annually shall conduct a review and evaluation of such policy, and make
11 any necessary revisions. In conducting its review and evaluation, the
12 school board may receive information from the department of education
13 anti-bullying specialists. The school district shall transmit a copy of any
14 revised policy to the state board of education within 30 days after its
15 adoption.

16 (g) Notice of the school district's policy shall appear in any
17 publication of the school district that sets forth the comprehensive rules,
18 procedures and standards of conduct for schools within the school district,
19 and in any student handbook.

20 (h) Nothing in this section shall be construed to:

21 (1) Restrict a school district from adopting and implementing policies
22 against bullying or school violence or policies to promote civility and
23 dignity by students and school employees that are more inclusive than the
24 policies required under this section;

25 (2) permit formal disciplinary action solely on the basis of an
26 anonymous report;

27 (3) permit the public distribution of information deemed confidential
28 and that is prohibited by federal or state law from being made available to
29 the public; or

30 (4) unconstitutionally restrict protected rights of freedom of speech,
31 freedom of religious exercise or freedom of assembly.

32 (i) The board of education of each school district may adopt
33 additional policies relating to bullying pursuant to subsection (e) of K.S.A.
34 72-8205, and amendments thereto.

35 New Sec. 2. (a) A school student, employee, volunteer, school board
36 member or contracted service provider who has witnessed, or has reliable
37 information that a student or employee has been subjected to bullying,
38 harassment or cyberbullying shall report the incident within 24 hours to
39 the appropriate school official designated by the school district's policy, or
40 to the school building principal, who shall immediately initiate the school
41 district's procedures concerning school bullying.

42 (b) No individual shall engage in reprisal, retaliation or false
43 accusation against a victim of bullying, harassment or cyberbullying, a

1 witness or an individual with reliable information about an act of bullying,
2 harassment or cyberbullying.

3 (c) A school employee, volunteer, school board member or contracted
4 service provider who reports an incident of bullying, harassment or
5 cyberbullying to the appropriate school official designated by the school
6 district's policy, or to the school building principal, and who makes this
7 report in compliance with the district's policy, shall not be civilly liable for
8 any damages arising from any failure to remedy the reported incident.

9 (d) A school principal, or other school official designated to receive
10 reports of bullying, harassment and cyberbullying, who receives a report
11 of bullying, harassment or cyberbullying from an employee, student,
12 parent or guardian, and fails to initiate or conduct an investigation, or who
13 reasonably should have known of an incident of bullying, harassment or
14 cyberbullying and fails to take sufficient action to minimize or eliminate
15 the bullying, harassment or cyberbullying, shall be subject to disciplinary
16 action by the school district superintendent or the department of education
17 educator licensure team for possible revocation of their license to be a
18 school administrator in Kansas.

19 New Sec. 3. (a) Disciplinary action shall be taken for all offenses in
20 grades kindergarten through 12 in accordance with disciplinary policies
21 adopted by the school district. Interventions to teach students appropriate
22 behaviors shall be initiated when disciplinary actions are imposed.

23 (b) The parents of a student who has been bullied, harassed or
24 cyberbullied shall be notified within 24 hours after the incident has been
25 reported. The victim's parents or guardians shall be offered options to
26 protect their child from further bullying, harassment or cyberbullying.

27 (c) It is the intent of the legislature to encourage schools to use
28 alternatives to expulsion or referral to law enforcement agencies by
29 addressing disruptive behavior through restitution, civil citation, teen
30 court, neighborhood restorative justice or similar programs. The use of
31 "zero tolerance policies" to suspend or expel students who bully, harass or
32 cyberbully shall be used only as a last resort. Restorative justice
33 disciplinary options to help offending students or school employees
34 develop age-appropriate behavior are to be determined by the school
35 principal, school district superintendent or board of education based on the
36 circumstances of each case.

37 (d) Offending students shall receive counseling in addition to any
38 disciplinary action taken.

39 (e) Disciplinary actions may be carried over to the next school year if
40 the offense is committed within 20 school days before the last instructional
41 day for students in that school year.

42 Sec. 4. K.S.A. 2012 Supp. 72-8256 is hereby amended to read as
43 follows: 72-8256. (a) As used in this section:

1 (+) (a) "Bullying" means: ~~(A)~~ (1) Any intentional gesture or any
 2 intentional written, verbal, electronic or physical act or threat that is
 3 sufficiently severe, persistent or pervasive that it creates an intimidating,
 4 threatening or abusive educational environment for a student or ~~staff~~
 5 ~~member~~ employee that a reasonable person, under the circumstances,
 6 knows or should know will have the effect of:

7 (i) (A) Harming a student or ~~staff-member~~ employee, whether
 8 physically or mentally;

9 (ii) (B) damaging a student's or ~~staff-member's~~ employee's property;

10 (iii) (C) placing a student or ~~staff-member~~ employee in reasonable
 11 fear of harm to the student or ~~staff-member~~ employee; or

12 (iv) (D) placing a student or ~~staff-member~~ employee in reasonable
 13 fear of damage to the student's or ~~staff-member's~~ employee's property;

14 ~~(B)~~ (2) cyberbullying; or

15 ~~(C)~~ (3) any other form of intimidation or harassment prohibited by
 16 the board of education of the school district in policies concerning bullying
 17 adopted pursuant to this section or subsection (e) of K.S.A. 72-8205, and
 18 amendments thereto.

19 (±) (b) (1) "Cyberbullying" means bullying by use of any electronic
 20 communication device through means of *electronically transmitted*
 21 *communications*, including, but not limited to, e-mail, instant messaging,
 22 text messages, blogs, mobile phones, pagers, online games, *drawings*,
 23 *video clips*, *faxes* and websites, *that a student has exhibited to another*
 24 *student or employee with the intention to frighten, coerce, intimidate,*
 25 *abuse, harass or alarm another student or employee and is sufficiently*
 26 *severe, persistent or pervasive that it creates an intimidating, threatening*
 27 *or abusive educational environment. It shall be considered cyberbullying*
 28 *regardless of whether the communication was transmitted:*

29 (A) *On campus or other school premises, in a school vehicle or*
 30 *during a school-sponsored activity or event, whether on or off school*
 31 *premises;*

32 (B) *through the use of computer networks owned or otherwise*
 33 *operated and managed by a school district; or*

34 (C) *through the use of computer networks not owned or otherwise*
 35 *operated or managed by a school district.*

36 (2) *In evaluating whether conduct constitutes cyberbullying, special*
 37 *attention shall be given to the words chosen or the actions taken, whether*
 38 *the conduct occurred in front of other individuals or was communicated to*
 39 *other individuals, how the perpetrator interacted with the victim and the*
 40 *motivation of the conduct, whether admitted or appropriately inferred.*

41 (c) *"Employee" means an individual employed by a school district.*

42 (d) *"Harassment" means engaging in any of the following conduct*
 43 *with the intention to frighten, coerce, intimidate, abuse or alarm another*

1 *student or employee:*

2 (1) *Striking, shoving, kicking or otherwise touching a student or*
3 *employee in an offensive manner or subjecting such person to offensive*
4 *physical contact;*

5 (2) *insulting, taunting or challenging another student or employee in*
6 *a manner likely to provoke a violent response;*

7 (3) *making a verbal or non-verbal expression that causes another*
8 *student to feel uncomfortable, pressured, threatened or in danger because*
9 *of reasons that include, but are not limited to, such person's race, color,*
10 *national origin, ancestry, sex, including gender identity and expression,*
11 *religion, disability or sexual orientation that creates an intimidating,*
12 *hostile or offensive educational environment, or interferes with the*
13 *education of a student, or otherwise adversely affects the educational*
14 *opportunity of a student;*

15 (4) *name calling, making rude gestures, insulting or teasing another*
16 *student or employee with the intent to humiliate, intimidate, threaten or*
17 *embarrass such student or employee;*

18 (5) *directing anonymous communications to another student or*
19 *employee repeatedly, at inconvenient times or with the use of offensive*
20 *language, on campus or other school premises, in a school vehicle or*
21 *during a school-sponsored activity or event whether on or off school*
22 *premises;*

23 (6) *causing fear so as to prevent another student or employee from*
24 *accessing or using school buildings, facilities, services or other premises*
25 *including, but not limited to, restroom facilities; or*

26 (7) *physically harming, physically restraining, threatening or stalking*
27 *another student or employee, or a combination of any of the foregoing.*

28 (3) (e) "School vehicle" means any school bus, school van, other
29 school vehicle and private vehicle used to transport students or ~~staff~~
30 ~~members~~ employees to and from school or any school-sponsored activity
31 or event.

32 (b) ~~The board of education of each school district shall adopt a policy~~
33 ~~to prohibit bullying on or while utilizing school property, in a school~~
34 ~~vehicle or at a school-sponsored activity or event.~~

35 (e) ~~The board of education of each school district shall adopt and~~
36 ~~implement a plan to address bullying on school property, in a school~~
37 ~~vehicle or at a school-sponsored activity or event. Such plan shall include~~
38 ~~provisions for the training and education for staff members and students.~~

39 (d) ~~The board of education of each school district may adopt~~
40 ~~additional policies relating to bullying pursuant to subsection (e) of K.S.A.~~
41 ~~72-8205, and amendments thereto.~~

42 (f) "Student" means a pupil enrolled in a public school operated by a
43 school district.

- 1 (g) *"Substantial disruption" means the occurrence of any one or more*
2 *of the following as a result of bullying:*
- 3 (1) *Necessary cessation of instruction or educational activities;*
 - 4 (2) *inability of students or educational staff to focus on learning or*
5 *function as an educational unit because of a hostile educational*
6 *environment;*
 - 7 (3) *imposition of severe or repetitive disciplinary measures in the*
8 *classroom or during educational activities; or*
 - 9 (4) *exhibition of other behaviors by students or educational staff that*
10 *substantially interfere with the educational environment.*
- 11 Sec. 5. K.S.A. 2012 Supp. 72-8256 is hereby repealed.
- 12 Sec. 6. This act shall take effect and be in force from and after its
13 publication in the statute book.