

SENATE BILL No. 278

By Committee on Education

1-12

1 AN ACT concerning school districts; relating to policies against bullying;
2 amending K.S.A. 2011 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
7 Kansas public 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.

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

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

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

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

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

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

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

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

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

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

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

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

24 (C) the results of each investigation shall be reported to the school
25 district board of education no later than the date of the board's next
26 meeting following the completion of the investigation, along with
27 information on any services provided, training established, discipline
28 imposed or other action taken by the superintendent;

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

1 in the investigation. The board shall consider the information presented at
2 the hearing when deciding whether to affirm, reject or modify the
3 superintendent's decision;

4 (E) at the next school district board meeting following the board's
5 receipt of the completed report, the board shall issue a decision, in writing,
6 to affirm, reject or modify the superintendent's decision. The board's
7 decision may be appealed to the commissioner of education, in accordance
8 with rules and regulations adopted by the state board of education, no later
9 than 90 days after the issuance of the board's decision.

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

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

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

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

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

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

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

1 within the district. The superintendent shall also submit the report to the
2 department of education within 30 days after the school district board
3 meeting.

4 (e) To assist school districts in developing policies for the prevention
5 of bullying, harassment or cyberbullying, the commissioner of education
6 shall develop a model policy applicable to grades kindergarten through 12
7 that reflects the provisions of this section. Such model policy shall include
8 an age-appropriate range of consequences for bullying, harassment or
9 cyberbullying which shall include, at a minimum, disciplinary action or
10 counseling as appropriate under the circumstances. The model policy shall
11 be issued on or before September 1, 2012.

12 (f) On or before November 1, 2012, each school district shall revise
13 its policy on bullying, harassment and cyberbullying, and transmit a copy
14 of such policy to the state board of education. Each school district
15 annually shall conduct a review and evaluation of such policy, and make
16 any necessary revisions. In conducting its review and evaluation the school
17 board may receive information from the department of education anti-
18 bullying specialists. The school district shall transmit a copy of any revised
19 policy to the state board of education within 30 days after its adoption.

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

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

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

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

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

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

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

43 (b) No individual shall engage in reprisal, retaliation or false

1 accusation against a victim of bullying, harassment or cyberbullying, a
2 witness or an individual with reliable information about an act of bullying,
3 harassment or cyberbullying.

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

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

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

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

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

- 36 (1) Correction and conferences with the offending student;
- 37 (2) in-school detention;
- 38 (3) crisis removal of the offending student from the school building;
- 39 (4) individualized instruction related to the offending student's
40 problem behaviors;
- 41 (5) in-school suspension;
- 42 (6) interim alternate education setting for the offending student;
- 43 (7) loss of privileges;

- 1 (8) time in the school building office;
 2 (9) suspension of one to 10 school days after the second offense;
 3 (10) suspension of 11 or more school days after the third offense;
 4 (11) payment of a fine of \$150 or performance of 15 hours of school
 5 or community service prior to readmittance to any public school following
 6 a period of suspension;
 7 (12) writing a report on how to prevent the inappropriate behavior in
 8 the future;
 9 (13) disciplinary transfer to another school building;
 10 (14) referral to alternative education programs;
 11 (15) expulsion for the rest of the school year; or
 12 (16) restitution paid by the offending student to the victims.
 13 (d) Offending students shall receive counseling in addition to any
 14 disciplinary action taken.

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

18 Sec. 4. K.S.A. 2011 Supp. 72-8256 is hereby amended to read as
 19 follows: 72-8256. ~~(a)~~As used in this section *and sections 1 through 3, and*
 20 *amendments thereto:*

21 ~~(+)~~ (a) "Bullying" means *the intentional harassment, intimidation,*
 22 *humiliation, ridicule, defamation or threat or incitement of violence by a*
 23 *student against another student or employee by a written, verbal,*
 24 *electronic or physical act that may address an attribute of the other*
 25 *student, employee or person with whom such other student or employee is*
 26 *associated and that causes or creates actual or reasonably foreseeable:*

27 ~~(A) Any intentional gesture or any intentional written, verbal, electronic~~
 28 ~~or physical act or threat that is sufficiently severe, persistent or pervasive~~
 29 ~~that it creates an intimidating, threatening or abusive educational~~
 30 ~~environment for a student or staff member that a reasonable person, under~~
 31 ~~the circumstances, knows or should know will have the effect of:~~

32 ~~(i) Harming a student or staff member, whether physically or~~
 33 ~~mentally;~~

34 ~~(ii) damaging a student's or staff member's property;~~

35 ~~(iii) placing a student or staff member in reasonable fear of harm to~~
 36 ~~the student or staff member; or~~

37 ~~(iv) placing a student or staff member in reasonable fear of damage to~~
 38 ~~the student's or staff member's property;~~

39 ~~(B) cyberbullying; or~~

40 ~~(C) any other form of intimidation or harassment prohibited by the~~
 41 ~~board of education of the school district in policies concerning bullying~~
 42 ~~adopted pursuant to this section or subsection (c) of K.S.A. 72-8205, and~~
 43 ~~amendments thereto~~

1 (1) *Physical harm to a student or employee, or damage to the*
2 *property of a student or employee;*

3 (2) *substantial interference with a student's education or with an*
4 *employee's duties and responsibilities as an employee of a school district;*

5 (3) *hostile educational environments for one or more students or*
6 *employees due to the severity, persistence or pervasiveness of the act; or*

7 (4) *substantial disruption of the orderly operation of the school or*
8 *educational environment.*

9 ~~(2) (b) (1) "Cyberbullying" means bullying by use of any electronic~~
10 ~~communication device through means electronically transmitted~~
11 *communications, including, but not limited to, e-mail, instant messaging,*
12 *text messages, blogs, mobile phones, pagers, online games, drawings,*
13 *video clips, faxes and websites, that a student has exhibited toward*
14 *another student or employee with the intention to frighten, coerce,*
15 *intimidate, abuse, harass or alarm another student or employee and is*
16 *sufficiently severe, persistent or pervasive that it creates an intimidating,*
17 *threatening or abusive educational environment. It shall be considered*
18 *cyberbullying regardless of whether the communication is conducted:*

19 (A) *On campus or other school premises, in a school vehicle or*
20 *during a school-sponsored activity or event whether on or off school*
21 *premises;*

22 (B) *through the use of school district computer networks; or*

23 (C) *through the use of computer networks not owned or otherwise*
24 *controlled by a school district.*

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

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

31 (d) *"Harassment" means engaging in any of the following conduct*
32 *with the intention to frighten, coerce, intimidate, abuse or alarm another*
33 *student or employee:*

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

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

39 (3) *making verbal or non-verbal expressions that causes another*
40 *student to feel uncomfortable, pressured, threatened or in danger because*
41 *of reasons that include, but are not limited to, such person's race, color,*
42 *national origin, ancestry, sex, including gender identity and expression,*
43 *religion, disability or sexual orientation that creates an intimidating,*

1 *hostile or offensive educational environment, or interferes with the*
2 *education of a student, or otherwise adversely affects the educational*
3 *opportunity of a student;*

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

7 (5) *directing anonymous communications to another student or*
8 *employee repeatedly, at inconvenient times or with the use of offensive*
9 *language, on campus or other school premises, in a school vehicle or*
10 *during a school-sponsored activity or event whether on or off school*
11 *premises;*

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

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

17 (⊕) (e) "School vehicle" means any school bus, school van, other
18 school vehicle and private vehicle used to transport students or staff
19 members to and from school or any school-sponsored activity or event.

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

22 (g) "Substantial disruption" means the occurrence of any one or more
23 of the following as a result of bullying:

24 (1) *Necessary cessation of instruction or educational activities;*

25 (2) *inability of students or educational staff to focus on learning or*
26 *function as an educational unit because of a hostile educational*
27 *environment;*

28 (3) *imposition of severe or repetitive disciplinary measures in the*
29 *classroom or during educational activities; or*

30 (4) *exhibition of other behaviors by students or educational staff that*
31 *substantially interfere with the educational environment.*

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 (c) ~~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 (c) of K.S.A.~~
41 ~~72-8205, and amendments thereto.~~

42 Sec. 5. K.S.A. 2011 Supp. 72-8256 is hereby repealed.

43 Sec. 6. This act shall take effect and be in force from and after its

- 1 publication in the statute book
- 2