

1 **ENGROSSED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 3225**

5 (By Delegates M. Poling, Paxton, Perry, Ennis,
6 Pethtel, Shaver, Moye, Smith,
7 Lawrence and L. Phillips)

8 (Originating in the Committee on the Judiciary)

9 [February 25, 2011]

10

11 A BILL to amend and reenact §18-2C-2 and §18-2C-3 of the Code of
12 West Virginia, 1931, as amended, all relating to harassment,
13 intimidation or bullying of students; expanding the definition
14 of harassment, intimidation or bullying; expanding the areas
15 where harassment, intimidation and bullying are prohibited to
16 include school buses and school bus stops; and requiring
17 county board and West Virginia Department of Education
18 policies regarding harassment, intimidation or bullying.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §18-2C-2 and §18-2C-3 of the Code of West Virginia, 1931,
21 as amended, be amended and reenacted, all to read as follows:

22 **ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.**

23 **§18-2C-2. Definitions.**

24 (a) As used in this article, "harassment, intimidation or
25 bullying" means any intentional gesture, or any intentional

1 electronic, written, verbal or physical act, communication,
2 transmission or threat that:

3 ~~(a)~~ (1) A reasonable person under the circumstances should
4 know will have the effect of any one or more of the following:

5 ~~(1)~~ (A) Physically harming a student;

6 ~~(2)~~ (B) Damaging a student's property;

7 ~~(3)~~ (C) Placing a student in reasonable fear of harm to his or
8 her person; or

9 ~~(4)~~ (D) Placing a student in reasonable fear of damage to his
10 or her property; ~~or~~

11 ~~(b)~~ (2) Is sufficiently severe, persistent or pervasive that
12 it creates an intimidating, threatening or emotionally abusive
13 educational environment for a student; or

14 (3) Disrupts or interferes with the orderly operation of the
15 school.

16 (b) As used in this article, an electronic act, communication,
17 transmission or threat includes but is not limited to one which is
18 administered via telephone, wireless phone, computer, pager or any
19 electronic or wireless device whatsoever, and includes but is not
20 limited to transmission of any image or voice, email or text
21 message using any such device.

22 **§18-2C-3. Policy prohibiting harassment, intimidation or bullying.**

23 (a) Each county board ~~of education~~ shall establish a policy
24 prohibiting harassment, intimidation or bullying. Each county

1 board has control over the content of its policy as long as the
2 policy contains, at a minimum, the requirements of subdivision (b)
3 of this section. The policy shall be adopted through a process
4 that includes representation of parents or guardians, school
5 employees, school volunteers, students and community members.

6 (b) Each county board policy shall, at a minimum, include the
7 following components:

8 (1) A statement prohibiting harassment, intimidation or
9 bullying of any student on school property, a school bus, at a
10 school bus stop or at school sponsored events;

11 (2) A definition of harassment, intimidation or bullying no
12 less inclusive than that in section two of this article;

13 (3) A procedure for reporting prohibited incidents;

14 (4) A requirement that school personnel report prohibited
15 incidents of which they are aware;

16 (5) A requirement that parents or guardians of any student
17 involved in an incident prohibited pursuant to this article be
18 notified;

19 (6) A procedure for documenting any prohibited incident that
20 is reported;

21 (7) A procedure for responding to and investigating any
22 reported incident;

23 (8) A strategy for protecting a victim from additional
24 harassment, intimidation or bullying, and from retaliation

1 following a report;

2 (9) A disciplinary procedure for any student guilty of
3 harassment, intimidation or bullying; and

4 (10) A requirement that any information relating to a reported
5 incident is confidential, and exempt from disclosure under the
6 provisions of chapter twenty-nine-b of this code.

7 (c) Each county board shall adopt the policy and submit a copy
8 to the State Superintendent of Schools by December 1, ~~2001~~ 2011.

9 (d) To assist county boards in developing their policies, the
10 West Virginia Department of Education shall develop a model policy
11 applicable to grades kindergarten through twelfth. The model
12 policy shall be issued by September 1, ~~2001~~ 2011.

13 (e) Notice of the county board's policy shall appear in any
14 student handbook, and in any county board publication that sets
15 forth the comprehensive rules, procedures and standards of conduct
16 for the school.