

H. B. 3225

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

[Introduced February 21, 2011; referred to the
Committee on Education then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §18-2C-2 and §18-2C-3 of the Code of
West Virginia, 1931, as amended, all relating to expanding the
definition of harassment, intimidation or bullying; requiring
a student to attend two months of counseling if he or she is
found to be harassing, intimidating or bullying a fellow
student; and setting forth the consequences for failure to
comply with the counseling requirement.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.

§18-2C-2. Definitions.

As used in this article, "harassment, intimidation or
bullying" means any intentional gesture, or any intentional
electronic, written, verbal or physical act, communication,
transmission or threat that:

1 (a) A reasonable person under the circumstances should know
2 will have the effect of:

3 (1) ~~Harming~~ Physically or emotionally harming a student;

4 (2) Damaging a student's property;

5 (3) Placing a student in reasonable fear of harm to his or her
6 person; ~~or~~

7 (4) Placing a student in reasonable fear of damage to his or
8 her property; ~~or~~

9 (b) Is sufficiently severe, persistent or pervasive that it
10 creates an intimidating, threatening or abusive educational
11 environment for a student; or

12 (c) Disrupts or interferes with the orderly operation of the
13 school.

14 **§18-2C-3. Policy prohibiting harassment, intimidation or bullying.**

15 (a) Each county board ~~of education~~ shall establish a policy
16 prohibiting harassment, intimidation or bullying. Each county
17 board has control over the content of its policy as long as the
18 policy contains, at a minimum, the requirements of subdivision (b)
19 of this section. The policy shall be adopted through a process
20 that includes representation of parents or guardians, school
21 employees, school volunteers, students and community members.

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

24 (1) A statement prohibiting harassment, intimidation or
25 bullying of any student on school property, a school bus, at a

1 school bus stop or at school sponsored events;

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

4 (3) A procedure for reporting prohibited incidents;

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

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

10 (6) A procedure for documenting any prohibited incident that
11 is reported;

12 (7) A procedure for responding to and investigating any
13 reported incident;

14 (8) A strategy for protecting a victim from additional
15 harassment, intimidation or bullying, and from retaliation
16 following a report;

17 (9) A disciplinary procedure for any student guilty of
18 harassment, intimidation or bullying, which at a minimum:

19 (A) A requirement that a guilty student receive school
20 provided counseling for a minimum of two months; and

21 (B) A process for removing a guilty student from the regular
22 school system and placing that student in an alternative school
23 setting if he or she does not satisfy the mandatory counseling
24 requirement of this subdivision; and

25 (10) A requirement that any information relating to a reported

1 incident is confidential, and exempt from disclosure under the
2 provisions of chapter twenty-nine-b of this code.

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

5 (d) To assist county boards in developing their policies, the
6 West Virginia Department of Education shall develop a model policy
7 applicable to grades kindergarten through twelfth. The model
8 policy shall be issued by September 1, 2001.

9 (e) Notice of the county board's policy shall appear in any
10 student handbook, and in any county board publication that sets
11 forth the comprehensive rules, procedures and standards of conduct
12 for the school.

NOTE: The purpose of this bill is to add to the definition of harassment, intimidation or bullying. The bill requires a child to attend two months of counseling provided by a school if he or she is found to be harassing, intimidating or bullying a fellow student. The bill provides for consequences for failure to comply with the counseling requirement.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.