

COMMITTEE SUBSTITUTE

FOR

H. B. 3225

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LAWRENCE AND L. PHILLIPS)

(Originating in the Committee on the Judiciary)
[February 25, 2011]

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 harassment, intimidation or bullying; expanding the scope of a school board's policy prohibiting harassment, intimidation and bullying in public schools so that it applies to acts off school grounds when the acts cause disruption in or interference with

the orderly operation of the school or creates a hostile educational environment at the school; including electronic acts of harassment, intimidation and bullying in the types of acts covered by the prohibition; definitions; requiring the Department of Education to adopt rules pertaining to when local school officials shall refer students to local juvenile courts; and effective date.

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.

1 As used in this article:

2 (1) “Harassment, intimidation or bullying” means any
3 ~~intentional gesture, or any intentional pattern of gestures or~~
4 written, verbal, electronic or physical act or threat that:

5 (a) A reasonable person under the circumstances should
6 know will have the effect of any one or more of the

7 following:

8 (1) Physically or emotionally harming a student;

9 (2) Damaging a student's property;

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

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

14 (b) ~~Is sufficiently severe, persistent or pervasive that it~~
15 ~~creates an intimidating, threatening or abusive educational~~
16 ~~environment for a student; Has the effect of insulting or~~
17 demeaning any student or group of students in such a way as
18 to cause disruption in or interference with the orderly
19 operation of the school; or

20 (c) Creates a hostile educational environment for the
21 student by interfering with a student's education or by
22 severely or pervasively causing physical or emotional harm
23 to the student.

24 (2) "Electronic act" means without limitation a
25 communication or electronic text or image transmitted by

26 means of an electronic device including by not limited to a
27 telephone, wireless phone, other wireless communications
28 device, computer or pager.

29 (3) “Harassment” means a pattern of unwelcomed verbal
30 or physical conduct relating to another person that causes or
31 should be expected to cause substantial interference with the
32 other’s performance in the school.

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

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

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

9 (b) Each county board policy shall, at a minimum,

10 include the following components:

11 (1) A statement prohibiting harassment, intimidation or
12 bullying of any student on school property, a school bus, at
13 a school bus stop or at school sponsored events.

14 (2) The policy shall apply to any act of harassment,
15 intimidation or bullying, whether or not the act originated on
16 school property or off school property if the act is directed
17 specifically at a student and maliciously intended for the
18 purpose of disrupting school or creating a hostile educational
19 environment for the student, and has a high likelihood of
20 succeeding in that purpose;

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

23 ~~(3)~~(4) A procedure for reporting prohibited incidents;

24 ~~(4)~~(5) A requirement that school personnel report
25 prohibited incidents of which they are aware;

26 ~~(5)~~(6) A requirement that parents or guardians of any
27 student involved in an incident prohibited pursuant to this

28 article be notified;

29 ~~(6)~~(7) A procedure for documenting any prohibited
30 incident that is reported;

31 ~~(7)~~(8) A procedure for responding to and investigating
32 any reported incident;

33 ~~(8)~~(9) A strategy for protecting a victim from additional
34 harassment, intimidation or bullying, and from retaliation
35 following a report;

36 ~~(9)~~(10) A disciplinary procedure for any student guilty of
37 harassment, intimidation or bullying; and

38 ~~(10)~~(11) A requirement that any information relating to
39 a reported incident is confidential, and exempt from
40 disclosure under the provisions of chapter twenty-nine-b of
41 this code.

42 (12) The West Virginia Department of Education shall
43 adopt rules to determine when local school officials shall
44 refer students to local juvenile courts.

45 (c) Each county board shall adopt the policy and submit
46 a copy to the State Superintendent of Schools by December

47 1, ~~2001~~ 2011.

48 (d) To assist county boards in developing their policies,
49 the West Virginia Department of Education shall develop a
50 model policy and rules applicable to grades kindergarten
51 through twelfth. The model policy shall be issued by
52 September 1, ~~2001~~ 2011.

53 (e) Notice of the county board's policy shall appear in
54 any student handbook, and in any county board publication
55 that sets forth the comprehensive rules, procedures and
56 standards of conduct for the school.