

JAN 21 2011

A BILL FOR AN ACT

RELATING TO BULLYING AND CYBERBULLYING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that bullying and
2 cyberbullying among students have a detrimental effect on
3 academic achievement as well as the psychological, social, and
4 physical well-being of students K-12. Bullying also directly
5 affects students' attitudes toward school, school attendance,
6 and academic achievement. According to a June 25, 2007 report
7 from the department of education safe schools community advisory
8 committee entitled "Recommendations for Addressing Harassment in
9 Hawaii Public Schools", bullying and harassment are common
10 features of American school life. A 2003 nationally
11 representative study of sixth to tenth grade students found that
12 in the previous year thirteen per cent had engaged in bullying
13 behaviors, eleven per cent had been victims, and six per cent
14 had been victims and had engaged in bullying behaviors.

15 The purpose of this Act is to provide greater protection
16 for Hawaii's children, both in and out of school settings, by:

17 (1) Establishing a bullying and cyberbullying policy for
18 all public schools;



- 1 (2) Requiring implementation of the policy in all public
- 2 schools;
- 3 (3) Establishing bullying and cyberbullying reporting
- 4 requirements for all public and private schools; and
- 5 (4) Establishing a misdemeanor offense of bullying or
- 6 cyberbullying a minor.

7 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§302A- Bullying and cyberbullying; policy; reporting.

11 (a) No student shall be subjected to bullying or cyberbullying:

- 12 (1) During any education program or activity;
- 13 (2) While in school, on school equipment or property, in
- 14 school vehicles, on school buses, at designated school
- 15 bus stops, at school-sponsored activities, and at
- 16 school-sanctioned events; or
- 17 (3) Through the use of data, telephone or computer
- 18 software that is accessed through a computer, computer
- 19 system, or computer network of any public school.

20 (b) The department of education shall adopt rules to
21 implement a policy prohibiting bullying and cyberbullying, as
22 defined in subsection (f). The department shall involve



1 students, parents, legal guardians, administrators, school
2 staff, school volunteers, community representatives, and local
3 law enforcement agencies in the process of adopting the policy.
4 The department's policy shall be implemented in a manner that is
5 ongoing throughout the school year and integrated with a
6 school's curriculum, discipline policies, and other violence
7 prevention efforts.

8 (c) The policy adopted by the department pursuant to
9 subsection (b) shall contain, at a minimum, the following
10 components:

- 11 (1) Notice of the policy, which shall include:
- 12 (A) A statement prohibiting bullying or
13 cyberbullying, as defined in subsection (f);
 - 14 (B) A statement prohibiting retaliation or false
15 accusation against a student target, witness, or
16 individual with reliable information about an act
17 of bullying or cyberbullying;
 - 18 (C) A requirement that all students are protected
19 regardless of their status under the law;
 - 20 (D) A statement of how the policy is to be
21 publicized, including requirements that:



- 1 (i) Annual written notice of the policy shall be
2 provided to parents, legal guardians, staff,
3 volunteers, and students, with age
4 appropriate language for students;
- 5 (ii) Posting of the policy in several locations
6 in each public school, including but not
7 limited to cafeterias, school bulletin
8 boards, and administration offices, and the
9 department's website; and
- 10 (iii) Inclusion of the policy in all student
11 conduct and employee handbooks;
- 12 (E) A procedure for providing immediate notification
13 to the parents or legal guardian of a victim of
14 bullying or cyberbullying and the parents or
15 legal guardian of the perpetrator of the bullying
16 or cyberbullying;
- 17 (F) The identification by job title of school
18 officials responsible for ensuring that the
19 policy is implemented;
- 20 (G) A statement that the policy will apply to an
21 electronic communication whether or not the



1 bullying or cyberbullying originated on school
2 property or with school equipment; provided that:

3 (i) The bullying or cyberbullying act can be
4 reasonably expected to have the effect of:

5 (aa) Harming a student, damaging the
6 student's property, or placing a
7 student in reasonable fear of harm or
8 damage to the student's property; and

9 (bb) Insulting or demeaning any student or
10 group of students in such a way as to
11 cause substantial disruption in or
12 substantial interference with the
13 orderly operation of the school; or

14 (ii) The bullying or cyberbullying act is
15 directed specifically at students with the
16 intended purpose of disrupting school, and
17 the act has a high likelihood of succeeding
18 in that purpose;

19 (2) Reporting and investigation procedures and
20 requirements, which shall include:

21 (A) A procedure for reporting an act of bullying or
22 cyberbullying, including a provision that permits



1 a person to report a bullying or cyberbullying
2 act anonymously; provided that no formal
3 disciplinary action shall be taken solely on the
4 basis of an anonymous report;

5 (B) A requirement that any school employee that has
6 reliable information which would lead a
7 reasonable person to suspect that a student is a
8 target of bullying or cyberbullying immediately
9 report the information to the principal or the
10 principal's designee;

11 (C) A procedure for each school to document any
12 prohibited incident that is reported and a
13 procedure to report all incidents of bullying or
14 cyberbullying and the resulting consequences,
15 including discipline and referrals, to the board
16 on a semi-annual basis;

17 (D) A procedure for reporting to law enforcement all
18 acts of bullying or cyberbullying that may
19 constitute criminal activity; and

20 (E) A procedure for prompt investigation of reports
21 of violations and complaints, identifying either



1 the principal or the principal's designee as the
2 person responsible for the investigation;

3 (3) Penalties, remedies, and victim assistance that
4 include:

5 (A) Penalties, consequences, and appropriate remedial
6 action for a student who commits an act of
7 bullying or cyberbullying;

8 (B) Penalties, consequences, and appropriate remedial
9 action for a student found to have falsely
10 accused another as a means of retaliation,
11 reprisal, or as a means of bullying or
12 cyberbullying;

13 (C) A strategy for providing counseling or referral
14 to appropriate services, including guidance,
15 academic intervention, and protection to student
16 targets and perpetrators, and appropriate family
17 members' affected by bullying or cyberbullying, as
18 necessary;

19 (D) A statement encouraging public schools to form
20 bullying prevention task forces, programs, and
21 other initiatives involving school staff,
22 students, administrators, volunteers, parents,



1 legal guardians, law enforcement, community
2 members, and other stakeholders; and

3 (4) Training and assessment, including the following
4 educational programs to prevent bullying or
5 cyberbullying:

6 (A) Annual training for administrators, school
7 employees, and volunteers who have significant
8 contact with students in preventing, identifying,
9 responding to, and reporting incidents of
10 bullying or cyberbullying; and

11 (B) An educational program for students, parents, and
12 legal guardians in preventing, identifying,
13 responding to, and reporting incidents of
14 bullying or cyberbullying.

15 (d) Nothing in this section shall be construed to prohibit
16 or prevent a teacher, official, or other employee or volunteer
17 of the department from reporting other offenses to the principal
18 or the principal's designee.

19 (e) A student, parent, legal guardian, teacher, official,
20 or other employee or volunteer of the department who promptly
21 reports in good faith an act of bullying or cyberbullying to the
22 appropriate school official designated in the department's



1 policy and who makes this report in compliance with the
2 procedures set forth in the policy is immune from a cause of
3 action for damages arising out of the reporting itself or any
4 failure to remedy the reported incident.

5 (f) For the purposes of this section:

6 "Bullying" or "cyberbullying" means any written, verbal, or
7 physical act, or any electronic communication including but not
8 limited to a communication shown to be motivated by a student's
9 actual or perceived race, color, religion, national origin,
10 ancestry or ethnicity, sexual orientation, physical, mental,
11 emotional, or learning disability, gender, gender identity and
12 expression, or other distinguishing personal characteristic,
13 when the written, verbal, or physical act or electronic
14 communication is intended to:

15 (1) Physically harm a student or damage the student's
16 property;

17 (2) Substantially interfere with a student's educational
18 opportunities;

19 (3) Be so severe, persistent, or pervasive that it creates
20 an intimidating or threatening educational
21 environment; or



1 (4) Substantially disrupt the orderly operation of the
2 school.

3 "Electronic communication" means any communication through
4 an electronic device including but not limited to a telephone,
5 cellular phone, computer, or pager, which communication includes
6 but is not limited to electronic mail (e-mail), instant
7 messaging, text messages, blogs, mobile phones, pagers, online
8 games, and websites."

9 SECTION 3. Chapter 302B, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§302B- Bullying and cyberbullying; policy; reporting.

13 (a) No student shall be subjected to bullying or cyberbullying:

14 (1) During any education program or activity;

15 (2) While in school, on school equipment or property, in
16 school vehicles, on school buses, at designated school
17 bus stops, at school-sponsored activities, and at
18 school-sanctioned events; or

19 (3) Through the use of data, telephone or computer
20 software that is accessed through a computer, computer
21 system, or computer network of any public charter
22 school.



1 (b) The panel shall adopt rules to implement a policy
2 prohibiting bullying and cyberbullying, as defined in subsection
3 (f). The panel shall involve students, parents, legal
4 guardians, administrators, school staff, school volunteers,
5 community representatives, and local law enforcement agencies in
6 the process of adopting the policy. The panel's policy shall be
7 implemented in a manner that is ongoing throughout the school
8 year and integrated with a charter school's curriculum,
9 discipline policies, and other violence prevention efforts.

10 (c) The policy adopted by the panel pursuant to subsection
11 (b) shall contain, at a minimum, the following components:

12 (1) Notice of the policy, which shall include:

13 (A) A statement prohibiting bullying or
14 cyberbullying, as defined in subsection (f);

15 (B) A statement prohibiting retaliation or false
16 accusation against a student target, witness, or
17 individual with reliable information about an act
18 of bullying or cyberbullying;

19 (C) A requirement that all students are protected
20 regardless of their status under the law;

21 (D) A statement of how the policy is to be
22 publicized, including requirements that:



- 1 (i) Annual written notice of the policy shall be
- 2 provided to parents, legal guardians, staff,
- 3 volunteers, and students, with age
- 4 appropriate language for students;
- 5 (ii) Posting of the policy in several locations
- 6 in each charter school, including but not
- 7 limited to cafeterias, school bulletin
- 8 boards, and administration offices, and the
- 9 office's website; and
- 10 (iii) Inclusion of the policy in all student
- 11 conduct and employee handbooks;
- 12 (E) A procedure for providing immediate notification
- 13 to the parents or legal guardian of a victim of
- 14 bullying or cyberbullying and the parents or
- 15 legal guardian of the perpetrator of the bullying
- 16 or cyberbullying;
- 17 (F) The identification by job title of school
- 18 officials responsible for ensuring that the
- 19 policy is implemented;
- 20 (G) A statement that the policy will apply to an
- 21 electronic communication whether or not the



1 bullying or cyberbullying originated on school
2 property or with school equipment; provided that:

3 (i) The bullying or cyberbullying act can be
4 reasonably expected to have the effect of:

5 (aa) Harming a student, damaging the
6 student's property, or placing a
7 student in reasonable fear of harm or
8 damage to the student's property; and

9 (bb) Insulting or demeaning any student or
10 group of students in such a way as to
11 cause substantial disruption in or
12 substantial interference with the
13 orderly operation of the school; or

14 (ii) The bullying or cyberbullying act is
15 directed specifically at students with the
16 intended purpose of disrupting school, and
17 the act has a high likelihood of succeeding
18 in that purpose;

19 (2) Reporting and investigation procedures and
20 requirements, which shall include:

21 (A) A procedure for reporting an act of bullying or
22 cyberbullying, including a provision that permits



1 a person to report a bullying or cyberbullying
2 act anonymously; provided that no formal
3 disciplinary action shall be taken solely on the
4 basis of an anonymous report;

5 (B) A requirement that any school employee that has
6 reliable information which would lead a
7 reasonable person to suspect that a student is a
8 target of bullying or cyberbullying immediately
9 report the information to the principal or the
10 principal's designee;

11 (C) A procedure for each school to document any
12 prohibited incident that is reported and a
13 procedure to report all incidents of bullying or
14 cyberbullying and the resulting consequences,
15 including discipline and referrals, to the panel
16 on a semi-annual basis;

17 (D) A procedure for reporting to law enforcement all
18 acts of bullying or cyberbullying that may
19 constitute criminal activity; and

20 (E) A procedure for prompt investigation of reports
21 of violations and complaints, identifying either



1 the principal or the principal's designee as the
2 person responsible for the investigation;

3 (3) Penalties, remedies, and victim assistance that
4 include:

5 (A) Penalties, consequences, and appropriate remedial
6 action for a student who commits an act of
7 bullying or cyberbullying;

8 (B) Penalties, consequences, and appropriate remedial
9 action for a student found to have falsely
10 accused another as a means of retaliation,
11 reprisal, or as a means of bullying or
12 cyberbullying;

13 (C) A strategy for providing counseling or referral
14 to appropriate services, including guidance,
15 academic intervention, and protection to student
16 targets and perpetrators, and appropriate family
17 members affected by bullying or cyberbullying, as
18 necessary;

19 (D) A statement encouraging charter schools to form
20 bullying prevention task forces, programs, and
21 other initiatives involving school staff,
22 students, administrators, volunteers, parents,



1 legal guardians, law enforcement, community
2 members, and other stakeholders; and

3 (4) Training and assessment, including the following
4 educational programs to prevent bullying or
5 cyberbullying:

6 (A) Annual training for administrators, school
7 employees, and volunteers who have significant
8 contact with students in preventing, identifying,
9 responding to, and reporting incidents of
10 bullying or cyberbullying; and

11 (B) An educational program for students, parents, and
12 legal guardians in preventing, identifying,
13 responding to, and reporting incidents of
14 bullying or cyberbullying.

15 (d) Nothing in this section shall be construed to prohibit
16 or prevent a teacher, official, or other employee or volunteer
17 of the department from reporting other offenses to the principal
18 or the principal's designee.

19 (e) A student, parent, legal guardian, teacher, official,
20 or other employee or volunteer of the department who promptly
21 reports in good faith an act of harassment, intimidation,
22 bullying or cyberbullying to the appropriate school official



1 designated in the panel's policy and who makes this report in
2 compliance with the procedures set forth in the policy is immune
3 from a cause of action for damages arising out of the reporting
4 itself or any failure to remedy the reported incident.

5 (f) For the purposes of this section:

6 "Bullying" or "cyberbullying" shall have the same meaning
7 as in section 302A- (f).

8 "Electronic communication" shall have the same meaning as
9 in section 302A- (f)."

10 SECTION 4. Chapter 302C, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§302C- Bullying and cyberbullying; reporting. (a) All
14 private schools shall report to their respective county police
15 departments any bullying or cyberbullying that occurs:

16 (1) During any education program or activity;

17 (2) While in school, on school equipment or property, in
18 school vehicles, on school buses, and at designated
19 school bus stops, at school-sponsored activities, and
20 at school-sanctioned events; or



1 (3) Through the use of data, telephone or computer
2 software that is accessed through a computer, computer
3 system, or computer network of any private school.

4 (b) For the purposes of this section:

5 "Bullying" or "cyberbullying" shall have the same meaning
6 as in section 302A- (f)."

7 SECTION 5. Chapter 707, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§707- Bullying or cyberbullying of a minor. (1) Any
11 person who intentionally bullies or cyberbullies:

12 (a) A minor known by the person to be under the age of
13 eighteen years;

14 (b) Another person, in reckless disregard of the risk that
15 the other person may be under the age of eighteen
16 years, and the other person is under the age of
17 eighteen years; or

18 (c) Another person represented through electronic
19 communication to be under the age of eighteen years,
20 is guilty of bullying or cyberbullying a minor.

21 (2) For the purpose of this section:



1 "Bullying" or "cyberbullying" means any written, verbal, or
 2 physical act, or any electronic communication including but not
 3 limited to a communication shown to be motivated by a minor's
 4 actual or perceived race, color, religion, national origin,
 5 ancestry or ethnicity, sexual orientation, physical, mental,
 6 emotional, or learning disability, gender, gender identity and
 7 expression, or other distinguishing personal characteristic,
 8 when the written, verbal, or physical act or electronic
 9 communication is intended to:

- 10 (a) Physically harm a minor or damage the minor's
 11 property; or
- 12 (b) Be so severe, persistent, or pervasive that it creates
 13 an intimidating or threatening environment.

14 "Electronic communication" shall have the same meaning as
 15 in section 302A- (f).

16 "Minor" means any person under the age of eighteen years.

17 (3) Bullying or cyberbullying a minor is a misdemeanor."

18 SECTION 6. Section 302A-1002, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 " **[+]§302A-1002 [+] Reporting of crime-related incidents.**

21 The board shall adopt rules pursuant to chapter 91 to:



1 (1) Require a report to appropriate authorities from a
2 teacher, official, or other employee of the department
3 who knows or has reason to believe that an act has
4 been committed or will be committed, which:

5 (A) Occurred or will occur on school property during
6 school hours or during activities supervised by
7 the school; and

8 (B) Involves crimes relating to arson, assault,
9 bullying or cyberbullying, as defined in section
10 302A- (f), burglary, disorderly conduct,
11 dangerous weapons, dangerous drugs, harmful
12 drugs, extortion, firearms, gambling, harassment,
13 intoxicating drugs, marijuana or marijuana
14 concentrate, murder, attempted murder, sexual
15 offenses, rendering a false alarm, criminal
16 property damage, robbery, terroristic
17 threatening, theft, or trespass;

18 (2) Establish procedures for disposing of any incident
19 reported; and

20 (3) Impose, in addition to any other powers or authority
21 the department may have to discipline school
22 officials, appropriate disciplinary action for failure



1 to report these incidents, including probation,
2 suspension, demotion, and discharge of school
3 officials."

4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

10

INTRODUCED BY: Michelle Kidani

J.P. Gill
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Shiranne Chun Oakland

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Report Title:

Bullying; Cyberbullying

Description:

Establishes a bullying and cyberbullying policy for all public schools. Requires implementation of the policy in all public schools. Establishes bullying and cyberbullying reporting requirements for all public and private schools. Establishes a misdemeanor offense of bullying or cyberbullying a minor. Defines "bullying" and "cyberbullying".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

