

SB934

Date: 02/07/2011

Committee: Senate Education

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 0934 Relating to Bullying and Cyberbullying

Purpose of Bill: 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".

Department's Position: The Department of Education (Department) opposes SB 934 as the rules, regulations, and procedures to prohibit school "bullying" and "cyberbullying" are currently addressed in the Hawaii Administrative Rules (HAR), Title 8, Chapter 19. With the 2009 amendments to HAR Chapter 19, the language, processes, and procedures to prevent, identify, investigate, report, and to provide disciplinary actions and interventions for "bullying" and "cyberbullying" are addressed. HAR Chapter 19 additionally states that the Department supports the demonstration of students' respectful, responsible, safe, and ethical behaviors through schools' implementation of a proactive systems approach to schoolwide discipline. All reported incidents of "bullying and cyberbullying" must be investigated and substantiated by school administrators and documented in the Department's electronic Comprehensive Student Support System (eCSSS) database. HAR Chapter 19 reflects school-administered rules and not those associated with the juvenile justice system. Therefore, it is not in the jurisdiction of the Department to determine "bullying" and

"cyberbullying" as misdemeanors.

HAR Chapter 19 Subchapter 5, Reporting Offenses, §8-19-19, specifies that any employee of the Department who is witness to or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed against a student, teacher or official, or other employee of the Department shall promptly report the incident to the school principal or designee. "Bullying" and "cyberbullying" are class B offenses. Failure to report the "bullying" or "cyberbullying" incident may result in disciplinary action against teachers, officials, or other employees of the Department.

The Department will continue to work towards ensuring that all schools are responding to incidents of "bullying and cyberbullying" and additionally, enhancing their student support system to create communities that focus on proactive interventions and supports for all by ensuring that:

- (1) the provisions of Chapter 19 are implemented with fidelity;
- (2) all schools demonstrate maintaining a proactive schoolwide student behavior support system to address schoolwide discipline;
- (3) the school collaborates with its school community to conduct annual training on the prevention of "bullying and harassment" for students, staff, and families; and
- (4) schools produce a school safety report annually.

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THE HONORABLE JILL N. TOKUDA, CHAIR
SENATE EDUCATION COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 7, 2011

RE: S.B. 934; RELATING TO BULLYING AND CYBERBULLYING.

Chair Tokuda, Vice Chair Kidani, and members of the Senate Committee on Education, the Department of the Prosecuting Attorney, City and County of Honolulu submits the following testimony in support of S.B. 934.

The purpose of this bill is to establish a bullying and cyberbullying policy for all public schools. It also establishes bullying and cyberbullying reporting requirements for all public and private schools. The bill further establishes a misdemeanor offense of bullying or cyberbullying a minor.

This measure requires the Department of Education (DOE) to adopt rules to implement a policy prohibiting bullying and cyberbullying. The DOE is mandated to involve local law enforcement agencies among other organizations and individuals, in the process of adopting the policy. The Department of the Prosecuting Attorney is willing to help the DOE in any way possible to create and adopt this policy.

S.B. 934 requires the policy to include not only reporting and penalties, but counseling, referral to appropriate services, guidance, academic intervention, protection, task forces, programs, and other initiatives. As a suggestion, within the policy, there should be a violence prevention education component.

It is a policy goal of our department to not only prosecute violent individuals who violate our criminal laws, but educate individuals on the wrongfulness of violence. We need to reach out to our children and teens early about the wrongfulness of bullying and cyberbullying, which causes physical and/or mental injury to others. By impacting our youth early, we may prevent perpetrators of bullying and cyberbullying from escalating to more violent acts in the future, or we may prevent other youth from ever starting such misconduct.

In regards to the misdemeanor offense of bullying or cyberbullying a minor that is in this

bill, we are willing to work with all stakeholders in coming up with a penalty that is fitting for the age of the perpetrator, as well as the nature of the “bullying” or “cyberbullying” since the definition of these acts are very broad.

For these reasons, the Department of the Prosecuting Attorney supports the passage of S.B. 934, and we are willing to work with all stakeholders on this important issue. Thank you for this opportunity to testify.

EQUALITY HAWAII

February 6, 2011

Senate Committee on Education
Hearing: Monday, February 7, 2011
1:15 p.m., Conference Room 225

Testimony: Support of SB87, SB919 & SB934
Relating to Education, Bullying & Cyberbullying

Aloha distinguished members of the Hawaii State Senate Committee on Education:

On behalf of Equality Hawaii, the state's largest lesbian, gay, bisexual, and transgender (LGBT) advocacy organization we write in strong support of these bills as this is consistent with our mission. SB919 and SB934, both safe schools acts, would require the Department of Education to maintain, monitor, and enforce anti-bullying and anti-harassment policies to protect students. SB87 introduces measures to address those who participate in bullying.

All students deserve a school environment that is safe and conducive to learning. Sadly, all too often, students fall victim to harassment which sometimes leads to tragic consequences. Most recently, there has been much media publicity on LGBT youth suicide, a problem that is compounded by hostile school environments. Studies have shown for decades that LGBT youth are more likely to be bullied at school based on their real or perceived sexual orientation or gender identity. LGBT youth represent a disproportionate number of youth suicides.

When we were students in the 1970s and 1980s, anti-gay harassment was rampant and teachers/administrators did little to stop it. Times need to change. These bills are very important steps in addressing this very serious issue.

We strongly urge you to support this bill.

Aloha,
Valerie Smith, Co-Chair
Alan R. Spector, Co-Chair
Josh Frost, Legislative Committee Chair
Donald L. Bentz, Treasurer

Erin Conner

From: Ann Freed [annfreed@hotmail.com]
Sent: Monday, February 07, 2011 1:07 AM
To: EDU Testimony
Subject: Re: SB 934 STRONG SUPPORT (Bullying)

COMMITTEE ON EDUCATION

Senator Jill N. Tokuda, Chair
Senator Michelle Kidani, Vice Chair

DATE: Monday, February 07, 2011
TIME: 1:15PM
PLACE: Conference Room 225

Aloha Chair Tokuda, Vice Chair Kidani and members,

SB 934 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".

STRONG SUPPORT

We of the Hawai'i Women's Coalition believe that bullying is a problem that our schools have long failed to vigorously pursue. Although DOE has had administrative rules in place to address this diseased behavior, little has been done to enforce them in a consistent way. What we have here is a failure of leadership and a lack of accountability. **This measure seems to have the most teeth of all the bills being introduced and we applaud the Senate for it's efforts.**

Here are the facts. According to a recent Star Advertiser article, 12 percent of public school students in Hawai'i have attempted suicide, compared to 6.9 percent of high school students nationwide. That's nearly double the national rate. A 2008 report by the State Department of Health found that more than 18 percent of Hawai'i students have "seriously considered" suicide, the second-highest rate in the nation. Physical as well as cyberbullying is directly linked to suicide and to acts of violence against other children. Girls and GLBT children suffer the most from this terroristic practice.

A safe and supportive environment is necessary for students to learn and to meet high academic standards. It's hard to learn when you are afraid. Bullying has been part of the fabric of the educational system for so many decades that it will take specific measures to rectify this situation.

However as stated in previous testimony, it is school principals who need to be held accountable. They are the frontline commanders who are responsible for establishing standards of conduct. Students learn by example, and when school administrators, faculty and/or staff turn a blind eye, the lesson that students learn is that they cannot trust these adults to protect them. In turn bullies learn that there are no consequences for their fledgling criminal behavior.

I cannot see any provision for reporting in this measure either. Statistics should be collected and reported to the BOE/DOE, the Governor and the Legislature at set periods. Again, schools with high incidences of bullying should be required to take corrective measures.

The lives of our keiki are too important to waste with this viral epidemic.

Ann S. Freed
Co-Chair, Hawai`i Women's Coalition
Mililani, Hawai`i

808 623-5676

Erin Conner

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Sunday, February 06, 2011 5:48 PM
To: EDU Testimony
Subject: SB934 to be heard MONDAY, 02/07/11, at 1:15pm in Room 225

TO: Senator Jill Tokuda, Chair
Senator Michelle Kidani, Vice Chair
Education Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: 02/07/11

RE: Strong Support for SB934, Relating to a Bullying & Cyberbullying Policy

As I stated in my previous testimony for SB87, there is a parallel between the behaviors and tactics used by bullies and domestic violence perpetrators so I am in full and strong support of establishing a bullying and cyberbullying policy for all public schools.

In his 12/16/08 article entitled "Some Take Their Hate Online" Honolulu Advertiser reporter, Rob Perez, began by saying

"Not content with just inflicting physical or verbal abuse, domestic violence offenders are turning to the digital and electronic worlds to hound their victims. Those who deal with restraining orders in domestic abuse cases say they are seeing a growing number of examples in which the abuser uses text messaging, public Web sites or other forms of high-tech communication to reach their targets."

Indeed, EVERYTHING about our society and culture has gone cyber (or viral or whatever the lingo is for turning absolutely everything digital/electronic) and domestic violence and bullying have also adapted and assimilated. Cyberbullying has increased in tandem with the technology that supports it and is not limited to adult relationships as the Megan Meier My Space suicide case tragically exemplified. (In that case, a group of teens AND ADULTS created a fictitious 16 year-old named Josh who expressed interest in a 13 year-old teen named Megan over an internet page. The purpose of this deception was to get personal information about Megan and then use that to humiliate her.

When the group became tired of the charade, "Josh" sent incredibly mean and hurtful "hate mail" to Megan, who as a direct consequence, hung herself in her closet hours later.)

Because I have had to research cyberstalking and harassment, perhaps the following will assist with establishing the criteria for a misdemeanor offense of bullying or cyberbullying a minor:

A person commits the offense of bullying/cyberbullying if the actions taken have the intent to harass, annoy, alarm, **torment, cause fear or extreme emotional distress** to any other person. Actions of bullying/cyberbullying include:

- publicizing private facts without the other person's explicit consent
- creating publications that places a person in a false and misleading light
- promoting a person's name or likeness maliciously that may place that person at physical risk or emotional harm by others

Thank you so very much for your time and consideration.

Most respectfully,

Dara Carlin, M.A.

Independent Domestic Violence Survivor Advocate

TESTIFIER: Melanie Bailey
Kathy Bryant

REGULAR SESSION OF 2011

Attn: Committee on Education
Senator Tokuda, Chair
Senator Kidani, Vice Chair

Re: SB 87, SB919, SB934 RELATING TO EDUCATION AND BULLYING
Hearing Date February 7, 2011 1:15pm

We are in SUPPORT of creating school's that are free from harassment and create safe and positive learning environments.

In 1999, following the tragic events at Columbine High School in Colorado and the violent death of a Georgia student at the hands of bullies, Georgia introduced the first anti-bullying legislation. Since then legislation has been passed in 45 States.

Unfortunately much of the legislation was passed after a bullying based suicide and many of the laws are named after specific children. Massachusetts last year after the suicide of a 15-year-old Pheobe Prince and 11-year-old Carl Walker-Hoover. Florida in 2008 after the suicide of 15-year-old Jeffrey Johnson.

We have an opportunity to put in a well-written law as many states have paved this road already and are now updating their laws based on experience. In January, New Jersey signed what is considered to be the toughest piece of legislation after the suicide of Tyler Clementi and many states are looking at modeling their law.

We recommend as we move forward that there should not be any emphasis on defining victims. A bully can victimize any child. Defining victims will slow the process of lawmaking, dividing parties who will argue over which victims get special rights over other victims.

Of the three pieces of anti-bullying legislation being proposed today, we recommend sb919 move forward.

Thank you for your time.
Aloha.