
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 of these students had
13 engaged in bullying behaviors, eleven per cent had been victims,
14 and six per cent had been victims and had also engaged in
15 bullying behaviors.

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



- 1 (1) Establishing a bullying and cyberbullying policy for
- 2 all public schools;
- 3 (2) Requiring implementation of the policy in all public
- 4 schools;
- 5 (3) Establishing bullying and cyberbullying reporting
- 6 requirements for all public schools;
- 7 (4) Requiring the department of education and the charter
- 8 school review panel to each submit an annual report to
- 9 the legislature on the status of the implementation of
- 10 the policy established pursuant to this Act,
- 11 statistics on bullying and cyberbullying, and the
- 12 impact of the policy on bullying and cyberbullying in
- 13 the schools; and
- 14 (5) Establishing a misdemeanor offense of bullying or
- 15 cyberbullying a minor.

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

19 **"§302A- Bullying and cyberbullying; policy; reporting.**

- 20 (a) No student shall be subjected to bullying or cyberbullying:
- 21 (1) During any education program or activity;

1 (2) While in school, on school equipment or property, in
2 school vehicles, on school buses, at designated school
3 bus stops, at school-sponsored activities, or at
4 school-sanctioned events; or

5 (3) Through the use of data, telephone, or computer
6 software that is accessed through a computer, computer
7 system, or computer network.

8 (b) The department of education shall adopt rules to
9 implement a policy prohibiting bullying and cyberbullying, as
10 defined in subsection (f). The department shall involve
11 students, parents, legal guardians, administrators, school
12 staff, school volunteers, community representatives, and local
13 law enforcement agencies in the process of adopting the policy.
14 The department's policy shall be implemented in a manner that is
15 ongoing throughout the school year and integrated with a
16 school's curriculum, discipline policies, and other violence
17 prevention efforts.

18 (c) The policy adopted by the department pursuant to
19 subsection (b) shall contain, at a minimum, the following
20 components:

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



- 1 (A) A statement prohibiting bullying or
- 2 cyberbullying, as defined in subsection (f);
- 3 (B) A statement prohibiting retaliation or false
- 4 accusation against a student target, witness, or
- 5 individual with reliable information about an act
- 6 of bullying or cyberbullying;
- 7 (C) A requirement that all students are protected
- 8 regardless of their status under the law;
- 9 (D) A statement of how the policy is to be
- 10 publicized, including requirements that:
- 11 (i) Annual written notice of the policy shall be
- 12 provided to parents, legal guardians, staff,
- 13 volunteers, and students, with age
- 14 appropriate language for students;
- 15 (ii) Posting of the policy in several locations
- 16 in each public school, including cafeterias,
- 17 school bulletin boards, and administration
- 18 offices, and the department's website; and
- 19 (iii) Inclusion of the policy in all student
- 20 conduct and employee handbooks;
- 21 (E) A procedure for providing immediate notification
- 22 to the parents or legal guardian of a victim of



1 bullying or cyberbullying and the parents or
2 legal guardian of the perpetrator of the bullying
3 or cyberbullying;

4 (F) The identification by job title of school
5 officials responsible for ensuring that the
6 policy is implemented;

7 (G) A statement that the policy will apply to an
8 electronic communication whether or not the
9 bullying or cyberbullying originated on school
10 property or with school equipment; provided that:

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

13 (aa) Harming a student, damaging the
14 student's property, or placing a
15 student in reasonable fear of harm or
16 damage to the student's property; and

17 (bb) Insulting or demeaning any student or
18 group of students in any way; or

19 (ii) The bullying or cyberbullying act is
20 directed specifically at students with the
21 intended purpose of disrupting school, and



1 the act has a high likelihood of succeeding
2 in that purpose;

3 (2) Reporting and investigation procedures and
4 requirements, which shall include:

5 (A) A procedure for reporting an act of bullying or
6 cyberbullying, including a provision that permits
7 a person to report a bullying or cyberbullying
8 act anonymously; provided that no formal
9 disciplinary action shall be taken solely on the
10 basis of an anonymous report;

11 (B) A requirement that any school employee who has
12 reliable information which would lead a
13 reasonable person to suspect that a student is a
14 target of bullying or cyberbullying immediately
15 report the information to the principal of the
16 employee's school or the principal's designee;

17 (C) A procedure for each school to document any
18 bullying or cyberbullying incident that is
19 reported and a procedure to report all incidents
20 of bullying or cyberbullying and the resulting
21 consequences, including discipline and referrals,
22 to the board on a semi-annual basis;



- 1 (D) A procedure for reporting to law enforcement all
2 acts of bullying or cyberbullying that may
3 constitute criminal activity; and
- 4 (E) A procedure for prompt investigation of reports
5 of violations and complaints, identifying either
6 the principal or the principal's designee as the
7 person responsible for the investigation;
- 8 (3) Penalties, remedies, and victim assistance that
9 include:
- 10 (A) Penalties, consequences, and appropriate remedial
11 action for a student who commits an act of
12 bullying or cyberbullying;
- 13 (B) Penalties, consequences, and appropriate remedial
14 action for a student found to have falsely
15 accused another as a means of retaliation,
16 reprisal, or as a means of bullying or
17 cyberbullying;
- 18 (C) A strategy for providing counseling or referral
19 to appropriate services, including guidance,
20 academic intervention, and protection to student
21 targets and perpetrators, and appropriate family



1 members affected by bullying or cyberbullying, as
2 necessary;

3 (D) A statement encouraging public schools to form
4 bullying prevention task forces, programs, and
5 other initiatives involving school staff,
6 students, administrators, volunteers, parents,
7 legal guardians, law enforcement, community
8 members, and other stakeholders; and

9 (4) Training and assessment, including the following
10 educational programs to prevent bullying or
11 cyberbullying:

12 (A) Annual training for administrators, school
13 employees, and volunteers who have significant
14 contact with students in preventing, identifying,
15 responding to, and reporting incidents of
16 bullying or cyberbullying; and

17 (B) An educational program for students, parents, and
18 legal guardians in preventing, identifying,
19 responding to, and reporting incidents of
20 bullying or cyberbullying.

21 (d) Nothing in this section shall be construed to prohibit
22 or prevent a teacher, school or department official, or other



1 employee or volunteer of the department from reporting other
2 offenses to the appropriate principal or the principal's
3 designee.

4 (e) A student, parent, legal guardian, teacher, school or
5 department official, or other employee or volunteer of the
6 department who promptly reports in good faith an act of bullying
7 or cyberbullying to the appropriate school official designated
8 in the department's policy and who makes this report in
9 compliance with the procedures set forth in the policy is immune
10 from a cause of action for damages arising out of the reporting
11 itself or any failure to remedy the reported incident.

12 (f) For the purposes of this section:

13 "Bullying" or "cyberbullying" means any written, verbal, or
14 physical act, or any electronic communication including a
15 communication shown to be motivated by a student's actual or
16 perceived race, color, religion, national origin, ancestry or
17 ethnicity, sexual orientation, physical, mental, emotional, or
18 learning disability, gender, gender identity or expression, or
19 other distinguishing personal characteristic, when the written,
20 verbal, or physical act or electronic communication is intended
21 to:



- 1 (1) Physically or emotionally harm a student or damage the
2 student's property;
- 3 (2) Substantially interfere with a student's educational
4 opportunities;
- 5 (3) Be so severe, persistent, or pervasive that it creates
6 an intimidating or threatening educational
7 environment; or
- 8 (4) Substantially disrupt the orderly operation of the
9 school.

10 "Electronic communication" means any communication through
11 an electronic device including a telephone, cellular phone,
12 computer, or pager, which communication includes electronic mail
13 (e-mail), instant messaging, text messages, blogs, mobile
14 phones, pagers, online games, and websites.

15 (g) The department shall submit an annual report to the
16 legislature that shall include the status of the implementation
17 of the policy established pursuant to this section, statistics
18 on bullying and cyberbullying, and the policy's impact on
19 bullying and cyberbullying in schools no later than twenty days
20 prior to the convening of each regular session of the
21 legislature."



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

4 "§302B- Bullying and cyberbullying; policy; reporting.

5 (a) No student shall be subjected to bullying or cyberbullying
6 at any time.

7 (b) The panel shall adopt rules to implement a policy
8 prohibiting bullying and cyberbullying, as defined in subsection

9 (f). The panel shall involve students, parents, legal
10 guardians, administrators, school staff, school volunteers,
11 community representatives, and local law enforcement agencies in
12 the process of adopting the policy. The panel's policy shall be
13 implemented in a manner that is ongoing throughout the school
14 year and integrated with a charter school's curriculum,
15 discipline policies, and other violence prevention efforts.

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

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

19 (A) A statement prohibiting bullying or
20 cyberbullying, as defined in subsection (f);

21 (B) A statement prohibiting retaliation or false
22 accusation against a student target, witness, or



1 individual with reliable information about an act
2 of bullying or cyberbullying;

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

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

7 (i) Annual written notice of the policy shall be
8 provided to parents, legal guardians, staff,
9 volunteers, and students, with age
10 appropriate language for students;

11 (ii) Posting of the policy in several locations
12 in each charter school, including
13 cafeterias, school bulletin boards, and
14 administration offices, and the office's
15 website; and

16 (iii) Inclusion of the policy in all student
17 conduct and employee handbooks;

18 (E) A procedure for providing immediate notification
19 to the parents or legal guardian of a victim of
20 bullying or cyberbullying and the parents or
21 legal guardian of the perpetrator of the bullying
22 or cyberbullying;



- 1 (F) The identification by job title of school
- 2 officials responsible for ensuring that the
- 3 policy is implemented; and
- 4 (G) A statement that the policy will apply to an
- 5 electronic communication whether or not the
- 6 bullying or cyberbullying originated on school
- 7 property or with school equipment; provided that:
- 8 (i) The bullying or cyberbullying act can be
- 9 reasonably expected to have the effect of:
- 10 (aa) Harming a student, damaging the
- 11 student's property, or placing a
- 12 student in reasonable fear of harm or
- 13 damage to the student's property; and
- 14 (bb) Insulting or demeaning any student or
- 15 group of students in any way; or
- 16 (ii) The bullying or cyberbullying act is
- 17 directed specifically at students with the
- 18 intended purpose of disrupting school, and
- 19 the act has a high likelihood of succeeding
- 20 in that purpose;
- 21 (2) Reporting and investigation procedures and
- 22 requirements, which shall include:



- 1 (A) A procedure for reporting an act of bullying or
2 cyberbullying, including a provision that permits
3 a person to report a bullying or cyberbullying
4 act anonymously; provided that no formal
5 disciplinary action shall be taken solely on the
6 basis of an anonymous report;
- 7 (B) A requirement that any school employee who has
8 reliable information which would lead a
9 reasonable person to suspect that a student is a
10 target of bullying or cyberbullying immediately
11 report the information to the principal of the
12 employee's school or the principal's designee;
- 13 (C) A procedure for each school to document any
14 bullying or cyberbullying incident that is
15 reported and a procedure to report all incidents
16 of bullying or cyberbullying and the resulting
17 consequences, including discipline and referrals,
18 to the panel on a semi-annual basis;
- 19 (D) A procedure for reporting to law enforcement all
20 acts of bullying or cyberbullying that may
21 constitute criminal activity; and



- 1 (E) A procedure for prompt investigation of reports
2 of violations and complaints, identifying either
3 the principal or the principal's designee as the
4 person responsible for the investigation;
- 5 (3) Penalties, remedies, and victim assistance that shall
6 include:
- 7 (A) Penalties, consequences, and appropriate remedial
8 action for a student who commits an act of
9 bullying or cyberbullying;
- 10 (B) Penalties, consequences, and appropriate remedial
11 action for a student found to have falsely
12 accused another as a means of retaliation,
13 reprisal, or as a means of bullying or
14 cyberbullying;
- 15 (C) A strategy for providing counseling or referral
16 to appropriate services, including guidance,
17 academic intervention, and protection to student
18 targets and perpetrators, and appropriate family
19 members affected by bullying or cyberbullying, as
20 necessary; and
- 21 (D) A statement encouraging charter schools to form
22 bullying prevention task forces, programs, and



1 other initiatives involving school staff,
2 students, administrators, volunteers, parents,
3 legal guardians, law enforcement, community
4 members, and other stakeholders; and

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

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

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

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



1 (e) A student, parent, legal guardian, teacher, school or
2 department official, or other employee or volunteer of the
3 department who promptly reports in good faith an act of
4 harassment, intimidation, bullying or cyberbullying to the
5 appropriate school official designated in the panel's policy and
6 who makes this report in compliance with the procedures set
7 forth in the policy is immune from a cause of action for damages
8 arising out of the reporting itself or any failure to remedy the
9 reported incident.

10 (f) For the purposes of this section:

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

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

15 (g) The panel shall submit an annual report to the
16 legislature that shall include the status of the implementation
17 of the policy established pursuant to this section, statistics
18 on bullying and cyberbullying, and the policy's impact on
19 bullying and cyberbullying in schools no later than twenty days
20 prior to the convening of each regular session of the
21 legislature."



1 SECTION 4. Chapter 707, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§707- Bullying or cyberbullying of a minor. (1) Any
5 person who intentionally bullies or cyberbullies:

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

8 (b) Another person, in reckless disregard of the risk that
9 the other person may be under the age of eighteen
10 years, and the other person is under the age of
11 eighteen years; or

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

15 (2) For the purpose of this section:

16 "Bullying" or "cyberbullying" means any written, verbal, or
17 physical act, or any electronic communication including a
18 communication shown to be motivated by a minor's actual or
19 perceived race, color, religion, national origin, ancestry or
20 ethnicity, sexual orientation, physical, mental, emotional, or
21 learning disability, gender, gender identity or expression, or
22 other distinguishing personal characteristic, when the written,



1 verbal, or physical act or electronic communication is intended
2 to:

3 (a) Physically or emotionally harm a minor or damage the
4 minor's property; or

5 (b) Be so severe, persistent, or pervasive that it creates
6 an intimidating or threatening environment.

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

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

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

11 SECTION 5. Section 302A-1002, Hawaii Revised Statutes, is
12 amended to read as follows:

13 " ~~§~~302A-1002 ~~§~~ Reporting of crime-related incidents.

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

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

19 (A) Occurred or will occur on school property during
20 school hours or during activities supervised by
21 the school; and



- 1 (B) Involves crimes relating to arson, assault,
2 bullying or cyberbullying, as defined in section
3 302A- (f), burglary, disorderly conduct,
4 dangerous weapons, dangerous drugs, harmful
5 drugs, extortion, firearms, gambling, harassment,
6 intoxicating drugs, marijuana or marijuana
7 concentrate, murder, attempted murder, sexual
8 offenses, rendering a false alarm, criminal
9 property damage, robbery, terroristic
10 threatening, theft, or trespass;
- 11 (2) Establish procedures for disposing of any incident
12 reported; and
- 13 (3) Impose, in addition to any other powers or authority
14 the department may have to discipline school
15 officials, appropriate disciplinary action for failure
16 to report these incidents, including probation,
17 suspension, demotion, and discharge of school
18 officials."

19 SECTION 6. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



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

3 SECTION 8. This Act shall take effect on July 1, 2050.

4



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 schools. Establishes a misdemeanor offense of bullying or cyberbullying a minor. Defines "bullying" and "cyberbullying". Requires the department of education and the charter school review panel to report to the legislature annually. Effective 7/1/2050. (SD2)

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

