

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 **PART I**

2 SECTION 1. Section 707-700, Hawaii Revised Statutes, is  
3 amended by adding three new definitions to be appropriately  
4 inserted and to read as follows:

5 "Bullying" means any written, verbal, graphic, or physical  
6 act that a student or group of students exhibits toward a  
7 particular student or students and the behavior causes  
8 professionally certified psychological harm or damage to the  
9 other student or students, and is sufficiently severe,  
10 persistent, or pervasive that it creates an intimidating,  
11 threatening, or abusive educational environment for the other  
12 student or students.

13 "Cyberbullying" means electronically transmitted acts,  
14 including through the Internet, cell phone, personal digital  
15 assistant, or wireless hand-held device that a student has  
16 exhibited toward another student which causes professionally  
17 certified psychological harm or damage to the other student and



1 is sufficiently severe, persistent, or pervasive that it creates  
2 an intimidating, threatening, or abusive educational  
3 environment:

4 (1) On campus, or other school premises, when applicable,  
5 on a school vehicle, or during a school sponsored  
6 activity or event on or off school property;

7 (2) Through a school data system without school authorized  
8 communication; or

9 (3) Through an off campus computer network that is  
10 sufficiently severe, persistent, or pervasive that it  
11 creates an intimidating, threatening, or abusive  
12 educational environment for the other student.

13 Electronic transmissions include but are not limited to the use  
14 of data, computer software that is accessed through a computer,  
15 a computer network system, other computerized systems, cellular  
16 phones, or other similar electronic devices that display  
17 electronic mail, text messaging, blogs, photos, drawings, video  
18 clips, online community websites, or faxes, or a combination of  
19 the foregoing.

20 "Professionally certified" means a written certification  
21 issued by a person licensed under chapters 453, 453D, or 465."



1 SECTION 2. Section 707-715, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§707-715 Terroristic threatening, defined.** A person  
4 commits the offense of terroristic threatening if the person  
5 threatens, by word or conduct, to cause bodily injury to another  
6 person or serious damage or harm to property, including the pets  
7 or livestock, of another or to commit a felony:

8 (1) With the intent to terrorize, or in reckless disregard  
9 of the risk of terrorizing, another person; [æ]

10 (2) With intent to cause, or in reckless disregard of the  
11 risk of causing evacuation of a building, place of  
12 assembly, or facility of public transportation[-]; or

13 (3) Engages in bullying or cyberbullying of a public or  
14 private school student in grades pre-kindergarten  
15 through twelve."

16 **PART II**

17 SECTION 3. Section 711-1100, Hawaii Revised Statutes, is  
18 amended by adding three new definitions to be appropriately  
19 inserted and to read as follows:

20 "Bullying" means any written, verbal, graphic, or physical  
21 act that a student or group of students exhibits toward a



1 particular student or students and the behavior causes  
2 professionally certified psychological harm or damage to the  
3 other student or students, and is sufficiently severe,  
4 persistent, or pervasive that it creates an intimidating,  
5 threatening, or abusive educational environment for the other  
6 student or students.

7 "Cyberbullying" means electronically transmitted acts,  
8 including through the Internet, cell phone, personal digital  
9 assistant, or wireless hand-held device that a student has  
10 exhibited toward another student which causes professionally  
11 certified psychological harm or damage to the other student and  
12 is sufficiently severe, persistent, or pervasive that it creates  
13 an intimidating, threatening, or abusive educational  
14 environment:

15 (1) On campus, or other school premises, when applicable,  
16 on a school vehicle, or during a school sponsored  
17 activity or event on or off school property;

18 (2) Through a school data system without school authorized  
19 communication; or

20 (3) Through an off campus computer network that is  
21 sufficiently severe, persistent, or pervasive that it



1           creates an intimidating, threatening, or abusive  
2           educational environment for the other student.  
3 Electronic transmissions include but are not limited to the use  
4 of data, computer software that is accessed through a computer,  
5 a computer network system, other computerized systems, cellular  
6 phones, or other similar electronic devices that display  
7 electronic mail, text messaging, blogs, photos, drawings, video  
8 clips, online community websites, or faxes, or a combination of  
9 the foregoing.

10           "Professionally certified" means a written certification  
11 issued by a person licensed under chapters 453, 453D, or 465."

12           SECTION 4. Section 711-1106, Hawaii Revised Statutes, is  
13 amended by amending subsection (1) to read as follows:

14           "(1) A person commits the offense of harassment if, with  
15 intent to harass, annoy, or alarm any other person, that person:

16           (a) Strikes, shoves, kicks, or otherwise touches another  
17 person in an offensive manner or subjects the other  
18 person to offensive physical contact;

19           (b) Insults, taunts, or challenges another person in a  
20 manner likely to provoke an immediate violent response  
21 or that would cause the other person to reasonably

- 1 believe that the actor intends to cause bodily injury  
2 to the recipient or another or damage to the property  
3 of the recipient or another;
- 4 (c) Repeatedly makes telephone calls, facsimile  
5 transmissions, or any form of electronic communication  
6 as defined in section 711-1111(2), including  
7 electronic mail transmissions, without purpose of  
8 legitimate communication;
- 9 (d) Repeatedly makes a communication anonymously or at an  
10 extremely inconvenient hour;
- 11 (e) Repeatedly makes communications, after being advised  
12 by the person to whom the communication is directed  
13 that further communication is unwelcome; [e]
- 14 (f) Makes a communication using offensively coarse  
15 language that would cause the recipient to reasonably  
16 believe that the actor intends to cause bodily injury  
17 to the recipient or another or damage to the property  
18 of the recipient or another[-]; or
- 19 (g) Engages in bullying or cyberbullying of a public or  
20 private school student in grades pre-kindergarten  
21 through twelve."



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PART III

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: Suzanne Chun Oakland  
By Request



# S.B. NO. 268

**Report Title:**

Penal Code; Students; Bullying; Terroristic Threatening; Harassment; Cyberbullying; Psychological and Mental Damage

**Description:**

Criminalizes bullying and cyberbullying against public or private school students in grades pre-kindergarten through twelve that causes professionally certified psychological harm or damage by adding bullying and cyberbullying to the crimes of terroristic threatening and harassment.

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

