

SENATE BILL NO. 275—SENATORS LESLIE AND PARKS

MARCH 18, 2011

Referred to Committee on Education

SUMMARY—Makes various changes concerning bullying.
(BDR 34-732)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pupils; revising the definition of bullying; prohibiting bullying, cyber-bullying, harassment or intimidation under certain circumstances; providing civil liability for failure to comply with certain provisions relating to safe and respectful learning environments; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines bullying as a willful act by one or more pupils that exposes another pupil repeatedly to an act or course of conduct that is highly offensive and causes the pupil to suffer harm or serious emotional distress. (NRS 388.122) **Section 1** of this bill revises the definition of bullying: (1) to include an act or course of conduct by any person; and (2) to provide that a single act may constitute bullying.

Existing law prohibits certain persons from engaging in bullying, cyber-bullying, harassment or intimidation on the premises of any public school, school sponsored activity or on a school bus. (NRS 388.135) **Section 4** of this bill prohibits any person from engaging in bullying, cyber-bullying, harassment or intimidation of a pupil at any time and at any place, and makes a first offense a misdemeanor, a second offense a gross misdemeanor and a third or subsequent offense a category E felony.

Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying, cyber-bullying, harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Sections 2, 3, 5 and 6** of



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19 this bill impose civil liability for failure to comply with the provisions governing
20 safe and respectful learning environments.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 388.122 is hereby amended to read as follows:
2 388.122 “Bullying” means a willful act or course of conduct on
3 the part of one or more ~~[pupils]~~ **persons** which is not authorized by
4 law and which exposes a pupil ~~[repeatedly and over time to one or~~
5 ~~more negative actions which]~~ **to an oral or written communication**
6 **or a physical act that:**

7 1. **Places the pupil in reasonable fear of harm to his or her**
8 **person or property;**

9 2. **Creates a hostile environment for the pupil at a public**
10 **school;**

11 3. **Infringes on the rights of the pupil at a public school; or**

12 4. **Interferes with the operation of a public school,**

13 ↪ is highly offensive to a reasonable person , and is intended to
14 cause and actually causes the pupil to suffer harm or serious
15 emotional distress.

16 **Sec. 2.** NRS 388.133 is hereby amended to read as follows:

17 388.133 1. The Department shall, in consultation with the
18 boards of trustees of school districts, educational personnel, local
19 associations and organizations of parents whose children are
20 enrolled in public schools throughout this State, and individual
21 parents and legal guardians whose children are enrolled in public
22 schools throughout this State, prescribe by regulation a policy for all
23 school districts and public schools to provide a safe and respectful
24 learning environment that is free of bullying, cyber-bullying,
25 harassment and intimidation.

26 2. The policy must include, without limitation:

27 (a) Requirements and methods for reporting violations of NRS
28 388.135; and

29 (b) A policy for use by school districts to train administrators,
30 principals, teachers and all other personnel employed by the board
31 of trustees of a school district. The policy must include, without
32 limitation:

33 (1) Training in the appropriate methods to facilitate positive
34 human relations among pupils without the use of bullying, cyber-
35 bullying, harassment and intimidation so that pupils may realize
36 their full academic and personal potential;

37 (2) Methods to improve the school environment in a manner
38 that will facilitate positive human relations among pupils; and



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(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

3. If the Department fails to comply with the provisions of the policy, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

Sec. 3. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

3. On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.

↪ If a board of trustees fails to comply with subsection 1 or 2, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

Sec. 4. NRS 388.135 is hereby amended to read as follows:

~~388.135 [A member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not]~~

1. It is unlawful for any person to engage in bullying, cyberbullying, harassment or intimidation of a pupil at any place or by any method, including, without limitation, on the premises of any public school, on any property immediately adjacent to a public school, at a school bus stop, at an activity sponsored by a public school or on any school bus [H], van or any other motor vehicle owned, leased or chartered by a school district to transport pupils or school employees.

2. A person who violates the provisions of subsection 1 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.



(c) For a third and any subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

3. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

Sec. 5. NRS 388.136 is hereby amended to read as follows:

388.136 1. A school official shall not directly or indirectly interfere with or prevent the disclosure of information concerning a violation of NRS 388.135.

2. *If a school official fails to comply with this section, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.*

3. As used in this section, "school official" means:

(a) A member of the board of trustees of a school district; or

(b) A licensed or unlicensed employee of a school district.

Sec. 6. NRS 388.139 is hereby amended to read as follows:

388.139 1. Each school district shall include the text of the provisions of NRS 388.122 to 388.135, inclusive, and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

2. *If a school district fails to comply with this section, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.*

Sec. 7. NRS 200.571 is hereby amended to read as follows:

200.571 1. A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(1) To cause bodily injury in the future to the person threatened or to any other person;

(2) To cause physical damage to the property of another person;

(3) To subject the person threatened or any other person to physical confinement or restraint; or

(4) To do any act which is intended to substantially harm the person threatened or any other person with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.

2. Except where the provisions of subsection 2 or 3 of NRS 200.575 *or paragraph (c) of subsection 2 of NRS 388.135* are applicable, a person who is guilty of harassment:

(a) For the first offense, is guilty of a misdemeanor.



- 1 (b) For the second or any subsequent offense, is guilty of a gross
- 2 misdemeanor.
- 3 3. The penalties provided in this section do not preclude the
- 4 victim from seeking any other legal remedy available.
- 5 **Sec. 8.** This act becomes effective on July 1, 2011.

