

SENATE BILL NO. 239—SENATOR SEEVERS GANSERT

FEBRUARY 27, 2019

Referred to Committee on Education

SUMMARY—Revises provisions relating to bullying in schools.
(BDR 34-641)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 education; requiring the interests of a victim of reported bullying or cyber-bullying to be given priority in certain circumstances; authorizing the extension of the time required to conduct an investigation into reported cyber-bullying in certain circumstances; making various other changes to provisions relating to bullying in schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Upon receiving a report of bullying or cyber-bullying, existing law requires the administrator of a school or his or her designee to immediately: (1) take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying; and (2) begin an investigation into the reported bullying or cyber-bullying. Existing law requires such an investigation to be completed not less than 2 school days after the receipt of the report in most circumstances. If extenuating circumstances exist, 1 additional school day may be used to complete the investigation. (NRS 388.1351) Existing law also authorizes the administrator or his or her designee to defer such an investigation until after the completion of a criminal investigation of the reported bullying or cyber-bullying by a law enforcement agency. If the investigation is deferred, the administrator or designee is required to immediately develop a plan to protect the safety of each pupil directly involved in the reported bullying or cyber-bullying. (NRS 388.13535)

Section 1 of this bill authorizes an administrator or his or her designee, with the consent of each reported victim or perpetrator or their parents or guardians, as applicable, to extend the 2 or 3 school day period for conducting an investigation into cyber-bullying. **Sections 1 and 2** of this bill require the administrator or his or her designee to give priority to protecting a victim of reported bullying or cyber-bullying over any interest of an alleged perpetrator when: (1) taking actions to stop



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bullying or cyber-bullying and ensure the safety of the victim; and (2) making any determination concerning a plan to protect the safety of a pupil directly involved in an incident of bullying or cyber-bullying during a criminal investigation. **Section 2** also requires an administrator or his or her designee to carry out such a plan immediately upon development of the plan.

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

Section 1. NRS 388.1351 is hereby amended to read as follows:

388.1351 1. Except as otherwise provided in NRS 388.13535, a teacher, administrator, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall report the violation to the administrator or his or her designee as soon as practicable, but not later than a time during the same day on which the teacher, administrator, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. Except as otherwise provided in this subsection, upon receiving a report required by subsection 1, the administrator or designee shall immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying and shall begin an investigation into the report. If the administrator or designee does not have access to the reported victim of the alleged violation of NRS 388.135, the administrator or designee may wait until the next school day when he or she has such access to take the action required by this subsection.

3. Any action taken pursuant to subsection 2 to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying must be carried out in a manner that causes the least possible disruption for the reported victim or victims. When necessary, the administrator or his or her designee shall give priority to ensuring the safety and well-being of the reported victim or victims over any interest of the reported perpetrator or perpetrators when determining the actions to take.

4. The investigation conducted pursuant to subsection 2 must include, without limitation:

(a) Except as otherwise provided in subsection ~~4~~ 5, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported bullying or



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cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the bullying or cyber-bullying. The notification must be provided:

(1) If the bullying or cyber-bullying is reported before the end of school hours on a school day, before the school's administrative office closes on the day on which the bullying or cyber-bullying is reported; or

(2) If the bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, before the school's administrative office closes on the school day following the day on which the bullying or cyber-bullying is reported.

(b) Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.

~~[4-]~~ 5. If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection ~~[3-]~~ 4.

~~[5-]~~ 6. Except as otherwise provided in this subsection, an investigation required by this section must be completed not later than 2 school days after the administrator or designee receives a report required by subsection 1. If extenuating circumstances prevent the administrator or designee from completing the investigation required by this section within 2 school days after making a good faith effort, 1 additional school day may be used to complete the investigation. *The time for completing an investigation into a report of cyber-bullying may also be extended to not more than 10 school days after the report is received with the consent of each reported perpetrator and each reported victim of the cyber-bullying or, if a reported perpetrator or victim is under 18 years of age and is not emancipated, the parent or guardian of the reported perpetrator or victim.*

~~[6-]~~ 7. An administrator or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the governing body. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all



1 parents or guardians who must be notified pursuant to paragraph (a)
2 of subsection ~~[3]~~ 4 as part of the investigation.

3 ~~[7]~~ 8. If a violation is found not to have occurred, information
4 concerning the incident must not be included in the record of the
5 reported aggressor.

6 ~~[8]~~ 9. Not later than 10 school days after receiving a report
7 required by subsection 1, the administrator or designee shall meet
8 with each reported victim of the bullying or cyber-bullying to
9 inquire about the well-being of the reported victim and to ensure
10 that the reported bullying or cyber-bullying, as applicable, is not
11 continuing.

12 ~~[9]~~ 10. To the extent that information is available, the
13 administrator or his or her designee shall provide a list of any
14 resources that may be available in the community to assist a pupil to
15 each parent or guardian of a pupil to whom notice was provided
16 pursuant to this section as soon as practicable. Such a list may
17 include, without limitation, resources available at no charge or at a
18 reduced cost and may be provided in person or by electronic or
19 regular mail. If such a list is provided, the administrator, his or her
20 designee, or any employee of the school or the school district is not
21 responsible for providing such resources to the pupil or ensuring the
22 pupil receives such resources.

23 ~~[10]~~ 11. The parent or guardian of a pupil involved in the
24 reported violation of NRS 388.135 may appeal a disciplinary
25 decision of the administrator or his or her designee, made against
26 the pupil as a result of the violation, in accordance with the policy
27 governing disciplinary action adopted by the governing body. Not
28 later than 30 days after receiving a response provided in accordance
29 with such a policy, the parent or guardian may submit a complaint to
30 the Department. The Department shall consider and respond to the
31 complaint pursuant to procedures and standards prescribed in
32 regulations adopted by the Department.

33 ~~[11]~~ 12. If a violation of NRS 388.135 is found to have
34 occurred, the parent or guardian of a pupil who is a victim of
35 bullying or cyber-bullying may request that the board of trustees of
36 the school district in which the pupil is enrolled to assign the pupil
37 to a different school in the school district. Upon receiving such a
38 request, the board of trustees shall, in consultation with the parent or
39 guardian of the pupil, assign the pupil to a different school.

40 ~~[12]~~ 13. A principal or his or her designee shall submit a
41 monthly report to the direct supervisor of the principal that includes
42 for the school the number of:

43 (a) Reports received pursuant to subsection 1;

44 (b) Times in which a violation of NRS 388.135 is found to have
45 occurred; and



(c) Times in which no violation of NRS 388.135 is found to have occurred.

~~H3.1~~ 14. A direct supervisor who receives a monthly report pursuant to subsection ~~H2.1~~ 13 shall, each calendar quarter, submit a report to the Office for a Safe and Respectful Learning Environment that includes, for the schools for which the direct supervisor has received a monthly report in the calendar quarter, the:

(a) Total number of reports received pursuant to subsection 1;

(b) Number of times in which a violation of NRS 388.135 is found to have occurred; and

(c) Number of times in which no violation of NRS 388.135 is found to have occurred.

~~H4.1~~ 15. School hours and school days are determined for the purposes of this section by the schedule established by the governing body for the school.

Sec. 2. NRS 388.13535 is hereby amended to read as follows:

388.13535 1. If a law enforcement agency is investigating a potential crime involving an alleged violation of NRS 388.135, the administrator or his or her designee may, after providing the notification required by paragraph (a) of subsection ~~H3.1~~ 4 of NRS 388.1351, defer the investigation required by that section until the completion of the criminal investigation by the law enforcement agency. If the administrator or his or her designee defers an investigation pursuant to this subsection, the administrator or designee shall:

(a) Immediately develop *and carry out* a plan to protect the safety of each pupil directly involved in the alleged violation of NRS 388.135; and

(b) To the extent that the law enforcement agency has provided the administrator or designee with information about the projected date for completion of its investigation, provide the parents or guardians of each pupil directly involved in the alleged violation of NRS 388.135 with that information.

2. Except as otherwise provided in this section, the deferral authorized by subsection 1 does not affect the obligations of the administrator or designee pursuant to NRS 388.121 to 388.1395, inclusive.

3. *Any plan developed pursuant to subsection 1 must be carried out in a manner that causes the least possible disruption for the reported victim or victims of bullying or cyber-bullying. When necessary, the administrator or his or her designee shall give priority to protecting the reported victim or victims over any interest of the reported perpetrator or perpetrators when determining how to carry out the plan.*



1 4. If the administrator or designee determines that a violation
2 of NRS 388.135 was caused by the disability of the pupil who
3 committed the violation:

4 (a) The provisions of NRS 388.1351 do not apply to the same or
5 similar behavior if the behavior is addressed in the pupil's
6 individualized education program; and

7 (b) The administrator or designee shall take any measures
8 necessary to protect the safety of the victim of the violation.

9 ~~4.~~ 5. The provisions of NRS 388.1351 do not apply to a
10 violation of NRS 388.135 committed by:

11 (a) A pupil who is enrolled in prekindergarten if the behavior is
12 addressed through measures intended to modify the behavior of the
13 pupil.

14 (b) An employee of a school or school district against another
15 employee of a school or school district.

16 (c) An adult who is not a pupil or employee of a school or
17 school district against another such adult.

18 **Sec. 3.** This act becomes effective on July 1, 2019.

