

## PROHIBIT HARASSMENT AND BULLYING AT SCHOOL

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### House Bill 4162

Sponsor: Rep. Pam Byrnes

Committee: Education

Complete to 3-9-07

### A SUMMARY OF HOUSE BILL 4162 AS INTRODUCED 1-30-07

The bill would amend the Revised School Code to require schools, before December 31, 2007, to adopt a policy that prohibited harassment or bullying and submit a copy of it to the Department of Education within 30 days. The bill would be known as the "Matt's Safe School Law." A more detailed description of the bill follows.

***Harassment & Bullying Prohibition Policy.*** The bill would require the board of a school district or public school academy (customarily called a charter school) to adopt a policy prohibiting harassment or bullying at school. The bill recommends that the policy be adopted through a process that includes representation of parents or guardians, school employees, volunteers, students, school administrators, and community representatives. The content of the policy would be determined locally; however, it would have to contain at least the following components:

- A statement prohibiting harassment or bullying of a student.
- A definition of harassment or bullying that included at least the acts described in the legislation (see below).
- A description of the type of behavior expected from each student.
- Age-appropriate consequences and remedial action for a person who violated the policy.
- A procedure for reporting an act of harassment or bullying, including a provision that permitted a person to report an act of harassment or bullying anonymously. (However, this would not be construed to permit formal disciplinary action solely on the basis of an anonymous report.)
- A procedure for prompt investigation (within three days) of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.
- The range of ways in which a school would respond once an incident of harassment or bullying was identified (the responses to be commensurate with the severity of the incident, and with the offender's record of behavior. Further, the range of responses would have to include reporting criminal activity to appropriate law enforcement officers, and if action were taken against a student, school officials would have to

include a description of the incident, and of the action taken, in the student's permanent disciplinary record).

- A statement that prohibited reprisal or retaliation against any person who reported an act of harassment or bullying, and the consequences and appropriate remedial action for a person who engaged in that type of reprisal or retaliation.
- Consequences and appropriate remedial action for a person found to have falsely accused another of harassment or bullying.
- A statement of how the policy was to be publicized, both initially and on an ongoing basis.
- Provisions encouraging individuals to report incidents of harassment or bullying to the appropriate school official designated in the policy.
- A requirement that a school employee must report an incident to the principal or his or her designee if he or she witnessed an incident or had reliable information that an incident had occurred.

***MDE Model Policy.*** To assist school districts, the Department of Education would be required to issue a model policy no later than June 1, 2007. The department would also be required to develop appropriate procedures for investigating, reporting, and responding to violations by a school district or public school, including an incident report form. A school district's or charter school's incidents of harassment or bullying would be reported to the Department of Education on an annual basis, and be readily available to the public.

***Policy Dissemination.*** The bill would require a school district to ensure that the policy it adopted was included in school publications and in a required annual training program for all employees and volunteers who have significant contact with students. Schools are also encouraged to form bullying prevention task forces, programs, and other initiatives.

***Liability; Law Enforcement Investigations.*** Under the bill, a school employee who promptly reported an incident to the appropriate school official designated in the policy, and who made the report in compliance with the policy's procedures would not be liable for damages arising from any failure to remedy the reported incident.

The bill specifies that these provisions of the law would not prevent a victim from seeking redress under any other available law—civil or criminal—nor would the provisions create or alter any tort liability. If an investigation under these provisions resulted in a report to a law enforcement agency, then the agency would be required to initiate its investigation within three days after the report was made. At the request of a law enforcement agency investigating a complaint, a school district or charter school would be required to provide directory information concerning its students.

***Definitions.*** The bill defines five terms: "at school," "bullying," "harassment," "telecommunications access device," and "telecommunications service provider." "At school" would be defined to mean in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus

stop, on a pupil's way to or from school, or at a school-sponsored activity or event whether or not held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy.

"Bullying" means conduct, including, but not limited to, conduct in person or using a telecommunications access device, that meets all of the following: (1) is directed at one or more pupils; (2) substantially interferes with educational opportunities, benefits, or programs of one or more pupils; (3) adversely affects the ability of a pupil to participate in or benefit from the school district's or public school's education programs or activities *by placing the pupil in reasonable fear of physical harm or by causing emotional distress*; (4) is based on a pupil's actual or perceived religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, gender identity, socioeconomic status, or any other distinguishing characteristic or is based on association with another person who has or is perceived to have any of these characteristics.

"Harassment" is defined the same as "bullying," except at subsection (iii), which reads: adversely affects the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities *because the conduct as reasonably perceived by the pupil is so severe, pervasive, and objectively offensive as to have this effect*.

MCL 380.1310b

#### **FISCAL IMPACT:**

The bill could have fiscal implications for both the state and local units of government.

Local school districts could face increased costs related to developing and requiring annual trainings for employees and volunteers. There may also be increased costs for local law enforcement agencies due to the proposal requiring them to begin an investigation within three days of a report of a bullying or harassment incident.

The Department of Education would face additional administrative costs in developing a model prevention policy by June 1, 2007, as well as having to investigate, report and respond to violations of the section. The department also would incur costs to collect, maintain, and make publicly available an annual report of bullying and harassment incidents.

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