

MAINE STATE LEGISLATURE

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MS
R. 11

L.D. 1237

Date: 6/7/11

Majority

(Filing No. H-570)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 928, L.D. 1237, Bill, "An Act To Prohibit Bullying in Schools"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit Bullying and Cyberbullying in Schools'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 20-A MRSA §1001, sub-§15, as amended by PL 2005, c. 307, §§1 to 3, is further amended to read:

15. Adoption of student code of conduct. With input from educators, administrators, parents, students and community members, they shall adopt a district-wide student code of conduct consistent with the statewide standards for student behavior developed under section 254, subsection 11. The student code of conduct must:

- A. Define unacceptable student behavior;
- B. Establish standards of student responsibility for behavior;
- C. Prescribe consequences for violation of the student code of conduct, including first-time violations, when appropriate;
- D. Describe appropriate procedures for referring students in need of special services to those services;
- E. Establish criteria to determine when further assessment of a current individual education plan is necessary, based on removal of the student from class;
- F. Establish policies and procedures concerning the removal of disruptive or violent students or students threatening death or bodily harm to others from a classroom or a school bus, as well as student disciplinary and placement decisions, when appropriate;

COMMITTEE AMENDMENT

A. & S.

1 G. Establish guidelines and criteria concerning the appropriate circumstances when
2 the superintendent or the superintendent's designee may provide information to the
3 local police or other appropriate law enforcement authorities regarding an offense
4 that involves violence committed by any person on school grounds or other school
5 property; and

6 H. Establish policies and procedures to address bullying as defined in section 6554,
7 subsection 1, paragraph B, harassment and sexual harassment; and

8 I. Establish policies and procedures for isolating a person who is the subject of a
9 protection from harassment order from the person protected under the protection from
10 harassment order when the protection from harassment order arises from a violation
11 of Title 5, section 4681; Title 17, section 2931; or Title 17-A, section 201, 202, 203,
12 204, 207, 208, 209, 210, 210-A, 211, 253, 301, 302, 303, 506-A, 511, 556, 802,
13 803-A, 805 or 806.

14 The school board is responsible for ensuring that school officials inform students, parents
15 and community members of the student code of conduct, including the prohibition on and
16 consequences of bullying in accordance with section 6554, subsection 7.

17 **Sec. 2. 20-A MRSA §6554** is enacted to read:

18 **§6554. Prohibition on bullying in public schools**

19 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Alternative discipline" means disciplinary action other than suspension or
22 expulsion from school that is designed to correct and address the root causes of the
23 student's specific misbehavior while retaining the student in class or school, or
24 restorative school practices to repair the harm done to relationships and persons from
25 the conduct. "Alternative discipline" includes, but is not limited to:

- 26 (1) Meeting with the student and the student's parents or guardian;
- 27 (2) Reflective activities such as requiring the student to write an essay about the
28 student's misbehavior;
- 29 (3) Mediation when there is mutual conflict between peers rather than one-way
30 negative behavior and when both parties freely choose to meet together;
- 31 (4) Counseling;
- 32 (5) Anger management;
- 33 (6) Health counseling or intervention;
- 34 (7) Mental health counseling;
- 35 (8) Participation in skills building and resolution activities such as social-
36 emotional cognitive skills building, resolution circles and restorative
37 conferencing;
- 38 (9) Community service; and

1 (10) In-school detention or suspension, which may take place during lunchtime,
2 after school or on weekends.

3 B. "Bullying" includes, but is not limited to, a written, oral or electronic expression
4 or a physical act or gesture or any combination thereof directed at a student or
5 students, that:

6 (1) Has or a reasonable person would expect to have the effect of:

7 (a) Physically harming a student or damaging a student's property; or

8 (b) Placing a student in reasonable fear of physical harm or damage to a
9 student's property;

10 (2) Interferes with the rights of a student by:

11 (a) Creating an intimidating or hostile educational environment for the
12 student; or

13 (b) Interfering with the student's academic performance or ability to
14 participate in or benefit from the services, activities or privileges provided by
15 a school; or

16 (3) Is motivated by a student's actual or perceived characteristics identified in
17 Title 5, section 4602 or 4684-A, association with a person with one or more of
18 these actual or perceived characteristics or any other distinguishing
19 characteristics and that has the effect described in subparagraph (1) or (2).

20 "Bullying" includes cyberbullying.

21 C. "Cyberbullying" means bullying through the use of technology or any electronic
22 communication, including, but not limited to, a transfer of signs, signals, writing,
23 images, sounds, data or intelligence of any nature transmitted by the use of any
24 electronic device, including, but not limited to, a computer, telephone, cellular
25 telephone, text messaging device and personal digital assistant.

26 D. "School grounds" means a school building; property on which a school building
27 or facility is located; property that is owned, leased or used by a school for a school-
28 sponsored activity, function, program, instruction or training; and property
29 immediately adjacent to the school. "School grounds" also includes school-related
30 transportation vehicles.

31 2. Prohibition. A person may not engage in bullying on school grounds. This
32 section does not modify or eliminate a school's obligation to comply with state and
33 federal civil rights laws applicable to schools.

34 3. Scope. This section applies to bullying that:

35 A. Takes place at school or on school grounds, at any school-sponsored or school-
36 related activity or event, while students are being transported to or from school or
37 school-sponsored activities or events or through the use of technology or an
38 electronic device owned, leased or used by a school district or school; or

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B. Takes place elsewhere but only if the bullying also infringes on the rights of the victim at school as set forth in subsection 1, paragraph B, subparagraph (2).

If a school principal or the principal's designee believes that bullying is taking place, the principal or the principal's designee shall notify a local or state law enforcement agency if the school principal or the principal's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate.

4. Consequences. A school administrative unit shall address every incident of bullying in that school administrative unit. Incidents of bullying include, but are not limited to, the following:

A. Any student who engages in bullying is subject to disciplinary actions. Disciplinary actions must balance the need for accountability with the need to teach appropriate behavior.

B. Any school employee who engages in conduct that constitutes bullying is subject to disciplinary actions.

C. Any contractor, visitor or volunteer who engages in conduct that constitutes bullying must be barred from the premises until the superintendent is assured that the person will comply with this section and the policies of the school board.

D. Any organization affiliated with the school that authorizes or engages in conduct that constitutes bullying forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school.

5. Adoption and dissemination of policy. A school board shall develop a bullying policy under section 1001, subsection 15, paragraph H that includes:

A. A clear statement that bullying, harassment and sexual harassment are prohibited and a statement of consequences for engaging in these behaviors;

B. An emphasis on positive character traits and values, including the importance of civil and respectful speech and conduct, valuing and supporting all subgroups and the diversity of schools and the responsibility of students to comply with the policy;

C. Procedures for students, staff, parents, guardians and others to report bullying. Reports of bullying may be made anonymously, but disciplinary action may not be taken against a student based solely on an anonymous report; and

D. Disciplinary consequences for a student who is determined to have falsely accused another of bullying, harassment or sexual harassment.

The school board shall annually provide the written policy to students, parents, guardians and all teachers and school staff. The policy must be posted on the publicly accessible website of each school administrative unit.

6. Delegation of responsibility; appeal. The school principal is responsible for the implementation and enforcement of this section. The school principal may designate a person to receive copies of all complaints, serve as a public spokesperson on the school's policy and serve as a liaison to the superintendent, school board and department. A person may appeal a decision by a school principal relating to a disciplinary action taken or the refusal to impose a disciplinary action under this section to the superintendent.



125th MAINE LEGISLATURE

LD 1237

LR 614(02)

An Act To Prohibit Bullying in Schools

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Education and Cultural Affairs
Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

State Mandates

Required Activity	Unit Affected	Local Cost
Requires school boards to adopt policies and procedures to address bullying, including cyberbullying, and for isolating a violator of a protection from harassment order from the recipient of a protection from harassment order when the protection from harassment order arises from certain violations.	School	Significant statewide

The required local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

Defines bullying to include written, oral or electronic expression or a physical act or gesture directed at a student or students. Requires school administrative units to address every incident of bullying that takes place at school or on school grounds, at any school-sponsored or school-related activity or event, while students are being transported to or from school or school sponsored activities or events, through the use of technology or an electronic device owned, leased or used by a school district or school or that takes place elsewhere if the bullying also infringes on the rights of the victim at school.