

SENATE BILL NO. 385—SENATOR HAMMOND

MARCH 20, 2017

Referred to Committee on Education

SUMMARY—Revises provisions relating to bullying and cyber-bullying. (BDR 34-1135)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising the definition of bullying; providing that nothing in the provisions of law relating to bullying or cyber-bullying shall be deemed to subject any defendant to strict liability for an alleged violation of those provisions; requiring that reasonable efforts be made to ensure a learning environment that is free of bullying and cyber-bullying to the extent practicable; revising provisions relating to an investigation into a reported incident of bullying or cyber-bullying; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for a safe and respectful learning environment that is free
2 from bullying and cyber-bullying. (NRS 388.121-388.1395) Existing law also
3 provides that: (1) a parent or guardian of a pupil may petition a court of competent
4 jurisdiction for a writ of mandamus to compel the performance by a school official
5 of any duty imposed by law regarding bullying and cyber-bullying; and (2) nothing
6 in the provisions of law relating to bullying or cyber-bullying precludes a parent or
7 guardian of a pupil from seeking any remedy available at law or in equity. (NRS
8 388.1321) **Section 3** of this bill provides that nothing in the provisions of law
9 relating to bullying or cyber-bullying shall be deemed to subject any defendant to
10 strict liability for an alleged violation of those provisions. **Sections 2-7** of this bill
11 require that reasonable efforts be made to ensure a learning environment that is free
12 from bullying and cyber-bullying to the extent practicable.

13 **Section 1** of this bill revises the definition of “bullying” to remove from the
14 definition a single act or expression. **Section 1** also removes certain redundant
15 language specifically including in the definition of “bullying” conduct that
16 otherwise falls within the definition and is based upon the race, color, national
17 origin, ancestry, religion, gender identity, sexual orientation, physical or mental



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18 disability of a person, sex or any other distinguishing characteristic or background
19 of a person.

20 Existing law requires a principal or designee who receives a report concerning
21 bullying or cyber-bullying to notify and interview the parents or guardians of all
22 pupils directly involved in the incident. Existing law also requires an investigation
23 into an incident of bullying or cyber-bullying to be completed not later than a
24 certain number of days after a principal or designee receives such a report. (NRS
25 388.1351) **Section 7** of this bill revises the notification requirement to instead
26 require the principal or designee to notify a parent or guardian, rather than the
27 parents or guardians, of each pupil involved in the reported incident. **Section 7** also
28 revises the time within which an investigation into an incident of bullying or cyber-
29 bullying must be completed.

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 1. "Bullying" means written, verbal or electronic
3 expressions or physical acts or gestures, or any combination thereof,
4 that are directed at a person or group of persons ~~†, or a single severe~~
5 ~~and willful act or expression that is directed at a person or group of~~
6 ~~persons.†~~ and:

7 (a) Have the effect of:

8 (1) Physically harming a person or damaging the property of
9 a person; or

10 (2) Placing a person in reasonable fear of physical harm to
11 the person or damage to the property of the person; *or*

12 (b) Interfere with the rights of a person by:

13 (1) Creating an intimidating or hostile educational
14 environment for the person; or

15 (2) Substantially interfering with the academic performance
16 of a pupil or the ability of the person to participate in or benefit from
17 services, activities or privileges provided by a school. ~~†; or~~

18 ~~—(c) Are acts or conduct described in paragraph (a) or (b) and are~~
19 ~~based upon the:~~

20 ~~—(1) Actual or perceived race, color, national origin, ancestry,~~
21 ~~religion, gender identity or expression, sexual orientation, physical~~
22 ~~or mental disability of a person, sex or any other distinguishing~~
23 ~~characteristic or background of a person; or~~

24 ~~—(2) Association of a person with another person having one~~
25 ~~or more of those actual or perceived characteristics.†~~

26 2. The term includes, without limitation:

27 (a) Repeated or pervasive taunting, name-calling, belittling,
28 mocking or use of put-downs or demeaning humor regarding the
29 actual or perceived race, color, national origin, ancestry, religion,
30 gender identity or expression, sexual orientation, physical or mental



1 disability of a person, sex or any other distinguishing characteristic
2 or background of a person;

3 (b) Behavior that is intended to harm another person by
4 damaging or manipulating his or her relationships with others by
5 conduct that includes, without limitation, spreading false rumors;

6 (c) Repeated or pervasive nonverbal threats or intimidation such
7 as the use of aggressive, menacing or disrespectful gestures;

8 (d) Threats of harm to a person, to his or her possessions or to
9 other persons, whether such threats are transmitted verbally,
10 electronically or in writing;

11 (e) Blackmail, extortion or demands for protection money or
12 involuntary loans or donations;

13 (f) Blocking access to any property or facility of a school;

14 (g) Stalking; and

15 (h) Physically harmful contact with or injury to another person
16 or his or her property.

17 **Sec. 2.** NRS 388.132 is hereby amended to read as follows:

18 388.132 The Legislature declares that:

19 1. Pupils are the most vital resource to the future of this State;

20 2. A learning environment that is safe and respectful is
21 essential for the pupils enrolled in the public schools in this State
22 and is necessary for those pupils to achieve academic success and
23 meet this State's high academic standards;

24 3. Every classroom, hallway, locker room, cafeteria, restroom,
25 gymnasium, playground, athletic field, school bus, parking lot and
26 other areas on the premises of a public school in this State must be
27 maintained as a safe and respectful learning environment, and no
28 form of bullying or cyber-bullying will be tolerated within the
29 system of public education in this State;

30 4. Any form of bullying or cyber-bullying seriously interferes
31 with the ability of teachers to teach in the classroom and the ability
32 of pupils to learn;

33 5. The use of the Internet by pupils in a manner that is ethical,
34 safe and secure is essential to a safe and respectful learning
35 environment and is essential for the successful use of technology;

36 6. It will *reasonably* ensure that:

37 (a) The public schools in this State provide a safe and respectful
38 learning environment in which persons of differing beliefs, races,
39 colors, national origins, ancestries, religions, gender identities or
40 expressions, sexual orientations, physical or mental disabilities,
41 sexes or any other distinguishing characteristics or backgrounds can
42 realize their full academic and personal potential;

43 (b) All administrators, principals, teachers and other personnel
44 of the school districts and public schools in this State demonstrate
45 appropriate and professional behavior on the premises of any public



1 school by treating other persons, including, without limitation,
2 pupils, with civility and respect, by refusing to tolerate bullying and
3 cyber-bullying, and by taking immediate action to protect a victim
4 or target of bullying or cyber-bullying when witnessing, overhearing
5 or being notified that bullying or cyber-bullying is occurring or has
6 occurred;

7 (c) The quality of instruction is not negatively impacted by poor
8 attitudes or interactions among administrators, principals, teachers,
9 coaches or other personnel of a school district;

10 (d) All persons in public schools are entitled to maintain their
11 own beliefs and to respectfully disagree without resorting to
12 bullying, cyber-bullying or violence; and

13 (e) Any teacher, administrator, principal, coach or other staff
14 member or pupil who tolerates or engages in an act of bullying or
15 cyber-bullying or violates a provision of NRS 388.121 to 388.1395,
16 inclusive, regarding a response to bullying or cyber-bullying will be
17 held accountable; and

18 7. By declaring this mandate that the public schools in this
19 State provide a safe and respectful learning environment, the
20 Legislature is not advocating or requiring the acceptance of differing
21 beliefs in a manner that would inhibit the freedom of expression, but
22 is requiring that pupils be free from physical, emotional or mental
23 abuse while in the care of the State and that pupils be provided with
24 an environment that allows them to learn.

25 **Sec. 3.** NRS 388.1321 is hereby amended to read as follows:

26 388.1321 1. The Legislature hereby declares that the
27 members of a board of trustees and all administrators and teachers
28 of a school district have a duty to create and provide a safe and
29 respectful learning environment for all pupils that is free ~~to~~ *from*
30 bullying and cyber-bullying ~~to~~ *to the extent practicable.*

31 2. A parent or guardian of a pupil of the public school system
32 of this State may petition a court of competent jurisdiction for a writ
33 of mandamus to compel the performance of any duty imposed by
34 the provisions of NRS 388.121 to 388.1395, inclusive.

35 3. Nothing in this section shall be deemed to ~~preclude~~ :

36 (a) *Preclude* a parent or guardian of a pupil of the public school
37 system of this State from seeking any remedy available at law or in
38 equity.

39 (b) *Subject any defendant to strict liability for an alleged*
40 *violation of the provisions of NRS 388.121 to 388.1395, inclusive.*

41 **Sec. 4.** NRS 388.1325 is hereby amended to read as follows:

42 388.1325 1. The Bullying Prevention Account is hereby
43 created in the State General Fund, to be administered by the
44 Director of the Office for a Safe and Respectful Learning
45 Environment appointed pursuant to NRS 388.1323. The Director of



1 the Office may accept gifts and grants from any source for deposit
2 into the Account. The interest and income earned on the money in
3 the Account must be credited to the Account.

4 2. In accordance with the regulations adopted by the State
5 Board pursuant to NRS 388.1327, a school district that applies for
6 and receives a grant of money from the Bullying Prevention
7 Account shall use the money for one or more of the following
8 purposes:

9 (a) The establishment of programs to create a school
10 environment that is free from bullying and cyber-bullying ~~to~~ *to the*
11 *extent practicable*;

12 (b) The provision of training on the policies adopted by the
13 school district pursuant to NRS 388.134 and the provisions of NRS
14 388.121 to 388.1395, inclusive; or

15 (c) The development and implementation of procedures by
16 which the public schools of the school district and the pupils
17 enrolled in those schools can discuss the policies adopted pursuant
18 to NRS 388.134 and the provisions of NRS 388.121 to 388.1395,
19 inclusive.

20 **Sec. 5.** NRS 388.133 is hereby amended to read as follows:

21 388.133 1. The Department shall, in consultation with the
22 boards of trustees of school districts, educational personnel, local
23 associations and organizations of parents whose children are
24 enrolled in public schools throughout this State, and individual
25 parents and legal guardians whose children are enrolled in public
26 schools throughout this State, prescribe by regulation a policy for all
27 school districts and public schools to provide a safe and respectful
28 learning environment that is free ~~of~~ *from* bullying and cyber-
29 bullying ~~to~~ *to the extent practicable*.

30 2. The policy must include, without limitation:

31 (a) Requirements and methods for reporting violations of NRS
32 388.135, including, without limitation, violations among teachers
33 and violations between teachers and administrators, principals,
34 coaches and other personnel of a school district; and

35 (b) A policy for use by school districts to train members of the
36 board of trustees and all administrators, principals, teachers and all
37 other personnel employed by the board of trustees of a school
38 district. The policy must include, without limitation:

39 (1) Training in the appropriate methods to facilitate positive
40 human relations among pupils by eliminating the use of bullying
41 and cyber-bullying so that pupils may realize their full academic and
42 personal potential;

43 (2) Training in methods to prevent, identify and report
44 incidents of bullying and cyber-bullying;

45 (3) Methods to promote a positive learning environment;



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

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

5 **Sec. 6.** NRS 388.1343 is hereby amended to read as follows:

6 388.1343 The principal of each public school or his or her
7 designee shall:

8 1. Establish a school safety team to develop, foster and
9 maintain a school environment which is free from bullying and
10 cyber-bullying ~~to~~ *to the extent practicable*;

11 2. Conduct investigations of violations of NRS 388.135
12 occurring at the school; and

13 3. Collaborate with the board of trustees of the school district
14 and the school safety team to prevent, identify and address reported
15 violations of NRS 388.135 at the school.

16 **Sec. 7.** NRS 388.1351 is hereby amended to read as follows:

17 388.1351 1. A teacher, administrator, principal, coach or
18 other staff member who witnesses a violation of NRS 388.135 or
19 receives information that a violation of NRS 388.135 has occurred
20 shall report the violation to the principal or his or her designee as
21 soon as practicable, but not later than a time during the same day on
22 which the teacher, administrator, principal, coach or other staff
23 member witnessed the violation or received information regarding
24 the occurrence of a violation.

25 2. Upon receiving a report required by subsection 1, the
26 principal or designee shall immediately take any necessary action
27 *reasonably designed* to stop the bullying or cyber-bullying and
28 ensure the safety and well-being of the reported victim or victims of
29 the bullying or cyber-bullying and shall begin an investigation into
30 the report. The investigation must include, without limitation:

31 (a) Except as otherwise provided in subsection 3, notification
32 provided by telephone, electronic mail or other electronic means or
33 provided in person, of ~~the parents~~ *a parent* or ~~guardians~~
34 *guardian* of ~~all pupils~~ *each pupil* directly involved in the reported
35 bullying or cyber-bullying, as applicable, either as a reported
36 aggressor or a reported victim of the bullying or cyber-bullying. The
37 notification must be provided not later than:

38 (1) If the bullying or cyber-bullying is reported before the
39 end of school hours on a school day, 6 p.m. on the day on which the
40 bullying or cyber-bullying is reported; or

41 (2) If the bullying or cyber-bullying was reported on a day
42 that is not a school day, or after school hours on a school day, 6 p.m.
43 on the school day following the day on which the bullying or cyber-
44 bullying is reported.



1 (b) Interviews with all pupils whose ~~parents~~ *parent* or
2 ~~guardians~~ *guardian* must be notified pursuant to paragraph (a) and
3 with all such parents and guardians.

4 3. If the contact information for the parent or guardian of a
5 pupil in the records of the school is not correct, a good faith effort to
6 notify the parent or guardian shall be deemed sufficient to meet
7 the requirement for notification pursuant to paragraph (a) of
8 subsection 2.

9 4. Except as otherwise provided in this subsection, an
10 investigation required by this section must be completed not later
11 than 2 school days after the principal or designee receives a report
12 required by subsection 1. If the principal or designee is not able to
13 complete the interviews required by paragraph (b) of subsection 2
14 within 2 school days after making a good faith effort because any of
15 the persons to be interviewed is not available, 1 additional school
16 day *after the date on which the principal or designee is able to*
17 *complete the interviews required by paragraph (b) of subsection 2*
18 may be used to complete the investigation.

19 5. A principal or designee who conducts an investigation
20 required by this section shall complete a written report of the
21 findings and conclusions of the investigation. If a violation is found
22 to have occurred, the report must include recommendations
23 concerning the imposition of disciplinary action or other measures
24 to be imposed as a result of the violation, in accordance with the
25 policy governing disciplinary action adopted by the board of trustees
26 of the school district. Subject to the provisions of the Family
27 Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g,
28 and any regulations adopted pursuant thereto, the report must be
29 made available, not later than 24 hours after the completion of the
30 written report, to all parents or guardians who must be notified
31 pursuant to paragraph (a) of subsection 2 as part of the investigation.

32 6. Not later than 10 school days after receiving a report
33 required by subsection 1, the principal or designee shall meet with
34 each reported victim of the bullying or cyber-bullying to inquire
35 about the well-being of the reported victim and to ensure that the
36 reported bullying or cyber-bullying, as applicable, is not continuing.

37 7. To the extent that information is available, the principal or
38 his or her designee shall provide a list of any resources that may be
39 available in the community to assist a pupil to each parent or
40 guardian of a pupil to whom notice was provided pursuant to this
41 section as soon as practicable. Such a list may include, without
42 limitation, resources available at no charge or at a reduced cost. If
43 such a list is provided, the principal, his or her designee, or any
44 employee of the school or the school district is not responsible for



1 providing such resources to the pupil or ensuring the pupil receives
2 such resources.
3 8. The parent or guardian of a pupil involved in the reported
4 violation of NRS 388.135 *as a reported aggressor* may appeal a
5 disciplinary decision of the principal or his or her designee, made
6 against the pupil as a result of the violation, in accordance with the
7 policy governing disciplinary action adopted by the board of trustees
8 of the school district. Not later than 30 days after receiving a
9 response provided in accordance with such a policy, the parent or
10 guardian may submit a complaint to the Department. The
11 Department shall consider and respond to the complaint pursuant to
12 procedures and standards prescribed in regulations adopted by the
13 Department.
14 **Sec. 8.** This act becomes effective on July 1, 2017.

