

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1465
(Representatives R. Kelsch, Vigesaa, Gruchalla)
(Senators Flakoll, Wardner, Warner)

AN ACT to create and enact six new sections to chapter 15.1-19 of the North Dakota Century Code, relating to the prevention of bullying in public schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Definition.

As used in this Act:

1. "Bullying" means:
 - a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:
 - (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - (2) Places the student in actual and reasonable fear of harm;
 - (3) Places the student in actual and reasonable fear of damage to property of the student; or
 - (4) Substantially disrupts the orderly operation of the public school; or
 - b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event and which:
 - (1) Is so severe, pervasive, or objectively offensive that it substantially interferes with the student's educational opportunities;
 - (2) Places the student in actual and reasonable fear of harm;
 - (3) Places the student in actual and reasonable fear of damage to property of the student; or
 - (4) Substantially disrupts the orderly operation of the public school.
2. "Conduct" includes the use of technology or other electronic media.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying - Prohibition by policy.

1. Before July 1, 2012, each school district shall adopt a policy providing that while at a public school, on school district premises, in a district owned or leased schoolbus or school vehicle,

or at any public school or school district sanctioned or sponsored activity or event, a student may not:

- a. Engage in bullying; or
 - b. Engage in reprisal or retaliation against:
 - (1) A victim of bullying;
 - (2) An individual who witnesses an alleged act of bullying;
 - (3) An individual who reports an alleged act of bullying; or
 - (4) An individual who provides information about an alleged act of bullying.
2. The policy required by this section must:
- a. Include a definition of bullying that at least encompasses the conduct described in section 1 of this Act;
 - b. Establish procedures for reporting and documenting alleged acts of bullying, reprisal, or retaliation, and include procedures for anonymous reporting of such acts;
 - c. Establish procedures, including timelines, for school district personnel to follow in investigating reports of alleged bullying, reprisal, or retaliation;
 - d. Establish a schedule for the retention of any documents generated while investigating reports of alleged bullying, reprisal, or retaliation;
 - e. Set forth the disciplinary measures applicable to an individual who engaged in bullying or who engaged in reprisal or retaliation, as set forth in subsection 1;
 - f. Require the notification of law enforcement personnel if an investigation by school district personnel results in a reasonable suspicion that a crime might have occurred;
 - g. Establish strategies to protect a victim of bullying, reprisal, or retaliation; and
 - h. Establish disciplinary measures to be imposed upon an individual who makes a false accusation, report, or complaint pertaining to bullying, reprisal, or retaliation.
3. In developing the bullying policy required by this section, a school district shall involve parents, school district employees, volunteers, students, school district administrators, law enforcement personnel, domestic violence sexual assault organizations as defined by subsection 3 of section 14-07.1-01, and community representatives.
4. Upon completion of the policy required by this section, a school district shall:
- a. Ensure that the policy is explained to and discussed with its students;
 - b. File a copy of the policy with the superintendent of public instruction; and
 - c. Make the policy available in student and personnel handbooks.
5. Each school district shall review and revise its policy as it determines necessary and shall file a copy of the revised policy with the superintendent of public instruction.

SECTION 3. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Professional development activities.

Each school district shall include, in professional development activities, information regarding the prevention of bullying and shall provide information regarding the prevention of bullying to all volunteers and nonlicensed personnel who have contact with students.

SECTION 4. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Bullying prevention programs.

Each school district shall provide bullying prevention programs to all students from kindergarten through grade twelve.

SECTION 5. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - School districts.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or school district, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the school district employee or official designated in the school district bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A school district and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school district implemented a bullying policy, as required by section 2 of this Act and substantially complied with that policy.

SECTION 6. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Causes of action - Immunity - Nonpublic schools.

1. This Act does not prevent a victim from seeking redress pursuant to any other applicable civil or criminal law. This Act does not create or alter any civil cause of action for monetary damages against any person or nonpublic school, nor does this Act constitute grounds for any claim or motion raised by either the state or a defendant in any proceedings.
2. Any individual who promptly, reasonably, and in good faith reports an incident of bullying, reprisal, or retaliation to the nonpublic school employee or official designated in the school's bullying policy is immune from civil or criminal liability resulting from or relating to the report or to the individual's participation in any administrative or judicial proceeding stemming from the report.
3. A nonpublic school and its employees are immune from any liability that might otherwise be incurred as a result of a student having been the recipient of bullying, if the school implemented a bullying policy, similar to that required by section 2 of this Act and substantially complied with that policy.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1465.

House Vote: Yeas 76 Nays 18 Absent 0

Senate Vote: Yeas 36 Nays 10 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State