

SECOND REGULAR SESSION

HOUSE BILL NO. 1218

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KRAUS (Sponsor), NOLTE, ROORDA, AVERY, BAKER (123),
FISHER, ROBINSON, BOWMAN, JOLLY AND DIXON (Co-sponsors).

Pre-filed January 3, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3136L.01I

AN ACT

To repeal section 160.261, RSMo, and to enact in lieu thereof two new sections relating to
bullying in public schools, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 160.261, RSMo, is repealed and two new sections enacted in lieu
2 thereof, to be known as sections 160.261 and 160.775, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish
2 a written policy of discipline, including the district's determination on the use of corporal
3 punishment and the procedures in which punishment will be applied. A written copy of the
4 district's discipline policy and corporal punishment procedures, if applicable, shall be provided
5 to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning
6 of each school year and also made available in the office of the superintendent of such district,
7 during normal business hours, for public inspection. All employees of the district shall annually
8 receive instruction related to the specific contents of the policy of discipline and any
9 interpretations necessary to implement the provisions of the policy in the course of their duties,
10 including but not limited to approved methods of dealing with acts of school violence,
11 disciplining students with disabilities and instruction in the necessity and requirements for
12 confidentiality.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 2. **The written policy of discipline required under this section shall be made in**
14 **addition to the written policy prohibiting harassment, intimidation, or bullying at school**
15 **required under section 160.775.**

16 3. The **written** policy of **discipline** shall require school administrators to report acts of
17 school violence to teachers and other school district employees with a need to know. For the
18 purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel
19 who are directly responsible for the student's education or who otherwise interact with the
20 student on a professional basis while acting within the scope of their assigned duties. As used
21 in this section, the phrase "act of school violence" or "violent behavior" means the exertion of
22 physical force by a student with the intent to do serious physical injury as defined in subdivision
23 (6) of section 565.002, RSMo, to another person while on school property, including a school
24 bus in service on behalf of the district, or while involved in school activities. The policy shall
25 at a minimum require school administrators to report, as soon as reasonably practical, to the
26 appropriate law enforcement agency any of the following felonies, or any act which if committed
27 by an adult would be one of the following felonies:

- 28 (1) First degree murder under section 565.020, RSMo;
- 29 (2) Second degree murder under section 565.021, RSMo;
- 30 (3) Kidnapping under section 565.110, RSMo;
- 31 (4) First degree assault under section 565.050, RSMo;
- 32 (5) Forcible rape under section 566.030, RSMo;
- 33 (6) Forcible sodomy under section 566.060, RSMo;
- 34 (7) Burglary in the first degree under section 569.160, RSMo;
- 35 (8) Burglary in the second degree under section 569.170, RSMo;
- 36 (9) Robbery in the first degree under section 569.020, RSMo;
- 37 (10) Distribution of drugs under section 195.211, RSMo;
- 38 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 39 (12) Arson in the first degree under section 569.040, RSMo;
- 40 (13) Voluntary manslaughter under section 565.023, RSMo;
- 41 (14) Involuntary manslaughter under section 565.024, RSMo;
- 42 (15) Second degree assault under section 565.060, RSMo;
- 43 (16) Sexual assault under section 566.040, RSMo;
- 44 (17) Felonious restraint under section 565.120, RSMo;
- 45 (18) Property damage in the first degree under section 569.100, RSMo;
- 46 (19) The possession of a weapon under chapter 571, RSMo;
- 47 (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- 48 (21) Deviate sexual assault pursuant to section 566.070, RSMo;

- 49 (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
50 (23) Sexual abuse pursuant to section 566.100, RSMo;

51

52 committed on school property, including but not limited to actions on any school bus in service
53 on behalf of the district or while involved in school activities. The policy shall require that any
54 portion of a student's individualized education program that is related to demonstrated or
55 potentially violent behavior shall be provided to any teacher and other school district employees
56 who are directly responsible for the student's education or who otherwise interact with the
57 student on an educational basis while acting within the scope of their assigned duties. The policy
58 shall also contain the consequences of failure to obey standards of conduct set by the local board
59 of education, and the importance of the standards to the maintenance of an atmosphere where
60 orderly learning is possible and encouraged.

61 **[3.] 4.** The policy shall provide that any student who is on suspension for any of the
62 offenses listed in subsection 2 of this section or any act of violence or drug-related activity
63 defined by school district policy as a serious violation of school discipline pursuant to subsection
64 9 of this section shall have as a condition of his or her suspension the requirement that such
65 student is not allowed, while on such suspension, to be within one thousand feet of any public
66 school in the school district where such student attended school unless:

67 (1) Such student is under the direct supervision of the student's parent, legal guardian,
68 or custodian;

69 (2) Such student is under the direct supervision of another adult designated by the
70 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
71 which suspended the student;

72 (3) Such student is in an alternative school that is located within one thousand feet of a
73 public school in the school district where such student attended school; or

74 (4) Such student resides within one thousand feet of any public school in the school
75 district where such student attended school in which case such student may be on the property
76 of his or her residence without direct adult supervision.

77 **[4.] 5.** Any student who violates the condition of suspension required pursuant to
78 subsection 3 of this section may be subject to expulsion or further suspension pursuant to the
79 provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination
80 consideration shall be given to whether the student poses a threat to the safety of any child or
81 school employee and whether such student's unsupervised presence within one thousand feet of
82 the school is disruptive to the educational process or undermines the effectiveness of the school's
83 disciplinary policy. Removal of any pupil who is a student with a disability is subject to state
84 and federal procedural rights.

85 **[5.] 6.** The policy shall provide for a suspension for a period of not less than one year,
86 or expulsion, for a student who is determined to have brought a weapon to school, including but
87 not limited to the school playground or the school parking lot, brought a weapon on a school bus
88 or brought a weapon to a school activity whether on or off of the school property in violation of
89 district policy, except that:

90 (1) The superintendent or, in a school district with no high school, the principal of the
91 school which such child attends may modify such suspension on a case-by-case basis; and

92 (2) This section shall not prevent the school district from providing educational services
93 in an alternative setting to a student suspended under the provisions of this section.

94 **[6.] 7.** For the purpose of this section, the term "weapon" shall mean a firearm as defined
95 under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack,
96 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
97 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
98 knife; except that this section shall not be construed to prohibit a school board from adopting a
99 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
100 educational purposes so long as the firearm is unloaded. The local board of education shall
101 define weapon in the discipline policy. Such definition shall include the weapons defined in this
102 subsection but may also include other weapons.

103 **[7.] 8.** All school district personnel responsible for the care and supervision of students
104 are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on
105 any property of the school, on any school bus going to or returning from school, during
106 school-sponsored activities, or during intermission or recess periods.

107 **[8.] 9.** Teachers and other authorized district personnel in public schools responsible for
108 the care, supervision, and discipline of schoolchildren, including volunteers selected with
109 reasonable care by the school district, shall not be civilly liable when acting in conformity with
110 the established policy of discipline developed by each board under this section, or when reporting
111 to his or her supervisor or other person as mandated by state law acts of school violence or
112 threatened acts of school violence, within the course and scope of the duties of the teacher,
113 authorized district personnel or volunteer, when such individual is acting in conformity with the
114 established policies developed by the board. Nothing in this section shall be construed to create
115 a new cause of action against such school district, or to relieve the school district from liability
116 for the negligent acts of such persons.

117 **[9.] 10.** Each school board shall define in its discipline policy acts of violence and any
118 other acts that constitute a serious violation of that policy. Acts of violence as defined by school
119 boards shall include but not be limited to exertion of physical force by a student with the intent
120 to do serious bodily harm to another person while on school property, including a school bus in

121 service on behalf of the district, or while involved in school activities. School districts shall for
122 each student enrolled in the school district compile and maintain records of any serious violation
123 of the district's discipline policy. Such records shall be made available to teachers and other
124 school district employees with a need to know while acting within the scope of their assigned
125 duties, and shall be provided as required in section 167.020, RSMo, to any school district in
126 which the student subsequently attempts to enroll.

127 [10.] 11. Spanking, when administered by certificated personnel of a school district in
128 a reasonable manner in accordance with the local board of education's written policy of
129 discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections
130 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have
131 jurisdiction over or investigate any report of alleged child abuse arising out of or related to any
132 spanking administered in a reasonable manner by any certificated school personnel pursuant to
133 a written policy of discipline established by the board of education of the school district. Upon
134 receipt of any reports of child abuse by the division of family services pursuant to sections
135 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division
136 of family services shall notify the superintendent of schools of the district or, if the person named
137 in the alleged incident is the superintendent of schools, the president of the school board of the
138 school district where the alleged incident occurred. If, after an initial investigation, the
139 superintendent of schools or the president of the school board finds that the report involves an
140 alleged incident of child abuse other than the administration of a spanking by certificated school
141 personnel pursuant to a written policy of discipline or a report made for the sole purpose of
142 harassing a public school employee, the superintendent of schools or the president of the school
143 board shall immediately refer the matter back to the division of family services and take no
144 further action. In all matters referred back to the division of family services, the division of
145 family services shall treat the report in the same manner as other reports of alleged child abuse
146 received by the division. If the report pertains to an alleged incident which arose out of or is
147 related to a spanking administered by certificated personnel of a school district pursuant to a
148 written policy of discipline or a report made for the sole purpose of harassing a public school
149 employee, a notification of the reported child abuse shall be sent by the superintendent of schools
150 or the president of the school board to the juvenile officer of the county in which the alleged
151 incident occurred. The report shall be jointly investigated by the juvenile officer or a law
152 enforcement officer designated by the juvenile officer and the superintendent of schools or, if
153 the subject of the report is the superintendent of schools, by the juvenile officer or a law
154 enforcement officer designated by the juvenile officer and the president of the school board or
155 such president's designee. The investigation shall begin no later than forty-eight hours after
156 notification from the division of family services is received, and shall consist of, but need not

157 be limited to, interviewing and recording statements of the child and the child's parents or
158 guardian within two working days after the start of the investigation, of the school district
159 personnel allegedly involved in the report, and of any witnesses to the alleged incident. The
160 juvenile officer or a law enforcement officer designated by the juvenile officer and the
161 investigating school district personnel shall issue separate reports of their findings and
162 recommendations after the conclusion of the investigation to the school board of the school
163 district within seven days after receiving notice from the division of family services. The reports
164 shall contain a statement of conclusion as to whether the report of alleged child abuse is
165 substantiated or is unsubstantiated. The school board shall consider the separate reports and
166 shall issue its findings and conclusions and the action to be taken, if any, within seven days after
167 receiving the last of the two reports. The findings and conclusions shall be made in substantially
168 the following form:

169 (1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law
170 enforcement officer designated by the juvenile officer and the investigating school board
171 personnel agree that the evidence shows that no abuse occurred;

172 (2) The report of the alleged child abuse is substantiated. The juvenile officer or a law
173 enforcement officer designated by the juvenile officer and the investigating school district
174 personnel agree that the evidence is sufficient to support a finding that the alleged incident of
175 child abuse did occur;

176 (3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile
177 officer or a law enforcement officer designated by the juvenile officer and the investigating
178 school personnel are unable to agree on their findings and conclusions on the alleged incident.

179 [11.] 12. The findings and conclusions of the school board shall be sent to the division
180 of family services. If the findings and conclusions of the school board are that the report of the
181 alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and
182 no record shall be entered in the division of family services' central registry. If the findings and
183 conclusions of the school board are that the report of the alleged child abuse is substantiated, the
184 division of family services shall report the incident to the prosecuting attorney of the appropriate
185 county along with the findings and conclusions of the school district and shall include the
186 information in the division's central registry. If the findings and conclusions of the school board
187 are that the issue involved in the alleged incident of child abuse is unresolved, the division of
188 family services shall report the incident to the prosecuting attorney of the appropriate county
189 along with the findings and conclusions of the school board, however, the incident and the names
190 of the parties allegedly involved shall not be entered into the central registry of the division of
191 family services unless and until the alleged child abuse is substantiated by a court of competent
192 jurisdiction.

193 [12.] 13. Any superintendent of schools, president of a school board or such person's
194 designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this
195 section or who knowingly withholds any information relative to any investigation or report
196 pursuant to this section is guilty of a class A misdemeanor.

197 [13.] 14. In order to ensure the safety of all students, should a student be expelled for
198 bringing a weapon to school, violent behavior, or for an act of school violence, that student shall
199 not, for the purposes of the accreditation process of the Missouri school improvement plan, be
200 considered a dropout or be included in the calculation of that district's educational persistence
201 ratio.

160.775. 1. For purposes of this section, the following terms mean:

2 (1) "At school", anywhere on school property or property adjacent to school
3 property, on a school bus or other school vehicle, or at a school-sponsored activity or event
4 regardless of whether such event is held on school property;

5 (2) "Harassment, intimidation, or bullying", any written, verbal, or physical act,
6 or gesture, that a reasonable person under the circumstances should know will have the
7 effect of harming a pupil or damaging his or her property or placing a pupil in reasonable
8 fear of harm to his or her person or damage to his or her property, or that has the effect
9 of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or
10 interfere with the school's educational mission or the education of any pupil. Harassment,
11 intimidation, or bullying includes, but is not limited to, a written, verbal, or physical act,
12 or gesture, described in this section that is perceived as being motivated for the harasser,
13 intimidator, or bully, for any reason, towards harassing, intimidating, or bullying any
14 target or victim.

15 2. Prior to September 1, 2007, the local board of education of each school district
16 shall establish and adopt a written policy prohibiting harassment, intimidation, or bullying
17 at school. The content of the policy shall be determined locally, but the policy shall contain
18 at a minimum the components of subsection 3 of this section. School districts may consult
19 with parents, guardians, school employees, school volunteers, pupils, school administrators,
20 and community representatives in the process of adopting such policy.

21 3. Each school district's policy shall include the following components:

22 (1) A statement prohibiting harassment, intimidation, or bullying of any student
23 on school property, on a school bus or other school vehicle, or at a school-sponsored
24 activity or event regardless of whether such event is held on school property;

25 (2) A definition of harassment, intimidation, or bullying no less inclusive than the
26 definition in subsection 1 of this section;

27 (3) A description of the type of behavior expected from each student;

- 28 (4) Consequences and appropriate remedial action for a person who commits an
29 act of harassment, intimidation, or bullying;
- 30 (5) A procedure for reporting an act of harassment, intimidation, or bullying,
31 including a provision that permits a person to anonymously report an act of harassment,
32 intimidation, or bullying, provided that such anonymous report shall not provide the sole
33 basis for proceeding with formal disciplinary action;
- 34 (6) A requirement that school personnel report prohibited incidents of which they
35 are aware;
- 36 (7) A procedure for responding to any reported act of harassment, intimidation, or
37 bullying;
- 38 (8) A procedure for prompt investigation of reports of violations and complaints,
39 identifying either the principal or principal's designee as the person responsible for the
40 investigation;
- 41 (9) A requirement that parents or guardians of any student involved in an incident
42 prohibited under this section be notified;
- 43 (10) The range of ways in which a school will respond if an incident of harassment,
44 intimidation, or bullying is identified;
- 45 (11) A procedure for documenting any incident of harassment, intimidation, or
46 bullying that is reported;
- 47 (12) A statement that prohibits reprisal or retaliation against any person who
48 reports an act of harassment, intimidation, or bullying, and the consequences and
49 appropriate remedial action for a person who engages in that type of reprisal or
50 retaliation;
- 51 (13) A strategy for protecting a victim from additional harassment, intimidation,
52 or bullying, and from retaliation following a report;
- 53 (14) A procedure for counseling students who have been victims or targets of
54 bullying;
- 55 (15) Consequences and appropriate remedial action for a person found to have
56 falsely accused another as a means of retaliation or as a means of harassment, intimidation,
57 or bullying;
- 58 (16) A disciplinary or counseling procedure for any student guilty of harassment,
59 intimidation, or bullying;
- 60 (17) A requirement that any information relating to a reported incident is
61 confidential, and exempt from disclosure under the provisions of chapter 610, RSMo; and
- 62 (18) A statement of how the policy is to be publicized, including notice that the
63 policy applies to participation in school-sponsored activities.

64 **4. To assist local school boards in developing policies for prevention of harassment,**
65 **intimidation, or bullying, the department of elementary and secondary education shall**
66 **develop a model policy applicable to grades kindergarten through twelve. The model**
67 **policy shall be issued by December 1, 2006, and posted on the department of elementary**
68 **and secondary education web site.**

69 **5. Notice of the school board's policy shall appear in any school board or school**
70 **publication that sets forth the comprehensive rules, procedures, and standards of conduct**
71 **for its schools, and shall appear in its student handbook in the next published version after**
72 **the adoption of the policy.**

73 **6. A school administrator, employee, student, or volunteer shall not engage in**
74 **reprisal, retaliation, or false accusation against a victim, witness, or one with reliable**
75 **information about an act of harassment, intimidation, or bullying.**

76 **7. A school administrator, employee, student, or volunteer who has witnessed, or**
77 **who has reliable information that a student has been subject to, harassment, intimidation,**
78 **or bullying, whether verbal or physical, shall report the incident to the appropriate school**
79 **official designated in the school district's policy.**

80 **8. A school employee, student, or volunteer is personally immune from a cause of**
81 **action for damages arising from reporting harassment, intimidation, or bullying, or any**
82 **failure to remedy the reported harassment, intimidation, or bullying, if such person:**

83 **(1) In good faith promptly reports an incident of harassment, intimidation, or**
84 **bullying;**

85 **(2) Makes the report to the appropriate school official designated by the school**
86 **district's policy; and**

87 **(3) Makes the report in compliance with the procedures as specified in policy**
88 **prohibiting harassment, intimidation, or bullying.**

89 **9. School districts, schools, and local school boards may form bullying prevention**
90 **task forces, programs, and other initiatives involving school staff, students, teachers,**
91 **administrators, volunteers, parents, law enforcement, and community members.**

92 **10. Each local board of education and school district shall do the following:**

93 **(1) Incorporate into its employee and volunteer training programs training on**
94 **harassment, intimidation, or bullying policy to school employees and volunteers who have**
95 **direct contact with students; and**

96 **(2) Develop a process for educating students on the harassment, intimidation, or**
97 **bullying policy.**

98 **11. Except as provided in subsection 8 of this section, nothing in this section shall**
99 **be construed to prevent a victim from seeking redress under any other provision of law,**
100 **either civil or criminal. This section does not create or alter any tort liability.**

✓