

SECOND REGULAR SESSION

HOUSE BILL NO. 2630

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLACK.

4900H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 160.261, 160.775, and 167.117, RSMo, and to enact in lieu thereof three new sections relating to school antibullying policies.

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

Section A. Sections 160.261, 160.775, and 167.117, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 160.261, 160.775, and 167.117,
3 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
5 provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the
6 beginning of each school year and also made available in the office of the superintendent of
7 such district, during normal business hours, for public inspection. No pupil shall be subject to
8 corporal punishment procedures outlined in the discipline and corporal punishment policy
9 without a parent or guardian being notified and providing written permission for the corporal
10 punishment. All employees of the district shall annually receive instruction related to the
11 specific contents of the policy of discipline and any interpretations necessary to implement
12 the provisions of the policy in the course of their duties, including but not limited to approved
13 methods of dealing with acts of school violence, disciplining students with disabilities and
14 instruction in the necessity and requirements for confidentiality.

15 2. The policy shall require school administrators to report acts of school violence to
16 all teachers at the attendance center and, in addition, to other school district employees with a

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.

17 need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as
18 school personnel who are directly responsible for the student's education or who otherwise
19 interact with the student on a professional basis while acting within the scope of their
20 assigned duties. As used in this section, the phrase "act of school violence" or "violent
21 behavior" means the exertion of physical force by a student with the intent to do serious
22 physical injury as defined in section 556.061 to another person while on school property,
23 including a school bus in service on behalf of the district, or while involved in school
24 activities. The policy shall at a minimum require school administrators to report, as soon as
25 reasonably practical, to the appropriate law enforcement agency any of the following crimes,
26 or any act which if committed by an adult would be one of the following crimes:

- 27 (1) First degree murder under section 565.020;
- 28 (2) Second degree murder under section 565.021;
- 29 (3) Kidnapping under section 565.110 as it existed prior to January 1, 2017, or
30 kidnapping in the first degree under section 565.110;
- 31 (4) First degree assault under section 565.050;
- 32 (5) Rape in the first degree under section 566.030;
- 33 (6) Sodomy in the first degree under section 566.060;
- 34 (7) Burglary in the first degree under section 569.160;
- 35 (8) Burglary in the second degree under section 569.170;
- 36 (9) Robbery in the first degree under section 569.020 as it existed prior to January 1,
37 2017, or robbery in the first degree under section 570.023;
- 38 (10) Distribution of drugs under section 195.211 as it existed prior to January 1, 2017,
39 or manufacture of a controlled substance under section 579.055;
- 40 (11) Distribution of drugs to a minor under section 195.212 as it existed prior to
41 January 1, 2017, or delivery of a controlled substance under section 579.020;
- 42 (12) Arson in the first degree under section 569.040;
- 43 (13) Voluntary manslaughter under section 565.023;
- 44 (14) Involuntary manslaughter under section 565.024 as it existed prior to January 1,
45 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary
46 manslaughter in the second degree under section 565.027;
- 47 (15) Second degree assault under section 565.060 as it existed prior to January 1,
48 2017, or second degree assault under section 565.052;
- 49 (16) Rape in the second degree under section 566.031;
- 50 (17) Felonious restraint under section 565.120 as it existed prior to January 1, 2017,
51 or kidnapping in the second degree under section 565.120;
- 52 (18) Property damage in the first degree under section 569.100;
- 53 (19) The possession of a weapon under chapter 571;

54 (20) Child molestation in the first degree pursuant to section 566.067 as it existed
55 prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to
56 section 566.067, 566.068, or 566.069;

57 (21) Sodomy in the second degree pursuant to section 566.061;

58 (22) Sexual misconduct involving a child pursuant to section 566.083;

59 (23) Sexual abuse in the first degree pursuant to section 566.100;

60 (24) Harassment under section 565.090 as it existed prior to January 1, 2017, or
61 harassment in the first degree under section 565.090, **which includes bullying, as defined in**
62 **section 160.775, that meets the elements of harassment in the first degree under section**
63 **565.090**; or

64 (25) Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking
65 in the first degree under section 565.225;

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

76 3. The policy shall provide that any student who is on suspension for any of the
77 offenses listed in subsection 2 of this section or any act of violence or drug-related activity
78 defined by school district policy as a serious violation of school discipline pursuant to
79 subsection 9 of this section shall have as a condition of his or her suspension the requirement
80 that such student is not allowed, while on such suspension, to be within one thousand feet of
81 any school property in the school district where such student attended school or any activity
82 of that district, regardless of whether or not the activity takes place on district property unless:

83 (1) Such student is under the direct supervision of the student's parent, legal guardian,
84 or custodian and the superintendent or the superintendent's designee has authorized the
85 student to be on school property;

86 (2) Such student is under the direct supervision of another adult designated by the
87 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the
88 school which suspended the student and the superintendent or the superintendent's designee
89 has authorized the student to be on school property;

90 (3) Such student is enrolled in and attending an alternative school that is located
91 within one thousand feet of a public school in the school district where such student attended
92 school; or

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

96 4. Any student who violates the condition of suspension required pursuant to
97 subsection 3 of this section may be subject to expulsion or further suspension pursuant to the
98 provisions of sections 167.161, 167.164, and 167.171. In making this determination
99 consideration shall be given to whether the student poses a threat to the safety of any child or
100 school employee and whether such student's unsupervised presence within one thousand feet
101 of the school is disruptive to the educational process or undermines the effectiveness of the
102 school's disciplinary policy. Removal of any pupil who is a student with a disability is subject
103 to state and federal procedural rights. This section shall not limit a school district's ability to:

104 (1) Prohibit all students who are suspended from being on school property or
105 attending an activity while on suspension;

106 (2) Discipline students for off-campus conduct that negatively affects the educational
107 environment to the extent allowed by law.

108 5. The policy shall provide for a suspension for a period of not less than one year, or
109 expulsion, for a student who is determined to have brought a weapon to school, including but
110 not limited to the school playground or the school parking lot, brought a weapon on a school
111 bus or brought a weapon to a school activity whether on or off of the school property in
112 violation of district policy, except that:

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

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

117 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
118 under 18 U.S.C. Section 921 and the following items, as defined in section 571.010: a
119 blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas
120 gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or
121 a switchblade knife; except that this section shall not be construed to prohibit a school board
122 from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on
123 school property for educational purposes so long as the firearm is unloaded. The local board
124 of education shall define weapon in the discipline policy. Such definition shall include the
125 weapons defined in this subsection but may also include other weapons.

126 7. All school district personnel responsible for the care and supervision of students
127 are authorized to hold every pupil strictly accountable for any disorderly conduct in school or
128 on any property of the school, on any school bus going to or returning from school, during
129 school-sponsored activities, or during intermission or recess periods.

130 8. Teachers and other authorized district personnel in public schools responsible for
131 the care, supervision, and discipline of schoolchildren, including volunteers selected with
132 reasonable care by the school district, shall not be civilly liable when acting in conformity
133 with the established policies developed by each board, including but not limited to policies of
134 student discipline or when reporting to his or her supervisor or other person as mandated by
135 state law acts of school violence or threatened acts of school violence, within the course and
136 scope of the duties of the teacher, authorized district personnel or volunteer, when such
137 individual is acting in conformity with the established policies developed by the board.
138 Nothing in this section shall be construed to create a new cause of action against such school
139 district, or to relieve the school district from liability for the negligent acts of such persons.

140 9. Each school board shall define in its discipline policy acts of violence and any
141 other acts that constitute a serious violation of that policy. "Acts of violence" as defined by
142 school boards shall include but not be limited to exertion of physical force by a student with
143 the intent to do serious bodily harm to another person while on school property, including a
144 school bus in service on behalf of the district, or while involved in school activities. School
145 districts shall for each student enrolled in the school district compile and maintain records of
146 any serious violation of the district's discipline policy. Such records shall be made available
147 to teachers and other school district employees with a need to know while acting within the
148 scope of their assigned duties, and shall be provided as required in section 167.020 to any
149 school district in which the student subsequently attempts to enroll.

150 10. Spanking, when administered by certificated personnel and in the presence of a
151 witness who is an employee of the school district, or the use of reasonable force to protect
152 persons or property, when administered by personnel of a school district in a reasonable
153 manner in accordance with the local board of education's written policy of discipline, is not
154 abuse within the meaning of chapter 210.

155 11. Upon receipt of any reports of child abuse by the children's division pursuant to
156 sections 210.110 to 210.165 which allegedly involve personnel of a school district, the
157 children's division shall notify the superintendent of schools of the district or, if the person
158 named in the alleged incident is the superintendent of schools, the president of the school
159 board of the school district where the alleged incident occurred.

160 12. In order to ensure the safety of all students, should a student be expelled for
161 bringing a weapon to school, violent behavior, or for an act of school violence, that student
162 shall not, for the purposes of the accreditation process of the Missouri school improvement

163 plan, be considered a dropout or be included in the calculation of that district's educational
164 persistence ratio.

160.775. 1. Every district shall adopt an antibullying policy by September 1, 2007.

2 2. "Bullying" means intimidation, unwanted aggressive behavior, **the use of**
3 **notoriously offensive racial epithets**, or harassment, **not including self-defense**, that is
4 repetitive or is substantially likely to be repeated and causes a reasonable student to fear for
5 his or her physical safety or property; substantially interferes with the educational
6 performance, opportunities, or benefits of any student without exception; or substantially
7 disrupts the orderly operation of the school. Bullying may consist of physical actions,
8 including gestures, or oral, cyberbullying, electronic, or written communication, and any
9 threat of retaliation for reporting of such acts. Bullying of students is prohibited on school
10 property, at any school function, or on a school bus. "Cyberbullying" means bullying as
11 defined in this subsection through the transmission of a communication including, but not
12 limited to, a message, text, sound, or image by means of an electronic device including, but
13 not limited to, a telephone, wireless telephone, or other wireless communication device,
14 computer, or pager.

15 3. Each district's antibullying policy shall be founded on the assumption that all
16 students need a safe learning environment. Policies shall treat all students equally and shall
17 not contain specific lists of protected classes of students who are to receive special treatment.
18 Policies may include age-appropriate differences for schools based on the grade levels at the
19 school. Each such policy shall contain a statement of the consequences of bullying.

20 4. Each district's antibullying policy shall be included in the student handbook and
21 shall require, at a minimum, the following components:

22 (1) A statement prohibiting bullying, defined no less inclusively than in subsection 2
23 of this section;

24 (2) A statement requiring district employees to report any instance of bullying of
25 which the employee has firsthand knowledge. The policy shall require a district employee
26 who witnesses an incident of bullying to report the incident to the district's designated
27 individual at the school within two school days of the employee witnessing the incident;

28 (3) A procedure for reporting an act of bullying. The policy shall also include a
29 statement requiring that the district designate an individual at each school in the district to
30 receive reports of incidents of bullying. Such individual shall be a district employee who is
31 teacher level staff or above;

32 (4) A procedure for prompt investigation of reports of violations and complaints,
33 identifying one or more employees responsible for the investigation including, at a minimum,
34 the following requirements:

35 (a) Within two school days of a report of an incident of bullying being received, the
36 school principal, or his or her designee, shall initiate an investigation of the incident **and**
37 **ensure the report is reduced to writing;**

38 (b) The school principal may appoint other school staff to assist with the
39 investigation; ~~and]~~

40 (c) The investigation shall be completed within ten school days from the date ~~[of the~~
41 ~~written report]~~ **the investigation is initiated under paragraph (a) of this subdivision** unless
42 good cause exists to extend the investigation; **and**

43 (d) **A written report shall be prepared that contains the results of the**
44 **investigation and any response, including a description of any intervention described in**
45 **subdivision (5) of this subsection;**

46 (5) **A procedure for the response to any investigation that finds an act of bullying**
47 **occurred. The policy shall require intervention on behalf of the bullying student**
48 **including, but not limited to, counseling or expulsion;**

49 (6) A statement that prohibits reprisal or retaliation against any person who reports an
50 act of bullying and the consequence and appropriate remedial action for a person who
51 engages in reprisal or retaliation;

52 ~~[(6)]~~ (7) A statement of how the policy is to be publicized; and

53 ~~[(7)]~~ (8) A process for discussing the district's antibullying policy with students and
54 training school employees and volunteers who have significant contact with students in the
55 requirements of the policy, including, at a minimum, the following statements:

56 (a) The school district shall provide information and appropriate training to the school
57 district staff who have significant contact with students regarding the policy;

58 (b) The school district shall give annual notice of the policy to students, parents or
59 guardians, and staff;

60 (c) The school district shall provide education and information to students regarding
61 bullying, including information regarding the school district policy prohibiting bullying, the
62 harmful effects of bullying, and other applicable initiatives to address bullying, including
63 student peer-to-peer initiatives to provide accountability and policy enforcement for those
64 found to have engaged in bullying, reprisal, or retaliation against any person who reports an
65 act of bullying;

66 (d) The administration of the school district shall instruct its school counselors,
67 school social workers, licensed social workers, mental health professionals, and school
68 psychologists to educate students who are victims of bullying on techniques for students to
69 overcome bullying's negative effects. Such techniques shall include, but not be limited to,
70 cultivating the student's self-worth and self-esteem; teaching the student to defend himself or
71 herself assertively and effectively; helping the student develop social skills; or encouraging

72 the student to develop an internal locus of control. The provisions of this paragraph shall not
73 be construed to contradict or limit any other provision of this section; and

74 (e) The administration of the school district shall implement programs and other
75 initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize
76 the victim, and to make resources or referrals available to victims of bullying.

77 5. Notwithstanding any other provision of law to the contrary, any school district shall
78 have jurisdiction to prohibit cyberbullying that originates on a school's campus or at a district
79 activity if the electronic communication was made using the school's technological resources,
80 if there is a sufficient nexus to the educational environment, or if the electronic
81 communication was made on the school's campus or at a district activity using the
82 student's own personal technological resources. The school district may discipline any
83 student for such cyberbullying to the greatest extent allowed by law.

84 6. Each district shall review its antibullying policy and revise it as needed. The
85 district's school board shall receive input from school personnel, students, and administrators
86 when reviewing and revising the policy.

87 7. (1) (a) **If a school district or charter school fails to report an incident of**
88 **bullying as required under sections 160.261 and 167.117, the department of elementary**
89 **and secondary education shall withhold ten percent of all moneys provided by monthly**
90 **distribution of state formula funding to such school district or charter school until such**
91 **school district or charter school reports each incident in compliance with sections**
92 **160.621 and 167.117.**

93 (b) **After the school district or charter school provides evidence that such school**
94 **district or charter school is in compliance with paragraph (a) of this subdivision, the**
95 **department shall restore the distribution of the funding to its original amount before the**
96 **distribution was withheld.**

97 (c) **Any moneys that were withheld under this subdivision shall be released to**
98 **such school district or charter school only if such school district or charter school**
99 **establishes compliance with paragraph (a) of this subdivision in the same school year in**
100 **which the department withheld such moneys.**

101 (2) **If a school district or charter school fails to respond to incidents of bullying in**
102 **a manner that complies with this section, the department of elementary and secondary**
103 **education shall:**

104 (a) **Issue a warning to such school district or charter school for the first failure to**
105 **adequately respond to the incident of bullying; and**

106 (b) **For any second or subsequent failure to adequately respond to the incident of**
107 **bullying, withhold moneys provided by distribution of state formula funding to such**
108 **school district or charter school in an amount equal to the product of the state adequacy**

109 target, as defined in section 163.011, multiplied by the number of failures for which
110 withholding is required under this paragraph.

111 8. (1) If a student engaged in bullying behavior more than once in a single
112 semester, the department of elementary and secondary education shall withhold moneys
113 provided by distribution of state formula funding to the school district or charter school
114 in which such bullying student is enrolled for the second and each subsequent incident
115 of bullying in an amount equal to the product of the state adequacy target, as defined in
116 section 163.011, multiplied by the number of such incidents for which withholding is
117 required under this subdivision.

118 (2) Subdivision (1) of this subsection shall not apply for a second or subsequent
119 bullying incident if the school district or charter school demonstrates that the bullying
120 student received meaningful discipline and referral to counseling from the school
121 district or charter school. As used in this subdivision, the term "counseling" includes,
122 but is not limited to, counseling by on-campus nonemployee behavioral health personnel
123 and appropriately trained certified school counselors.

124 9. (1) A school district or charter school, or an employee of such district or
125 charter school, that in good faith imposes disciplinary action under this section upon a
126 bullying student shall not be civilly liable for such disciplinary actions.

127 (2) If a school district or charter school prevails in an action brought against
128 such school district or charter school described in subdivision (1) of this subsection, the
129 court shall award court costs and attorney's fees to such prevailing school district or
130 charter school.

131 (3) This subsection shall not be construed to provide immunity from liability for
132 a school district's or charter school's use of corporal punishment or the denial of
133 constitutionally protected rights of a student.

134 10. No charter school shall expel or transfer a student to a public school
135 operated by a school district solely due to reports of bullying made against such student.

167.117. 1. (1) Except as described in subdivision (2) of this subsection, in any
2 instance when any person is believed to have committed an act against a pupil or school
3 employee which if committed by an adult would be assault in the first, second or third degree,
4 sexual assault, [or] deviate sexual assault [~~against a pupil or school employee~~], or bullying,
5 as defined in section 160.775, that meets the elements of harassment in the first degree
6 under section 565.090, while on school property, including a school bus in service on behalf
7 of the district, or while involved in school activities, the principal, or the designee of the
8 principal, shall immediately report such incident to:

9 (a) The appropriate local law enforcement agency;

10 **(b) The commissioner of education in a method and manner determined by the**
11 **department of elementary and secondary education; and [to]**

12 **(c) The superintendent~~[, except]~~ of the school district or, for a charter school, the**
13 **governing board of the charter school.**

14 **(2)** In any instance when any person is believed to have committed an act which if
15 committed by an adult would be assault in the third degree and a written agreement as to the
16 procedure for the reporting of such incidents of third degree assault has been executed
17 between the superintendent of the school district and the appropriate local law enforcement
18 agency, the principal shall report such incident to the appropriate local law enforcement
19 agency in accordance with such agreement.

20 2. In any instance when a pupil is discovered to have on or about such pupil's person,
21 or among such pupil's possessions, or placed elsewhere on the school premises, including but
22 not limited to the school playground or the school parking lot, on a school bus or at a school
23 activity whether on or off of school property any controlled substance as defined in section
24 195.010 or any weapon as defined in subsection 6 of section 160.261 in violation of school
25 policy, the principal shall immediately report such incident to the appropriate local law
26 enforcement agency and to the superintendent.

27 3. In any instance when a teacher becomes aware of an assault as set forth in
28 subsection 1 of this section or finds a pupil in possession of a weapon or controlled
29 substances as set forth in subsection 2 of this section, the teacher shall immediately report
30 such incident to the principal.

31 4. A school employee, superintendent or such person's designee who in good faith
32 provides information to law enforcement or juvenile authorities pursuant to this section or
33 section 160.261 shall not be civilly liable for providing such information.

34 5. Any school official responsible for reporting pursuant to this section or section
35 160.261 who willfully neglects or refuses to perform this duty shall be subject to the penalty
36 established pursuant to section 162.091. **Any school official who repeatedly willfully**
37 **neglects or refuses to perform such duty shall be referred to the state board of education**
38 **for disciplinary proceedings that may result in suspension or revocation of any**
39 **certificate held by the school official that was issued by the board.**

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