

FIRST REGULAR SESSION

# HOUSE BILL NO. 351

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BLACK.

0411H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 160.775, RSMo, and to enact in lieu thereof one new section relating to school antibullying policies.

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

Section A. Section 160.775, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.775, to read as follows:

160.775. 1. ~~Every district shall adopt an antibullying policy by September 1, 2007]~~  
2 **This section shall be known and may be cited as the "Missouri Childhood Hero Act".**

3 2. **As used in this section, the following terms mean:**

4 (1) **"Act of school violence" or "violent behavior", the same meaning as in**  
5 **section 160.261;**

6 (2) **"Bullying" [means],** intimidation, unwanted aggressive behavior, or harassment  
7 that is repetitive or is substantially likely to be repeated and causes a reasonable student to  
8 fear for his or her physical safety or property; substantially interferes with the educational  
9 performance, opportunities, or benefits of any student without exception; or substantially  
10 disrupts the orderly operation of the school. Bullying may consist of physical actions,  
11 including gestures, or oral, cyberbullying, electronic, or written communication, and any  
12 threat of retaliation for reporting of such acts. Bullying of students is prohibited on school  
13 property, at any school function, or on a school bus[-];

14 (3) **"Crime", any of the crimes listed in section 160.261;**

15 (4) **"Cyberbullying" [means],** bullying as defined in this subsection through the  
16 transmission of a communication including, but not limited to, a message, text, sound, or

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 image by means of an electronic device including, but not limited to, a telephone, wireless  
18 telephone, or other wireless communication device, computer, or pager;

19 **(5) "Zero-tolerance disciplinary policy", a policy or practice of discipline that**  
20 **results in an automatic disciplinary consequence such as suspension or expulsion for any**  
21 **student who commits one or more listed offenses even if administrators have some**  
22 **discretion to modify the consequence on a case-by-case basis.**

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

29 4. Each **school** district's **and charter school's** antibullying policy shall be included in  
30 the student handbook and shall require, at a minimum, the following components:

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

33 (2) A statement requiring **school** district **or charter school** employees to report any  
34 instance of bullying of which the employee has firsthand knowledge. The policy shall require  
35 a **school** district **or charter school** employee who witnesses an incident of bullying to report  
36 the incident to the **school** district's **or charter school's** designated individual at the school  
37 within ~~[two]~~ **one** school ~~[days]~~ **day** of the employee witnessing the incident;

38 (3) **A statement relating to victims of bullying that the school district or charter**  
39 **school prohibits, does not have, and will not adopt, in name or in practice, a zero-**  
40 **tolerance disciplinary policy;**

41 (4) **A statement relating to pupils who engage in self-defense that the school**  
42 **district or charter school administration, when determining disciplinary action for a**  
43 **pupil who has committed an act of school violence or exhibited violent behavior, will**  
44 **take into account if such act of school violence or violent behavior was committed in self-**  
45 **defense as an immediate response to an act of school violence or violent behavior**  
46 **committed against such pupil;**

47 (5) A procedure for reporting an act of bullying. The policy shall also include a  
48 statement requiring that the **school** district **or charter school** designate an individual at each  
49 school **building** in the district **and charter school** to receive reports of incidents of bullying.  
50 Such individual shall be a **school** district **or charter school** employee who is teacher level  
51 staff or above;

52           ~~[(4)]~~ **(6)** A procedure for prompt investigation of reports of violations and complaints,  
53 identifying one or more employees responsible for the investigation including, at a minimum,  
54 the following requirements:

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

58           (b) The school principal may appoint other school staff to assist with the  
59 investigation; ~~[and]~~

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

63           (d) **A written report shall be prepared that contains the results of the**  
64 **investigation and any response including, but not limited to, a description of any**  
65 **interventions, initiatives, techniques, or discipline provided to all involved individuals of**  
66 **the incident. The school district or charter school may develop a standardized form to**  
67 **use for such written report;**

68           ~~[(5)]~~ **(7)** **A procedure for the response to any investigation that finds an act of**  
69 **bullying occurred. The policy shall, at a minimum, require notification of the parents of**  
70 **the bullying student and, if such bullying meets the elements of harassment in the**  
71 **second degree under section 565.091, referral to law enforcement agencies or to the**  
72 **children's division rather than law enforcement if the bullying student is under eleven**  
73 **years of age;**

74           **(8)** A statement that prohibits reprisal or retaliation against any person who reports an  
75 act of bullying and the consequence and appropriate remedial action for a person who  
76 engages in reprisal or retaliation;

77           ~~[(6)]~~ **(9)** A statement of how the policy is to be publicized; and

78           ~~[(7)]~~ **(10)** A process for discussing the district's antibullying policy with students and  
79 training school employees and volunteers who have ~~[significant]~~ contact with students in the  
80 requirements of the policy, including, at a minimum, the following statements:

81           (a) The school district **or charter school** shall provide information and appropriate  
82 training to the school district **or charter school** staff who have ~~[significant]~~ contact with  
83 students regarding the policy **including, but not limited to, training on the appropriate**  
84 **interventions staff may take and the associated liability for action or inaction including,**  
85 **but not limited to, failure to report incidents;**

86           (b) The school district **or charter school** shall give annual notice of the policy to  
87 students, parents or guardians, and staff;

88 (c) The school district **or charter school** shall provide education and information to  
89 students regarding bullying, including information regarding the school district **or charter**  
90 **school** policy prohibiting bullying, the harmful effects of bullying, and other applicable  
91 initiatives to address bullying, including student peer-to-peer initiatives to provide  
92 accountability and policy enforcement for those found to have engaged in bullying,  
93 reprisal, or retaliation against any person who reports an act of bullying;

94 (d) The administration of the school district **or charter school** shall instruct its school  
95 counselors, school social workers, licensed social workers, mental health professionals, and  
96 school psychologists to educate students who are victims of bullying **and students**  
97 **committing acts of bullying** on techniques for students to overcome bullying's negative  
98 effects. Such techniques shall include, but not be limited to, cultivating the student's self-  
99 worth and self-esteem; teaching the student to defend himself or herself assertively and  
100 effectively; helping the student develop social skills; or encouraging the student to develop an  
101 internal locus of control. The provisions of this paragraph shall not be construed to contradict  
102 or limit any other provision of this section; and

103 (e) The administration of the school district **or charter school** shall implement  
104 programs and other initiatives to address bullying, to respond to such conduct in a manner  
105 that does not stigmatize the victim, and to make resources or referrals available to victims of  
106 bullying **and students committing acts of bullying**.

107 5. Notwithstanding any other provision of law to the contrary, any school district **or**  
108 **charter school** shall have jurisdiction to prohibit cyberbullying that originates on a school's  
109 campus or at a district activity if the electronic communication was made using the school's  
110 technological resources, if there is a sufficient nexus to the educational environment, or if the  
111 electronic communication was made on the school's campus or at a **school district or charter**  
112 **school** activity using the student's own personal technological resources. The school district  
113 **or charter school** may discipline any student for such cyberbullying to the greatest extent  
114 allowed by law.

115 6. Each **school district and charter school** shall review its antibullying policy and  
116 revise it as needed. The **school district's school board or charter school's governing board**  
117 shall receive input from school personnel, students, and administrators when reviewing and  
118 revising the policy.

119 7. (1) **The administration of each school district and charter school shall report**  
120 **to the school board or governing board all acts of bullying, acts of school violence or**  
121 **violent behavior, and crimes that occurred in between board meetings and the discipline**  
122 **of any pupil who committed such acts. Such report shall be submitted monthly and**  
123 **shall be formatted to clearly describe each such incident.**

124           **(2) The school board or governing board shall review such monthly report in a**  
125 **closed meeting under chapter 610. Discrepancies in such report shall be resolved within**  
126 **thirty days of the review and the board, in conjunction with the school administration,**  
127 **shall attempt to address and resolve substantiated concerns relating to incidents listed**  
128 **on such report, as concerns are expressed during such monthly review by school**  
129 **administration or school board or governing board members.**

130           **8. (1) A school district or charter school employee or volunteer may, in the**  
131 **course of fulfilling duties or performing services for such school district or charter**  
132 **school, intervene in an incident involving an act of bullying, act of school violence or**  
133 **violent behavior, or crime committed against a pupil to protect such pupil.**

134           **(2) Such school district or charter school employee or volunteer shall be held**  
135 **harmless and immune from any liability for actions described in subdivision (1) of this**  
136 **subsection if:**

137           **(a) In the course of intervening in such incident, such employee or volunteer**  
138 **follows a proper procedure for such interventions adopted by the school board of such**  
139 **school district or the charter school's governing board; or**

140           **(b) Such employee or volunteer intervenes in good faith and in a manner that**  
141 **such employee or volunteer reasonably believes is afforded the defense of justification**  
142 **under chapter 563.**

143           **9. (1) A school district or charter school, or an employee of such district or**  
144 **charter school, that in good faith imposes disciplinary action under this section upon a**  
145 **bullying student shall not be civilly liable for such disciplinary action.**

146           **(2) If a school district or charter school, or an employee of such district or**  
147 **charter school, prevails in an action brought against such school district, charter school,**  
148 **or employee described in subdivision (1) of this subsection, the court shall award court**  
149 **costs and attorney's fees to such prevailing school district, charter school, or employee.**

150           **10. (1) This section shall not be construed to provide immunity from liability for**  
151 **a school district's or charter school's denial, or the denial by an employee of such**  
152 **district or charter school, of any constitutionally protected right of a student.**

153           **(2) Subdivision (1) of this subsection shall not be construed to limit any**  
154 **immunities or defenses available under state or federal law to a school district, a charter**  
155 **school, or employees or volunteers of such school district or charter school.**

156           **11. (1) For the purposes of reporting requirements under section 210.115,**  
157 **incidents of bullying, acts of school violence or violent behavior, or crime may be**  
158 **considered abuse.**

159           **(2) If two or more employees or volunteers who are required to report jointly**  
160 **have knowledge of a known or suspected instance of child abuse, a single report may be**

161 made by the school district's or charter school's designated member. Any individual  
162 who has knowledge that the individual designated to report has failed to do so shall  
163 thereafter immediately make the report. No provision of this section shall be construed  
164 to preclude any person from reporting such abuse and such person shall be afforded the  
165 same protections provided under sections 210.135 and 210.145 for reports of abuse in  
166 compliance with section 210.115.

167           12. No charter school shall expel or transfer a student to a school district solely  
168 due to reports of bullying made against such student.

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