

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 2120 & 1698

103RD GENERAL ASSEMBLY

4303H.04P

JOSEPH ENGLER, Chief Clerk

AN ACT

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

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Section A. Section 160.775, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 160.775, to read as follows: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

This section shall be known and may be cited as "Sawyer's Law".

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

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

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

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

(4) **"Cyberbullying" [means],** bullying as defined in this subsection through the 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 against a student without the discretion**
21 **to modify such disciplinary consequence on a case-by-case basis, such as automatic**
22 **detention, suspension, or expulsion or the automatic imposition of other disciplinary**
23 **measures.**

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

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

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

34 (2) (a) A ~~[statement]~~ **procedure** requiring **school** district **or charter school**
35 employees to report any instance of bullying of which the employee has firsthand knowledge.

36 (b) The ~~[policy]~~ **procedure** shall require a **school** district **or charter school**
37 employee who witnesses an incident of bullying to report the incident to the **school** district's
38 **or charter school's** designated individual at the school ~~[within two school days]~~ **in a timely**
39 **manner** of the employee witnessing the incident, **provided that such incident is reported**
40 **before the end of the school day if such incident occurred within the school day, or**
41 **before the beginning of the next school day if such incident occurred outside of**
42 **operational hours of the school.**

43 (c) **The procedure shall require that the parent or legal guardian of the bullied**
44 **student be notified of the bullying incident at the same time the incident is reported and**
45 **the investigation has started;**

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

49 (4) **A statement relating to pupils who engage in self-defense that the school**
50 **district or charter school administration, when determining disciplinary action for a**
51 **pupil who has committed an act of school violence or exhibited violent behavior, will**
52 **take into account if such act of school violence or violent behavior was committed in self-**

53 **defense as an immediate response to an act of school violence or violent behavior**
54 **committed against such pupil;**

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

60 ~~[(4)]~~ (6) A procedure for prompt investigation of reports of violations and complaints,
61 identifying one or more employees responsible for the investigation including, at a minimum,
62 the following requirements:

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

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

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

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

76 ~~[(5)]~~ (7) **A procedure for the response to any investigation that finds an act of**
77 **bullying occurred. The policy shall, at a minimum, require notifying the parents of the**
78 **bullying student;**

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

82 ~~[(6)]~~ (9) A statement of how the policy is to be publicized; and

83 ~~[(7)]~~ (10) A process for discussing the district's antibullying policy with students and
84 training school employees and volunteers who have ~~[significant]~~ contact with students in the
85 requirements of the policy, including, at a minimum, the following statements:

86 (a) The school district **or charter school** shall provide information and appropriate
87 training to the school district **or charter school** staff who have ~~[significant]~~ contact with
88 students regarding the policy **including, but not limited to, training on the appropriate**

89 **interventions staff may take and the associated liability for action or inaction including,**
90 **but not limited to, failure to report incidents;**

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

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

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

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

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

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

124 7. (1) **The administration of each school district and charter school shall report**
125 **to the school board or governing board all acts of bullying, acts of school violence or**

126 **violent behavior, and crimes that occurred in between board meetings and the discipline**
127 **of any pupil who committed such acts. Such report shall be submitted monthly and**
128 **shall be formatted to clearly describe each such incident.**

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

135 **8. (1) A school district or charter school employee or volunteer may, in the**
136 **course of fulfilling duties or performing services for such school district or charter**
137 **school, intervene in an incident involving an act of bullying, act of school violence or**
138 **violent behavior, or crime committed against a pupil to protect such pupil.**

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

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

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

148 **9. (1) A school district or charter school, or an employee of such district or**
149 **charter school, that in good faith imposes disciplinary action under this section upon a**
150 **bullying student shall not be civilly liable for such disciplinary action.**

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

155 **10. (1) This section shall not be construed to provide immunity from liability for**
156 **a school district's or charter school's denial, or the denial by an employee of such**
157 **district or charter school, of any constitutionally protected right of a student.**

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

161 **11. (1) For the purposes of reporting requirements under section 210.115,**
162 **incidents of bullying, acts of school violence or violent behavior, or crime may be**
163 **considered abuse.**

164 **(2) No provision of this section shall be construed to preclude any person from**
165 **reporting such abuse and such person shall be afforded the same protections provided**
166 **under sections 210.135 and 210.145 for reports of abuse in compliance with section**
167 **210.115.**

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

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