

2017 Regular Session

SENATE BILL NO. 158

BY SENATOR MILKOVICH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STUDENTS. Provides relative to bullying. (gov sig)

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AN ACT

To amend and reenact R.S. 17:416.13(D)(2)(a), (c), and (d), (3)(f)(i) and (g)(iii)(cc), to enact R.S. 17:416.13(I), and to repeal R.S. 17:416.13(D)(3)(d)(iii), relative to student behavior and conduct; to provide relative to bullying; to provide relative to required reporting of incidences of bullying; to provide relative to permitted actions by school employees to prevent bullying; to provide relative to protection of school employees from retaliation; to provide relative to parental notification; to provide relative to parental relief; to provide relative to confidentiality of records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:416.13(D)(2)(a), (c), and (d), (3)(f)(i) and (g)(iii)(cc) are hereby amended and reenacted and R.S. 17:416.13(I) is hereby enacted to read as follows:

§416.13. Student code of conduct; requirement; bullying; prohibition; notice; reporting; accountability

* * *

D. The State Board of Elementary and Secondary Education, in collaboration with the state Department of Education, shall develop and adopt rules and

1 regulations to implement the provisions of this Section relative to the procedures and
2 processes to be used to report and investigate bullying and which shall include but
3 not be limited to:

4 * * *

5 (2) Reporting. (a)**(i)** The governing authority of each public elementary and
6 secondary school shall develop a procedure for the reporting of incidents of bullying.
7 This shall include a form for the purposes of bullying reports. The form shall include
8 an affirmation of truth of statement. Any bullying report submitted regardless of
9 recipient shall use this form, but additional information may be provided. The form
10 shall be available on the Department of Education's website.

11 **(ii) The governing authority of each public elementary and secondary**
12 **school shall provide a copy of each report of bullying received pursuant to this**
13 **Paragraph to an appropriate law enforcement agency within twenty-four hours**
14 **of receipt.**

15 * * *

16 (c) School personnel. **(i)** Any teacher, counselor, bus driver, or other school
17 employee, whether full or part time, and any parent chaperoning or supervising a
18 school function or activity, who witnesses bullying or who learns of bullying from
19 a student pursuant to Subparagraph (b) of this Paragraph, shall report the incident to
20 a school official. A verbal report shall be submitted by the school employee or the
21 parent on the same day as the employee or parent witnessed or otherwise learned of
22 the bullying incident and a written report shall be filed no later than two days
23 thereafter.

24 **(ii) A school employee who witnesses an incident of bullying may take all**
25 **steps deemed necessary to stop the behavior, including reasonable force or**
26 **physical restraint.**

27 **(iii) A school official may contact law enforcement and have the student**
28 **exhibiting bullying behavior immediately removed from the school grounds and**
29 **placed in the custody of an appropriate law enforcement agency.**

1 (d) Retaliation. ~~(i)~~ Retaliation against any person who reports bullying in
2 good faith, who is thought to have reported bullying, who files a complaint, or who
3 otherwise participates in an investigation or inquiry concerning allegations of
4 bullying is prohibited conduct and subject to discipline. School and district resources
5 shall not be used to prohibit or dissuade any person who meets the specifications of
6 this Subparagraph.

7 (ii) No school employee shall be discharged, demoted, suspended,
8 threatened, harassed, or discriminated against in any manner in the terms and
9 conditions of his employment because of any lawful act engaged in by the
10 employee in furtherance of any required or authorized action taken pursuant
11 to this Section. Such employee may seek any and all relief to which he is entitled
12 under state or federal law.

13 (iii) No school employee shall be threatened, harassed, or discriminated
14 against in any manner by a business organization, government agency, or other
15 person because of any lawful act engaged in by the employee or on behalf of the
16 employee in furtherance of any required or authorized action taken pursuant
17 to this Section. Such employee may seek any and all relief for his injury to
18 which he is entitled under state or federal law.

19 * * *

20 (3) Investigation Procedure. The State Board of Elementary and Secondary
21 Education shall develop and adopt a procedure for the investigation of reports of
22 bullying of a student by another student. The procedure shall include the following:

23 * * *

24 (f) Parental Relief. (i) If a parent, legal guardian, teacher, or other school
25 official has made four or more reports of separate instances of bullying, as provided
26 in Paragraph (2) of this Subsection, and no investigation pursuant to Paragraph (3)
27 of this Subsection has occurred, or a determination has been made in accordance
28 with the provisions of this Section that a student has been the victim of bullying,
29 the parent or legal guardian with responsibility for decisions regarding the education

1 of the victim about whom the report or reports have been made may exercise an
2 option to have the student enroll in or attend another school operated by the
3 governing authority of the public elementary or secondary school in which the
4 student was enrolled on the dates when at least three of the reports were submitted.

5 * * *

6 (g) * * *

7 (iii) After the investigation and meeting with the parents, pursuant to this
8 Section, a school, local school board or other local school governing authority shall:

9 * * *

10 (cc) Keep complaints and investigative reports confidential, except as
11 provided in this Section and where disclosure is required to be made pursuant to
12 U.S.C. 1232g or by other applicable federal laws, rules, or regulations or by state
13 law. **However, notwithstanding any provision of law to the contrary, the**
14 **determination that a student, after an investigation required by this Section,**
15 **committed an act of bullying shall be a public record.**

16 * * *

17 **I.(1) No cause of action shall exist against any school employee who in**
18 **good faith makes a report, cooperates or participates in any investigation, or**
19 **takes any required or authorized action pursuant to the provisions of this**
20 **Section. Such school employee shall have immunity from civil or criminal**
21 **liability that otherwise might be incurred or imposed.**

22 **(2) The immunity provided in Paragraph (1) of this Subsection shall not**
23 **be extended to a school employee who either:**

24 **(a) Takes any action or who has knowledge of any action taken pursuant**
25 **to this Section that the employee knows to be false.**

26 **(b) Fails to take a required action with regard to a bullying incident.**

27 Section 2. R.S. 17:416.13(D)(3)(d)(iii) is hereby repealed.

28 Section 3. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jeanne C. Johnston.

DIGEST

SB 158 Original

2017 Regular Session

Milkovich

Present law requires each public school governing authority to adopt a code of student conduct which includes any disciplinary action to be taken against a student who violates the code. Further requires that the code of conduct include a policy prohibiting bullying.

Present law defines "bullying" and requires that school employees receive training on how to recognize bullying behaviors and how to appropriately respond and report incidences of bullying.

Present law requires the State Board of Elementary and Secondary Education to adopt rules and regulations relative to the procedures to be used to report and investigate bullying.

Proposed law retains these provisions of present law.

Present law requires each public school governing authority to develop a reporting procedure and forms for reporting incidents of bullying.

Proposed law retains present law and additionally requires school governing authorities to provide a copy of each report of bullying received to an appropriate law enforcement agency within 24 hours of receipt.

Present law allows students and parents who witness bullying or believes that bullying has occurred to report such to the school. Requires school employees who witness bullying or learn of bullying from a student to report the incident to a school official. Further requires school employees to submit a verbal report the same day the incident was witnessed or otherwise learned of and must submit a written report within two days thereafter.

Proposed law retains present law.

Proposed law authorizes a school employee who witnesses an incident of bullying to take all steps deemed necessary to stop the behavior, including reasonable force or physical restraint.

Proposed law authorizes a school official to contact law enforcement and have the student exhibiting bullying behavior immediately removed from the school grounds and placed in the custody of an appropriate law enforcement agency.

Present law prohibits retaliation against any person who reports bullying in good faith, files a complaint, or participates in an investigation or inquiry concerning allegations of bullying.

Proposed law retains present law and further provides that:

- (1) No school employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee in furtherance of any required or authorized action taken pursuant to present and proposed law.

Further provides that an employee may seek any and all relief to which he is entitled under state or federal law.

- (2) No school employee shall be threatened, harassed, or discriminated against in any manner by a business organization, government agency, or other person because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any required or authorized action taken pursuant to present or proposed law. Further provides that an employee may seek any and all relief for his injury to which he is entitled under state or federal law.

Present law requires a public school governing authority to notify the student's parent or legal guardian upon receipt of a report of bullying.

Proposed law retains present law.

Present law provides that before any student under the age of 18 is interviewed, his parent or legal guardian must be notified of the allegations made and given the opportunity to attend any interviews conducted with his child as part of an investigation.

Proposed law repeals present law.

Present law provides that after four or more reports of separate incidences of bullying, and no investigation has occurred, the parent or legal guardian of the victim has the option to have the student enroll in or attend another school.

Proposed law retains present law and extends the parental option to enroll a child in another school when a determination has been made in accordance with the provisions of proposed law that a student has been the victim of bullying.

Present law requires that complaints of bullying and investigative reports must be kept confidential, except where disclosure is required to be made pursuant to applicable federal laws, rules, and regulations, or state law.

Proposed law retains present law but provides that, notwithstanding any provision of law to the contrary, the determination that a student, after a required investigation, committed an act of bullying is a public record.

Proposed law provides that:

- (1) No cause of action shall exist against any school employee who in good faith makes a report, cooperates or participates in any investigation, or takes any required or authorized action pursuant to the provisions of present and proposed law. Further provides that such school employee shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.
- (2) Immunity shall not be extended to a school employee who either:
- (a) Takes any action or has knowledge of any action taken pursuant to present and proposed law that the employee knows to be false.
- (b) Fails to take a required action with regard to a bullying incident.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:416.13(D)(2)(a), (c), and (d), (3)(f)(i) and (g)(iii)(cc); adds R.S. 17:416.13(I); repeals R.S. 17:416.13(D)(3)(d)(iii))