

Regular Session, 2012

SENATE BILL NO. 709

BY SENATOR WARD AND REPRESENTATIVE SCHRODER

CRIME/PUNISHMENT. Provides for the "Tesa Middlebrook Anti-bullying Act". (gov sig)

1 AN ACT  
2 To amend and reenact R.S. 17:416.20, to enact R.S. 14:40.8, R.S. 17:418, 418.1 and 418.2,  
3 and to repeal R.S. 17:416.13, relative to bullying, criminal bullying and  
4 cyberbullying; to create the crime of criminal bullying; to provide for definitions; to  
5 provide for penalties; to provide relative to the student code of conduct; to provide  
6 relative to student discipline; to provide for duties; to provide for reporting; to  
7 provide for parental notification; to provide for the publication of certain documents;  
8 to provide for exceptions; to provide that the Act shall be known as the "Tesa  
9 Middlebrook Anti-bullying Act"; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 14:40.8 is hereby enacted to read as follows:

12 **§40.8. Criminal bullying**

13 **A. Criminal bullying means that conduct which includes all of the**  
14 **following:**

15 **(1) The malicious and willful intent to coerce, abuse, torment, or**  
16 **intimidate a person under the age of eighteen.**

17 **(2) The conduct is severe, repeated, persistent, or pervasive.**

1                   **(3) The conduct serves as the greatest or sole cause of a minor's**  
2 **measurable physical harm or severe emotional distress.**

3                   **B. Purely verbal expression, whether oral or written, shall only be**  
4 **deemed criminal bullying if such verbal expression meets all of the following:**

5                   **(1) Is the severe and pervasive use of threatening words, any of which**  
6 **is intended to incite an immediate breach of peace.**

7                   **(2) The verbal expression is the intentional placing of another in**  
8 **reasonable apprehension of receiving a battery.**

9                   **C. (1) Except as provided in Paragraph (2) of this Subsection, whoever**  
10 **commits the crime of criminal bullying shall be fined not more than five**  
11 **hundred dollars, imprisoned for not more than six months, or both.**

12                   **(2) When the offender is under the age of eighteen, the disposition of the**  
13 **matter shall be governed exclusively by the provisions of Title VII of the**  
14 **Children's Code.**

15                   **D. The provisions of this Section shall not be construed to prohibit or**  
16 **restrict any of the following:**

17                   **(1) Freedom of speech or expression which is protected pursuant to**  
18 **Article I, Section 7 of the Constitution of Louisiana and guaranteed under**  
19 **Amendment I of the Constitution of the United States of America.**

20                   **(2) Religious free speech which is protected pursuant to Article I,**  
21 **Section 8 of the Constitution of Louisiana and guaranteed under Amendment**  
22 **I of the Constitution of the United States of America.**

23                   **E. All persons under the age of eighteen are protected under the**  
24 **provisions of this Section equally and without regard to the subject matter of**  
25 **the criminal bullying or motivating animus.**

26                   Section 2. R.S. 17:416.20 is hereby amended and reenacted and R.S. 17:418, 418.1,  
27 and 418.2 are hereby enacted to read as follows:

28                   §416.20. Student conduct standards; awareness and understanding by students;

29   required orientation; guidelines



1                   (1) Bullying on school premises, at school-sponsored functions or school-  
2 sponsored activities, or while students are being transported by any school-  
3 sponsored means of transportation.

4                   (2) Criminal bullying on school premises, at school-sponsored functions  
5 or school-sponsored activities, or while students are being transported by any  
6 school-sponsored means of transportation.

7                   (3) Cyberbullying, when school-owned technology is used.

8                   B. Definitions. For the purpose of this Section the following definitions  
9 shall apply:

10                   (1) "Bullying" means a written, verbal, or electronic communication, or  
11 physical act, by a student that is intended, or that a reasonable person would  
12 know is likely to harm one or more students either directly or indirectly by  
13 doing any of the following:

14                   (a) Substantially interfering with an educational opportunity, benefit,  
15 or program of one or more students.

16                   (b) Adversely affecting the ability of a student to participate in or  
17 benefit from an educational program or activity by causing emotional distress.

18                   (c) Causing substantial disruption in, or substantial interference with,  
19 the orderly operation of the school.

20                   (2) "Criminal bullying" means that conduct which is defined and  
21 prohibited in R.S. 14:40.8.

22                   (3) "Cyberbullying" means that conduct which is defined and  
23 prohibited in R.S. 14:40.7.

24                   (4) "Parent" means each individual legal parent, each tutor, or each  
25 legal guardian.

26                   (5) "School premises" means any building, structure, athletic field,  
27 sports stadium, or other immovable property owned, operated, leased, or rented  
28 by the school which is used for school purposes.

29                   (6) "School official" means the principal, or if the school principal is

1 unavailable, the assistant principal.

2 (7) "School-sponsored function" or "school-sponsored activity" means  
3 a field trip, sporting event, or any other function or activity that is sponsored  
4 by the school.

5 (8) "School-sponsored means of transportation" means a motor vehicle  
6 owned, operated, leased, rented, or contracted by the school or by the school  
7 district for the school.

8 C. By January 1, 2013, the State Board of Elementary and Secondary  
9 Education shall promulgate rules and regulations to advise school officials,  
10 school staff, students, and parents as to all of the following:

11 (1) That bullying on school premises is prohibited conduct.

12 (2) That criminal bullying on school premises is prohibited conduct.

13 (3) That cyberbullying through the use of school-owned technology is  
14 prohibited conduct.

15 (4) The nature and description of acts which constitute bullying.

16 (5) The consequences of bullying which subjects the offender to school  
17 discipline.

18 (6) The nature and description of acts which constitute criminal bullying  
19 and cyberbullying.

20 (7) The consequences of criminal bullying and cyberbullying which, not  
21 only include school discipline but may invoke criminal penalties.

22 (8) That retaliation against any person who reports in good faith, is  
23 thought to have reported, files a complaint, or otherwise participates in an  
24 investigation or inquiry concerning allegations of bullying, criminal bullying,  
25 or cyberbullying is prohibited conduct and that such retaliation shall be subject  
26 to independent discipline.

27 (9) That intentionally making false reports about bullying to school  
28 officials is prohibited conduct and will result in school discipline.

29 (10) That intentionally making false reports about criminal bullying or

1 cyberbullying to school officials is prohibited conduct and will result in school  
2 discipline and, if reported to law enforcement, may invoke criminal penalties  
3 pursuant to R.S. 14:59(5).

4 (11) The proper process and procedure for reporting any incidents  
5 involving such prohibited conduct.

6 D. Reporting.

7 (1) Any student who believes that he or she has been, or is currently, the  
8 victim of bullying, criminal bullying, or cyberbullying may report the situation  
9 to the school official. A student may also report concerns regarding bullying,  
10 criminal bullying, or cyberbullying to a teacher, counselor, or other school  
11 employee who shall notify the school official.

12 (2) A school official is not required to investigate a report if made  
13 anonymously, unless good cause is shown or stated for filing anonymously or the  
14 school official has good reason to believe that a student or students may be in  
15 imminent risk of physical harm.

16 (3) Any student or school staff may report to the school official any  
17 conduct that is observed and believed to be bullying, criminal bullying, or  
18 cyberbullying directed toward a student. Such reports may be made in the  
19 manner as is provided in Paragraph (1) of this Subsection.

20 (4) All complaints, which are properly reported pursuant to this  
21 Subsection, that allege conduct which may be prohibited in Subsection A of this  
22 Section shall be promptly investigated in not more than fourteen days after the  
23 report is received by the school official.

24 (5) Duties of school officials. If the school official determines that  
25 bullying, criminal bullying, or cyberbullying has occurred, the school official  
26 shall take all of the following actions:

27 (a)(i) Notify the parent of each student involved when the student is  
28 under the age of eighteen, in the manner as provided in Subsection F of this  
29 Section.

1           (ii) If a report of bullying, criminal bullying, or cyberbullying is  
2 determined by a school official to warrant further investigation, before any  
3 student under the age of eighteen is interviewed, his or her parent shall be  
4 notified by the school official of the allegations made and shall have the  
5 opportunity to attend any interviews with their child conducted as part of the  
6 investigation.

7           (b) Conduct a meeting with the parents of the victim and the parents of  
8 the alleged perpetrator.

9           (c) Take prompt and appropriate disciplinary action against the student  
10 that the school official determines has engaged in conduct which constitutes  
11 bullying or rises to the degree that it may constitute criminal bullying or  
12 cyberbullying were law enforcement to be notified.

13           (d)(i) If after the parents of both the victim and the alleged perpetrator  
14 have met and the parents of both students agree that school discipline, parental  
15 discipline, or both are in the best interest of both students, the school official  
16 shall compose a written report containing the findings of the investigation and  
17 the decision by the parents. The school official shall request that both parents  
18 sign the written report but the failure by either parent to sign the report shall  
19 not affect the validity of the report. The report shall be placed in the school  
20 records of both students.

21           (ii) If after the parents of both the victim and the alleged perpetrator  
22 have met and the parents of the victim wish to press criminal charges against  
23 the alleged perpetrator and the school official determines that the alleged  
24 perpetrator has engaged in criminal bullying or cyberbullying, the school  
25 official shall notify law enforcement officials that the school official believes that  
26 the alleged acts may be in violation of state law and that the parents of the  
27 victim wish to press criminal charges against the alleged perpetrator.

28           (e) Promptly notify the complainant of the findings of the investigation  
29 and that remedial action has been taken if such release of information does not

1 violate the law.

2 (f)(i) Keep complaints and investigative reports confidential, except as  
3 is provided in this Section and where disclosure is required to be made pursuant  
4 to 20 U.S.C.A. 1232(G) or by other applicable federal laws, rules, or regulations  
5 or by state law.

6 (ii) In order to encourage communication between a student and a  
7 school official for the purpose of implementing appropriate student discipline,  
8 whenever a student admits to a school official that the student has engaged in  
9 conduct prohibited by this Section, that admission shall be considered hearsay  
10 and shall not be considered an exception to the hearsay rule and, therefore, shall  
11 be deemed inadmissible in any court of law.

12 (g) Maintain complaints and investigative reports for three years in the  
13 event that disclosure is warranted by law enforcement officials.

14 (h) Provide copies of complaints and investigative reports to the  
15 governing authority of the school in order that the governing authority can  
16 comply with the provisions of R.S. 17:418.1.

17 E. Retaliation and intentional false reporting.

18 (1) Retaliation against any person who reports in good faith, is thought  
19 to have reported, files a complaint, or otherwise participates in an investigation  
20 or inquiry concerning allegations of bullying, criminal bullying, or  
21 cyberbullying is prohibited. Such retaliation shall be subject to independent  
22 discipline.

23 (2) Intentionally making false reports about bullying, criminal bullying,  
24 or cyberbullying to school officials is prohibited and is subject to discipline.

25 F. Parental notification; parental authority; responsibilities.

26 (1) The notice, required by this Subsection, may be by any of the  
27 following means:

28 (a) Written notice mailed to the parent's or parents' home.

29 (b) Telephone or email notification which notification must be

1 confirmed in writing and mailed to the parent at the last known address of the  
2 parent.

3 (2) Under no circumstances shall the delivery of the notice to the parent  
4 or parents, which is required by this Subsection, be the responsibility of an  
5 involved student. Delivery of the notice by an involved student shall not  
6 constitute notice as is required pursuant to this Subsection.

7 (3) Nothing herein shall be deemed to interfere with the authority and  
8 the responsibility that a parent has for the student when the student is not on  
9 the school premises, is not engaged in a school-sponsored function or school-  
10 sponsored activity, and is not being transported by school-sponsored means of  
11 transportation.

12 G. Exceptions.

13 (1) This policy shall not be interpreted to infringe upon the free speech  
14 rights of students which are protected pursuant to Article I, Section 7 of the  
15 Constitution of Louisiana and guaranteed under Amendment I of the  
16 Constitution of the United States of America and, therefore, is not intended to  
17 prohibit expression of religious, philosophical, or political views, provided that  
18 such expression does not cause an actual, material disruption of the work of the  
19 school which may subject the student to discipline pursuant to R.S. 17:416.

20 (2) This policy shall not be interpreted to infringe upon the religious free  
21 speech right of students which are protected pursuant to Article I, Section 8 of  
22 the Constitution of Louisiana and guaranteed under Amendment I of the  
23 Constitution of the United States of America and, therefore, is not intended to  
24 prohibit expression of religious views, provided that such expression does not  
25 cause an actual, material disruption of the work of the school which may subject  
26 the student to discipline pursuant to R.S. 17:416.

27 (3) This Section shall not impede or preclude a student, the student's  
28 parents, or school officials from directly reporting to law enforcement officials  
29 any behavior that the reporting individual believes constitutes a violation of

1 criminal law.

2 (4) This Section shall not be interpreted to conflict with or supercede the  
3 provisions requiring mandatory reporting pursuant to Louisiana Children's  
4 Code Article 609.

5 H. Construction; equal protection. All students, subject to the  
6 provisions of this Section, shall be protected under the provisions of this Section  
7 equally and without regard to the subject matter of the bullying, criminal  
8 bullying, or cyberbullying or motivating animus.

9 I. Policy notification; pamphlet.

10 (1) Notification of the provisions of this Section shall be provided to all  
11 school officials, school staff, students, and parents.

12 (2) Once the pamphlets are promulgated pursuant to R.S. 17: 418.2 and  
13 made available to the school, the school shall do all of the following:

14 (a) Provide a copy of the pamphlet as part of the orientation and  
15 instruction regarding discipline required in R.S. 17:416.20.

16 (b) Post an electronic copy of the pamphlets on the school's website,  
17 where applicable.

18 §418.1. Bullying, criminal bullying, or cyberbullying checklist; reports

19 A. The Department of Education shall develop a behavior incidence  
20 checklist that the governing authority of each public elementary and secondary  
21 school shall use to document the details of each reported incident of bullying,  
22 criminal bullying, or cyberbullying.

23 B. The governing authority of each public elementary and secondary  
24 school shall report all such documented incidences of bullying, criminal  
25 bullying, or cyberbullying, to the Department of Education as prescribed in  
26 rules adopted by the State Board of Elementary and Secondary Education in  
27 accordance with the Administrative Procedure Act.

28 §418.2 Publication of pamphlet; prohibition of criminal bullying and  
29 cyberbullying

1                    A. By not later than January 1, 2013, the state Board of Elementary and  
2                    Secondary Education shall produce a pamphlet which does all of the following:

3                    (1) Sets forth the policies and provisions of R.S. 17:418.

4                    (2) Defines the conduct, in an age appropriate manner, which constitutes  
5                    bullying, criminal bullying, and cyberbullying.

6                    (3) Sets forth the consequences of bullying, criminal bullying, or  
7                    cyberbullying.

8                    (4) Sets forth the manner in which students may report suspected  
9                    bullying, criminal bullying or cyberbullying.

10                  B. The board may produce more than one pamphlet if the board  
11                  determines that this is the best possible manner to advise students in an age and  
12                  grade appropriate manner.

13                  C. The contents and compilation of information in the pamphlet shall  
14                  be promulgated pursuant to the Administrative Procedure Act.

15                  D.(1) The pamphlet or pamphlets, once completed, shall be delivered to  
16                  the governing authority of each public elementary and secondary school in the  
17                  manner provided for in Paragraph (1) of Subsection E of this Section.

18                  (2) The governing authority of each public elementary and secondary  
19                  school shall deliver the pamphlet or pamphlets, which are age and grade  
20                  appropriate, to the individual schools within the governing authority's  
21                  jurisdiction in the manner provided for in Paragraph (2) of Subsection E of this  
22                  Section.

23                  E.(1) In order to minimize the costs to the individual school governing  
24                  authority associated with producing the pamphlet and to minimize the technical  
25                  costs of updating the website for the school governing authorities, the board  
26                  shall produce an electronic version of the pamphlet or pamphlets and shall  
27                  forward them to the school governing authority for posting to the school  
28                  governing authority's websites and for the purpose of photocopying.

29                  (2)(a) In order to minimize the costs to the individual schools associated

1 with producing the pamphlet and in order to minimize the technical costs of  
2 updating the school's website, if applicable, the school governing authority shall  
3 forward the electronic version of the pamphlet or pamphlets, which it receives  
4 from the board pursuant to Paragraph (1) of this Subsection, for posting to the  
5 individual school's websites, if applicable, and for the purpose of photocopying.

6 (b) The schools within the school governing authority shall photocopy,  
7 or otherwise produce the pamphlet in writing, and shall include the pamphlet  
8 as part of the materials associated with discipline pursuant to R.S. 14:416.20.

9 Section 3. The legislature finds all of the following:

10 (1) According to Article VIII, Section 1 of the Constitution of Louisiana, it is the  
11 role of the legislature to provide for the education of the people of this state and to establish  
12 and maintain a public education system.

13 (2) A safe and civil environment in school is necessary for students to learn and  
14 achieve high academic success. Bullying, criminal bullying, cyberbullying, and other  
15 disruptive or violent behavior is conduct that disrupts both a student's ability to learn and a  
16 school's ability to educate its students.

17 Section 4. The purpose of this Act is to insure that all school districts have and  
18 maintain a uniform policy to provide equal protection, for all Louisiana public school  
19 children, against bullying, criminal bullying, or cyberbullying.

20 Section 5. This Act shall be known as the "Tesa Middlebrook Anti-bullying Act."

21 Section 6. R.S. 17:416.13 is hereby repealed in its entirety upon the publication, in  
22 the Louisiana Register, of the promulgation of the pamphlet as is provided for in R.S.  
23 17:418.2.

24 Section 7. This Act shall become effective upon signature by the governor or, if not  
25 signed by the governor, upon expiration of the time for bills to become law without signature  
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
28 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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#### DIGEST

Present law provides for the crime of cyberbullying.

Proposed law maintains present law but also creates the crime of criminal bullying.

Proposed law provides that criminal bullying means that conduct which includes all of the following:

1. The malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of 18.
2. The conduct is severe, repeated, persistent, or pervasive.
3. The conduct serves as the greatest or sole cause of a minor's measurable physical harm or severe emotional distress.

Proposed law provides that purely verbal expression, whether oral or written, will only be deemed criminal bullying if such verbal expression meets all of the following:

1. Is the severe and pervasive use of threatening words, any of which is intended to incite an immediate breach of peace.
2. The verbal expression is the intentional placing of another in reasonable apprehension of receiving a battery.

Proposed law provides that the crime of criminal bullying will be subject to the following penalties:

1. For anyone 18 years or older, whoever commits the crime of criminal bullying will be fined not more than \$500, imprisoned for not more than six months, or both.
2. When the offender is under the age of eighteen, the disposition of the matter will be governed exclusively by the provisions of Title VII of the Children's Code.

Proposed law provides for the following exceptions:

1. Freedom of speech or expression which is protected pursuant to Art. I, §7 of the La. Const. and guaranteed by 1<sup>st</sup> Amend. to the U.S. Const.
2. Religious free speech which is protected pursuant to Art. I, §8 of the La. Const. and guaranteed by the 1<sup>st</sup> Amend. of the U.S. Const.

Proposed law provides that all persons under the age of 18 are protected under the provisions prohibiting criminal bullying equally and without regard to the subject matter of the criminal bullying or motivating animus.

Present law provides that certain local public school boards will adopt a student code of conduct for the students in its school system which will include a prohibition against harassment, intimidation, and bullying. Present law exempts the parishes of Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, and Tangipahoa.

Proposed law maintains present law but changes the prohibited conduct to bullying, criminal bullying, and cyberbullying and requires all parishes to implement a code of student conduct

which includes BESE's policy prohibition against bullying, criminal bullying, or motivating animus.

Proposed law declares the following to be prohibited acts:

1. Bullying on school premises, at school-sponsored functions or school-sponsored activities, or while students are being transported by any school-sponsored means of transportation.
2. Criminal bullying on school premises, at school-sponsored functions or school-sponsored activities, or while students are being transported by any school-sponsored means of transportation.
3. Cyberbullying, where school-owned technology is used.

Proposed law provides that, as it relates to school policy, the following definitions will apply:

1. "Bullying" means that a written, verbal, or electronic communication, or physical act, by a student, that is intended, or that a reasonable person would know is likely, to harm one or more pupils either directly or indirectly by doing any of the following:
  - (a) Substantially interfering with an educational opportunity, benefit, or program of one or more students.
  - (b) Adversely affecting the ability of a pupil to participate in or benefit from an educational program or activity by placing the student in emotional distress.
  - (c) Causing substantial disruption in, or substantial interference with, the orderly operation of the school.
2. "Criminal bullying" means that conduct which is defined in proposed law.
3. "Cyberbullying" means that conduct which is defined in the criminal code. Present law provides for the crime of cyberbullying as follows: Cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen.
4. "Parents" means each individual legal parent, each tutor, or each legal guardian.

Proposed law provides that, by not later than January 1, 2013, BESE will promulgate rules and regulations to advise school officials, school staff, students and parents as to all of the following:

1. That bullying on school premises is prohibited conduct.
2. That criminal bullying on school premises is prohibited conduct.
3. That cyberbullying through the use of school-owned technology is prohibited conduct.
4. The nature and description of acts which constitute bullying.
5. The consequences of bullying which subjects the offender to school discipline.
6. The nature and description of acts which constitute criminal bullying and

cyberbullying .

7. The consequences of criminal bullying and cyberbullying which, not only include school discipline but, may invoke criminal penalties.
8. That retaliation against any person who reports in good faith, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of bullying, criminal bullying, or cyberbullying is prohibited conduct and that such retaliation will be subject to independent discipline.
9. That intentionally making false reports about bullying to school officials is prohibited conduct and will result in school discipline.
10. That intentionally making false reports about criminal bullying or cyberbullying to school officials is prohibited conduct and will result in school discipline and, if reported to law enforcement, may invoke criminal penalties pursuant to R.S. 14:59(5).
11. The proper process and procedure for reporting any incidents involving such prohibited conduct.

Proposed law provides that any student who believes that he or she has been, or is currently, the victim of bullying, criminal bullying, or cyberbullying may report the situation to the school official.

Proposed law further provides that a student may also report concerns regarding bullying, criminal bullying, or cyberbullying to a teacher, counselor, or other school employee who will notify the school official.

Proposed law provides a school official is not required to investigate a report if made anonymously, unless good cause is shown or stated for filing anonymously or the school official has good reason to believe that a student or students may be in imminent risk of physical harm.

Proposed law provides students and staff may also report any situation that they observe and believe to be bullying, criminal bullying, behavior, or cyberbullying behavior, directed toward a student to the school official, teacher, school counselor or other staff.

Proposed law provides that all reported complaints, which are properly reported, that may violate the prohibition against bullying, criminal bullying, or cyberbullying, will be promptly investigated within 14 days after the complaint is received by the school official.

Proposed law provides that if the school official determines that criminal bullying or cyberbullying has occurred, the school official will take all of the following actions:

1. Notify the parents of the students involved. Proposed law further provides that if a report of bullying, criminal bullying, or cyberbullying is determined by a school official to warrant further investigation, before any student under the age of 18 is interviewed, his or her parent will be notified by the school official of the allegations made and will have the opportunity to attend any interviews with their child conducted as part of the investigation.
2. Conduct a meeting with the parents of the victim and the parents of the alleged perpetrator.
3. Take prompt and appropriate disciplinary action against the student that the school official determines has engaged in conduct which constitutes bullying or rises to the degree that it may constitute criminal bullying or cyberbullying were law

enforcement to be notified.

4. If after the parents of both the victim and the alleged perpetrator have met, the following actions will be taken:
  - (a) If the parents of both students agree that school discipline, parental discipline, or both are in the best interest of both students, the school official will compose a written report containing the findings of the investigation and the decision by the parents. If possible, the report will be signed by both parents and the school official and will be placed in the school records of both students.
  - (b) If after the parents of both the victim and the alleged perpetrator have met and the parents of the victim wish to press criminal charges against the alleged perpetrator and the school official determines that the alleged perpetrator has engaged in criminal bullying or cyberbullying, the school official will notify law enforcement officials that the school official believes that the alleged acts may be in violation of state law and that the parents of the victim wish to press criminal charges against the alleged perpetrator.
5. Promptly notify the complainant of the findings of the investigation and, that remedial action has been taken if such release of information does not violate the law.
6. Keep complaints and investigative reports confidential, except as required by federal or state law. Proposed law further requires that, in order to encourage communication between a student and a school official for the purpose of implementing appropriate student discipline, whenever a student admits to a school official that the student has engaged in conduct prohibited, that admission will be considered hearsay and will not be considered an exception to the hearsay rule and, therefore, will be deemed inadmissible in any court of law.
7. Maintain complaints and investigative reports for three years in the event that disclosure is warranted by law enforcement officials.
8. Provide copies of complaints and investigative reports to the governing authority of the school in order that the governing authority can provide information to the Dept. of Ed. which will report the incidences of bullying, criminal bullying, and cyberbullying.

Proposed law provides that retaliation against any person who reports in good faith, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry concerning allegations of bullying, criminal bullying, or cyberbullying, is prohibited. Proposed law further provides that such retaliation will be subject to independent discipline.

Proposed law provides that making intentionally false reports about criminal bullying or cyberbullying to school officials is prohibited and is subject to discipline.

Proposed law provides that notice must be mailed to the parent or parents' home.

Proposed law provides that notice may not be made to the parents through an involved student. Proposed law further provides that such delivery, if made by an involved student, will not constitute proper notice.

Proposed law provides that nothing in proposed law will be deemed to interfere with the parental authority and the parental responsibility that a parent has for the student when the student is not on the school premises, is not engaged in a school-sponsored function or school-sponsored activity, and is not being transported by school-sponsored transportation.

Proposed law provides that nothing in proposed law is to be interpreted to infringe upon the free speech rights of students which is protected pursuant to Art. I, §7 of the La. Const. and guaranteed under the 1<sup>st</sup> Amend. of the U.S. Const. and, therefore, is not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school which may subject the student to discipline.

Proposed law provides that nothing in proposed law is to be interpreted to infringe upon the religious free speech rights of students which is protected pursuant to Art. I, §8 of the La. Const. and guaranteed under the 1<sup>st</sup> Amend. of the U.S. Const. and, therefore, is not intended to prohibit expression of religious views, provided that such expression does not cause an actual, material disruption of the work of the school which may subject the student to discipline.

Proposed law provides that all public school students will be protected equally and without regard to the subject matter of the bullying, criminal bullying, or cyberbullying or motivating animus.

Proposed law provides that nothing in proposed law is to be interpreted to impede or preclude a student, the student's parents, or school officials from directly reporting to law enforcement officials any behavior that the reporting individual believes constitutes a violation of criminal law.

Proposed law provides that nothing in proposed law is to be interpreted to conflict with or supercede the provisions requiring mandatory reporting of incidence of child abuse.

Present law provides that the Dept. of Ed. will develop a behavior incidence checklist that the governing authority of each public elementary and secondary school will use to document the details of each reported incident of harassment, intimidation, and bullying, including cyberbullying.

Proposed law retains present law but changes the terminology of the prohibited conduct which is to be reported from "harassment, intimidation, and bullying, including cyberbullying" to "bullying, criminal bullying, and cyberbullying."

Present law provides that the governing authority of each public elementary and secondary school will report all such documented incidences of harassment, intimidation, and bullying, including cyberbullying, to the Dept. of Ed. as prescribed in rules adopted by BESE in accordance with the APA.

Proposed law retains present law but changes the terminology of the prohibited conduct which is to be reported from "harassment, intimidation, and bullying, including cyberbullying" to "bullying, criminal bullying, and cyberbullying."

Proposed law provides that, by not later than Jan. 1, 2013, BESE will produce a pamphlet which explains, defines and prohibits bullying, criminal bullying, and cyberbullying, in an age appropriate manner.

Proposed law provides that, in order to minimize the cost to the individual school districts and individual schools associated with producing the pamphlet and to minimize the technical costs of updating the respective websites, BESE will produce an electronic version of the pamphlet or pamphlets and will forward them to the school districts, who will in turn, forward the pamphlet to the individual schools for posting to the school's website (if the school has a website) and for photocopying the pamphlet.

Proposed law provides that the individual schools will photocopy, or otherwise produce the pamphlet in writing, and will include the pamphlet as part of the materials associated with the school's discipline policy.

Proposed law provides that BESE may produce more than one pamphlet if BESE believes that this is the best possible manner to advise students in an age and grade appropriate manner.

Proposed law provides that the contents and the compilation of the pamphlet will be promulgated pursuant to the APA.

Proposed law provides that, once BESE publishes the promulgation of the pamphlet in the La. Register, the accompanying law which prohibits bullying, criminal bullying, and cyberbullying will supercede and repeal present law which provides for various and differing prohibition against harassment, intimidation, and bullying that some, but not all, of the parishes and local school boards have developed.

Proposed law provides legislative intent as follows:

1. According to La. Constitution, it is the role of the legislature to provide for the education of the people of this state and to establish and maintain a public education system.
2. A safe and civil environment in school is necessary for students to learn and achieve high academic success and that bullying, criminal bullying, cyberbullying and other disruptive or violent behavior is conduct that disrupts both a student's ability to learn and a school's ability to educate its students.

Proposed law provides that the purpose of the Act is to insure that all school districts have and maintain a uniform policy throughout all school districts and individual schools to protect all children from bullying, criminal bullying, and cyberbullying.

Proposed law provides that the Act shall be known as the "Tesa Middlebrook Anti-bullying Act."

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

(Amends R.S. 17:416.20; adds R.S. 14:40.8, R.S. 17:418, 418.1 and 418.2; repeals R.S. 17:416.13)