

HOUSE OF REPRESENTATIVES  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

H.B. NO. 688  
H.D. 1

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## A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. This Act shall be known as the Safe Schools Act.

SECTION 2. The legislature finds that all students have the right to participate fully in the educational process, free from bullying, cyberbullying, and harassment. A safe and civil environment in school is necessary for students to learn and to meet high academic standards. Bullying and harassment, like other disruptive or violent behaviors, are forms of conduct that disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment. The legislature finds that because students learn by example, school administrators, faculty, staff, and volunteers should be expected to demonstrate appropriate behavior, treat others with civility and respect, and refuse to tolerate bullying and harassment.

The purpose of this Act is to require the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students.

SECTION 3. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§302A- Bullying, cyberbullying, and harassment; departmental responsibilities. (a) This section shall apply to conduct occurring**

on all public elementary and secondary school premises, at any school-sponsored functions or activities, and on school-sponsored transportation. This section also applies to electronic technology usage and electronic communications that occur on all public elementary and secondary school premises, at any school-sponsored functions or activities, on school-sponsored transportation, and on school computers, networks, forums, and mailing lists.

(b) The department shall maintain and monitor anti-bullying and anti-harassment policies that:

- (1) Are applicable to grades kindergarten through twelve; and
- (2) Contain definitions of bullying, cyberbullying, and harassment, as defined in section 302A-101.

(c) The department shall maintain and enforce appropriate procedures that incorporate:

- (1) Effective publicizing of the policies established pursuant to subsection (b), including adding a statement of those policies to new employee training materials, student handbooks, and any other publication that sets forth comprehensive rules, procedures, and standards of conduct for schools;
- (2) Conducting annual training at the school level on how to promote peace and respect and how to intervene when students are engaged in bullying, cyberbullying, or harassing behavior;
- (3) The investigation of violations of this section;
- (4) Reporting and response mechanisms that address the failure of schools, complex areas, and administrators in implementing this section;

- (5) Mechanisms for reporting incidents of bullying, cyberbullying, and harassment by complex areas and schools;
- (6) Making available to the public statewide statistics concerning bullying, cyberbullying, and harassment, as defined in section 302A-101;
- (7) The filing of complaints against complex areas and schools upon their failure to comply with and implement policies pursuant to this section;
- (8) Establishing clear lines of accountability, including the designation of one person in the department as the primary contact regarding anti-bullying and anti-harassment policies who shall receive copies of all formal and informal complaints, be responsible for assuring the implementation of policies and procedures pursuant this section, and serve as the primary contact on the policies and procedures between the school district and the department;
- (9) Requiring school employees and trained volunteers who witness incidents of bullying, cyberbullying, or harassment, or possess reliable information that would lead a reasonable person to suspect that a person is a target of bullying, cyberbullying, or harassment, to promptly report those incidents or that information to the school principal, complex area superintendent, or superintendent;
- (10) Prompt investigation of reports or complaints of bullying, cyberbullying, or harassment, and identification of either the principal or the principal's designee as the person responsible for the investigation;
- (11) Delineation of the range of ways in which a school will

respond once an incident of bullying, cyberbullying, or harassment is identified, including a range of potential age-appropriate education-focused consequences that correspond to the prohibited bullying, cyberbullying, and harassment acts;

- (12) The provision of appropriate referrals or resources to student victims, perpetrators, and their respective families, if necessary;
- (13) Provisions that prohibit reprisal or retaliation against any person who reports an act of bullying, cyberbullying, or harassment and describe appropriate remedial action for a person who engages in reprisal or retaliation;
- (14) Provisions that allow for anonymous reporting while clarifying that no remedial action shall be undertaken solely on the basis of an anonymous report;
- (15) The collection, reporting, and analyzing, at least on an annual basis, of data on incidents of bullying, cyberbullying, and harassment; and
- (16) The establishment of a school community culture that integrates the aloha spirit as defined in section 5-7.5, evidence-based anti-bullying and anti-harassment policies and procedures, and peace promoting elements into each school's curriculum, and creates and encourages an environment of safety and respect for all."

SECTION 4. Section 302A-101, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Bullying" means any written, verbal, graphic, or physical act or acts that:

- (1) A student or group of students exhibits toward another student or group of students;
- (2) Cause mental or physical harm to the other student or group of students; and
- (3) Are sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment.

Bullying includes conduct that is based on a student's actual or perceived race, color, national origin, sex, gender identity or expression, sexual orientation, physical or mental disability, religion, physical appearance and characteristic, or socio-economic status; or a student's association with a person or group with one or more of these actual or perceived characteristics.

"Cyberbullying" means an act or acts exhibited by one student or group of students to another student or group of students that:

- (1) Are conveyed by electronic transmission via the Internet, a cell phone, a personal digital assistant (PDA), or a wireless hand-held device;
- (2) Cause mental or physical harm to the student or group of students that receives the electronic transmission; and
- (3) Are sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment.

"Harassment" means harassing, bullying, including cyberbullying, annoying, or alarming a student or group of students by engaging in conduct that includes:

- (1) Striking, shoving, kicking, or otherwise touching a student or group of students in an offensive manner or subjecting

that student or group of students to offensive physical contact;

- (2) Insulting, taunting, or challenging another student or group of students in a manner likely to provoke a violent response;
- (3) Making verbal or non-verbal expressions that cause another student or group of students to feel uncomfortable, pressured, threatened, or in danger because of reasons that include the student's or group's actual or perceived race, color, national origin, sex, gender identity or expression, sexual orientation, physical or mental disability, religion, physical appearance and characteristic, and socio-economic status, or association therewith, that creates an intimidating, hostile, or offensive educational environment, or interferes with the education of a student or group of students, or otherwise adversely affects the educational opportunity of a student or group of students;
- (4) Name calling, making rude gestures, insulting, or teasing another student or group of students who, as a result, feels humiliated, intimidated, threatened, or embarrassed;
- (5) Making a telephone call without the purpose of legitimate communication;
- (6) Making repeated communications anonymously, at extremely inconvenient hours, or in offensively coarse language on campus or other department of education premises, on department of education transportation, or during a department of education-sponsored activity or event on or off school property;
- (7) Causing fear as to prevent other students or groups of

students from gaining legitimate access to or use of school buildings, facilities, services, or grounds such as restroom facilities; and

(8) Physically harming, physically restraining, threatening, or stalking, or a combination thereof."

SECTION 5. The department of education shall submit a report regarding the implementation of this Act, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 6. The provisions of this Act shall be liberally construed to give effect to the purposes thereof.

SECTION 7. Nothing in this Act is intended to interfere with the First Amendment rights of free speech and expression of any person affected.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. New statutory material is underscored.

SECTION 10. This Act shall take effect upon on January 7, 2059.

**Report Title:**

Keiki Caucus; Safe Schools Act; Bullying

**Description:**

Requires the department of education to maintain, monitor, and enforce anti-bullying and anti-harassment policies and procedures to protect students or groups of students from bullying, cyberbullying, and harassment. Effective January 7, 2059. (HB688 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*