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COMMITTEE REPORT

March 6, 2018

**H. 4701**

Introduced by Reps. S. Rivers, King, Allison and Gilliard

S. Printed 3/6/18--H.

Read the first time January 24, 2018.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4701) to amend the Code of Laws of South Carolina, 1976, so as to enact the “B.P. Act”; to amend Section 59‑63‑140, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “B.P. Act”.

SECTION 2. Section 59‑63‑120 of the 1976 Code is amended to read:

“Section 59‑63‑120. As used in this article:

(1) ‘Harassment, intimidation, or bullying’ means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student’s property, or placing a student in reasonable fear of personal harm or property damage; ~~or~~

(b) substantially interfering with a student’s educational performance, opportunities, or benefits;

(c) substantially disrupting or interfering with the orderly operation of the school;

(d) creating a hostile or intimidating environment in the school, on school property, on a school bus, or other activity vehicle, or at a school‑sponsored event;

(e) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school; or

(f) being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment.

(2) ‘School’ means in a classroom, on school premises, on a school bus or other school‑related vehicle, at an official school bus stop, at a school‑sponsored activity or event whether or not it is held on school premises, or at another program or function where the school is responsible for the child.”

SECTION 3. Section 59‑63‑140(B) of the 1976 Code, as added by Act 353 of 2006, is amended to read:

“(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59‑63‑120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) ~~procedures for prompt investigation of reports of serious violations and complaints;~~

~~(7)~~ a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(~~8~~7) consequences and appropriate remedial action for persons found to have falsely accused another;

(~~9~~8) a process for discussing the district’s harassment, intimidation, or bullying policy with students; ~~and~~

(~~10~~9) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school‑sponsored functions;

(10) procedures for responding to reports of harassment, intimidation, or bullying, which must:

(a) identify school and district personnel charged with addressing complaints and include written procedures for:

(i) proper documentation of allegations at the school and district level;

(ii) timelines for response to allegations;

(iii) procedures for informing parents or guardians of the student alleged to have bullied; provided this communication must include information on the steps being taken to prevent further incidents, disciplinary action, and any additional recommendations for outside counseling; and

(iv) procedures for informing parents or guardians of the student alleged to have been bullied; provided this communication must include steps being taken to prevent further incidents and procedures for ensuring the student can safely report any further incidents.

(b) A school district shall adopt a policy for additional procedures that may include referrals for out of school mediation or counseling and a process for making such referrals to ensure that the parent or guardian has received the information.

(c) A school district shall include in an adopted policy disciplinary actions which may include, but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and any pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

(i) meeting with the student and the student’s parent or guardian;

(ii) reflective activities, such as requiring the student to write an essay about the student’s misbehavior;

(iii) mediation, but only when there is mutual conflict between peers, rather than one‑way negative behavior, and both parties voluntarily choose this option; and

(iv) in‑school detention or suspension, which may take place during lunchtime, after school or on weekends; and

(d) In an effort to remediate any substantiated incident of bullying, counter the negative impact of the bullying, and reduce the risk of future bullying incidents, a district may adopt a policy for referrals for outside services that may benefit the victim, perpetrator, or other involved person. Referrals must include, but are not limited to:

(i) counseling;

(ii) anger management;

(iii) health counseling or intervention;

(iv) mental health counseling;

(v) participation in skills building and resolution activities, such as social‑emotional cognitive skills building, resolution circles, and restorative conferencing; and

(vi) community service; and

(11) procedures for appealing a decision of a school principal or a superintendent’s designee related to taking or not taking remedial action in accordance with this policy, which must include providing notice to parents, guardians, and students of the right to appeal. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.”

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended by the K-12 Education Subcommittee of the House Education and Public Works Committee on February 20, 2018**

**State Expenditure**

This bill adds to the list of components that local school districts must include in the policy prohibiting harassment, intimidation, or bullying at school. The additions include procedures for responding to reports of harassment, intimidation, or bullying, procedures for remediation, and procedures for appealing a decision related to taking or not taking remedial action in accordance with the policy. Notice of the right to appeal must be provided to parents, guardians, and students. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent. The amendment expands the definition of “harassment, intimidation, or bullying” to include substantially interfering with a student’s educational performance, substantially disrupting or interfering with the orderly operation of the school, and other similar items. It also expands the definition of school to include school buses, bus stops, school sponsored activities, and other programs or functions where the school is responsible for the child. The amendment further charges school districts with the responsibility for identifying personnel charged with addressing complaints and requires the development of written procedures for documentation and notification of parents. The amendment further clarifies the manner of remediation after bullying incidents by allowing the school district to adopt a policy to refer individuals involved in bullying incidents for outside services.

The Department of Education indicates that this bill affects local school districts and will have no expenditure impact on the general fund, other funds, or federal funds.

**Local Expenditure**

The Department of Education indicates that this bill could increase expenses to local school districts by an amount up to $325,000. These expenses relate to procedures for remediation and the associated professional development for counseling and mediation, evidence based curriculum and programs, and restorative practices. While the amendment makes changes to the definition of bullying and to the procedures school districts are required to develop, the Department of Education indicated that these changes are not substantial enough to affect the estimates previously provided. The department indicates that in FY 2015-16, districts reported a combined 2,706 bullying and cyberbullying incidents. Based on these figures, the average estimated cost of counseling services to districts could be $120 per student, which is $40 per hour for three hours of counseling, for a total of approximately $325,000. Also, the department indicates that expenses could increase beyond the estimated $325,000 if districts have to hire additional counselors or school psychologists to implement the provisions of this bill. The average yearly school psychologist salary in the state is between $37,754 and $56,631. Additionally, expenses would also increase if districts choose to implement a school wide anti-bullying program. The estimated cost for an anti-bullying program is $2.25 per student.

**Explanation of Fiscal Impact**

**Introduced on January 24, 2018**

**State Expenditure**

This bill adds to the list of components that local school districts must include in the policy prohibiting harassment, intimidation, or bullying at school. The additions include procedures for responding to reports of harassment, intimidation, or bullying, procedures for remediation, and procedures for appealing a decision related to taking or not taking remedial action in accordance with the policy. Notice of the right to appeal must be provided to parents, guardians, and students. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.

The Department of Education indicates that this bill affects local school districts and will have no expenditure impact on the general fund, other funds, or federal funds.

**Local Expenditure**

The Department of Education indicates that this bill could increase expenses to local school districts by an amount up to $325,000. These expenses relate to procedures for remediation and the associated professional development for counseling and mediation, evidence based curriculum and programs, and restorative practices. The department indicates that in FY 2015-16, districts reported a combined 2,706 bullying and cyberbullying incidents. Based on these figures, the average estimated cost of counseling services to districts could be $120 per student, which is $40 per hour for three hours of counseling, for a total of approximately $325,000. Also, the department indicates that expenses could increase beyond the estimated $325,000 if districts have to hire additional counselors or school psychologists to implement the provisions of this bill. The average yearly school psychologist salary in the state is between $37,754 and $56,631. Additionally, expenses would also increase if districts choose to implement a school wide anti-bullying program. The estimated cost for an anti-bullying program is $2.25 per student.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “B.P. ACT”; TO AMEND SECTION 59‑63‑140, RELATING TO BULLYING PROHIBITION POLICIES ADOPTED BY SCHOOL DISTRICTS, SO AS TO PROVIDE PROCEDURES FOR RESPONDING TO AND REMEDIATING ALLEGATIONS OF BULLYING, AND TO REQUIRE AN APPEALS PROCEDURE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “B.P. Act”.

SECTION 2. Section 59‑63‑140(B) of the 1976 Code, as added by Act 353 of 2006, is amended to read:

“(B) The policy must include, but not be limited to, the following components:

(1) a statement prohibiting harassment, intimidation, or bullying of a student;

(2) a definition of harassment, intimidation, or bullying no less inclusive than the definition in Section 59‑63‑120;

(3) a description of appropriate student behavior;

(4) consequences and appropriate remedial actions for persons committing acts of harassment, intimidation, or bullying, and for persons engaging in reprisal or retaliation;

(5) procedures for reporting acts of harassment, intimidation, or bullying, to include a provision for reporting anonymously. However, formal disciplinary action must not be taken solely on the basis of an anonymous report. The procedures must identify the appropriate school personnel responsible for taking the report and investigating the complaint;

(6) ~~procedures for prompt investigation of reports of serious violations and complaints;~~

~~(7)~~ a statement that prohibits reprisal or retaliation against a person who reports an act of harassment, intimidation, or bullying;

(~~8~~7) consequences and appropriate remedial action for persons found to have falsely accused another;

(~~9~~8) a process for discussing the district’s harassment, intimidation, or bullying policy with students; ~~and~~

(~~10~~9) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school‑sponsored functions;

(10) procedures for responding to reports of harassment, intimidation, or bullying, which must provide:

(a) the school principal or a superintendent’s designee shall:

(i) immediately investigate and respond to allegations of bullying behavior;

(ii) keep written documentation of all allegations of bullying behavior and outcomes of the investigations, and report alleged and substantiated incidents to the superintendent;

(iii) inform parents or guardians of the student who is alleged to have bullied and of the student who was believed to have been bullied that a report of an alleged incident of bullying has been made, and whether their child is alleged to have bullied or been bullied in the incident;

(iv) communicate to the parents or guardians of a student who was believed to have been bullied the measures being taken to ensure the safety of that student and to prevent further acts of bullying;

(v) inform parents or guardians of the students involved the findings of the investigation and actions to be taken; and

(vi) communicate with local or state law enforcement agency if it’s believed that the pursuit of criminal charges or a civil action may be appropriate; and

(11) procedures for remediation, which must provide the school principal or a superintendent’s designee shall:

(a) identify the specific natures of the incident;

(b) apply disciplinary actions, which may include but are not limited to, imposing a series of graduated consequences that include alternative discipline. In determining the appropriate response to students who engage in bullying behavior, school administrators should consider the type of behaviors, the frequency and any pattern of behaviors, and other relevant circumstances. Alternative discipline includes, but is not limited to:

(i) meeting with the student and the student’s parents/guardian;

(ii) reflective activities, such as requiring the student to write an essay about the student’s misbehavior;

(iii) mediation, but only when there is mutual conflict between peers, rather than one‑way negative behavior, and both parties voluntarily choose this option;

(iv) counseling;

(v) anger management;

(vi) health counseling or intervention;

(vii) mental health counseling;

(viii) participation in skills building and resolution activities, such as social‑emotional cognitive skills building, resolution circles and restorative conferencing;

(ix) community service; and

(x) in‑school detention or suspension, which may take place during lunchtime, after school or on weekends; and

(c) remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator, or other involved person to counseling or other appropriate services; and

(12) procedures for appealing a decision of a school principal or a superintendent’s designee related to taking or not taking remedial action in accordance with this policy, which must include providing notice to parents, guardians, and students of the right to appeal. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent.”

SECTION 3. This act takes effect upon approval by the Governor.

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