SENATE BILL NO. 204–SENATORS PARKS, WOODHOUSE, MANENDO, ATKINSON, FORD; AND SMITH

MARCH 2, 2015

JOINT SPONSORS: ASSEMBLYWOMEN SPIEGEL AND JOINER

Referred to Committee on Education

SUMMARY—Providing for protections from bullying in public schools. (BDR 34-51)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 2)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to education; revising provisions relating to required actions of the staff and administration of public schools to reports of bullying or cyber-bullying; providing a right of action for an injury resulting from negligence or a violation of the provisions of statute relating to a safe and respectful learning environment; requiring the school safety team at each school to take certain actions relating to the prevention of bullying and cyber-bullying; requiring the Nevada Equal Rights Commission to take certain actions relating to the prevention of bullying and cyber-bullying of pupils enrolled in the public schools of this State based on or motivated by race, color, religion, national origin, disability, sexual orientation, sex or gender identity or expression; authorizing the filing of a complaint with the Nevada Equal Rights Commission regarding the bullying or cyber-bullying of such a pupil based on or motivated by race, color, religion, national origin, disability, sexual orientation, sex or gender identity or expression; and providing other matters properly relating thereto.





Legislative Counsel's Digest:

Under existing law, if an incident of bullying or cyber-bullying is reported to the principal of a school, the principal or a person designated by the principal must investigate the incident. (NRS 388.1351) **Section 8** of this bill requires that if the principal or the designee determines that bullying or cyber-bullying occurred, the principal or the designee must: (1) develop, implement and monitor a safety plan for the pupil who was subjected to bullying or cyber-bullying; (2) either discipline any pupil who committed the bullying or cyber-bullying or recommend discipline to the superintendent of the school district; and (3) require the pupil who committed the bullying or cyber-bullying to undergo an assessment designed to determine whether the pupil should be required to undergo counseling, intervention or other psychological services. Under **section 2** of this bill, as part of developing the required safety plan, the principal or the designee must create a record for the pupil who was subjected to bullying or cyber-bullying. The record must include specified information about the pupil and the circumstances of the bullying or cyber-bullying. **Section 2** also requires the safety plan to include counseling, intervention or other psychological services for the pupil, increased adult supervision of the pupils involved, a determination of whether the pupils should be relocated to different classrooms or schools and, if it has been determined that the pupil is at risk of suicide, steps that will be taken to prevent any suicide attempt. The principal or the designee must consult with the parent or guardian of the pupil when developing the safety plan.

Section 3 of this bill provides a right of action for any person who is injured by a breach of the duty of care established by **section 5** of this bill or a violation by a school district or an employee or volunteer of a school district of the provisions of statute relating to a safe and respectful learning environment.

Existing law requires the Department of Education to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying and requires the board of trustees of each school district to adopt the policy. (NRS 388.133, 388.134) **Section 6** of this bill requires the policy to include guidelines for the imposition of discipline on a pupil who is found to have bullied or cyber-bullied another pupil. **Section 6** also requires the Department to determine annually that each school district has adopted the policy.

Existing law requires the principal of each public school to establish a school safety team that must meet at least two times each year to investigate and discuss issues relating to bullying and cyber-bullying in schools. (NRS 388.1344) **Section 7** of this bill requires the school safety team to monitor the school to ensure compliance with provisions of law relating to the prevention of bullying and cyber-bullying. The school safety team also must submit an annual report to the board of trustees of the school district that includes information about incidents of bullying or cyber-bullying at the school during the previous school year. **Section 7** also requires each school safety team to develop guidelines and procedures regarding counseling, intervention or other psychological services provided to pupils who are involved in bullying or cyber-bullying.

Existing law establishes the Nevada Equal Rights Commission, an appointed body given various powers and duties relating to the elimination of discrimination based on race, color, creed, sex, age, disability, sexual orientation, national origin, ancestry, or gender identity or expression. (NRS 233.140, 233.150) A person who believes that he or she has been denied the full and equal enjoyment of any place of public accommodation because of such discrimination may file a complaint to that effect with the Commission, which may investigate the matter, attempt to settle any dispute informally and order the person alleged to be discriminating to cease and desist. (NRS 233.170, 651.110) **Section 10** of this bill provides that public schools are places of public accommodation for the purpose of laws prohibiting

discrimination in such places. **Section 9** of this bill requires the Commission and the Administrator of the Commission to take certain actions intended to ensure that pupils are provided a safe and respectful learning environment that is free of bullying or cyber-bullying based on or motivated by race, color, religion, national origin, disability, sex, sexual orientation, or gender identity or expression. **Section 11** authorizes a pupil who believes he or she has been the victim of such bullying or cyber-bullying and who believes that the administration of the public school has not adequately addressed his or her claims regarding the bullying or cyber-bullying to file a complaint to that effect with the Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. As part of developing the safety plan required by NRS 388.1351, the principal or his or her designee shall create a record for the pupil who was subjected to bullying or cyber-bullying. The record must include, without limitation:***

(a) A description of any pattern of bullying or cyber-bullying to which the principal or the designee determines the pupil was subjected;

(b) A determination of whether the bullying or cyber-bullying interfered with the education of the pupil;

(c) The name of each person who the principal or the designee determines committed the bullying or cyber-bullying, if the names of any such persons are known;

(d) A description of the location and frequency of the bullying or cyber-bullying;

(e) A summary of any interviews the principal or the designee conducted as part of the investigation, including, without limitation, interviews with the pupil, any person who the principal or the designee determines committed the bullying or cyber-bullying, any person who the principal or the designee determines witnessed or overheard the bullying or cyber-bullying and any family members, teachers, administrators or other personnel of the school;

(f) An analysis of whether the pupil is at risk of suicide and, if so, steps that have been taken to prevent any suicide attempt by the pupil; and

(g) The schedule of counseling, intervention or other psychological services provided to the pupil or to which the pupil is referred pursuant to paragraph (a) of subsection 2.

2. The safety plan required by subsection 1 must be designed to ensure the safety of the pupil who was subjected to bullying or cyber-bullying and must include, without limitation:

(a) Counseling, intervention or other psychological services provided by the school district, if the board of directors of the school district employs a person licensed or otherwise authorized pursuant to the laws of this State to provide such services, or referrals to counseling, intervention or other psychological services provided outside of the school.

(b) Increased adult supervision of the pupil and any other pupil determined to have committed the bullying or cyber-bullying, including, without limitation, arrangements for administrators, teachers or other personnel of the school to regularly meet with the pupils and the parent or guardian of the pupils.

(c) If, as a result of the analysis required by paragraph (f) of subsection 1, it is determined that the pupil is at risk of suicide, the steps that will be taken to prevent any suicide attempt by the pupil.

(d) A determination of whether a safe and respectful learning environment that is free of bullying and cyber-bullying can best be provided by relocating the pupil or any other pupil determined to have committed the bullying or cyber-bullying to a different classroom or school.

3. In developing the safety plan required by subsection 1, the principal or the designee shall consult with the parent or guardian of the pupil who was subjected to bullying or cyber-bullying and, to the extent practicable, with the pupil.

4. No information or records may be released as part of the development, implementation or monitoring of a safety plan in a manner that would prevent the receipt of federal money or otherwise result in sanctions against this State pursuant to any federal law.

Sec. 3. ***1. Any person who is injured by a breach of the duty of care described in subsection 2 of NRS 388.132 or a violation of any provision of NRS 388.121 to 388.145, inclusive, and sections 2 and 3 of this act by a school district or an employee or volunteer of the board of trustees of a school district may bring an action for damages and injunctive relief against the school district and any other person responsible for the breach or the violation.***

2. A plaintiff who prevails in such an action is entitled to recover treble damages and reasonable attorney's fees and costs.

Sec. 4. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.145, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.122, 388.123 and 388.124 have the meanings ascribed to them in those sections.

Sec. 5. NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;

2. ***The board of trustees of a school district and the employees and volunteers of the board of trustees have a special relationship with the pupils of the school district and owe the pupils a special duty of care that includes, without limitation, the duty to use reasonable measures to protect pupils from foreseeable injury caused by negligence or by an intentional act, including, without limitation, injury caused by other pupils;***

3. Any form of bullying or cyber-bullying seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

~~[3.]~~ ***4.*** The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;

~~[4.]~~ ***5.*** The intended goal of the Legislature is to ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect and by refusing to tolerate bullying and cyber-bullying; and

(c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to bullying, cyber-bullying or violence; and

~~[5.]~~ ***6.*** By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse.

Sec. 6. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; ~~[and]~~

(b) ***Guidelines for the imposition of discipline on a pupil who violates NRS 388.135; and***

(c) A policy for use by school districts to train members of the board of trustees and all administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils by eliminating the use of bullying and cyber-bullying so that pupils may realize their full academic and personal potential;

(2) Training in methods to prevent, identify and report incidents of bullying and cyber-bullying;

(3) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(4) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

3. On or before August 1 immediately preceding each school year, the Department shall review each school district for compliance with the requirements of NRS 388.134.

Sec. 7. NRS 388.1344 is hereby amended to read as follows:

388.1344 1. Each school safety team established pursuant to NRS 388.1343 must consist of the principal or his or her designee and the following persons appointed by the principal:

(a) A school counselor;

(b) At least one teacher who teaches at the school;

(c) At least one parent or legal guardian of a pupil enrolled in the school; and

(d) Any other persons appointed by the principal.

2. The principal or his or her designee shall serve as the chair of the school safety team.

3. The school safety team shall:

(a) Meet at least two times each year;

(b) Identify and address patterns of bullying or cyber-bullying;

(c) Review and strengthen school policies to prevent and address bullying or cyber-bullying;

(d) Provide information to school personnel, pupils enrolled in the school and parents and legal guardians of pupils enrolled in the school on methods to address bullying and cyber-bullying; ~~[and]~~

(e) To the extent money is available ~~[, participate]~~ ***:***

(1) Participate in any training conducted by the school district regarding bullying and cyber-bullying ~~[.]~~ ***; and***

(2) Monitor the school for the purpose of ensuring compliance at the school with the provisions of NRS 388.133 to 388.145, inclusive, and sections 2 and 3 of this act;

(f) On or before August 1 immediately preceding each school year, submit a report to the board of trustees of the school district which includes the number of violations of NRS 388.135 reported at the school during the previous school year and the number of safety plans developed and implemented at the school pursuant to NRS 388.1351 during the previous school year; and

(g) Develop:

(1) Guidelines for providing counseling, intervention or other psychological services to a pupil who has been subjected to bullying or cyber-bullying or for referring such a pupil to a person who provides counseling, intervention or other psychological services, as required by section 2 of this act; and

(2) Procedures for determining whether a pupil who has violated NRS 388.135 should be required pursuant to NRS 388.1351 to undergo counseling, intervention or other psychological services.

Sec. 8. NRS 388.1351 is hereby amended to read as follows:

388.1351 1. A teacher or other ***paid or volunteer*** staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. The principal or the designee shall provide written notice of a reported violation of NRS 388.135 to the parent or legal guardian of each pupil involved in the reported violation. The notice must include, without limitation, a statement that the principal or the designee will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the designee any counseling and intervention services that are available to the pupil. The investigation must be completed within 10 days after the date on which the investigation is initiated ***.*** ~~[and, if]~~ ***If*** a violation is found to have occurred, ~~[include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in]~~ ***the principal or the designee shall:***

(a) Subject to the provisions of section 2 of this act, develop, implement and monitor a safety plan for any pupil who was subjected to the bullying or cyber-bullying;

(b) In accordance with the policy governing disciplinary action adopted by the board of trustees of the school district ~~.~~ ***, and considering the guidelines for disciplinary action included in the policy required by NRS 388.133, impose disciplinary action on any pupil who the principal or the designee determines violated NRS 388.135 or make a recommendation to the superintendent of schools of the school district regarding such disciplinary action; and***

(c) Require any pupil who the principal or the designee determines violated NRS 388.135 to undergo an assessment by a person licensed or otherwise authorized by the laws of this State to provide counseling, intervention or other psychological services, who shall recommend whether the pupil should be required to undergo counseling, intervention or other psychological services.

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee ~~,~~ ***or the superintendent of schools of the school district*** made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Sec. 9. NRS 233.140 is hereby amended to read as follows:

233.140 The Commission shall:

1. Foster mutual understanding and respect among all racial, religious, disabled and ethnic groups and between the sexes in the State.

2. Aid in securing equal health and welfare services and facilities for all the residents of the State without regard to race, religion, sex, age, disability or nationality.

3. Study problems arising between groups within the State which may result in tensions, discrimination or prejudice because of race, color, creed, sex, age, disability, national origin or ancestry, and formulate and carry out programs of education and disseminate information with the object of discouraging and eliminating any such tensions, prejudices or discrimination.

4. Secure the cooperation of various racial, religious, disabled, nationality and ethnic groups, veterans' organizations, labor organizations, business and industry organizations and fraternal, benevolent and service groups, in educational campaigns devoted to the need for eliminating group prejudice, racial or area tensions, intolerance or discrimination.

5. Cooperate with and seek the cooperation of federal and state agencies and departments in carrying out projects within their respective authorities to eliminate intergroup tensions and to promote intergroup harmony.

6. Establish policies, procedures and practices intended to ensure that pupils enrolled in the public schools of this State are provided a safe and respectful learning environment that is free of bullying and cyber-bullying based on or motivated by race, color, religion, national origin, disability, sex, sexual orientation, or gender identity or expression.

7. Order the Administrator to offer, at least four times each year, training and other educational, outreach or service programs to pupils, teachers, administrators and other staff of the public schools of this State intended to ensure that pupils of the public schools of this State are provided a safe and respectful learning environment that is free of bullying and cyber-bullying based on or motivated by race, color, religion, national origin, disability, sex, sexual orientation, or gender identity or expression.

Sec. 10. NRS 651.050 is hereby amended to read as follows:

651.050 As used in NRS 651.050 to 651.110, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

3. "Place of public accommodation" means:

(a) Any inn, hotel, motel or other establishment which provides lodging to transient guests, except an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as the proprietor's residence;

(b) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, casino or any other facility where food or spirituous or malt liquors are sold, including any such facility located on the premises of any retail establishment;

(c) Any gasoline station;

(d) Any motion picture house, theater, concert hall, sports arena or other place of exhibition or entertainment;

(e) Any auditorium, convention center, lecture hall, stadium or other place of public gathering;

(f) Any bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;

(g) Any laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an

accountant or lawyer, pharmacy, insurance office, office of a provider of health care, hospital or other service establishment;

(h) Any terminal, depot or other station used for specified public transportation;

(i) Any museum, library, gallery or other place of public display or collection;

(j) Any park, zoo, amusement park or other place of recreation;

(k) Any nursery, ***public school,*** private school or university or other place of education;

(l) Any day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment;

(m) Any gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation;

(n) Any other establishment or place to which the public is invited or which is intended for public use; and

(o) Any establishment physically containing or contained within any of the establishments described in paragraphs (a) to (n), inclusive, which holds itself out as serving patrons of the described establishment.

4. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 11. NRS 651.110 is hereby amended to read as follows:

651.110 ***1.*** Any person who believes he or she has been denied full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation because of discrimination or segregation based on race, color, religion, national origin, disability, sexual orientation, sex or gender identity or expression may file a complaint to that effect with the Nevada Equal Rights Commission.

2. If a pupil of a public school believes that:

(a) He or she has been a victim of bullying or cyber-bullying based on or motivated by his or her race, color, religion, national origin, disability, sexual orientation, sex or gender identity or expression; and

(b) The administration of the public school has not adequately addressed his or her claims regarding the bullying or cyber-bullying,

➥ the pupil, or a parent or guardian of the pupil, may file a complaint to that effect with the Nevada Equal Rights Commission.

3. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

Sec. 12. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 13. This act becomes effective on July 1, 2015.

㉚