

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**SENATE BILL 526*
Mental Health & Youth Services Committee Substitute Adopted 4/30/09**

Short Title: School Violence Prevention Act.

(Public)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

1 AN ACT TO ENACT THE SCHOOL VIOLENCE PREVENTION ACT AND TO DEFINE
2 BULLYING OR HARASSING BEHAVIOR AS USED IN THE ACT AS ANY
3 PATTERN OF GESTURES OR WRITTEN, ELECTRONIC, OR VERBAL
4 COMMUNICATIONS, OR ANY PHYSICAL ACT OR ANY THREATENING
5 COMMUNICATION, THAT TAKES PLACE ON SCHOOL PROPERTY, AT ANY
6 SCHOOL-SPONSORED FUNCTION, OR ON A SCHOOL BUS, AND THAT PLACES
7 A STUDENT OR SCHOOL EMPLOYEE IN ACTUAL AND REASONABLE FEAR OF
8 HARM TO HIS OR HER PERSON OR DAMAGE TO HIS OR HER PROPERTY; OR
9 CREATES OR IS CERTAIN TO CREATE A HOSTILE ENVIRONMENT BY
10 SUBSTANTIALLY INTERFERING WITH OR IMPAIRING A STUDENT'S
11 EDUCATIONAL PERFORMANCE, OPPORTUNITIES, OR BENEFITS; TO DEFINE
12 HOSTILE ENVIRONMENT AS USED IN THE ACT AS MEANING THE VICTIM
13 SUBJECTIVELY VIEWS THE CONDUCT AS BULLYING OR HARASSING
14 BEHAVIOR AND THE CONDUCT IS OBJECTIVELY SEVERE OR PERVASIVE
15 ENOUGH THAT A REASONABLE PERSON WOULD AGREE THAT IT IS
16 BULLYING OR HARASSING BEHAVIOR; TO PROVIDE THAT BULLYING OR
17 HARASSING BEHAVIOR INCLUDES, BUT IS NOT LIMITED TO, ACTS
18 REASONABLY PERCEIVED AS BEING MOTIVATED BY ANY ACTUAL OR
19 PERCEIVED DIFFERENTIATING CHARACTERISTIC, SUCH AS RACE, COLOR,
20 RELIGION, ANCESTRY, NATIONAL ORIGIN, GENDER, SOCIOECONOMIC
21 STATUS, ACADEMIC STATUS, GENDER IDENTITY, PHYSICAL APPEARANCE,
22 SEXUAL ORIENTATION, OR MENTAL, PHYSICAL, DEVELOPMENTAL, OR
23 SENSORY DISABILITY, OR BY ASSOCIATION WITH A PERSON WHO HAS OR IS
24 PERCEIVED TO HAVE ONE OR MORE OF THESE CHARACTERISTICS; AND TO
25 REQUIRE ALL LOCAL SCHOOL ADMINISTRATIVE UNITS TO ADOPT A POLICY
26 PROHIBITING BULLYING AND HARASSING BEHAVIOR AS REQUIRED BY THE
27 ACT.
28

29 Whereas, the General Assembly of North Carolina finds that a safe and civil
30 environment in school is necessary in order for students to learn and achieve high academic
31 standards; and

32 Whereas, bullying and harassment, like other disruptive or violent behaviors, is
33 conduct that disrupts both a student's ability to learn and a school's ability to educate its
34 students in a safe environment; and

35 Whereas, bullying and harassing behaviors create a climate that fosters violence in
36 our schools; and



1 Whereas, it is essential to enact a law that seeks to protect the health and welfare of
2 North Carolina students and improve the learning environment for North Carolina students; and

3 Whereas, to do so, State and national data and anecdotal evidence have established
4 the need to identify the most vulnerable targets and potential victims of bullying and
5 harassment; and

6 Whereas, the sole purpose of this law is to protect all children from bullying and
7 harassment, and no other legislative purpose is intended nor should any other intent be
8 construed from passage of this law; Now, therefore,

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Subchapter VI of Chapter 115C of the General Statutes is amended
11 by adding a new Article to read:

12 "Article 29B.

13 "School Violence Prevention.

14 **"§ 115C-407.5. Bullying and harassing behavior.**

15 (a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or
16 written, electronic, or verbal communications, or any physical act or any threatening
17 communication, that takes place on school property, at any school-sponsored function, or on a
18 school bus, and that:

19 (1) Places a student or school employee in actual and reasonable fear of harm to
20 his or her person or damage to his or her property; or

21 (2) Creates or is certain to create a hostile environment by substantially
22 interfering with or impairing a student's educational performance,
23 opportunities, or benefits. For purposes of this section, "hostile environment"
24 means that the victim subjectively views the conduct as bullying or
25 harassing behavior and the conduct is objectively severe or pervasive enough
26 that a reasonable person would agree that it is bullying or harassing
27 behavior.

28 Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as
29 being motivated by any actual or perceived differentiating characteristic, such as race, color,
30 religion, ancestry, national origin, gender, socioeconomic status, academic status, gender
31 identity, physical appearance, sexual orientation, or mental, physical, developmental, or
32 sensory disability, or by association with a person who has or is perceived to have one or more
33 of these characteristics.

34 (b) No student or school employee shall be subjected to bullying or harassing behavior
35 by school employees or students.

36 (c) No person shall engage in any act of reprisal or retaliation against a victim, witness,
37 or a person with reliable information about an act of bullying or harassing behavior.

38 (d) A school employee, student, or volunteer who has witnessed or has reliable
39 information that a student or school employee has been subject to any act of bullying or
40 harassing behavior shall report the incident to the appropriate school official.

41 **"§ 115C-407.6. Policy against bullying or harassing behavior.**

42 (a) Before December 31, 2009, each local school administrative unit shall adopt a
43 policy prohibiting bullying or harassing behavior.

44 (b) The policy shall contain, at a minimum, the following components:

45 (1) A statement prohibiting bullying or harassing behavior.

46 (2) A definition of bullying or harassing behavior no less inclusive than that set
47 forth in this Article.

48 (3) A description of the type of behavior expected for each student and school
49 employee.

50 (4) Consequences and appropriate remedial action for a person who commits an
51 act of bullying or harassment.

1 (5) A procedure for reporting an act of bullying or harassment, including a
2 provision that permits a person to report such an act anonymously. This shall
3 not be construed to permit formal disciplinary action solely on the basis of
4 an anonymous report.

5 (6) A procedure for prompt investigation of reports of serious violations and
6 complaints of any act of bullying or harassment, identifying either the
7 principal or the principal's designee as the person responsible for the
8 investigation.

9 (7) A statement that prohibits reprisal or retaliation against any person who
10 reports an act of bullying or harassment, and the consequence and
11 appropriate remedial action for a person who engages in reprisal or
12 retaliation.

13 (8) A statement of how the policy is to be disseminated and publicized,
14 including notice that the policy applies to participation in school-sponsored
15 functions.

16 (c) Nothing in this Article shall prohibit a local school administrative unit from
17 adopting a policy that includes components beyond the minimum components provided in this
18 section or that is more inclusive than the requirements of this Article.

19 (d) Notice of the local policy shall appear in any school unit publication that sets forth
20 the comprehensive rules, procedures, and standards of conduct for schools within the school
21 unit and in any student and school employee handbook.

22 (e) Information regarding the local policy against bullying or harassing behavior shall
23 be incorporated into a school's employee training program.

24 (f) To the extent funds are appropriated for these purposes, a local school
25 administrative unit shall, by March 1, 2010, provide training on the local policy to school
26 employees and volunteers who have significant contact with students.

27 **"§ 115C-407.7. Prevention of school violence.**

28 Schools shall develop and implement methods and strategies for promoting school
29 environments that are free of bullying or harassing behavior.

30 **"§ 115C-407.8. Construction of this Article.**

31 (a) This Article shall not be construed to permit school officials to punish student
32 expression or speech based on an undifferentiated fear or apprehension of disturbance or out of
33 a desire to avoid the discomfort and unpleasantness that always accompany an unpopular
34 viewpoint.

35 (b) This Article shall not be interpreted to prevent a victim of bullying or harassing
36 behavior from seeking redress under any other available law, either civil or criminal.

37 (c) Nothing in this Article shall be construed to require an exhaustion of the
38 administrative complaint process before civil or criminal law remedies may be pursued
39 regarding bullying or harassing behavior.

40 (d) The provisions of this Article are severable, and if any provision of this Article is
41 held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions
42 of this Article which can be given effect without the invalid provision.

43 (e) The provisions of this Article shall be liberally construed to give effect to its
44 purposes.

45 (f) Nothing in this act shall be construed to create any classification, protected class,
46 suspect category, or preference beyond those existing in present statute or case law."

47 **SECTION 2.** This act is effective when it becomes law and applies, unless
48 otherwise provided in G.S. 115C-407.6, as enacted by Section 1 of this act, beginning with the
49 2009-2010 school year.