

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 725

(Senator Zirkin, *et al.*)

Judicial Proceedings and Education, Health,
and Environmental Affairs

Judiciary

Bullying, Cyberbullying, Harassment, and Intimidation – School Response

This bill modifies school policies on and mandatory reporting of incidents of bullying, harassment, and intimidation.

Fiscal Summary

State Effect: The bill can be implemented with existing budgeted resources.

Local Effect: The bill can be implemented with existing budgeted resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes a school principal to make a report to any relevant law enforcement agency if, after an investigation is completed, the school principal has reason to believe that a student has engaged in conduct that constitutes an offense under the criminal statutes for first-degree assault, second-degree assault, misuse of electronic communication or interactive computer service, or revenge porn.

The bill also (1) alters the requirements for mandatory reporting of harassment or intimidation against public school students to include behavior that is sexual in nature and (2) alters the Model Policy to Address Bullying, Harassment, or Intimidation to include model procedures for providing notice of an act of bullying, harassment, or intimidation to a parent or guardian of the alleged victim within three business days and the parent of the

alleged perpetrator within five business days after the date the act is reported. The bill makes similar changes to the policy for nonpublic schools.

Current Law: The Maryland State Department of Education (MSDE) must require each local board of education to report incidents of harassment or intimidation against public school students that occur on public school property, at school activities or events, or on school buses. An incident of harassment or intimidation may be reported by a student or the parent, guardian, or close adult relative of a student. Chapter 197 of 2017 authorizes a local board of education to establish a two-way electronic tip program for the anonymous reporting of bullying, harassment, or intimidation.

MSDE was required to develop a standard Victim of Harassment or Intimidation Report Form that includes specific information about an incident, and local boards of education must distribute copies of the forms to each public school. Local boards must submit completed forms to the State Board of Education, and MSDE must report annually on the forms received.

Chapter 489 of 2008 required the State Board of Education to develop a model policy that prohibits bullying, harassment, and intimidation in schools. Using the model policy, local boards of education were required to develop policies for the public schools under their jurisdiction.

In addition to a definition of bullying, harassment, or intimidation and a rule prohibiting bullying and retaliation against individuals who report acts of bullying, the model policy developed by the State Board of Education was required to include procedures for reporting bullying, investigating reports of bullying, and disciplining students who have violated school bullying policies. The model policy also includes information about the support services available to students involved in or witnessing bullying and information about the availability and use of the standard bullying report forms developed by MSDE.

Policies established by local boards of education were required to be developed in consultation with students, the parents and guardians of students, school personnel, school volunteers, and members of the community. A chain of command in the bullying reporting process has to be included in each local policy, along with the name and contact information for someone at MSDE who is familiar with bullying reporting and investigation procedures in the applicable school system. Copies of local policies must be included in student handbooks and posted on school system websites. A school employee who reports an act of bullying, harassment, or intimidation in accordance with the local board's policy is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation. Similar provisions exist for nonpublic schools.

In addition, local boards of education were required to develop educational programs for students, staff, volunteers, and parents as well as professional development programs that train teachers and administrators to implement the local policies. Nonpublic schools are encouraged to develop such programs.

Each local school board must establish special programs for public school students who exhibit disruptive classroom behavior. Two or more local boards may establish joint programs.

Misuse of Electronic Communication or Interactive Computer Service

“Electronic communication” means the transmission of information, data, or a communication by the use of a computer or other electronic means that is sent to a person and that is received by the person.

An “interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones.

A person may not use an “interactive computer service” to maliciously engage in a course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury with the intent (1) to kill, injure, harass, or cause serious emotional distress to the minor or (2) to place the minor in reasonable fear of death or serious bodily injury. Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$500 maximum fine.

A person also may not maliciously engage in a course of conduct through the use of “electronic communication” that alarms or seriously annoys another (1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and (3) without a legal purpose. The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others, and there are additional exceptions related to court orders for electronic surveillance. Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$500 maximum fine.

Revenge Porn

A person may not intentionally cause serious emotional distress to another by intentionally placing on the Internet a photograph, film, videotape, recording, or any other reproduction of the image of the other person that reveals the identity of the other person with his or her intimate parts exposed or while engaged in an act of sexual contact (1) knowing that the other person did not consent to the placement of the image on the Internet and (2) under

circumstances in which the other person had a reasonable expectation that the image would be kept private. For purposes of the prohibition, the bill provides specific definitions for “intimate parts” and “sexual contact.”

Violators are guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a \$5,000 maximum fine.

Background: The American Psychological Association (APA) defines bullying as “aggressive behavior in which someone intentionally and repeatedly causes another person injury or discomfort. Bullying can take the form of physical contact, words or more subtle actions.” APA notes that individuals engaging in bullying behavior are generally more likely to exhibit other antisocial behaviors and that the victims of bullying often suffer from loneliness, insecurity, and thoughts of suicide. Various sources indicate that bullying incidents typically peak during middle school years.

To address and prevent bullying, Maryland adopted the Safe Schools Reporting Act of 2005 (Chapter 547), which requires a uniform reporting form to be available in public schools to victims of bullying and requires annual reports from MSDE on the incidence of harassment and intimidation. As shown in **Exhibit 1**, the rate of reported incidents per 1,000 students ranged from 3.0 in Queen Anne’s County to 16.3 in Kent County in the 2015-2016 school year. The report theorizes that the variation in reported incidents may be a result of greater levels of bullying awareness in some school systems. In addition, the local school systems with the highest reported incident rates of bullying tend to have a lower overall enrollment.

Twelve-year-olds were the most frequent victims and alleged perpetrators of bullying, harassment, or intimidation according to the data collected by MSDE, which corroborates national data showing that bullying peaks in middle school.

The National Parent-Teacher Association and APA report that the most effective bullying prevention strategies involve the entire school community. Both also recommend the integration of bullying-related content into school curricula and close adult supervision of students throughout the school day to monitor and prevent bullying behavior before it escalates.

Exhibit 1
Number of Reported Incidents of Harassment and Intimidation
2015-16 School Year

<u>Local School System</u>	<u>Incidents per 1,000 Students</u>	<u>Local School System</u>	<u>Incidents per 1,000 Students</u>
Allegany	5.2	Harford	5.5
Anne Arundel	4.1	Howard	6.7
Baltimore City	4.4	Kent	16.3
Baltimore	9.0	Montgomery	3.2
Calvert	8.2	Prince George's	3.4
Caroline	9.6	Queen Anne's	3.0
Carroll	5.4	St. Mary's	3.4
Cecil	7.8	Somerset	13.4
Charles	7.7	Talbot	13.4
Dorchester	15.0	Washington	8.5
Frederick	4.9	Wicomico	14.4
Garrett	3.9	Worcester	4.8

Source: Maryland State Department of Education

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Harford County; City of College Park; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland State Department of Education; Department of State Police; American Psychological Association; National Parent-Teacher Association; Department of Legislative Services

Fiscal Note History:
mm/kdm

First Reader - February 19, 2018
Third Reader - March 26, 2018
Revised - Amendment(s) - March 26, 2018
Enrolled - May 11, 2018
Revised - Amendment(s) - May 11, 2018

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