

HOUSE BILL REPORT

SHB 1444

As Amended by the Senate

Title: An act relating to preventing harassment, intimidation, or bullying in schools.

Brief Description: Requiring school districts to adopt policies prohibiting harassment, intimidation, and bullying.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Murray (co-prime sponsor), Ballasiotes (co-prime sponsor), Mitchell, Quall, Dickerson, Haigh, McIntire, Linville, Simpson, Reardon, Kenney, Hunt, Fisher, Conway, Hurst, Tokuda, Fromhold, Poulsen, Santos, Romero, Rockefeller, Dunshee, Gombosky, Darneille, Edwards, Skinner, O'Brien, Lantz, Wood, Miloscia, Grant, Kessler, Kirby, Jackley, Kagi, Keiser, Sommers, Ogden, Cody, Edmonds, Morris, Lovick, McDermott, Woods, Jarrett, Mastin, Cooper, Schual-Berke and Ruderman; by request of Governor Locke, Attorney General and Superintendent of Public Instruction).

Brief History:

Committee Activity:

Education: 1/28/02, 1/31/02 [DPS].

Floor Activity:

Passed House: 2/6/02, 81-16.

Senate Amended.

Passed Senate: 3/6/02, 41-6.

Brief Summary of Substitute Bill

- Requiring policies prohibiting harassment, intimidation, or bullying.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Quall, Chair; Haigh, Vice Chair; Talcott, Ranking Minority Member; Anderson, Cox, McDermott, Rockefeller, Santos, Schmidt and Upthegrove.

Staff: Ilene Miller (786-7310).

Background:

Compulsory course work in the common school curriculum includes cultivating the importance of manners. Instruction in temperance and good citizenship also is required once each year. Other related programs may include conflict-resolution training and violence-prevention training.

Currently, there are no laws specifically addressing harassment, intimidation, or bullying by students in the school setting. However, certain criminal laws may be applicable on a limited basis.

Criminal harassment means: 1) threatening to cause bodily injury or physical damage to property, or to subject someone to physical confinement or restraint, or to maliciously do anything intended to substantially harm a person's physical or mental health and safety; and 2) creating a reasonable fear (by words or conduct) that the threat will be carried out immediately or in the future.

Criminal malicious harassment means maliciously and intentionally committing the crime of harassment because of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap.

These criminal laws may apply to children of limited ages. A child 12 years old and older is presumed to be capable of committing a crime. A child between 8 and 12 years old is presumed to be incapable of committing a crime, but the presumption may be overcome by evidence. A child under 8 years old is incapable of committing a crime. The decision of whether to prosecute for these crimes rests solely within the prosecutor's office.

Summary of Substitute Bill:

Requires each school district to adopt or amend a policy prohibiting harassment, intimidation, or bullying by August 1, 2003. School districts have local control over each policy so long as it prohibits harassment, intimidation, or bullying of any student. It is the school districts' responsibility to share this policy with parents or guardians, students, volunteers, and school employees.

Harassment, intimidation, or bullying are defined collectively as any intentional written, verbal, or physical act that is reasonably perceived as being motivated by the person's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap, or by other distinguishing characteristics. These characteristics can either be actual or perceived.

Harassment, intimidation, or bullying include any intentional written, verbal, or physical acts that:

- Physically harms a student or damages the student's property; or

- Has the effect of substantially interfering with a student's education; or
- Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- Has the effect of substantially disrupting the orderly operation of the school.

The Office of the Superintendent of Public Instruction (OSPI) must develop and provide to school districts a model policy and training materials by August 1, 2002. The model policy should be developed in consultation with representatives of parents, school personnel, and other interested parties.

Additionally, the OSPI is required to disseminate training materials in a variety of ways. The OSPI's website must have a link to the Safety Center web page, where the OSPI must post training and instructional materials as well as their model policy on harassment, intimidation, or bullying. School districts must have direct access to the Safety Center website where districts can post summaries of their policies, programs, partnerships, vendors, and instructional and training materials, and a link to each school district's website. To the extent that resources are available, the OSPI is given the authority to update their existing technology.

Any reprisals, retaliations or false accusations against a victim, witness or person with reliable information about an act of harassment, intimidation, or bullying are prohibited. Employees, students, and volunteers with reliable information about an incident are encouraged to report the incident to an appropriate school official. Employees, students, and volunteers who report violations in compliance with policy procedures are immune from liability for damages for failure to remedy an incident.

EFFECT OF SENATE AMENDMENT(S):

The senate amendment expands immunity from liability to include students and volunteers who report incidents of harassment, intimidation, or bullying in compliance with reporting procedures, rather than just immunity from liability for school employees. The senate amendment requires school districts to report to the Superintendent of Public Instruction (SPI) each year on all incidents involving harassment, intimidation, or bullying that result in disciplinary action. The SPI is also required to compile and report data pertaining to these incidents to the legislature.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Substitute bill) Schools should be made as safe as possible. All

children have the right to learn in a safe and secure environment. It is far better to take preventative measures rather than dealing with bullying incidents after the fact. Children have enough issues to deal with as they grow up, and we should ensure that they have a good atmosphere to grow up in. This is not an attempt to control districts or censure religious beliefs.

Testimony Against: (Substitute bill) There are already enough laws dealing with issues of harassment. Schools do not need more rules to follow. The money spent implementing this policy would be better spent elsewhere. Much needed classroom time will be taken away by teachers trying to implement the policy. This policy violates not only the right to free speech, but it is an attempt to censure religious beliefs.

Testified: (In support) Representative Murray, prime sponsor; Representative Ballasiotes, co-sponsor; Christine Gregoire, Attorney General of Washington State; Ahndrea Blue, Governor's Office; Robert Butts, Office of the Superintendent of Public Instruction; John Didion, Pacific County Sheriff; Grover Laseke, and Lee Knight, Woodland Police; Brenda High, Parent; Dacia Beasley, Student; Michelle DiClementi, Capital High School; Carol Taylor Cann, Washington State Parent Teacher Association; Heather Smith, Student; Diana Stadden, Helping Other Parents Endure; Barry Lawson M.D., President, Washington Chapter American Academy of Pediatrics; Ralph Allen, Performance Spectrum Incorporated; Carly Rowbottom, Students Against Violence Everywhere; Doug Nelson, Public School Employees of Washington; Suzanne Brown, Washington Coalition of Sexual Assault Programs; Anna Schlecht, Black Hills Alliance; Paul Barry, Children's Alliance; Gary King, Washington Education Association; Jamie Ware, Citizen; and Gail McGaffick, Washington State Psychological Association.

(In support with concerns) Barbara Mertens, Washington Association of School Administrators; Joe Pope, Washington State School Directors' Association; and Jeanell Malone, Citizen.

(Opposed) Bob Higley, Washington Evangelicals for Responsible Government; Richard Forcier, Christian Coalition of Washington; Jim Stewart, Character First!; Julanne Burts, Citizens United for Responsible Education; Alton McDonald and Lee Dyer, Safe School for All Children; Juli Whitson, Concerned Women of America of Washington; Bob Young, Mayor, city of Bonney Lake; Lois McMahan, citizen; Anne McDivitt, citizen; Trish Otterholt, citizen; and Dr. Mary Ingalls, citizen.