

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1423 be amended to read as follows:

1 Page 4, delete lines 18 through 42, begin a new paragraph and
2 insert:
3 "SECTION 3. IC 20-33-8-0.2, AS ADDED BY P.L.106-2005,
4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 0.2. **(a)** As used in this chapter, "bullying" means
6 overt, repeated acts or gestures, including:
7 (1) verbal or written communications transmitted;
8 (2) physical acts committed; or
9 (3) any other behaviors committed;
10 by a student or group of students against another student with the intent
11 to harass, ridicule, humiliate, intimidate, or harm the other student.
12 **unwanted systematic, repeated, or recurrent conduct committed by**
13 **a student or a group of students against another student that serves**
14 **as the greatest or sole cause of a student's measurable physical**
15 **harm or emotional distress accompanied by physical**
16 **manifestations.**
17 **(b) The term does not include purely verbal expression, whether**
18 **oral, written, or electronic, unless the expression otherwise meets**
19 **the definition of bullying and:**
20 **(1) the expression:**
21 **(A) is lewd, is indecent, is obscene, advocates illegal**
22 **conduct, or is likely to incite an immediate breach of the**
23 **peace; or**
24 **(B) contains the severe and pervasive use of threatening**
25 **words that objectively inflict injury; or**
26 **(2) school corporation administrators or officials reasonably**
27 **and objectively determine that the expression will cause a**
28 **substantial and material disruption of school work.**
29 SECTION 4. IC 20-33-8-13.5, AS AMENDED BY P.L.180-2011,
30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2013]: Sec. 13.5. (a) Discipline rules adopted by the
 2 governing body of a school corporation under section 12 of this chapter
 3 must:

4 (1) prohibit bullying; and

5 (2) include:

6 (A) provisions concerning education, parental involvement,
 7 reporting, investigation, and intervention;

8 **(B) a detailed procedure for the prompt investigation of
 9 incidents of bullying that includes:**

10 **(i) appropriate responses to bullying behaviors,
 11 wherever the behaviors occur;**

12 **(ii) provisions for anonymous and personal reporting of
 13 bullying incidents to a teacher or other school staff;**

14 **(iii) timetables for reporting of bullying incidents to the
 15 parents of both the targeted student and the bully, school
 16 administrators, the school superintendent, or law
 17 enforcement, if applicable; and**

18 **(iv) discipline provisions for false reporting of bullying;
 19 and**

20 **(C) a detailed procedure outlining the use of follow-up
 21 services that includes support services for the victim.**

22 **If the principal or the principal's designee determines that a report
 23 of a bullying incident warrants further investigation, before any
 24 student involved is interviewed, the principal or the principal's
 25 designee shall notify the student's parent of the allegations. The
 26 notice may be made by telephone or electronic mail, followed by a
 27 notice in writing that is mailed to the parent's home. The student's
 28 parent shall be given the opportunity to attend any interviews with
 29 the student conducted as a part of the investigation.**

30 (b) The discipline rules described in subsection (a) must apply when
 31 a student is:

32 (1) on school grounds immediately before or during school hours,
 33 immediately after school hours, or at any other time when the
 34 school is being used by a school group;

35 (2) off school grounds at a school activity, function, or event;

36 (3) traveling to or from school or a school activity, function, or
 37 event; or

38 (4) using property or equipment provided by the school.

39 (c) The discipline rules described in subsection (a) must prohibit
 40 bullying through the use of data or computer software that is accessed
 41 through a:

42 (1) computer;

43 (2) computer system; or

44 (3) computer network;

45 of a school corporation.

46 (d) This section may not be construed to give rise to a cause of

1 action against a person or school corporation based on an allegation of
2 noncompliance with this section. Noncompliance with this section may
3 not be used as evidence against a school corporation in a cause of
4 action.

5 (e) In carrying out the discipline rules described in subsection
6 (a), the following principles apply:

7 (1) The rules may not be interpreted to infringe upon the
8 rights of students under the First Amendment of the
9 Constitution of the United States or Article I of the
10 Constitution of the State of Indiana, and may not prohibit the
11 expression of religious, philosophical, or political views.

12 (2) It is presumed that all verbal expressions, whether oral,
13 written, or electronic, relating to religious, philosophical, or
14 political topics or viewpoints are protected under the First
15 Amendment of the Constitution of the United States or Article
16 I of the Constitution of the State of Indiana, and may not be
17 classified as bullying unless specific facts demonstrate
18 otherwise.

19 (3) This section does not impede a student, the student's
20 parents, or school officials from reporting directly to law
21 enforcement officials any behavior that constitutes a violation
22 of criminal law.

23 (f) A record made of an investigation, a disciplinary action, or
24 a follow-up action performed under rules adopted under this
25 section is not a public record under IC 5-14-3.

26 (g) Nothing in this section may be construed to require all
27 bullying incidents to be reported to a law enforcement agency.

28 (h) The department shall periodically review each policy
29 adopted under this section to ensure the policy's compliance with
30 this section."

- 31 Delete pages 5 through 6.
- 32 Page 7, delete lines 1 through 13.
- 33 Page 8, delete lines 20 through 42.
- 34 Delete page 9.
- 35 Renumber all SECTIONS consecutively.
(Reference is to EHB 1423 as printed April 5, 2013.)

Senator SCHNEIDER