

§4
C.2A:53A-17.1
§§5-9
C.18A:37-37.1 to
18A:37-37.5
§10
Note

P.L. 2021, CHAPTER 338, *approved January 10, 2022*
Senate, No. 1790 (*First Reprint*)

- 1 **AN ACT** concerning bullying, ¹**【designated as Mallory’s Law,】**¹
2 revising various parts of the statutory law, and supplementing Title
3 2A and Title 18A of the New Jersey Statutes.
4
- 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7
- 8 1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to
9 read as follows:
10 1. a. A person commits the crime of cyber-harassment if, while
11 making a communication in an online capacity via any electronic
12 device or through a social networking site and with the purpose to
13 harass another, the person:
14 (1) threatens to inflict injury or physical harm to any person or
15 the property of any person;
16 (2) knowingly sends, posts, comments, requests, suggests, or
17 proposes any lewd, indecent, or obscene material to or about a
18 person with the intent to emotionally harm a reasonable person or
19 place a reasonable person in fear of physical or emotional harm to
20 his person; or
21 (3) threatens to commit any crime against the person or the
22 person's property.
23 b. Cyber-harassment is a crime of the fourth degree, unless the
24 person is 21 years of age or older at the time of the offense and
25 impersonates a minor for the purpose of cyber-harassing a minor, in
26 which case it is a crime of the third degree.
27 c. If a minor under the age of 16 is adjudicated delinquent for
28 cyber-harassment, the court may order as a condition of the
29 sentence that the minor, accompanied by a parent or guardian,
30 complete, in a satisfactory manner, one or both of the following:
31 (1) a class or training program intended to reduce the tendency
32 toward cyber-harassment behavior; or
33 (2) a class or training program intended to bring awareness to
34 the dangers associated with cyber-harassment.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted December 7, 2020.

1 d. A parent or guardian who fails to comply with a condition
2 imposed by the court pursuant to subsection c. of this section is a
3 disorderly person and shall be fined not more than ~~【\$25】~~ \$100 for a
4 first offense and not more than ~~【\$100】~~ \$500 for each subsequent
5 offense.

6 e. In addition to any other disposition or condition imposed
7 pursuant to this section, a parent or guardian having legal custody
8 of a minor who demonstrates willful or wanton disregard in the
9 exercise of the supervision and control of the conduct of a minor
10 adjudicated delinquent of cyber-harassment pursuant to this section
11 may be liable in a civil action pursuant to section 4 of
12 P.L. ,c. (C.) (pending before the Legislature as this bill).
13 (cf: P.L.2013, c.272, s.1)
14

15 2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to
16 read as follows:

17 1. Any school employee observing or having direct knowledge
18 from a participant or victim of an act of violence shall, in
19 accordance with standards established by the commissioner, file a
20 report describing the incident to the school principal in a manner
21 prescribed by the commissioner, and copy of same shall be
22 forwarded to the district superintendent.

23 The principal shall notify the district superintendent of schools
24 of the action taken regarding the incident. Two times each school
25 year, between September 1 and January 1 and between January 1
26 and June 30, at a public hearing, the superintendent of schools shall
27 report to the board of education all acts of violence, vandalism, and
28 harassment, intimidation, or bullying which occurred during the
29 previous reporting period. The report shall include the number of
30 reports of harassment, intimidation, or bullying, the status of all
31 investigations, the nature of the bullying based on one of the
32 protected categories identified in section 2 of P.L.2002, c.83
33 (C.18A:37-14), the names of the investigators, the type and nature
34 of any discipline imposed on any student engaged in harassment,
35 intimidation, or bullying, and any other measures imposed, training
36 conducted, or programs implemented, to reduce harassment,
37 intimidation, or bullying. The information shall also be reported
38 once during each reporting period to the Department of Education.
39 The report must include data broken down by the enumerated
40 categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14),
41 and data broken down by each school in the district, in addition to
42 district-wide data. It shall be a violation to improperly release any
43 confidential information not authorized by federal or State law for
44 public release.

45 The report shall be used to grade each school for the purpose of
46 assessing its effort to implement policies and programs consistent
47 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The
48 district shall receive a grade determined by averaging the grades of

1 all the schools in the district. The commissioner shall promulgate
2 guidelines for a program to grade schools for the purposes of this
3 section.

4 The grade received by a school and the district shall be posted on
5 the homepage of the school's website. The grade for the district and
6 each school of the district shall be posted on the homepage of the
7 district's website. A link to the report shall be available on the
8 district's website. The information shall be posted on the websites
9 within 10 days of the receipt of a grade by the school and district.

10 If a school district's policy permits a preliminary determination
11 to be made on whether a reported incident or complaint is a report
12 outside the scope of the definition of harassment, intimidation, or
13 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the
14 superintendent shall also provide annually to the board of education
15 information on the number of times a preliminary determination
16 was made that an incident or complaint was outside the scope of
17 that definition for the purposes of the State's monitoring of the
18 school district.

19 Verification of the reports on violence, vandalism, and
20 harassment, intimidation, or bullying shall be part of the State's
21 monitoring of the school district, and the State Board of Education
22 shall adopt regulations that impose a penalty on a school employee
23 who knowingly falsifies the report. A board of education shall
24 provide ongoing staff training, in cooperation with the Department
25 of Education, in fulfilling the reporting requirements pursuant to
26 this section. The majority representative of the school employees
27 shall have access monthly to the number and disposition of all
28 reported acts of school violence, vandalism, and harassment,
29 intimidation, or bullying.

30 (cf: P.L.2010, c.122, s.7)

31

32 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read
33 as follows:

34 3. a. Each school district shall adopt a policy prohibiting
35 harassment, intimidation or bullying on school property, at a school-
36 sponsored function or on a school bus. The school district shall adopt
37 the policy through a process that includes representation of parents or
38 guardians, school employees, volunteers, students, administrators, and
39 community representatives.

40 b. A school district shall have local control over the content of the
41 policy, except that the policy shall contain, at a minimum, the
42 following components:

43 (1) a statement prohibiting harassment, intimidation or bullying of
44 a student;

45 (2) a definition of harassment, intimidation or bullying no less
46 inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-
47 14);

1 (3) a description of the type of behavior expected from each
2 student;

3 (4) consequences and appropriate remedial action for a person
4 who commits an act of harassment, intimidation or bullying. The
5 consequences for a student who commits an act of harassment,
6 intimidation, or bullying may include: for the first act of harassment,
7 intimidation, or bullying committed by a student, a copy of the results
8 of the investigation shall be placed in the student's record and the
9 student may be subject to remedial actions, including the provision of
10 counseling or behavioral intervention services, or discipline, or both,
11 as determined by the principal in consultation with appropriate school
12 staff; for the second act, a copy of the results of the investigation shall
13 be placed in the student's record and the student may be subject to
14 remedial actions, including the provision of counseling or behavioral
15 intervention services, or discipline, or both, as determined by the
16 principal, in consultation with appropriate school staff; and for the
17 third and each subsequent act, a copy of the results of the investigation
18 shall be placed in the student's record, and the principal, in
19 consultation with appropriate school staff, shall develop an individual
20 student intervention plan which shall be approved by the
21 superintendent of schools or the superintendent's designee, and may
22 include remedial actions including counseling or behavioral
23 intervention services, or progressive discipline, or both, and may
24 require the student, accompanied by a parent or guardian, to complete
25 in a satisfactory manner a class or training program to reduce
26 harassment, intimidation or bullying behavior.

27 The superintendent of schools or the superintendent's designee and
28 the principal shall consult law enforcement, as appropriate, pursuant to
29 the provisions of the Uniform State Memorandum of Agreement
30 Between Education and Law Enforcement Officials, if the student's
31 behavior may constitute a possible violation of the New Jersey Code
32 of Criminal Justice;

33 (5) a procedure for reporting an act of harassment, intimidation or
34 bullying, including a provision that permits a person to report an act of
35 harassment, intimidation or bullying anonymously; however, this shall
36 not be construed to permit formal disciplinary action solely on the
37 basis of an anonymous report.

38 All acts of harassment, intimidation, or bullying shall be reported
39 verbally to the school principal on the same day when the school
40 employee or contracted service provider witnessed or received reliable
41 information regarding any such incident. The principal shall inform
42 the parents or guardians of all students involved in the alleged
43 incident, and may discuss, as appropriate, the availability of
44 counseling and other intervention services. The principal shall keep a
45 written record of the date, time, and manner of notification to the
46 parents or guardians. All acts of harassment, intimidation, or bullying
47 shall be reported in writing to the school principal within two school
48 days of when the school employee or contracted service provider

1 witnessed or received reliable information that a student had been
2 subject to harassment, intimidation, or bullying. The written report
3 shall be on a numbered form developed by the Department of
4 Education. A copy of the form shall be submitted ¹**['immediately]**
5 promptly¹ by the principal to the superintendent of schools ¹**['and to**
6 **the board of education no later than the date of the board of education**
7 **meeting next following the submission of the copy of the form to the**
8 **superintendent of schools]**¹. The form shall be completed even if a
9 preliminary determination is made under the school district's policy
10 that the reported incident or complaint is a report outside the scope of
11 the definition of harassment, intimidation, or bullying pursuant to
12 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at
13 the school but shall not be included in any student record, unless the
14 incident results in disciplinary action or is otherwise required to be
15 contained in a student's record under State or federal law. ¹**['The**
16 **superintendent and the members of the board of education shall review**
17 **the copy of the form and shall each provide a signed statement to the**
18 **principal attesting to the fact that they have reviewed the copy of the**
19 **form. The signed statement shall be kept on file at the school with the**
20 **original written report]** A redacted copy of the form that removes all
21 student identification information shall be confidentially shared with
22 the board of education after the conclusion of the investigation, if a
23 hearing is requested by a parent or guardian pursuant to subparagraph
24 (d) of paragraph (6) of this subsection¹.

25 The school district shall provide a means for a parent or guardian
26 to complete an online numbered form developed by the Department of
27 Education to confidentially report an incident of harassment,
28 intimidation, or bullying.

29 The principal shall report to the ¹**['board of education]**
30 **superintendent**¹ if a preliminary determination is made under the
31 school district's policy that the reported incident or complaint is a
32 report outside the scope of the definition of harassment, intimidation,
33 or bullying, and the ¹**['board]** superintendent¹ may require the
34 principal to conduct an investigation of the incident, if the ¹**['board]**
35 **superintendent**¹ determines that an investigation is necessary ¹**['because**
36 **the incident is within the scope of the definition of harassment,**
37 **intimidation, or bullying. The superintendent shall notify the principal**
38 **of this determination in writing**¹;

39 (6) a procedure for prompt investigation of reports of violations
40 and complaints, which procedure shall at a minimum provide that:

41 (a) the investigation shall be initiated by the principal or the
42 principal's designee within one school day of the report of the incident
43 and shall be conducted by a school anti-bullying specialist. The
44 principal may appoint additional personnel who are not school anti-
45 bullying specialists to assist in the investigation. The investigation
46 shall be completed as soon as possible, but not later than 10 school
47 days from the date of the written report of the incident of harassment,

1 intimidation, or bullying ¹or from the date of the written notification
2 from the superintendent to the principal to initiate an investigation
3 pursuant to paragraph (5) of this subsection¹. In the event that there is
4 information relative to the investigation that is anticipated but not yet
5 received by the end of the 10-day period, the school anti-bullying
6 specialist may amend the original report of the results of the
7 investigation to reflect the information;

8 (b) the results of the investigation shall be reported to the
9 superintendent of schools within two school days of the completion of
10 the investigation, and in accordance with regulations promulgated by
11 the State Board of Education pursuant to the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
13 superintendent may decide to provide intervention services, establish
14 training programs to reduce harassment, intimidation, or bullying and
15 enhance school climate, impose discipline, order counseling as a result
16 of the findings of the investigation, or take or recommend other
17 appropriate action ¹including seeking further information¹;

18 (c) the results of each investigation shall be reported to the board
19 of education no later than the date of the board of education meeting
20 next following the completion of the investigation, along with
21 information on any services provided, training established, discipline
22 imposed, or other action taken or recommended by the superintendent;

23 (d) parents or guardians of the students who are parties to the
24 investigation shall be entitled to receive information about the
25 investigation, in accordance with federal and State law and regulation,
26 including the nature of the investigation, whether the district found
27 evidence of harassment, intimidation, or bullying, or whether
28 discipline was imposed or services provided to address the incident of
29 harassment, intimidation, or bullying. This information shall be
30 provided in writing within 5 school days after the results of the
31 investigation are reported to the board. A parent or guardian may
32 request a hearing before the board after receiving the information, and
33 the hearing shall be held within 10 days of the request. The board
34 shall meet in executive session for the hearing to protect the
35 confidentiality of the students. At the hearing the board may hear
36 from the school anti-bullying specialist about the incident,
37 recommendations for discipline or services, and any programs
38 instituted to reduce such incidents;

39 (e) at the next board of education meeting following its receipt of
40 the report ¹pursuant to subparagraph (c) of paragraph (6) of this
41 subsection¹, the board shall issue a decision, in writing, to affirm,
42 reject, or modify the superintendent's decision. ¹[In addition, the
43 board may require the investigation to be reopened.]¹ The board's
44 decision may be appealed to the Commissioner of Education, in
45 accordance with the procedures set forth in law and regulation, no later
46 than 90 days after the issuance of the board's decision; and

1 (f) a parent, student, guardian, or organization may file a
2 complaint with the Division on Civil Rights within 180 days of the
3 occurrence of any incident of harassment, intimidation, or bullying
4 based on membership in a protected group as enumerated in the "Law
5 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

6 (7) the range of ways in which a school will respond once an
7 incident of harassment, intimidation or bullying is identified, which
8 shall be defined by the principal in conjunction with the school anti-
9 bullying specialist, but shall include an appropriate combination of
10 services that are available within the district such as counseling,
11 support services, intervention services, and other programs, as defined
12 by the commissioner. In the event that the necessary programs and
13 services are not available within the district, the district may apply to
14 the Department of Education for a grant from the "Bullying Prevention
15 Fund" established pursuant to section 25 of P.L.2010, c.122
16 (C.18A:37-28) to support the provision of out-of-district programs and
17 services;

18 (8) a statement that prohibits reprisal or retaliation against any
19 person who reports an act of harassment, intimidation or bullying and
20 the consequence and appropriate remedial action for a person who
21 engages in reprisal or retaliation;

22 (9) consequences and appropriate remedial action for a person
23 found to have falsely accused another as a means of retaliation or as a
24 means of harassment, intimidation or bullying;

25 (10) a statement of how the policy is to be publicized, including
26 notice that the policy applies to participation in school-sponsored
27 functions;

28 (11) a requirement that a link to the policy be prominently posted
29 on the home page of the school district's website and distributed
30 annually to parents and guardians who have children enrolled in a
31 school in the school district; ¹**["and"]**¹

32 (12) a requirement that the name, school phone number, school
33 address and school email address of the district anti-bullying
34 coordinator be listed on the home page of the school district's website
35 and that on the home page of each school's website the name, school
36 phone number, school address and school email address of the school
37 anti-bullying specialist and the district anti-bullying coordinator be
38 listed. The information concerning the district anti-bullying
39 coordinator and the school anti-bullying specialists shall also be
40 maintained on the department's website ¹; and

41 (13) a requirement that the school district and each school in the
42 district with a website post on its homepage the current version of the
43 document, Guidance for Parents on the Anti-Bullying Bill of Rights
44 Act, developed by the Department of Education. The School Climate
45 State Coordinator shall ensure that this document is updated as needed
46 and then promptly disseminated to all school districts¹.

47 c. A school district shall adopt a policy and transmit a copy of its
48 policy to the appropriate executive county superintendent of schools

1 by September 1, 2003. A school district shall annually conduct a re-
2 evaluation, reassessment, and review of its policy, making any
3 necessary revisions and additions. The board shall include input from
4 the school anti-bullying specialists in conducting its re-evaluation,
5 reassessment, and review. The district shall transmit a copy of the
6 revised policy to the appropriate executive county superintendent of
7 schools within 30 school days of the revision. The first revised policy
8 following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.)
9 shall be transmitted to the executive county superintendent of schools
10 by September 1, 2011.

11 d. (1) To assist school districts in developing policies for the
12 prevention of harassment, intimidation, or bullying, the Commissioner
13 of Education shall develop a model policy applicable to grades
14 kindergarten through 12. This model policy shall be issued no later
15 than December 1, 2002.

16 (2) The commissioner shall adopt amendments to the model policy
17 which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.)
18 no later than 90 days after the effective date of that act and shall
19 subsequently update the model policy as the commissioner deems
20 necessary.

21 e. Notice of the school district's policy shall appear in any
22 publication of the school district that sets forth the comprehensive
23 rules, procedures and standards of conduct for schools within the
24 school district, and in any student handbook.

25 f. Nothing in this section shall prohibit a school district from
26 adopting a policy that includes components that are more stringent
27 than the components set forth in this section.

28 (cf: P.L.2012, c.1, s.1)

29

30 4. (New section) Notwithstanding any other provision of law
31 to the contrary, a parent or guardian having legal custody of a minor
32 who demonstrates willful or wanton disregard in the exercise of the
33 supervision and control of the conduct of a minor adjudicated
34 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,
35 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,
36 may be liable in a civil action.

37

38 5. (New section) There is hereby established within the
39 Department of Education a School Climate State Coordinator to
40 serve as a resource to parents, students, and educators. The duties
41 and responsibilities of the State coordinator shall include:

42 a. Identifying and disseminating research and resources,
43 including professional development resources, to promote best
44 practices in student social-emotional learning and the development
45 of a positive, supportive school climate in New Jersey schools;

46 b. Providing information regarding the provisions and
47 procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002,
48 c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto,

1 relevant provisions of the "Law Against Discrimination," P.L.1945,
2 c.169 (C.10:5-1 et seq.), and other State and federal laws addressing
3 harassment, intimidation, and bullying;

4 c. Reviewing and reporting data collected on harassment,
5 intimidation and bullying pursuant to section 1 of P.L.1982, c.163
6 (C.18A:17-46) to identify and report to the Department of
7 Education any patterns of harassment, intimidation, or bullying in
8 public schools. The department shall review the information
9 provided by the State coordinator to develop guidance and
10 strategies for public schools, parents, school staff, and other
11 agencies, as appropriate;

12 d. Assisting the Department of Education in creating public
13 information programs that educate parents, educators, and the
14 public concerning the duties of the State coordinator, the issue of
15 harassment, intimidation, and bullying, and the resources available
16 to address and prevent harassment, intimidation, and bullying;

17 e. Working collaboratively with law enforcement, the
18 Department of Education, the Division on Civil Rights in the
19 Department of Law and Public Safety, and the Department of
20 Health to develop a training program on the impact of harassment,
21 intimidation, and bullying on students and schools, that will be
22 available for school districts to use in local anti-bullying programs
23 and intervention plans;

24 f. Working collaboratively with law enforcement, including
25 organizations representing school resource officers, to develop
26 resources and training for law enforcement concerning the impact
27 of harassment, intimidation, and bullying on students and schools,
28 and the appropriate role of law enforcement in such matters
29 pursuant to the Uniform Memorandum of Agreement Between
30 Education and Law Enforcement Officials; and

31 g. Annually providing to the Commissioner of Education, the
32 State Board of Education, and pursuant to section 2 of P.L.1991,
33 c.164 (C.52:14-19.1) the Legislature, a report summarizing the
34 activities of the State coordinator, and any specific
35 recommendations concerning school climate best practices and
36 procedures.

37
38 6. (New section) The School Climate State Coordinator shall
39 consider communications received in the course of his duties,
40 including personally identifiable information regarding students,
41 parents, and others from whom information is acquired, as
42 confidential and shall not disclose this information, in accordance
43 with State and federal law.

44
45 7. (New section) The Department of Education shall post in a
46 prominent location on the homepage of its Internet website the
47 contact information for the School Climate State Coordinator. Each
48 school district shall post this information on its website at the same

1 location it makes its policy on harassment, intimidation, and
2 bullying available.

3
4 8. (New section) The School Climate State Coordinator is
5 authorized to call upon any department, office, division, or agency
6 of the State to supply the State coordinator with data and any other
7 information or assistance available to the department, office,
8 division, or agency as the State coordinator deems necessary to
9 discharge the duties under P.L. , c. (C.) (pending before the
10 Legislature as this bill). Each department, office, division, or
11 agency, to the extent not inconsistent with law, shall cooperate fully
12 with the State coordinator within the limits of its statutory
13 authority, and provide such assistance on as timely a basis as is
14 necessary to enable the State coordinator to accomplish his duties
15 pursuant to P.L. , c. (C.) (pending before the Legislature as this
16 act). The State coordinator may consult with experts or other
17 knowledgeable individuals in the public or private sector on any
18 aspect of the State coordinator's mission.

19
20 ¹9. (New section). The Legislature shall appropriate such
21 monies as necessary to fund the position of School Climate State
22 Coordinator established pursuant to section 5 of P.L. , c.
23 (C.) (pending before the Legislature as this bill), and the
24 “Bullying Prevention Fund” established pursuant to section 25 of
25 P.L. 2010, c.122 (C.18A:37-28), and such other monies as
26 necessary to implement the provisions of this act.¹

27
28 ¹**[9.] 10.¹** Sections 1 and 4 of this act shall take effect
29 immediately and the remainder of this act shall take effect on July 1
30 of the first full school year ¹**[next]**¹ following the date of
31 enactment ¹, or 180 days following the date of enactment,
32 whichever is later¹.

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36
37 Revises provisions required in school district's anti-bullying
38 policy; provides for civil liability of parent of minor adjudicated
39 delinquent for cyber-harassment or harassment; and increases
40 certain fines against parents.