

SENATE, No. 293

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

“Mallory’s Law”; revises provisions required in school district’s anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning bullying, designated as Mallory’s Law, revising
2 various parts of the statutory law, and supplementing Title 2A of
3 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.

35 d. A parent or guardian who fails to comply with a condition
36 imposed by the court pursuant to subsection c. of this section is a
37 disorderly person and shall be fined not more than **[\$25]** \$100 for a
38 first offense and not more than **[\$100]** \$500 for each subsequent
39 offense.

40 e. In addition to any other disposition or condition imposed
41 pursuant to this section, a parent or guardian having legal custody
42 of a minor who demonstrates willful or wanton disregard in the
43 exercise of the supervision and control of the conduct of a minor
44 adjudicated delinquent of cyber-harassment pursuant to this section

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.

1 may be liable in a civil action pursuant to section 5 of
2 P.L. ,c. (C.) (pending before the Legislature as this bill).
3 (cf: P.L.2013, c.272, s.1)
4

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

7 1. Any school employee observing or having direct knowledge
8 from a participant or victim of an act of violence shall, in
9 accordance with standards established by the commissioner, file a
10 report describing the incident to the school principal in a manner
11 prescribed by the commissioner, and copy of same shall be
12 forwarded to the district superintendent.

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

35 The report shall be used to grade each school for the purpose of
36 assessing its effort to implement policies and programs consistent
37 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The
38 district shall receive a grade determined by averaging the grades of
39 all the schools in the district. The commissioner shall promulgate
40 guidelines for a program to grade schools for the purposes of this
41 section.

42 The grade received by a school and the district shall be posted on
43 the homepage of the school's website. The grade for the district and
44 each school of the district shall be posted on the homepage of the
45 district's website. A link to the report shall be available on the
46 district's website. The information shall be posted on the websites
47 within 10 days of the receipt of a grade by the school and district.

1 If a school district's policy permits a preliminary determination
2 to be made on whether a reported incident or complaint is a report
3 outside the scope of the definition of harassment, intimidation, or
4 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the
5 superintendent shall also provide to the board of education at the
6 public hearings information on the number of times a preliminary
7 determination was made that an incident or complaint was outside
8 the scope of that definition.

9 Verification of the reports on violence, vandalism, and
10 harassment, intimidation, or bullying shall be part of the State's
11 monitoring of the school district, and the State Board of Education
12 shall adopt regulations that impose a penalty on a school employee
13 who knowingly falsifies the report. A board of education shall
14 provide ongoing staff training, in cooperation with the Department
15 of Education, in fulfilling the reporting requirements pursuant to
16 this section. The majority representative of the school employees
17 shall have access monthly to the number and disposition of all
18 reported acts of school violence, vandalism, and harassment,
19 intimidation, or bullying.

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

21
22 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to
23 read as follows:

24 3. a. Each school district shall adopt a policy prohibiting
25 harassment, intimidation or bullying on school property, at a
26 school-sponsored function or on a school bus. The school district
27 shall adopt the policy through a process that includes representation
28 of parents or guardians, school employees, volunteers, students,
29 administrators, and community representatives.

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

33 (1) a statement prohibiting harassment, intimidation or bullying
34 of a student;

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

38 (3) a description of the type of behavior expected from each
39 student;

40 (4) consequences and appropriate remedial action for a person
41 who commits an act of harassment, intimidation or bullying. The
42 consequences for a student who commits an act of harassment,
43 intimidation, or bullying shall include: for the first act of
44 harassment, intimidation, or bullying committed by a student, a
45 copy of the results of the investigation shall be placed in the
46 student's record and the student may be subject to discipline
47 imposed by the superintendent of schools pursuant to paragraph (6)

1 of subsection b. of this section; for the second act, a copy of the
2 results of the investigation shall be placed in the student's record
3 and the student shall be subject to a plan of disciplinary action
4 established by the superintendent of schools pursuant to paragraph
5 (6) of subsection b. of this section; and for the third and each
6 subsequent act, a copy of the results of the investigation shall be
7 placed in the student's record, and the executive county
8 superintendent shall be informed and shall impose the appropriate
9 discipline and require the student, accompanied by a parent or
10 guardian, to complete, in a satisfactory manner, a class or training
11 program to reduce the tendency toward harassment, intimidation or
12 bullying behavior, as selected by the executive county
13 superintendent. The executive county superintendent may apply for
14 a court order to compel the participation of the student, parent, or
15 guardian in the class or training program and the court may, in its
16 discretion, impose a fine for failure to comply with its order. The
17 executive county superintendent shall also notify the appropriate
18 law enforcement official of a possible violation of the New Jersey
19 Code of Criminal Justice;

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

25 All acts of harassment, intimidation, or bullying shall be reported
26 verbally to the school principal on the same day when the school
27 employee or contracted service provider witnessed or received
28 reliable information regarding any such incident. The principal
29 shall inform the parents or guardians of all students involved in the
30 alleged incident, and may discuss, as appropriate, the availability of
31 counseling and other intervention services. All acts of harassment,
32 intimidation, or bullying shall be reported in writing to the school
33 principal within two school days of when the school employee or
34 contracted service provider witnessed or received reliable
35 information that a student had been subject to harassment,
36 intimidation, or bullying. The written report shall be on a
37 numbered form developed by the Department of Education. The
38 form shall also include information on when each parent or
39 guardian was informed of the alleged incident and the manner in
40 which they were informed. A copy of the form shall be submitted
41 immediately by the principal to the superintendent of schools, the
42 executive county superintendent, and to the parents or guardians of
43 students involved in the alleged incident in accordance with federal
44 and State law and regulation. The form shall be completed even if a
45 preliminary determination is made under the school district's policy
46 that the reported incident or complaint is a report outside the scope
47 of the definition of harassment, intimidation, or bullying pursuant to

1 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file
2 at the school but shall not be included in any student record. If a
3 school district's policy permits a preliminary determination to be
4 made on a reported incident or complaint, that determination shall
5 be made by a safe schools resource officer if one has been assigned
6 to the school by the board of education.

7 The school district shall provide a means for a parent or guardian
8 to complete an online numbered form developed by the Department
9 of Education to confidentially report an incident of harassment,
10 intimidation, or bullying;

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

13 (a) the investigation shall be initiated by the principal or the
14 principal's designee within one school day of the report of the
15 incident and shall be conducted by a school anti-bullying specialist.
16 The principal may appoint additional personnel who are not school
17 anti-bullying specialists to assist in the investigation. The
18 investigation shall be completed as soon as possible, but not later
19 than 10 school days from the date of the written report of the
20 incident of harassment, intimidation, or bullying. In the event that
21 there is information relative to the investigation that is anticipated
22 but not yet received by the end of the 10-day period, the school
23 anti-bullying specialist may amend the original report of the results
24 of the investigation to reflect the information;

25 (b) the results of the investigation shall be reported to the
26 superintendent of schools within two school days of the completion
27 of the investigation, and in accordance with regulations
28 promulgated by the State Board of Education pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
30 1 et seq.), the superintendent may decide to provide intervention
31 services, establish training programs to reduce harassment,
32 intimidation, or bullying and enhance school climate, impose
33 discipline in accordance with the provisions of this section, order
34 counseling as a result of the findings of the investigation, or take or
35 recommend other appropriate action;

36 (c) the results of each investigation shall be reported to the
37 board of education no later than the date of the board of education
38 meeting next following the completion of the investigation, along
39 with information on any services provided, training established,
40 discipline imposed, or other action taken or recommended by the
41 superintendent;

42 (d) parents or guardians of the students who are parties to the
43 investigation shall be entitled to receive information about the
44 investigation, in accordance with federal and State law and
45 regulation, including the nature of the investigation, whether the
46 district found evidence of harassment, intimidation, or bullying, or
47 whether discipline was imposed or services provided to address the

1 incident of harassment, intimidation, or bullying. This information
2 shall be provided in writing within 5 school days after the results of
3 the investigation are reported to the board. A parent or guardian
4 may request a hearing before the board after receiving the
5 information, and the hearing shall be held within 10 days of the
6 request. The board shall meet in executive session for the hearing
7 to protect the confidentiality of the students. At the hearing the
8 board may hear from the school anti-bullying specialist about the
9 incident, recommendations for discipline or services, and any
10 programs instituted to reduce such incidents;

11 (e) at the next board of education meeting following its receipt
12 of the report, the board shall issue a decision, in writing, to affirm,
13 reject, or modify the superintendent's decision. The board's
14 decision may be appealed to the Commissioner of Education, in
15 accordance with the procedures set forth in law and regulation, no
16 later than 90 days after the issuance of the board's decision; and

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

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

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

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

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

44 (11) a requirement that a link to the policy be prominently
45 posted on the home page of the school district's website and
46 distributed annually to parents and guardians who have children
47 enrolled in a school in the school district; and

1 (12) a requirement that the name, school phone number, school
2 address and school email address of the district anti-bullying
3 coordinator be listed on the home page of the school district's
4 website and that on the home page of each school's website the
5 name, school phone number, school address and school email
6 address of the school anti-bullying specialist and the district anti-
7 bullying coordinator be listed. The information concerning the
8 district anti-bullying coordinator and the school anti-bullying
9 specialists shall also be maintained on the department's website.

10 c. A school district shall adopt a policy and transmit a copy of
11 its policy to the appropriate executive county superintendent of
12 schools by September 1, 2003. A school district shall annually
13 conduct a re-evaluation, reassessment, and review of its policy,
14 making any necessary revisions and additions. The board shall
15 include input from the school anti-bullying specialists in conducting
16 its re-evaluation, reassessment, and review. The district shall
17 transmit a copy of the revised policy to the appropriate executive
18 county superintendent of schools within 30 school days of the
19 revision. The first revised policy following the effective date of
20 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the
21 executive county superintendent of schools by September 1, 2011.

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

27 (2) The commissioner shall adopt amendments to the model
28 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-
29 13.1 et al.) no later than 90 days after the effective date of that act
30 and shall subsequently update the model policy as the commissioner
31 deems necessary.

32 e. Notice of the school district's policy shall appear in any
33 publication of the school district that sets forth the comprehensive
34 rules, procedures and standards of conduct for schools within the
35 school district, and in any student handbook.

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

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

40

41 4. Section 17 of P.L.2010, c.122 (C.18A:37-20) is amended to
42 read as follows:

43 17. a. The principal in each school in a school district shall
44 appoint a school anti-bullying specialist. When a safe schools
45 resource officer has been assigned to the school by the board of
46 education, the principal shall appoint that individual to be the
47 school anti-bullying specialist. If a safe schools resource officer

1 has not been assigned to the school, and a school guidance
2 counselor, school psychologist, or another individual similarly
3 trained is currently employed in the school, the principal shall
4 appoint that individual to be the school anti-bullying specialist. If
5 no individual meeting this criteria is currently employed in the
6 school, the principal shall appoint a school anti-bullying specialist
7 from currently employed school personnel. The school anti-
8 bullying specialist shall:

9 (1) chair the school safety team as provided in section 18 of
10 P.L.2010, c.122 (C.18A:37-21);

11 (2) lead the investigation of incidents of harassment,
12 intimidation, and bullying in the school; and

13 (3) act as the primary school official responsible for preventing,
14 identifying, and addressing incidents of harassment, intimidation,
15 and bullying in the school.

16 b. The superintendent of schools shall appoint a district anti-
17 bullying coordinator. The superintendent shall make every effort to
18 appoint an employee of the school district to this position. The
19 district anti-bullying coordinator shall:

20 (1) be responsible for coordinating and strengthening the school
21 district's policies to prevent, identify, and address harassment,
22 intimidation, and bullying of students;

23 (2) collaborate with school anti-bullying specialists in the
24 district, the board of education, and the superintendent of schools to
25 prevent, identify, and respond to harassment, intimidation, and
26 bullying of students in the district;

27 (3) provide data, in collaboration with the superintendent of
28 schools, to the Department of Education regarding harassment,
29 intimidation, and bullying of students; and

30 (4) execute such other duties related to school harassment,
31 intimidation, and bullying as requested by the superintendent of
32 schools.

33 c. The district anti-bullying coordinator shall meet at least
34 twice a school year with the school anti-bullying specialists in the
35 district to discuss and strengthen procedures and policies to prevent,
36 identify, and address harassment, intimidation, and bullying in the
37 district.

38 (cf: P.L.2010, c.122, s.17)

39
40 5. (New section) Notwithstanding any other provision of law
41 to the contrary, a parent or guardian having legal custody of a minor
42 who demonstrates willful or wanton disregard in the exercise of the
43 supervision and control of the conduct of a minor adjudicated
44 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,
45 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,
46 may be liable in a civil action.

6. Sections 1 and 5 of this act shall take effect immediately and the remainder of this act shall take effect on July 1 of the first full school year next following the date of enactment.

STATEMENT

Under current law, all acts of harassment, intimidation, or bullying must be reported in writing to the school principal within two school days of when the school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying. This bill provides that the written report must be on a numbered form developed by the Department of Education. The principal will be responsible for immediately submitting the form to the superintendent of schools, the executive county superintendent, and to the parents or guardians of students involved in the alleged incident in accordance with federal and State law and regulations. Under the provisions of the bill, the form must be completed, even if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.). If a school district's policy permits a preliminary determination to be made on a reported incident or complaint, the determination will be required to be made by a safe schools resource officer, if one has been assigned to the school by the board of education. The bill also requires a school district to provide a means for a parent or guardian to complete an online form to report an incident of harassment, intimidation, or bullying.

Pursuant to the provisions of the bill, the district's anti-bullying policy must include specific consequences for a student who commits an act of harassment, intimidation or bullying. Under the bill, for the first act of harassment, intimidation, or bullying committed by a student, a copy of the results of the investigation will be placed in the student's record and the student may be subject to discipline imposed by the superintendent; for the second act, a copy of the results of the investigation will be placed in the student's record and the student will be subject to a plan of disciplinary action established by the superintendent; and for the third act, a copy of the results of the investigation will be placed in the student's record, and the executive county superintendent will be informed and will impose the appropriate discipline and require the student, accompanied by a parent or guardian, to complete a class or training program to reduce the tendency toward harassment, intimidation or bullying behavior. The executive county superintendent will also notify the appropriate law enforcement

1 official of a possible violation of the New Jersey Code of Criminal
2 Justice.

3 The bill also requires that if a safe schools resource officer has
4 been assigned to a school, that individual must be appointed by the
5 principal to the position of school anti-bullying specialist.
6 Additionally, the bill requires that as part of the information
7 provided by the superintendent of schools twice a year to the board
8 of education regarding acts of violence, vandalism, and bullying
9 which occurred during the previous reporting period, the
10 superintendent will provide the board with information on the
11 number of reports that were determined, pursuant to the district's
12 preliminary determination process, not to meet the statutory
13 definition of bullying.

14 Currently, under the provisions of the cyber-harassment statute,
15 section 1 of P.L.2013, c.272 (C.2C:33-4.1), the court may order a
16 parent or guardian of a minor under the age of 16 who has been
17 adjudicated delinquent of cyber-harassment to attend classes or
18 training with the minor. Failure to comply with these conditions
19 results in a disorderly persons offense and the imposition of a fine
20 of not more than \$25 for a first offense and not more than \$100 for
21 each subsequent offense.

22 The bill would increase the monetary penalty against the parent
23 or guardian for failure to comply with the class or training program
24 as follows: (1) the \$25 fine for a first offense would be increased to
25 \$100; and (2) the \$100 fine for each subsequent offense would be
26 increased to \$500.

27 In addition, civil liability may be imposed on a parent or
28 guardian, having legal custody of the minor, who demonstrates a
29 willful or wanton disregard in the exercise of the supervision and
30 control of a minor adjudicated delinquent of cyber-harassment or
31 harassment.

32 The bill, named Mallory's Law, is in response to the tragic case
33 of 12-year old Mallory Grossman who was subjected to unrelenting
34 bullying at school and online leading up to her suicide. The bill
35 attempts to address this issue by placing more stringent safeguards
36 in the "Anti-Bullying Bill of Rights Act."