

[First Reprint]

SENATE, No. 1790

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

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SYNOPSIS

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

As reported by the Senate Education Committee on December 7, 2020, with amendments.

(Sponsorship Updated As Of: 12/20/2021)

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.

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted December 7, 2020.

1 may be liable in a civil action pursuant to section 4 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 annually to the board of education
6 information on the number of times a preliminary determination
7 was made that an incident or complaint was outside the scope of
8 that definition for the purposes of the State's monitoring of the
9 school district.

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

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

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

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

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

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

36 (2) a definition of harassment, intimidation or bullying no less
37 inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-
38 14);

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

41 (4) consequences and appropriate remedial action for a person
42 who commits an act of harassment, intimidation or bullying. The
43 consequences for a student who commits an act of harassment,
44 intimidation, or bullying may include: for the first act of harassment,
45 intimidation, or bullying committed by a student, a copy of the results
46 of the investigation shall be placed in the student's record and the
47 student may be subject to remedial actions, including the provision of
48 counseling or behavioral intervention services, or discipline, or both,

1 as determined by the principal in consultation with appropriate school
2 staff; for the second act, a copy of the results of the investigation shall
3 be placed in the student's record and the student may be subject to
4 remedial actions, including the provision of counseling or behavioral
5 intervention services, or discipline, or both, as determined by the
6 principal, in consultation with appropriate school staff; and for the
7 third and each subsequent act, a copy of the results of the investigation
8 shall be placed in the student's record, and the principal, in
9 consultation with appropriate school staff, shall develop an individual
10 student intervention plan which shall be approved by the
11 superintendent of schools or the superintendent's designee, and may
12 include remedial actions including counseling or behavioral
13 intervention services, or progressive discipline, or both, and may
14 require the student, accompanied by a parent or guardian, to complete
15 in a satisfactory manner a class or training program to reduce
16 harassment, intimidation or bullying behavior.

17 The superintendent of schools or the superintendent's designee and
18 the principal shall consult law enforcement, as appropriate, pursuant to
19 the provisions of the Uniform State Memorandum of Agreement
20 Between Education and Law Enforcement Officials, if the student's
21 behavior may constitute a possible violation of the New Jersey Code
22 of Criminal Justice;

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

28 All acts of harassment, intimidation, or bullying shall be reported
29 verbally to the school principal on the same day when the school
30 employee or contracted service provider witnessed or received reliable
31 information regarding any such incident. The principal shall inform
32 the parents or guardians of all students involved in the alleged
33 incident, and may discuss, as appropriate, the availability of
34 counseling and other intervention services. The principal shall keep a
35 written record of the date, time, and manner of notification to the
36 parents or guardians. All acts of harassment, intimidation, or bullying
37 shall be reported in writing to the school principal within two school
38 days of when the school employee or contracted service provider
39 witnessed or received reliable information that a student had been
40 subject to harassment, intimidation, or bullying. The written report
41 shall be on a numbered form developed by the Department of
42 Education. A copy of the form shall be submitted ¹**[immediately]**
43 promptly¹ by the principal to the superintendent of schools ¹**[and to**
44 the board of education no later than the date of the board of education
45 meeting next following the submission of the copy of the form to the
46 superintendent of schools]¹. The form shall be completed even if a
47 preliminary determination is made under the school district's policy
48 that the reported incident or complaint is a report outside the scope of

1 the definition of harassment, intimidation, or bullying pursuant to
2 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at
3 the school but shall not be included in any student record, unless the
4 incident results in disciplinary action or is otherwise required to be
5 contained in a student's record under State or federal law. ¹【The
6 superintendent and the members of the board of education shall review
7 the copy of the form and shall each provide a signed statement to the
8 principal attesting to the fact that they have reviewed the copy of the
9 form. The signed statement shall be kept on file at the school with the
10 original written report】 A redacted copy of the form that removes all
11 student identification information shall be confidentially shared with
12 the board of education after the conclusion of the investigation, if a
13 hearing is requested by a parent or guardian pursuant to subparagraph
14 (d) of paragraph (6) of this subsection¹.

15 The school district shall provide a means for a parent or guardian
16 to complete an online numbered form developed by the Department of
17 Education to confidentially report an incident of harassment,
18 intimidation, or bullying.

19 The principal shall report to the ¹【board of education】
20 superintendent¹ if a preliminary determination is made under the
21 school district's policy that the reported incident or complaint is a
22 report outside the scope of the definition of harassment, intimidation,
23 or bullying, and the ¹【board】 superintendent¹ may require the
24 principal to conduct an investigation of the incident, if the ¹【board】
25 superintendent¹ determines that an investigation is necessary ¹because
26 the incident is within the scope of the definition of harassment,
27 intimidation, or bullying. The superintendent shall notify the principal
28 of this determination in writing¹;

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

31 (a) the investigation shall be initiated by the principal or the
32 principal's designee within one school day of the report of the incident
33 and shall be conducted by a school anti-bullying specialist. The
34 principal may appoint additional personnel who are not school anti-
35 bullying specialists to assist in the investigation. The investigation
36 shall be completed as soon as possible, but not later than 10 school
37 days from the date of the written report of the incident of harassment,
38 intimidation, or bullying ¹or from the date of the written notification
39 from the superintendent to the principal to initiate an investigation
40 pursuant to paragraph (5) of this subsection¹. In the event that there is
41 information relative to the investigation that is anticipated but not yet
42 received by the end of the 10-day period, the school anti-bullying
43 specialist may amend the original report of the results of the
44 investigation to reflect the information;

45 (b) the results of the investigation shall be reported to the
46 superintendent of schools within two school days of the completion of
47 the investigation, and in accordance with regulations promulgated by

1 the State Board of Education pursuant to the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
3 superintendent may decide to provide intervention services, establish
4 training programs to reduce harassment, intimidation, or bullying and
5 enhance school climate, impose discipline, order counseling as a result
6 of the findings of the investigation, or take or recommend other
7 appropriate action ¹including seeking further information¹;

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

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

29 (e) at the next board of education meeting following its receipt of
30 the report ¹pursuant to subparagraph (c) of paragraph (6) of this
31 subsection¹, the board shall issue a decision, in writing, to affirm,
32 reject, or modify the superintendent's decision. ¹【In addition, the
33 board may require the investigation to be reopened.】¹ The board's
34 decision may be appealed to the Commissioner of Education, in
35 accordance with the procedures set forth in law and regulation, no later
36 than 90 days after the issuance of the board's decision; and

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

42 (7) the range of ways in which a school will respond once an
43 incident of harassment, intimidation or bullying is identified, which
44 shall be defined by the principal in conjunction with the school anti-
45 bullying specialist, but shall include an appropriate combination of
46 services that are available within the district such as counseling,
47 support services, intervention services, and other programs, as defined

1 by the commissioner. In the event that the necessary programs and
2 services are not available within the district, the district may apply to
3 the Department of Education for a grant from the "Bullying Prevention
4 Fund" established pursuant to section 25 of P.L.2010, c.122
5 (C.18A:37-28) to support the provision of out-of-district programs and
6 services;

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

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

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

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

21 (12) a requirement that the name, school phone number, school
22 address and school email address of the district anti-bullying
23 coordinator be listed on the home page of the school district's website
24 and that on the home page of each school's website the name, school
25 phone number, school address and school email address of the school
26 anti-bullying specialist and the district anti-bullying coordinator be
27 listed. The information concerning the district anti-bullying
28 coordinator and the school anti-bullying specialists shall also be
29 maintained on the department's website ¹; and

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

36 c. A school district shall adopt a policy and transmit a copy of its
37 policy to the appropriate executive county superintendent of schools
38 by September 1, 2003. A school district shall annually conduct a re-
39 evaluation, reassessment, and review of its policy, making any
40 necessary revisions and additions. The board shall include input from
41 the school anti-bullying specialists in conducting its re-evaluation,
42 reassessment, and review. The district shall transmit a copy of the
43 revised policy to the appropriate executive county superintendent of
44 schools within 30 school days of the revision. The first revised policy
45 following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.)
46 shall be transmitted to the executive county superintendent of schools
47 by September 1, 2011.

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

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

11 e. Notice of the school district's policy shall appear in any
12 publication of the school district that sets forth the comprehensive
13 rules, procedures and standards of conduct for schools within the
14 school district, and in any student handbook.

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

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

19
20 4. (New section) Notwithstanding any other provision of law
21 to the contrary, a parent or guardian having legal custody of a minor
22 who demonstrates willful or wanton disregard in the exercise of the
23 supervision and control of the conduct of a minor adjudicated
24 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,
25 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,
26 may be liable in a civil action.

27
28 5. (New section) There is hereby established within the
29 Department of Education a School Climate State Coordinator to
30 serve as a resource to parents, students, and educators. The duties
31 and responsibilities of the State coordinator shall include:

32 a. Identifying and disseminating research and resources,
33 including professional development resources, to promote best
34 practices in student social-emotional learning and the development
35 of a positive, supportive school climate in New Jersey schools;

36 b. Providing information regarding the provisions and
37 procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002,
38 c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto,
39 relevant provisions of the "Law Against Discrimination," P.L.1945,
40 c.169 (C.10:5-1 et seq.), and other State and federal laws addressing
41 harassment, intimidation, and bullying;

42 c. Reviewing and reporting data collected on harassment,
43 intimidation and bullying pursuant to section 1 of P.L.1982, c.163
44 (C.18A:17-46) to identify and report to the Department of
45 Education any patterns of harassment, intimidation, or bullying in
46 public schools. The department shall review the information
47 provided by the State coordinator to develop guidance and

1 strategies for public schools, parents, school staff, and other
2 agencies, as appropriate;

3 d. Assisting the Department of Education in creating public
4 information programs that educate parents, educators, and the
5 public concerning the duties of the State coordinator, the issue of
6 harassment, intimidation, and bullying, and the resources available
7 to address and prevent harassment, intimidation, and bullying;

8 e. Working collaboratively with law enforcement, the
9 Department of Education, the Division on Civil Rights in the
10 Department of Law and Public Safety, and the Department of
11 Health to develop a training program on the impact of harassment,
12 intimidation, and bullying on students and schools, that will be
13 available for school districts to use in local anti-bullying programs
14 and intervention plans;

15 f. Working collaboratively with law enforcement, including
16 organizations representing school resource officers, to develop
17 resources and training for law enforcement concerning the impact
18 of harassment, intimidation, and bullying on students and schools,
19 and the appropriate role of law enforcement in such matters
20 pursuant to the Uniform Memorandum of Agreement Between
21 Education and Law Enforcement Officials; and

22 g. Annually providing to the Commissioner of Education, the
23 State Board of Education, and pursuant to section 2 of P.L.1991,
24 c.164 (C.52:14-19.1) the Legislature, a report summarizing the
25 activities of the State coordinator, and any specific
26 recommendations concerning school climate best practices and
27 procedures.

28

29 6. (New section) The School Climate State Coordinator shall
30 consider communications received in the course of his duties,
31 including personally identifiable information regarding students,
32 parents, and others from whom information is acquired, as
33 confidential and shall not disclose this information, in accordance
34 with State and federal law.

35

36 7. (New section) The Department of Education shall post in a
37 prominent location on the homepage of its Internet website the
38 contact information for the School Climate State Coordinator. Each
39 school district shall post this information on its website at the same
40 location it makes its policy on harassment, intimidation, and
41 bullying available.

42

43 8. (New section) The School Climate State Coordinator is
44 authorized to call upon any department, office, division, or agency
45 of the State to supply the State coordinator with data and any other
46 information or assistance available to the department, office,
47 division, or agency as the State coordinator deems necessary to
48 discharge the duties under P.L. , c. (C.) (pending before the

1 Legislature as this bill). Each department, office, division, or
2 agency, to the extent not inconsistent with law, shall cooperate fully
3 with the State coordinator within the limits of its statutory
4 authority, and provide such assistance on as timely a basis as is
5 necessary to enable the State coordinator to accomplish his duties
6 pursuant to P.L. , c. (C.) (pending before the Legislature as this
7 act). The State coordinator may consult with experts or other
8 knowledgeable individuals in the public or private sector on any
9 aspect of the State coordinator's mission.

10

11 ¹9. (New section). The Legislature shall appropriate such

12 monies as necessary to fund the position of School Climate State

13 Coordinator established pursuant to section 5 of P.L. , c.

14 (C.) (pending before the Legislature as this bill), and the

15 “Bullying Prevention Fund” established pursuant to section 25 of

16 P.L. 2010, c.122 (C.18A:37-28), and such other monies as

17 necessary to implement the provisions of this act.¹

18

19 ¹**[9.]** 10.¹ Sections 1 and 4 of this act shall take effect

20 immediately and the remainder of this act shall take effect on July 1

21 of the first full school year ¹**[next]**¹ following the date of

22 enactment ¹, or 180 days following the date of enactment,

23 whichever is later¹.