

SENATE, No. 3433

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

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Senator A.R.Bucco

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

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

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 P.L. .c.
2 (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)
48 of subsection b. of this section; for the second act, a copy of the

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

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

24 All acts of harassment, intimidation, or bullying shall be reported
25 verbally to the school principal on the same day when the school
26 employee or contracted service provider witnessed or received
27 reliable information regarding any such incident. The principal
28 shall inform the parents or guardians of all students involved in the
29 alleged incident, and may discuss, as appropriate, the availability of
30 counseling and other intervention services. All acts of harassment,
31 intimidation, or bullying shall be reported in writing to the school
32 principal within two school days of when the school employee or
33 contracted service provider witnessed or received reliable
34 information that a student had been subject to harassment,
35 intimidation, or bullying. The written report shall be on a
36 numbered form developed by the Department of Education. The
37 form shall also include information on when each parent or
38 guardian was informed of the alleged incident and the manner in
39 which they were informed. A copy of the form shall be submitted
40 immediately by the principal to the superintendent of schools, the
41 executive county superintendent, and to the parents or guardians of
42 students involved in the alleged incident in accordance with federal
43 and State law and regulation. The form shall be completed even if a
44 preliminary determination is made under the school district's policy
45 that the reported incident or complaint is a report outside the scope
46 of the definition of harassment, intimidation, or bullying pursuant to
47 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file
48 at the school but shall not be included in any student record. If a

1 school district's policy permits a preliminary determination to be
2 made on a reported incident or complaint, that determination shall
3 be made by a safe schools resource officer if one has been assigned
4 to the school by the board of education.

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

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

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

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

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

40 (d) parents or guardians of the students who are parties to the
41 investigation shall be entitled to receive information about the
42 investigation, in accordance with federal and State law and
43 regulation, including the nature of the investigation, whether the
44 district found evidence of harassment, intimidation, or bullying, or
45 whether discipline was imposed or services provided to address the
46 incident of harassment, intimidation, or bullying. This information
47 shall be provided in writing within 5 school days after the results of
48 the investigation are reported to the board. A parent or guardian

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

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

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

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

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

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

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

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

45 (12) a requirement that the name, school phone number, school
46 address and school email address of the district anti-bullying
47 coordinator be listed on the home page of the school district's
48 website and that on the home page of each school's website the

1 name, school phone number, school address and school email
2 address of the school anti-bullying specialist and the district anti-
3 bullying coordinator be listed. The information concerning the
4 district anti-bullying coordinator and the school anti-bullying
5 specialists shall also be maintained on the department's website.

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

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

23 (2) The commissioner shall adopt amendments to the model
24 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-
25 13.1 et al.) no later than 90 days after the effective date of that act
26 and shall subsequently update the model policy as the commissioner
27 deems necessary.

28 e. Notice of the school district's policy shall appear in any
29 publication of the school district that sets forth the comprehensive
30 rules, procedures and standards of conduct for schools within the
31 school district, and in any student handbook.

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

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

36

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

39 17. a. The principal in each school in a school district shall
40 appoint a school anti-bullying specialist. When a safe schools
41 resource officer has been assigned to the school by the board of
42 education, the principal shall appoint that individual to be the
43 school anti-bullying specialist. If a safe schools resource officer
44 has not been assigned to the school, and a school guidance
45 counselor, school psychologist, or another individual similarly
46 trained is currently employed in the school, the principal shall
47 appoint that individual to be the school anti-bullying specialist. If
48 no individual meeting this criteria is currently employed in the

1 school, the principal shall appoint a school anti-bullying specialist
2 from currently employed school personnel. The school anti-
3 bullying specialist shall:

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

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

8 (3) act as the primary school official responsible for preventing,
9 identifying, and addressing incidents of harassment, intimidation,
10 and bullying in the school.

11 b. The superintendent of schools shall appoint a district anti-
12 bullying coordinator. The superintendent shall make every effort to
13 appoint an employee of the school district to this position. The
14 district anti-bullying coordinator shall:

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

18 (2) collaborate with school anti-bullying specialists in the
19 district, the board of education, and the superintendent of schools to
20 prevent, identify, and respond to harassment, intimidation, and
21 bullying of students in the district;

22 (3) provide data, in collaboration with the superintendent of
23 schools, to the Department of Education regarding harassment,
24 intimidation, and bullying of students; and

25 (4) execute such other duties related to school harassment,
26 intimidation, and bullying as requested by the superintendent of
27 schools.

28 c. The district anti-bullying coordinator shall meet at least
29 twice a school year with the school anti-bullying specialists in the
30 district to discuss and strengthen procedures and policies to prevent,
31 identify, and address harassment, intimidation, and bullying in the
32 district.

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

34

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

42

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

STATEMENT

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2
3 Under current law, all acts of harassment, intimidation, or
4 bullying must be reported in writing to the school principal within
5 two school days of when the school employee or contracted service
6 provider witnessed or received reliable information that a student
7 had been subject to harassment, intimidation, or bullying. This bill
8 provides that the written report must be on a numbered form
9 developed by the Department of Education. The principal will be
10 responsible for immediately submitting the form to the
11 superintendent of schools, the executive county superintendent, and
12 to the parents or guardians of students involved in the alleged
13 incident in accordance with federal and State law and regulations.
14 Under the provisions of the bill, the form must be completed, even
15 if a preliminary determination is made under the school district's
16 policy that the reported incident or complaint is a report outside the
17 scope of the definition of harassment, intimidation, or bullying
18 under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83
19 (C.18A:37-13 et seq.). If a school district's policy permits a
20 preliminary determination to be made on a reported incident or
21 complaint, the determination will be required to be made by a safe
22 schools resource officer, if one has been assigned to the school by
23 the board of education. The bill also requires a school district to
24 provide a means for a parent or guardian to complete an online form
25 to report an incident of harassment, intimidation, or bullying.

26 Pursuant to the provisions of the bill, the district's anti-bullying
27 policy must include specific consequences for a student who
28 commits an act of harassment, intimidation or bullying. Under the
29 bill, for the first act of harassment, intimidation, or bullying
30 committed by a student, a copy of the results of the investigation
31 will be placed in the student's record and the student may be subject
32 to discipline imposed by the superintendent; for the second act, a
33 copy of the results of the investigation will be placed in the
34 student's record and the student will be subject to a plan of
35 disciplinary action established by the superintendent; and for the
36 third act, a copy of the results of the investigation will be placed in
37 the student's record, and the executive county superintendent will
38 be informed and will impose the appropriate discipline and require
39 the student, accompanied by a parent or guardian, to complete a
40 class or training program to reduce the tendency toward harassment,
41 intimidation or bullying behavior. The executive county
42 superintendent will also notify the appropriate law enforcement
43 official of a possible violation of the New Jersey Code of Criminal
44 Justice.

45 The bill also requires that if a safe schools resource officer has
46 been assigned to a school, that individual must be appointed by the
47 principal to the position of school anti-bullying specialist.
48 Additionally, the bill requires that as part of the information

1 provided by the superintendent of schools twice a year to the board
2 of education regarding acts of violence, vandalism, and bullying
3 which occurred during the previous reporting period, the
4 superintendent will provide the board with information on the
5 number of reports that were determined, pursuant to the district's
6 preliminary determination process, not to meet the statutory
7 definition of bullying.

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

16 The bill would increase the monetary penalty against the parent
17 or guardian for failure to comply with the class or training program
18 as follows: (1) the \$25 fine for a first offense would be increased to
19 \$100; and (2) the \$100 fine for each subsequent offense would be
20 increased to \$500.

21 In addition, civil liability may be imposed on a parent or
22 guardian, having legal custody of the minor, who demonstrates a
23 willful or wanton disregard in the exercise of the supervision and
24 control of a minor adjudicated delinquent of cyber-harassment or
25 harassment.

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