

House File 490 - Introduced

HOUSE FILE 490
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 39)

A BILL FOR

1 An Act relating to state and school antiharassment and
2 antibullying policies, providing for training for school
3 personnel, establishing a bullying and violence prevention
4 student mentoring pilot program, providing for a school
5 climate and bullying work group, and making appropriations.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.9, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 66. Subject to an appropriation of funds by
4 the general assembly, ensure each school district has access to
5 adequate training on conducting investigations of complaints of
6 incidents of harassment or bullying pursuant to section 280.28
7 by offering such training on an annual basis to at least one
8 employee per district.

9 Sec. 2. NEW SECTION. **256.34 Bullying and violence**
10 **prevention student mentoring pilot program.**

11 1. Subject to an appropriation of funds by the general
12 assembly, the department shall establish a student mentoring
13 pilot program to explore how student leadership can help
14 prevent bullying and violence in schools. The program shall
15 promote best practices for bullying and violence prevention for
16 middle and high school students.

17 2. The department shall establish the program in at least
18 two middle schools and two high schools in the state. The
19 selected schools shall include both urban and rural schools.

20 3. The department shall establish criteria for the
21 selection of participating schools and evaluation of the
22 program.

23 Sec. 3. Section 280.28, subsection 2, paragraphs a and c,
24 Code 2015, are amended to read as follows:

25 *a.* "Electronic" means any communication involving the
26 transmission of information by wire, radio, optical cable,
27 electromagnetic, or other similar means. "Electronic" includes
28 but is not limited to communication via electronic mail,
29 internet-based communications including social networking
30 sites, pager service, cell phones, and electronic text
31 messaging, or any other electronic communication site, device,
32 or means.

33 *c.* "Trait or characteristic of the student" includes but
34 is not limited to age, color, creed, national origin, race,
35 religion, marital status, sex, sexual orientation, gender

1 identity, physical attributes, physical or mental ability or
2 disability, ancestry, political party preference, political
3 belief, socioeconomic status, ~~or~~ behavior, or
4 any other distinguishing characteristic. This paragraph shall
5 be construed broadly to achieve the purposes of this section.

6 Sec. 4. Section 280.28, subsection 3, Code 2015, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. *h.* A procedure for the notification as
9 soon as practicable of the parents or guardians of the alleged
10 targeted students and perpetrators in a reported incident
11 of harassment or bullying. The procedure shall include an
12 exception to the notification requirement if a school official
13 or a student whose parent or guardian would otherwise be
14 notified reasonably believes notification would subject the
15 student to rejection, abuse, or neglect.

16 Sec. 5. Section 280.28, Code 2015, is amended by adding the
17 following new subsections:

18 NEW SUBSECTION. 9. *Authority off school grounds.*

19 *a.* A school official may investigate and impose school
20 discipline in a founded case of harassment or bullying that
21 occurs outside of school, off of school property, or away from
22 a school function or school-sponsored activity if all of the
23 following apply:

24 (1) A parent, guardian, student, school employee, or
25 volunteer reports an incident of harassment or bullying
26 pursuant to the school's policy adopted under subsection 3,
27 paragraph "e".

28 (2) The alleged incident of harassment or bullying has
29 an effect on a student on school grounds that creates an
30 objectively hostile school environment that meets one or more
31 of the conditions set out under subsection 2, paragraph "b".

32 *b.* A school official's investigation and response to an
33 alleged incident of bullying or harassment that occurs outside
34 of school, off of school property, or away from a school
35 function or school-sponsored activity may include referring

1 the matter to appropriate community-based agencies including
2 but not limited to social services agencies, law enforcement
3 agencies, and nonprofit organizations.

4 NEW SUBSECTION. 10. *Rule of construction.* This section
5 shall not be construed to diminish a school administrator's
6 discretion to impose discipline or take other action in the
7 case of an unfounded incident of harassment or bullying if a
8 student's behavior otherwise constitutes student misconduct
9 based on other grounds.

10 Sec. 6. Section 282.18, subsection 11, Code 2015, is amended
11 to read as follows:

12 11. A pupil who participates in open enrollment for purposes
13 of attending a grade in grades nine through twelve in a school
14 district other than the district of residence is ineligible to
15 participate in varsity interscholastic athletic contests and
16 athletic competitions during the pupil's first ninety school
17 days of enrollment in the district except that the pupil may
18 participate immediately in a varsity interscholastic sport if
19 the pupil is entering grade nine for the first time and did
20 not participate in an interscholastic athletic competition for
21 another school or school district during the summer immediately
22 following eighth grade, if the district of residence and the
23 other school district jointly participate in the sport, if the
24 sport in which the pupil wishes to participate is not offered
25 in the district of residence, if the pupil chooses to use
26 open enrollment to attend school in another school district
27 because the district in which the student previously attended
28 school was dissolved and merged with one or more contiguous
29 school districts under section 256.11, subsection 12, if the
30 pupil participates in open enrollment because the pupil's
31 district of residence has entered into a whole grade sharing
32 agreement with another district for the pupil's grade, or if
33 the parent or guardian of the pupil participating in open
34 enrollment is an active member of the armed forces and resides
35 in permanent housing on government property provided by a

1 branch of the armed services, or if the district of residence
2 determines that the pupil was subject to a founded incident
3 of harassment or bullying as defined in section 280.28 while
4 attending school in the district of residence in the current or
5 previous school year and both the district of residence and the
6 other school district agree to allow the pupil to participate
7 immediately in a varsity interscholastic sport. A pupil who
8 has paid tuition and attended school, or has attended school
9 pursuant to a mutual agreement between the two districts,
10 in a district other than the pupil's district of residence
11 for at least one school year is also eligible to participate
12 immediately in interscholastic athletic contests and athletic
13 competitions under this section, but only as a member of a team
14 from the district that pupil had attended. For purposes of
15 this subsection, "*school days of enrollment*" does not include
16 enrollment in summer school. For purposes of this subsection,
17 "*varsity*" means the same as defined in section 256.46.

18 Sec. 7. SCHOOL CLIMATE AND BULLYING WORK GROUP.

19 1. The department of education shall convene a
20 public-private work group of representatives of state and local
21 agencies, citizens, community groups, and organizations who
22 have experience and expertise in the areas of antibullying
23 education, research, and training. The work group, after
24 reviewing existing research, data, and strategies, shall
25 provide recommendations to the department regarding best
26 practices, training, resources, additional research needs,
27 data collection, changes to state law and administrative
28 rules, and any other matters to enhance statewide school
29 climate improvement and bullying prevention, awareness, and
30 intervention.

31 2. The membership of the work group shall include but not be
32 limited to the following, to be appointed by the director:

33 a. At least three Iowans who are experts in research-based
34 antibullying curricula or programs.

35 b. A public high school student and a nonpublic high school

1 student.

2 c. A parent of an elementary or secondary school student.

3 d. A member from nominees submitted by the school
4 administrators of Iowa.

5 e. A member from nominees submitted by the Iowa association
6 of school boards.

7 f. A member from nominees submitted by the Iowa state
8 education association.

9 g. Representatives from any organizations representing
10 other relevant school professionals.

11 h. A representative from a statewide organization that
12 provides research-based training on bullying for school
13 professionals.

14 i. A representative from at least one statewide
15 organization with at least five years' experience in advocating
16 on bullying prevention based on research-based best practices.

17 j. A representative for children placed in foster care.

18 k. A representative of school counselors.

19 l. A member from nominees submitted by the Iowa parent
20 teacher association.

21 3. When making appointments to the work group, the director
22 shall ensure that public, nonpublic, urban, and rural schools
23 are adequately represented by the membership of the work group.

24 4. The work group shall also include two ex officio members
25 of each house of the general assembly. One member each shall
26 be selected by the majority leader of the senate and by the
27 minority leader of the senate, and one member each shall be
28 selected by the speaker of the house of representatives and by
29 the minority leader of the house of representatives. Members
30 of the general assembly shall serve for terms as provided in
31 section 69.16B and shall be entitled to receive per diem and
32 necessary travel and actual expenses pursuant to section 2.10,
33 subsection 5, while carrying out their official duties as
34 members of the work group.

35 5. The department shall convene the work group by October

1 1, 2015. The work group shall submit its findings and
2 recommendations in a final report to the department and the
3 chairpersons and ranking members of the senate and house
4 education committees by December 15, 2016.

5 Sec. 8. APPROPRIATIONS. There is appropriated from the
6 general fund of the state to the department of education
7 for the fiscal year beginning July 1, 2015, and ending June
8 30, 2016, the following amounts, or so much thereof as is
9 necessary, to be used for the purposes designated:

10 1. For the provision of training on conducting
11 investigations of complaints of incidents of harassment or
12 bullying pursuant to section 256.9, subsection 66:
13 \$ 150,000

14 The department shall utilize a request for proposals process
15 to implement the training.

16 2. For the establishment of a bullying and violence
17 prevention student mentoring pilot program pursuant to section
18 256.34:

19 \$ 50,000

20 The department shall utilize a request for proposals process
21 to implement the pilot program.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill requires the director of the department of
26 education, subject to an appropriation of funds by the general
27 assembly, to ensure each school district has access to adequate
28 training on conducting investigations of complaints of
29 incidents of harassment or bullying pursuant to Code section
30 280.28, the state law relating to school antiharassment and
31 antibullying policies, by offering such training on an annual
32 basis to at least one employee per district.

33 The bill requires the department of education, subject to an
34 appropriation of funds by the general assembly, to establish
35 a student mentoring pilot program to explore how student

1 leadership can help prevent bullying and violence in schools.
2 The program shall promote best practices for bullying and
3 violence prevention for middle and high school students. The
4 department must establish the program in at least two middle
5 schools and two high schools, which shall include both urban
6 and rural schools. The department must establish criteria
7 for selection of participating schools and evaluation of the
8 program.

9 The bill modifies the definition of "electronic" under Code
10 section 280.28 by adding any other electronic communication
11 site, device, or means to the definition and by including
12 social networking sites as part of the term "internet-based
13 communications".

14 Under Code section 280.28, subsection 2, "harassment" and
15 "bullying" shall be construed to mean any electronic, written,
16 verbal, or physical act or conduct toward a student which is
17 based on any actual or perceived trait or characteristic of
18 the student and which creates an objectively hostile school
19 environment that meets one or more of certain conditions. The
20 bill modifies the definition of "harassment" and "bullying"
21 under Code section 280.28 by adding behavior or any other
22 distinguishing characteristic to the definition. The bill
23 provides that the definition of "harassment" and "bullying" is
24 to be construed broadly to achieve the purposes of the law.

25 The bill requires school antiharassment and antibullying
26 policies to include a procedure for the notification as soon as
27 practicable of the parents or guardians of the alleged targeted
28 students and perpetrators in a reported incident of harassment
29 or bullying. The procedure must include an exception to the
30 notification requirement if a school official or a student
31 whose parent or guardian would otherwise be notified reasonably
32 believes notification would subject the targeted student to
33 rejection, abuse, or neglect.

34 The bill grants school officials the authority to
35 investigate and impose school discipline or take other action

1 in cases of alleged incidents of harassment or bullying that
2 occur outside of school, off of school property, or away from
3 school functions or school-sponsored activities if certain
4 conditions are met. Those conditions are that a parent,
5 guardian, student, school employee, or volunteer reports an
6 incident of harassment or bullying pursuant to the school's
7 antiharassment and antibullying policy; and that the alleged
8 incident of harassment or bullying has an effect on school
9 grounds that creates an objectively hostile school environment
10 that places the student in reasonable fear of harm to the
11 student's person or property; has a substantially detrimental
12 effect on the student's physical or mental health; has the
13 effect of substantially interfering with a student's academic
14 performance; or has the effect of substantially interfering
15 with the student's ability to participate in or benefit from
16 the services, activities, or privileges provided by a school.

17 The bill provides that a school official's investigation
18 and response to an alleged incident of bullying or harassment
19 that occurs outside of school, off of school property, or away
20 from a school function or school-sponsored activity may include
21 referring the matter to appropriate community-based agencies,
22 including but not limited to social services agencies, law
23 enforcement agencies, and nonprofit organizations.

24 The bill provides that Code section 280.28 shall not be
25 construed to diminish a school administrator's discretion
26 to impose discipline or take other action in the case of an
27 unfounded incident of harassment or bullying if a student's
28 behavior otherwise constitutes student misconduct based on
29 other grounds.

30 Current law provides that a high school student who
31 participates in open enrollment in a school district other
32 than the student's district of residence is ineligible to
33 participate in varsity interscholastic athletic contests and
34 athletic competitions during the student's first 90 school
35 days of enrollment in the district. However, a student may

1 participate in a varsity interscholastic sport immediately upon
2 open enrollment under various exceptions to that requirement.

3 The bill adds an additional exception if a student's
4 district of residence determines that the student was subject
5 to a founded incident of harassment or bullying while attending
6 school in the district of residence in the current or previous
7 school year and both the district of residence and the other
8 school district agree to allow the pupil to participate
9 immediately in a varsity interscholastic sport.

10 The bill requires the department of education to convene
11 a public-private work group of representatives of state and
12 local agencies, citizens, community groups, and organizations
13 who have experience and expertise in the areas of antibullying
14 education, research, and training. The work group, after
15 reviewing existing research, data, and strategies, shall
16 provide recommendations to the department regarding matters
17 to enhance statewide school climate improvement and bullying
18 prevention, awareness, and intervention. The bill provides for
19 membership of the work group to be appointed by the director of
20 the department. When making appointments to the work group,
21 the director must ensure that public, nonpublic, urban, and
22 rural schools are adequately represented by the membership
23 of the work group. The work group shall also include ex
24 officio legislative members. The department must convene the
25 work group by October 1, 2015. The work group must submit
26 its findings and recommendations in a final report to the
27 department and the chairpersons and ranking members of the
28 senate and house education committees by December 15, 2016.

29 The bill appropriates from the general fund of the state to
30 the department of education for fiscal year 2015-2016, \$150,000
31 for the provision of training on conducting investigations of
32 complaints of incidents of harassment or bullying pursuant to
33 the bill.

34 The bill appropriates from the general fund to the
35 department of education for fiscal year 2015-2016, \$50,000 for

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1 the establishment of a bullying and violence prevention student
2 mentoring pilot program pursuant to the bill.

3 The department must utilize a request for proposals process
4 to implement the training and the pilot program.