

House File 2444 - Introduced

HOUSE FILE 2444

BY HALL

A BILL FOR

1 An Act concerning harassment and bullying by students and
2 providing criminal and civil penalties and remedies for
3 failure by parents, guardians, and custodians to prevent
4 such harassment and bullying.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 280.28A Parents of minor students
2 engaging in harassment or bullying — duty to prevent —
3 penalties — harassment or bullying by students prohibited.

4 1. For purposes of this section:

5 a. "Harassment" and "bullying" mean the same as provided in
6 section 280.28, subsection 2.

7 b. "Student" means a student in a public or nonpublic school
8 who is an unemancipated minor child under the age of eighteen
9 years.

10 2. A parent, guardian, or legal or actual custodian of a
11 student shall prevent the student from engaging in harassment
12 or bullying at any time.

13 3. a. If a student engages in harassment or bullying,
14 school officers shall attempt to work with the student and the
15 student's parent, guardian, or legal or actual custodian to
16 find the cause for the student's harassing or bullying behavior
17 and to ensure that the student does not engage in further
18 harassing or bullying behavior. If the parent, guardian, or
19 legal or actual custodian, or student refuses to accept the
20 school's attempt to ensure the student does not engage in
21 further harassing or bullying behavior, or if the school's
22 attempt to ensure the student does not engage in further
23 harassing or bullying behavior is otherwise unsuccessful, the
24 school officers shall refer the matter to the county attorney
25 for mediation under this subsection or prosecution under
26 subsection 4.

27 b. If the matter is referred for mediation, the county
28 attorney shall cause a notice of the referral to be sent to the
29 parent, guardian, or legal or actual custodian and designate
30 a person to serve as mediator in the matter. If mediation
31 services are available in the community, those services may
32 be used as the designated mediation service. If mediation
33 services are not available in the community, mediation shall
34 be provided by the county attorney or the county attorney's
35 designee. The mediator shall contact the school, the parent,

1 guardian, or legal or actual custodian, and any other person
2 the mediator deems appropriate and arrange meeting dates and
3 times for discussion of the student's harassing or bullying
4 behavior. The mediator shall attempt to ascertain the cause
5 of the student's harassing or bullying behavior, attempt to
6 cause the parties to arrive at an agreement to prevent any
7 further harassing or bullying behavior, and initiate referrals
8 to any agencies or counseling that the mediator believes to be
9 appropriate under the circumstances. The mediator may refer a
10 student to the juvenile court if mediation breaks down without
11 an agreement being reached.

12 c. If the parties reach an agreement, the agreement shall
13 be reduced to writing and signed by a school officer, parent,
14 guardian, or legal or actual custodian, and the student. The
15 mediator, the school, and the parent, guardian, or legal or
16 actual custodian shall each receive a copy of the agreement,
17 which shall set forth the resolution of the issues and future
18 responsibilities of each party.

19 d. The school shall be responsible for monitoring any
20 agreements arrived at through mediation. If a parent,
21 guardian, or legal or actual custodian refuses to engage in
22 mediation or violates a term of the agreement, the matter
23 shall be rereferred to the county attorney for prosecution
24 under subsection 4. The county attorney's office or the
25 mediation service shall require the parent, guardian, or legal
26 or actual custodian and the school to pay a fee to help defray
27 the administrative cost of mediation services. The county
28 attorney's office or the mediation service shall establish
29 a sliding scale of fees to be charged parents, guardians,
30 and legal or actual custodians based upon ability to pay. A
31 parent, guardian, or legal or actual custodian shall not be
32 denied the services of a mediator solely because of inability
33 to pay the fee.

34 4. a. A parent, guardian, or legal or actual custodian
35 who violates a mediation agreement under subsection 3, who

1 refuses to participate in mediation under subsection 3, who is
2 referred for prosecution under subsection 3 and is convicted
3 of a violation of subsection 2, or who violates subsection 2,
4 as a first offense, is guilty of a simple misdemeanor. A first
5 offense is punishable by imprisonment not exceeding ten days
6 or a fine not exceeding one hundred dollars. The court may
7 order the person to perform not more than forty hours of unpaid
8 community service instead of any fine or imprisonment.

9 *b.* A parent, guardian, or legal or actual custodian who
10 violates a mediation agreement under subsection 3, who refuses
11 to participate in mediation under subsection 3, who is referred
12 for prosecution under subsection 3 and is convicted of a
13 violation of subsection 2, or who violates subsection 2, as a
14 second offense, is guilty of a serious misdemeanor. A second
15 offense is punishable by imprisonment not exceeding twenty days
16 or a fine not exceeding five hundred dollars, or both a fine
17 and imprisonment. The court may order the person to perform
18 unpaid community service instead of any fine or imprisonment.

19 *c.* A parent, guardian, or legal or actual custodian
20 who violates a mediation agreement under subsection 3, who
21 refuses to participate in mediation under subsection 3, who is
22 referred for prosecution under subsection 3 and is convicted
23 of a violation of subsection 2, or who violates subsection
24 2, as a third or subsequent offense, is guilty of a serious
25 misdemeanor. A third or subsequent offense is punishable by
26 imprisonment not exceeding thirty days or a fine not exceeding
27 one thousand dollars, or both a fine and imprisonment. The
28 court may order the person to perform unpaid community service
29 instead of any fine or imprisonment.

30 5. *a.* In lieu of a criminal proceeding under this section,
31 a county attorney may bring a civil action against a parent,
32 guardian, or legal or actual custodian who violates a mediation
33 agreement under subsection 3, who refuses to participate in
34 mediation under subsection 3, who is referred for prosecution
35 under subsection 3 and is convicted of a violation of

1 subsection 2, or who violates subsection 2. If the court finds
2 that a parent, guardian, or legal or actual custodian has
3 violated a mediation agreement under subsection 3, has refused
4 to participate in mediation under subsection 3, was referred
5 for prosecution under subsection 3 and was convicted of a
6 violation of subsection 2, or has violated subsection 2, the
7 court shall assess a civil penalty of not less than one hundred
8 but not more than one thousand dollars against the parent,
9 guardian, or legal or actual custodian for each violation.

10 *b.* Funds received from civil penalties assessed pursuant
11 to this section shall be paid to the school district of
12 residence or school district of enrollment, if open enrolled,
13 or nonpublic school of the student who engaged in the harassing
14 or bullying behavior. The school district or nonpublic school
15 shall use moneys received under this subsection to support
16 programs to prevent harassment and bullying.

17 6. An individual enrolled in a public or nonpublic school
18 shall not engage in harassment or bullying at any time.

19 EXPLANATION

20 This bill provides that a parent, guardian, or legal or
21 actual custodian of a public or nonpublic school student who is
22 an unemancipated minor child under the age of 18 years shall
23 prevent the student from engaging in harassment or bullying at
24 any time.

25 The bill provides that if a student engages in harassment
26 or bullying, school officers shall attempt to work with the
27 student and the student's parent, guardian, or legal or actual
28 custodian to find the cause for the student's harassing or
29 bullying behavior and to ensure that the student does not
30 engage in further harassing or bullying behavior. The bill
31 provides that if the parent, guardian, or legal or actual
32 custodian, or student refuses to accept the school's attempt
33 to ensure the student does not engage in further harassing
34 or bullying behavior, or if the school's attempt to ensure
35 the student does not engage in further harassing or bullying

1 behavior is otherwise unsuccessful, the school officers shall
2 refer the matter to the county attorney for mediation or
3 prosecution under the bill.

4 The bill provides that if the matter is referred for
5 mediation, the county attorney shall cause a notice of the
6 referral to be sent to the parent, guardian, or legal or actual
7 custodian and designate a person to serve as mediator in the
8 matter. The bill provides that the mediator shall contact the
9 school, the parent, guardian, or legal or actual custodian,
10 and any other person the mediator deems appropriate and
11 arrange meeting dates and times for discussion of the student's
12 harassing or bullying behavior. The bill provides that the
13 mediator shall attempt to ascertain the cause of the student's
14 harassing or bullying behavior, attempt to cause the parties
15 to arrive at an agreement to prevent any further harassing or
16 bullying behavior, and initiate referrals to any agencies or
17 counseling that the mediator believes to be appropriate under
18 the circumstances. The bill provides that the mediator may
19 refer a student to the juvenile court if mediation breaks down
20 without an agreement being reached.

21 The bill provides that if the parties reach an agreement, the
22 agreement shall be reduced to writing, shall be signed by all
23 parties, and shall set forth the resolution of the issues and
24 future responsibilities of each party.

25 The bill provides that the student's school shall be
26 responsible for monitoring any agreements arrived at through
27 mediation. The bill provides that if a parent, guardian,
28 or legal or actual custodian refuses to engage in mediation
29 or violates a term of the agreement, the matter shall be
30 rereferred to the county attorney for prosecution under the
31 bill.

32 The bill establishes criminal penalties for a parent,
33 guardian, or legal or actual custodian who violates a mediation
34 agreement, who refuses to participate in mediation, who is
35 referred for prosecution and is convicted of failing to prevent

1 a student from engaging in harassing or bullying behavior, or
2 who fails to prevent a student from engaging in harassing or
3 bullying behavior. A first offense is a simple misdemeanor,
4 punishable by imprisonment not exceeding 10 days or a fine not
5 exceeding \$100. A second offense is a serious misdemeanor,
6 punishable by imprisonment not exceeding 20 days or a fine
7 not exceeding \$500, or both a fine and imprisonment. A third
8 or subsequent offense is a serious misdemeanor, punishable by
9 imprisonment not exceeding 30 days or a fine not exceeding
10 \$1,000, or both a fine and imprisonment. The bill provides
11 that a court may order the offender to perform unpaid community
12 service instead of any fine or imprisonment.

13 The bill provides that in lieu of a criminal proceeding,
14 a county attorney may bring a civil action against a parent,
15 guardian, or legal or actual custodian for violating a
16 mediation agreement, refusing to participate in mediation,
17 being referred for prosecution and convicted of failing to
18 prevent a student from engaging in harassing or bullying
19 behavior, or failing to prevent a student from engaging in
20 harassing or bullying behavior. The bill provides that the
21 court shall assess a civil penalty of not less than \$100 but
22 not more than \$1,000 against the parent, guardian, or legal
23 or actual custodian for each violation. The bill provides
24 that funds received from civil penalties assessed pursuant to
25 the bill shall be paid to the school district of residence or
26 school district of enrollment, if open enrolled, or nonpublic
27 school of the student who engaged in the harassing or bullying
28 behavior. The bill provides that the school district or
29 nonpublic school shall use such funds to support programs to
30 prevent harassment and bullying.

31 The bill prohibits individuals enrolled in public or
32 nonpublic schools from engaging in harassment or bullying at
33 any time.

34 Code section 280.28, subsection 2, paragraph "b", defines
35 "harassment" or "bullying" to mean any electronic, written,

1 verbal, or physical act or conduct toward a student which is
2 based on any actual or perceived trait or characteristic of
3 the student and which creates an objectively hostile school
4 environment that places the student in reasonable fear of
5 harm to the student's person or property; has a substantially
6 detrimental effect on the student's physical or mental health;
7 has the effect of substantially interfering with a student's
8 academic performance; or has the effect of substantially
9 interfering with the student's ability to participate in or
10 benefit from the services, activities, or privileges provided
11 by a school.