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# A BILL FOR AN ACT

RELATING TO BULLYING AND CYBERBULLYING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that bullying and  
2 cyberbullying among students have a detrimental effect on  
3 academic achievement as well as the psychological, social, and  
4 physical well-being of students K-12. Bullying also directly  
5 affects students' attitudes toward school, school attendance,  
6 and academic achievement. According to a June 25, 2007 report  
7 from the department of education safe schools community advisory  
8 committee entitled "Recommendations for Addressing Harassment in  
9 Hawaii Public Schools", bullying and harassment are common  
10 features of American school life. A 2003 nationally  
11 representative study of sixth to tenth grade students found that  
12 in the previous year thirteen per cent had engaged in bullying  
13 behaviors, eleven per cent had been victims, and six per cent  
14 had been victims and had engaged in bullying behaviors.

15           The purpose of this Act is to provide greater protection  
16 for Hawaii's children, both in and out of school settings, by:

17           (1) Establishing a bullying and cyberbullying policy for  
18           all public schools;



- 1 (2) Requiring implementation of the policy in all public  
2 schools;
- 3 (3) Establishing bullying and cyberbullying reporting  
4 requirements for all public and private schools;
- 5 (4) Requiring the department of education and the charter  
6 school review panel to each submit an annual report to  
7 the legislature on the status of the implementation of  
8 the policy established pursuant to this Act,  
9 statistics on bullying and cyberbullying, and the  
10 impact of the policy on bullying and cyberbullying in  
11 the schools; and
- 12 (5) Establishing a misdemeanor offense of bullying or  
13 cyberbullying a minor.

14 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "§302A- Bullying and cyberbullying; policy; reporting.

18 (a) No student shall be subjected to bullying or cyberbullying:

19 (1) During any education program or activity;

20 (2) While in school, on school equipment or property, in

21 school vehicles, on school buses, at designated school



1 bus stops, at school-sponsored activities, and at  
2 school-sanctioned events; or

3 (3) Through the use of data, telephone or computer  
4 software that is accessed through a computer, computer  
5 system, or computer network of any public school.

6 (b) The department of education shall adopt rules to  
7 implement a policy prohibiting bullying and cyberbullying, as  
8 defined in subsection (f). The department shall involve  
9 students, parents, legal guardians, administrators, school  
10 staff, school volunteers, community representatives, and local  
11 law enforcement agencies in the process of adopting the policy.  
12 The department's policy shall be implemented in a manner that is  
13 ongoing throughout the school year and integrated with a  
14 school's curriculum, discipline policies, and other violence  
15 prevention efforts.

16 (c) The policy adopted by the department pursuant to  
17 subsection (b) shall contain, at a minimum, the following  
18 components:

19 (1) Notice of the policy, which shall include:

20 (A) A statement prohibiting bullying or  
21 cyberbullying, as defined in subsection (f);



- 1           (B) A statement prohibiting retaliation or false  
2           accusation against a student target, witness, or  
3           individual with reliable information about an act  
4           of bullying or cyberbullying;
- 5           (C) A requirement that all students are protected  
6           regardless of their status under the law;
- 7           (D) A statement of how the policy is to be  
8           publicized, including requirements that:
  - 9           (i) Annual written notice of the policy shall be  
10           provided to parents, legal guardians, staff,  
11           volunteers, and students, with age  
12           appropriate language for students;
  - 13           (ii) Posting of the policy in several locations  
14           in each public school, including but not  
15           limited to cafeterias, school bulletin  
16           boards, and administration offices, and the  
17           department's website; and
  - 18           (iii) Inclusion of the policy in all student  
19           conduct and employee handbooks;
- 20           (E) A procedure for providing immediate notification  
21           to the parents or legal guardian of a victim of  
22           bullying or cyberbullying and the parents or



1                   legal guardian of the perpetrator of the bullying  
2                   or cyberbullying;

3           (F)   The identification by job title of school  
4                   officials responsible for ensuring that the  
5                   policy is implemented;

6           (G)   A statement that the policy will apply to an  
7                   electronic communication whether or not the  
8                   bullying or cyberbullying originated on school  
9                   property or with school equipment; provided that:

10           (i)   The bullying or cyberbullying act can be  
11                   reasonably expected to have the effect of:

12                   (aa) Harming a student, damaging the  
13                           student's property, or placing a  
14                           student in reasonable fear of harm or  
15                           damage to the student's property; and

16                   (bb) Insulting or demeaning any student or  
17                           group of students in such a way as to  
18                           cause substantial disruption in or  
19                           substantial interference with the  
20                           orderly operation of the school; or

21           (ii)   The bullying or cyberbullying act is  
22                   directed specifically at students with the



1 intended purpose of disrupting school, and  
2 the act has a high likelihood of succeeding  
3 in that purpose;

4 (2) Reporting and investigation procedures and  
5 requirements, which shall include:

6 (A) A procedure for reporting an act of bullying or  
7 cyberbullying, including a provision that permits  
8 a person to report a bullying or cyberbullying  
9 act anonymously; provided that no formal  
10 disciplinary action shall be taken solely on the  
11 basis of an anonymous report;

12 (B) A requirement that any school employee that has  
13 reliable information which would lead a  
14 reasonable person to suspect that a student is a  
15 target of bullying or cyberbullying immediately  
16 report the information to the principal or the  
17 principal's designee;

18 (C) A procedure for each school to document any  
19 prohibited incident that is reported and a  
20 procedure to report all incidents of bullying or  
21 cyberbullying and the resulting consequences,



- 1 including discipline and referrals, to the board  
2 on a semi-annual basis;
- 3 (D) A procedure for reporting to law enforcement all  
4 acts of bullying or cyberbullying that may  
5 constitute criminal activity; and
- 6 (E) A procedure for prompt investigation of reports  
7 of violations and complaints, identifying either  
8 the principal or the principal's designee as the  
9 person responsible for the investigation;
- 10 (3) Penalties, remedies, and victim assistance that  
11 include:
- 12 (A) Penalties, consequences, and appropriate remedial  
13 action for a student who commits an act of  
14 bullying or cyberbullying;
- 15 (B) Penalties, consequences, and appropriate remedial  
16 action for a student found to have falsely  
17 accused another as a means of retaliation,  
18 reprisal, or as a means of bullying or  
19 cyberbullying;
- 20 (C) A strategy for providing counseling or referral  
21 to appropriate services, including guidance,  
22 academic intervention, and protection to student



1 targets and perpetrators, and appropriate family  
2 members affected by bullying or cyberbullying, as  
3 necessary;

4 (D) A statement encouraging public schools to form  
5 bullying prevention task forces, programs, and  
6 other initiatives involving school staff,  
7 students, administrators, volunteers, parents,  
8 legal guardians, law enforcement, community  
9 members, and other stakeholders; and

10 (4) Training and assessment, including the following  
11 educational programs to prevent bullying or  
12 cyberbullying:

13 (A) Annual training for administrators, school  
14 employees, and volunteers who have significant  
15 contact with students in preventing, identifying,  
16 responding to, and reporting incidents of  
17 bullying or cyberbullying; and

18 (B) An educational program for students, parents, and  
19 legal guardians in preventing, identifying,  
20 responding to, and reporting incidents of  
21 bullying or cyberbullying.





1       (d) Nothing in this section shall be construed to prohibit  
2 or prevent a teacher, official, or other employee or volunteer  
3 of the department from reporting other offenses to the principal  
4 or the principal's designee.

5       (e) A student, parent, legal guardian, teacher, official,  
6 or other employee or volunteer of the department who promptly  
7 reports in good faith an act of bullying or cyberbullying to the  
8 appropriate school official designated in the department's  
9 policy and who makes this report in compliance with the  
10 procedures set forth in the policy is immune from a cause of  
11 action for damages arising out of the reporting itself or any  
12 failure to remedy the reported incident.

13       (f) For the purposes of this section:

14       "Bullying" or "cyberbullying" means any written, verbal, or  
15 physical act, or any electronic communication including but not  
16 limited to a communication shown to be motivated by a student's  
17 actual or perceived race, color, religion, national origin,  
18 ancestry or ethnicity, sexual orientation, physical, mental,  
19 emotional, or learning disability, gender, gender identity and  
20 expression, or other distinguishing personal characteristic,  
21 when the written, verbal, or physical act or electronic  
22 communication is intended to:



1       (1) Physically harm a student or damage the student's  
2       property;

3       (2) Substantially interfere with a student's educational  
4       opportunities;

5       (3) Be so severe, persistent, or pervasive that it creates  
6       an intimidating or threatening educational  
7       environment; or

8       (4) Substantially disrupt the orderly operation of the  
9       school.

10       "Electronic communication" means any communication through  
11       an electronic device including but not limited to a telephone,  
12       cellular phone, computer, or pager, which communication includes  
13       but is not limited to electronic mail (e-mail), instant  
14       messaging, text messages, blogs, mobile phones, pagers, online  
15       games, and websites.

16       (g) The department shall submit an annual report to the  
17       legislature that shall include the status of the implementation  
18       of the policy established pursuant to this section, statistics  
19       on bullying and cyberbullying, and the policy's impact on  
20       bullying and cyberbullying in schools no later than twenty days  
21       prior to the convening of each regular session of the  
22       legislature."



1 SECTION 3. Chapter 302B, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§302B- Bullying and cyberbullying; policy; reporting.

5 (a) No student shall be subjected to bullying or cyberbullying:

6 (1) During any education program or activity;

7 (2) While in school, on school equipment or property, in

8 school vehicles, on school buses, at designated school

9 bus stops, at school-sponsored activities, and at

10 school-sanctioned events; or

11 (3) Through the use of data, telephone or computer

12 software that is accessed through a computer, computer

13 system, or computer network of any public charter

14 school.

15 (b) The panel shall adopt rules to implement a policy

16 prohibiting bullying and cyberbullying, as defined in subsection

17 (f). The panel shall involve students, parents, legal

18 guardians, administrators, school staff, school volunteers,

19 community representatives, and local law enforcement agencies in

20 the process of adopting the policy. The panel's policy shall be

21 implemented in a manner that is ongoing throughout the school



1 year and integrated with a charter school's curriculum,  
2 discipline policies, and other violence prevention efforts.

3 (c) The policy adopted by the panel pursuant to subsection  
4 (b) shall contain, at a minimum, the following components:

5 (1) Notice of the policy, which shall include:

6 (A) A statement prohibiting bullying or  
7 cyberbullying, as defined in subsection (f);

8 (B) A statement prohibiting retaliation or false  
9 accusation against a student target, witness, or  
10 individual with reliable information about an act  
11 of bullying or cyberbullying;

12 (C) A requirement that all students are protected  
13 regardless of their status under the law;

14 (D) A statement of how the policy is to be  
15 publicized, including requirements that:

16 (i) Annual written notice of the policy shall be  
17 provided to parents, legal guardians, staff,  
18 volunteers, and students, with age  
19 appropriate language for students;

20 (ii) Posting of the policy in several locations  
21 in each charter school, including but not  
22 limited to cafeterias, school bulletin



- 1                   boards, and administration offices, and the
- 2                   office's website; and
- 3            (iii) Inclusion of the policy in all student
- 4                   conduct and employee handbooks;
- 5            (E) A procedure for providing immediate notification
- 6                   to the parents or legal guardian of a victim of
- 7                   bullying or cyberbullying and the parents or
- 8                   legal guardian of the perpetrator of the bullying
- 9                   or cyberbullying;
- 10           (F) The identification by job title of school
- 11                   officials responsible for ensuring that the
- 12                   policy is implemented;
- 13           (G) A statement that the policy will apply to an
- 14                   electronic communication whether or not the
- 15                   bullying or cyberbullying originated on school
- 16                   property or with school equipment; provided that:
- 17                (i) The bullying or cyberbullying act can be
- 18                   reasonably expected to have the effect of:
- 19                    (aa) Harming a student, damaging the
- 20                           student's property, or placing a
- 21                           student in reasonable fear of harm or
- 22                           damage to the student's property; and



1                    (bb) Insulting or demeaning any student or  
2                    group of students in such a way as to  
3                    cause substantial disruption in or  
4                    substantial interference with the  
5                    orderly operation of the school; or

6                    (ii) The bullying or cyberbullying act is  
7                    directed specifically at students with the  
8                    intended purpose of disrupting school, and  
9                    the act has a high likelihood of succeeding  
10                   in that purpose;

11                   (2) Reporting and investigation procedures and  
12                   requirements, which shall include:

13                   (A) A procedure for reporting an act of bullying or  
14                   cyberbullying, including a provision that permits  
15                   a person to report a bullying or cyberbullying  
16                   act anonymously; provided that no formal  
17                   disciplinary action shall be taken solely on the  
18                   basis of an anonymous report;

19                   (B) A requirement that any school employee that has  
20                   reliable information which would lead a  
21                   reasonable person to suspect that a student is a  
22                   target of bullying or cyberbullying immediately



1 report the information to the principal or the  
2 principal's designee;

3 (C) A procedure for each school to document any  
4 prohibited incident that is reported and a  
5 procedure to report all incidents of bullying or  
6 cyberbullying and the resulting consequences,  
7 including discipline and referrals, to the panel  
8 on a semi-annual basis;

9 (D) A procedure for reporting to law enforcement all  
10 acts of bullying or cyberbullying that may  
11 constitute criminal activity; and

12 (E) A procedure for prompt investigation of reports  
13 of violations and complaints, identifying either  
14 the principal or the principal's designee as the  
15 person responsible for the investigation;

16 (3) Penalties, remedies, and victim assistance that  
17 include:

18 (A) Penalties, consequences, and appropriate remedial  
19 action for a student who commits an act of  
20 bullying or cyberbullying;

21 (B) Penalties, consequences, and appropriate remedial  
22 action for a student found to have falsely



1 accused another as a means of retaliation,  
2 reprisal, or as a means of bullying or  
3 cyberbullying;

4 (C) A strategy for providing counseling or referral  
5 to appropriate services, including guidance,  
6 academic intervention, and protection to student  
7 targets and perpetrators, and appropriate family  
8 members affected by bullying or cyberbullying, as  
9 necessary;

10 (D) A statement encouraging charter schools to form  
11 bullying prevention task forces, programs, and  
12 other initiatives involving school staff,  
13 students, administrators, volunteers, parents,  
14 legal guardians, law enforcement, community  
15 members, and other stakeholders; and

16 (4) Training and assessment, including the following  
17 educational programs to prevent bullying or  
18 cyberbullying:

19 (A) Annual training for administrators, school  
20 employees, and volunteers who have significant  
21 contact with students in preventing, identifying,





1                   responding to, and reporting incidents of  
2                   bullying or cyberbullying; and  
3           (B) An educational program for students, parents, and  
4                   legal guardians in preventing, identifying,  
5                   responding to, and reporting incidents of  
6                   bullying or cyberbullying.

7           (d) Nothing in this section shall be construed to prohibit  
8 or prevent a teacher, official, or other employee or volunteer  
9 of the department from reporting other offenses to the principal  
10 or the principal's designee.

11           (e) A student, parent, legal guardian, teacher, official,  
12 or other employee or volunteer of the department who promptly  
13 reports in good faith an act of harassment, intimidation,  
14 bullying or cyberbullying to the appropriate school official  
15 designated in the panel's policy and who makes this report in  
16 compliance with the procedures set forth in the policy is immune  
17 from a cause of action for damages arising out of the reporting  
18 itself or any failure to remedy the reported incident.

19           (f) For the purposes of this section:  
20           "Bullying" or "cyberbullying" shall have the same meaning  
21 as in section 302A- (f).



1       "Electronic communication" shall have the same meaning as  
2 in section 302A- (f).

3       (g) The panel shall submit an annual report to the  
4 legislature that shall include the status of the implementation  
5 of the policy established pursuant to this section, statistics  
6 on bullying and cyberbullying, and the policy's impact on  
7 bullying and cyberbullying in schools no later than twenty days  
8 prior to the convening of each regular session of the  
9 legislature."

10       SECTION 4. Chapter 302C, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13       "§302C- Bullying and cyberbullying; reporting. (a) All  
14 private schools shall report to their respective county police  
15 departments any bullying or cyberbullying that occurs:

- 16       (1) During any education program or activity;  
17       (2) While in school, on school equipment or property, in  
18       school vehicles, on school buses, and at designated  
19       school bus stops, at school-sponsored activities, and  
20       at school-sanctioned events; or



1       (3) Through the use of data, telephone or computer  
2       software that is accessed through a computer, computer  
3       system, or computer network of any private school.

4       (b) For the purposes of this section:

5       "Bullying" or "cyberbullying" shall have the same meaning  
6       as in section 302A- (f)."

7       SECTION 5. Chapter 707, Hawaii Revised Statutes, is  
8       amended by adding a new section to be appropriately designated  
9       and to read as follows:

10       "§707- Bullying or cyberbullying of a minor. (1) Any  
11       person who intentionally bullies or cyberbullies:

12       (a) A minor known by the person to be under the age of  
13       eighteen years;

14       (b) Another person, in reckless disregard of the risk that  
15       the other person may be under the age of eighteen  
16       years, and the other person is under the age of  
17       eighteen years; or

18       (c) Another person represented through electronic  
19       communication to be under the age of eighteen years,  
20       is guilty of bullying or cyberbullying a minor.

21       (2) For the purpose of this section:



1       "Bullying" or "cyberbullying" means any written, verbal, or  
2 physical act, or any electronic communication including but not  
3 limited to a communication shown to be motivated by a minor's  
4 actual or perceived race, color, religion, national origin,  
5 ancestry or ethnicity, sexual orientation, physical, mental,  
6 emotional, or learning disability, gender, gender identity and  
7 expression, or other distinguishing personal characteristic,  
8 when the written, verbal, or physical act or electronic  
9 communication is intended to:

10       (a) Physically harm a minor or damage the minor's  
11 property; or

12       (b) Be so severe, persistent, or pervasive that it creates  
13 an intimidating or threatening environment.

14       "Electronic communication" shall have the same meaning as  
15 in section 302A- (f).

16       "Minor" means any person under the age of eighteen years.

17       (3) Bullying or cyberbullying a minor is a misdemeanor."

18       SECTION 6. Section 302A-1002, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**[+]§302A-1002[+]** Reporting of crime-related incidents.

21 The board shall adopt rules pursuant to chapter 91 to:



- 1           (1) Require a report to appropriate authorities from a  
2           teacher, official, or other employee of the department  
3           who knows or has reason to believe that an act has  
4           been committed or will be committed, which:
- 5           (A) Occurred or will occur on school property during  
6           school hours or during activities supervised by  
7           the school; and
- 8           (B) Involves crimes relating to arson, assault,  
9           bullying or cyberbullying, as defined in section  
10           302A- (f), burglary, disorderly conduct,  
11           dangerous weapons, dangerous drugs, harmful  
12           drugs, extortion, firearms, gambling, harassment,  
13           intoxicating drugs, marijuana or marijuana  
14           concentrate, murder, attempted murder, sexual  
15           offenses, rendering a false alarm, criminal  
16           property damage, robbery, terroristic  
17           threatening, theft, or trespass;
- 18           (2) Establish procedures for disposing of any incident  
19           reported; and
- 20           (3) Impose, in addition to any other powers or authority  
21           the department may have to discipline school  
22           officials, appropriate disciplinary action for failure



1 to report these incidents, including probation,  
2 suspension, demotion, and discharge of school  
3 officials."

4 SECTION 7. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

10



**Report Title:**

Bullying; Cyberbullying

**Description:**

Establishes a bullying and cyberbullying policy for all public schools. Requires implementation of the policy in all public schools. Establishes bullying and cyberbullying reporting requirements for all public and private schools. Establishes a misdemeanor offense of bullying or cyberbullying a minor. Defines "bullying" and "cyberbullying". Requires the department of education and the charter school review panel to report to the legislature annually. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

