



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0578/2
TKK&CMH:jld

2015 ASSEMBLY BILL 496

November 10, 2015 - Introduced by Representatives KAHL, KESSLER, GENRICH, GOYKE, MILROY, BERCEAU, SUBECK, CONSIDINE, WACHS and C. TAYLOR, cosponsored by Senators RINGHAND, LASSA and C. LARSON. Referred to Committee on Education.

1 **AN ACT** *to renumber and amend* 947.0125 (1), 947.0125 (2) (a) and 947.0125
2 (3) (a); *to amend* 118.46 (1) (intro.), 118.46 (1) (a) 1. and 118.46 (2); and *to*
3 **create** 118.46 (1) (a) 11. and 12., 947.0125 (1) (b), 947.0125 (2) (a) 2. and
4 947.0125 (3) (a) 2. of the statutes; **relating to:** school bullying, unlawful use of
5 computer systems, and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Public Instruction (DPI) to develop a model school policy on bullying by pupils and requires each school board to adopt a policy prohibiting bullying. A school board may adopt DPI's model policy. The model policy must include certain elements. For example, it must define bullying; identify the property owned, leased, or used by the school district on which the policy applies; and require that school district officials and employees report incidents of bullying.

This bill requires that the definition of bullying in DPI's model policy include bullying by electronic means. The bill also requires that the model policy include a requirement that a school district official who has reasonable cause to suspect that a bullying incident is a violation of a criminal law report the incident to a law enforcement agency. Finally, the bill requires the model policy to address appropriate responses to bullying that occurs off school grounds in certain circumstances.

Current law prohibits a person from sending an e-mail message to another person if that message threatens to harm any person or property and if the sender

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intends to frighten, intimidate, threaten, abuse, or harass any person. A person who violates the prohibition is guilty of a Class B misdemeanor and is subject to a maximum fine of \$1,000 or imprisonment of not more than 90 days, or both. This bill prohibits a person from posting an electronic message where others can view it if that message threatens to harm any specified person under the age of 18 or person in high school or the property of such a specified person if the person who posts the message knows that the specified person has been previously subject to at least two similar acts. A person who violates this new prohibition is guilty of a Class B misdemeanor.

Current law also prohibits a person from sending an e-mail message to another person if that message uses any obscene, lewd, or profane language or suggests any lewd or lascivious act and if the sender intends to harass, annoy, or offend another person. A person who violates the prohibition is subject to a forfeiture of up to \$1,000. This bill prohibits a person from posting an electronic message where others can view it if that message uses any obscene, lewd, or profane language or suggests any lewd or lascivious act if the message is aimed at a specified person under the age of 18 or person in high school and the person who posts the message knows that the specified person has been previously subject to at least two similar acts. A person who violates this new prohibition is subject to a forfeiture of up to \$1,000.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.46 (1) (intro.) of the statutes is amended to read:

2 118.46 (1) (intro.) ~~By March 1, 2010, the~~ The department shall do all of the
3 following:

4 **SECTION 2.** 118.46 (1) (a) 1. of the statutes is amended to read:

5 118.46 (1) (a) 1. A definition of bullying that includes bullying by electronic
6 means.

7 **SECTION 3.** 118.46 (1) (a) 11. and 12. of the statutes are created to read:

8 118.46 (1) (a) 11. A requirement that a school district official or employee who
9 has reasonable cause to suspect that a bullying incident is a violation of a criminal
10 law, report the incident to a law enforcement agency.

11 12. A statement that a school board may prohibit bullying, and reasonably
12 discipline pupils who engage in bullying, that does not occur at a school-related

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1 event under subd. 8., on property described in subd. 9., or in a vehicle under subd.
2 10., if the bullying creates a hostile environment at school for the pupil bullied or
3 substantially disrupts the orderly operation of a school or school-related event.

4 **SECTION 4.** 118.46 (2) of the statutes is amended to read:

5 118.46 (2) ~~By August 15, 2010, each~~ Each school board shall adopt a policy
6 prohibiting bullying by pupils. The school board may adopt the model policy under
7 sub. (1) (a). The school board shall provide a copy of the policy to any person who
8 requests it. Annually, the school board shall distribute the policy to all pupils
9 enrolled in the school district and to their parents or guardians.

10 **SECTION 5.** 947.0125 (1) of the statutes is renumbered 947.0125 (1) (intro.) and
11 amended to read:

12 947.0125 (1) (intro.) In this section, “message”:

13 (a) “Message” means any transfer of signs, signals, writing, images, sounds,
14 data, or intelligence of any nature, or any transfer of a computer program, as defined
15 in s. 943.70 (1) (c).

16 **SECTION 6.** 947.0125 (1) (b) of the statutes is created to read:

17 947.0125 (1) (b) “Victim of online misconduct” means a person who has received
18 a message under sub. (2) (a) 1. or (3) (a) 1. or has been the subject or target of a post
19 described under sub. (2) (a) 2. or (3) (a) 2.

20 **SECTION 7.** 947.0125 (2) (a) of the statutes is renumbered 947.0125 (2) (a)
21 (intro.) and amended to read:

22 947.0125 (2) (a) (intro.) With intent to frighten, intimidate, threaten, abuse or
23 harass another person, ~~sends~~ does any of the following:

