



2009 ASSEMBLY BILL 35

February 12, 2009 - Introduced by Representatives SOLETSKI, POPE-ROBERTS, MURSAU, YOUNG, BENEDICT, BERCEAU, BLACK, COLON, CULLEN, FIELDS, GRIGSBY, HILGENBERG, KESSLER, MASON, MILROY, MOLEPSKE JR., NELSON, PARISI, PASCH, POCAN, RADCLIFFE, SCHNEIDER, SHERIDAN, SHERMAN, SHILLING, SINICKI, SMITH, STEINBRINK, TURNER, VAN AKKEREN and A. WILLIAMS, cosponsored by Senators COGGS, HANSEN, CARPENTER, TAYLOR, RISSER and HOLPERIN. Referred to Committee on Education.

1 **AN ACT to create** 118.134 of the statutes; **relating to:** the use of race-based
2 names, nicknames, logos, and mascots by school boards, requiring the exercise
3 of rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination against pupils on a number of grounds, including race and ancestry. This bill provides that a school district resident may object to a school board's use of a race-based name, nickname, logo, or mascot by filing a complaint with the state superintendent of public instruction. The state superintendent must schedule a hearing on the complaint, at which the school board has the burden of proving by clear and convincing evidence that the use of the race-based name, nickname, logo, or mascot does not promote discrimination, pupil harassment, or stereotyping. If the state superintendent finds in favor of the complainant, the state superintendent must order the school board to terminate its use of the race-based name, nickname, logo, or mascot within 12 months after issuance of the order. A school board is subject to a forfeiture of not less than \$100 nor more than \$1,000 for each day that it uses the race-based name, nickname, logo, or mascot in violation of the order. The decision of the state superintendent is subject to circuit court review.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 118.134 of the statutes is created to read:

2 **118.134 Race-based names, nicknames, logos, and mascots. (1)**

3 Notwithstanding s. 118.13, a school district resident may object to the use of a
4 race-based name, nickname, logo, or mascot by the school board of that school
5 district by filing a complaint with the state superintendent. The state
6 superintendent shall notify the school board of the receipt of the complaint and
7 schedule a contested case hearing within 45 days after the complaint is filed.

8 **(2)** At the hearing, the school board has the burden of proving by clear and
9 convincing evidence that the use of the race-based name, nickname, logo, or mascot
10 does not promote discrimination, pupil harassment, or stereotyping, as defined by
11 the state superintendent by rule.

12 **(3)** The state superintendent shall issue a decision and order within 45 days
13 after the hearing. If the state superintendent finds that the use of the race-based
14 name, nickname, logo, or mascot does not promote discrimination, pupil harassment,
15 or stereotyping, the state superintendent shall dismiss the complaint. If the state
16 superintendent finds that the use of the race-based name, nickname, logo, or mascot
17 promotes discrimination, pupil harassment, or stereotyping, the state
18 superintendent shall order the school board to terminate its use of the race-based
19 name, nickname, logo, or mascot within 12 months after issuance of the order.
20 Decisions of the state superintendent under this subsection are subject to judicial
21 review under ch. 227.

