

2013 DRAFTING REQUEST

Bill

Received: 4/16/2013 Received By: pgrant  
 Wanted: As time permits Same as LRB:  
 For: Timothy Cullen (608) 266-2253 By/Representing: Kelley Flury  
 May Contact: Drafter: pgrant  
 Subject: Criminal Law - miscellaneous Addl. Drafters: chanaman  
 Education - school boards  
 Education - state superintendent  
 Extra Copies: TKK  
 FFK

Submit via email: YES  
 Requester's email: Sen.Cullen@legis.wisconsin.gov  
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Bullying; unlawful use of computerized communications

Instructions:

2011 SB 427 with changes

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pgrant 4/16/2013	evinz 4/17/2013	rschluet 4/17/2013	_____			
/1				_____	mbarman 4/17/2013	mbarman 5/13/2013	Crime

FE Sent For:

Not Needed

<END>

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/?	pgrant	1 ccv 4/16/13					

FE Sent For:

<END>

**Grant, Peter**

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**From:** Flury, Kelley  
**Sent:** Monday, April 15, 2013 5:03 PM  
**To:** Grant, Peter  
**Subject:** RE-drafting of cyberbully bill  
**Attachments:** Anti-Cyberbullying One-Pager.doc

Hi Peter,

This bill is similar to Senate Bill 427 from last session, but it incorporates the two amendments (attached), and it removes the reporting requirement for school districts.

The thought is that school districts may be less likely to classify something as bullying if they have to report on incidents publicly. The purpose of the bill is to make sure school districts take cyberbullying seriously, not impose time-consuming reporting requirements.

In Amendment 2 from last session, we said that the school district anti-bullying policy must state that if a school *board* suspects a bullying incident is a violation of criminal law, it *should* report that incident to a law enforcement agency.

The 2013 bill changes "board" to "employee" and changes "should" to "must."

Further drafting instructions are attached. THANK YOU.

**Kelley Flury**  
**Office of Sen. Tim Cullen**  
608-266-2253

## 2013 Anti-Cyberbullying Bill

In a nutshell, this bill addresses a type of bullying that existing law does not address: cyberbullying. Existing law specifically applies to schoolyard bullying. More and more, we are hearing that bullying that occurs away from school – on home computers, mobile phones and tablets for example – creates a hostile environment at school for the boy or girl who is the target of the torment. This bill says that type of off-campus bullying is subject to school discipline if it creates a hostile learning environment.



**Current law** requires school districts to adopt a policy defining & prohibiting bullying by pupils.

**This bill** says the definition must include bullying by electronic means.

**Current law** requires the Department of Public Instruction to write a model school policy on bullying, which it did. That model school policy contains 10 required components. Items 8 through 10 make reference to school-related events, school property, and school vehicles where bullying is prohibited.

**This bill** adds Item 11 which provides that DPI's model school policy must contain a statement that a school board may discipline a pupil if the bullying creates a hostile environment at school for the pupil being bullied or substantially disrupts the orderly operation of a school or school-related event.

**Current law** makes it a misdemeanor to use a computerized communication system to frighten, intimidate, threaten, abuse or harass another person. The language talks about "sending" and "receiving" messages.

**This bill** adds "posting" and "viewing" to make sure that the law applies to messages posted on walls of Internet websites or electronic bulletin boards for many eyes to view.

**This bill** strengthens the language relating to bullying that occurs away from school grounds, at school functions, and in school vehicles.

### Here is current law:

**118.46 Policy on bullying. (1)** By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that allows reports to be made confidentially.
4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.

7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

8. An identification of the school-related events at which the policy applies.

9. An identification of the property owned, leased, or used by the school district on which the policy applies.

10. An identification of the vehicles used for pupil transportation on which the policy applies.

***The Anti-Cyberbullying Bill adds:***

*11. A statement that a school board may reasonably discipline pupils who bully away from school and school activities if the bullying creates a hostile environment at school for the pupil being bullied or substantially disrupts the orderly operation of a school or school-related event.*

*12. A statement that if a school employee has reasonable cause to suspect that a bullying incident is criminal violation, he or she shall report that incident to a law enforcement agency.*



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3778/1  
PG&CMH:med:jm

LRB - 2182/1  
PG&CMH:cev

2011 SENATE BILL 427

SAW  
xref

February 6, 2012 - Introduced by Senators T. CULLEN, S. COGGS, CARPENTER, ERPENBACH, TAYLOR, KING, SCHULTZ, RISSER, HOLPERIN and KEDZIE, cosponsored by Representatives KNILANS, C. TAYLOR, POCAN, TURNER, STASKUNAS, RINGHAND, LOUDENBECK, PASCH and POPE-ROBERTS. Referred to Committee on Education.

regen.

1 AN ACT to amend 118.46 (1) (intro.), 118.46 (1) (a) 1., 118.46 (2), 947.0125 (2) (a)  
2 and 947.0125 (3) (a), and to create 118.46 (1) (a) 11. and 12. of the statutes;  
3 relating to: school bullying, unlawful use of computer systems, and providing  
4 a 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 ~~requirements that a school board maintain records on bullying incidents and the discipline imposed on pupils for bullying, annually prepare a report that includes trends in bullying behavior and recommendations on how to reduce the number of bullying incidents, and post the report on the school district's Web site.~~ Finally, the bill requires the model policy to include 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 intends to frighten, intimidate, threaten, abuse, or harass any person. A person who

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

**SENATE BILL 427**

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 person or property and if the person who posts it intends to frighten, intimidate, threaten, abuse, or harass another person. 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 and if the sender intends to harass, annoy, or offend another person. A person who violates this new prohibition is subject to a forfeiture of up to \$1,000.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

X

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:

X

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 board maintain records on the  
9 number and types of reports made on bullying incidents under subd. 6. and the  
10 discipline imposed on pupils under subd. 7. ~~annually~~ prepare a summary report that  
11 includes trends in bullying behavior and recommendations on ~~how to reduce the~~  
12 number of bullying incidents, and post the report on its Web site.



## SENATE BILL 427

1 ~~12. Appropriate responses to bullying that occurs off school grounds but~~  
 2 ~~nevertheless creates a hostile environment at school for the pupil bullied, infringes~~  
 3 ~~on the rights of the pupil bullied at school, or disrupts the educational process or~~  
 4 ~~orderly operation of a school.~~

5 **SECTION 4.** <sup>x</sup> 118.46 (2) of the statutes is amended to read:

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

11 **SECTION 5.** <sup>x</sup> 947.0125 (2) (a) of the statutes is amended to read:

12 947.0125 (2) (a) With intent to frighten, intimidate, threaten, abuse, or harass  
 13 another person, sends a message to the person on an electronic mail or other  
 14 computerized communication system or posts a message electronically where other  
 15 persons can view the message and in that sent or posted message threatens to inflict  
 16 injury or physical harm to any person or the property of any person.

17 **SECTION 6.** <sup>y</sup> 947.0125 (3) (a) of the statutes is amended to read:

18 947.0125 (3) (a) With intent to harass, annoy, or offend another person, sends  
 19 a message to the person on an electronic mail or other computerized communication  
 20 system or posts a message electronically where other persons can view the message  
 21 and in that sent or posted message uses any obscene, lewd, or profane language or  
 22 suggests any lewd or lascivious act.

23 (END)

3-4

3-4:1



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBa2425/1  
PG:med:rs

**SENATE AMENDMENT 1,  
TO 2011 SENATE BILL 427**

February 24, 2012 - Offered by Senator T. CULLEN.

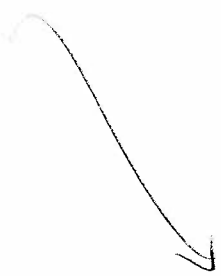
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At the locations indicated, amend the bill as follows:

- 1. Page 2, line 9: delete "subd. 6." and substitute "subds. 6. and 12."
- 2. Page 2, line 10: delete "subd. 7." and substitute "subds. 7. and 12."
- 3. Page 3, line 1: delete lines 1 to 4 and substitute:

11. "12. A statement that, notwithstanding subd. 7., a school board may prohibit bullying, and reasonably discipline pupils who engage in bullying, that does not occur at a school-related event under subd. 8., on property described in subd. 9., or in a vehicle under subd. 10., if the bullying creates a hostile environment at school for the pupil bullied or substantially disrupts the orderly operation of a school or school-related event."

LEGIS



3-4:2



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBa2560/1  
PG:cjs:jf

SENATE AMENDMENT 2,  
TO 2011 SENATE BILL 427

March 2, 2012 - Offered by Senator T. CULLEN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 4: after that line insert:

3 "SECTION 3m. 118.46 (1) (a) 13. of the statutes is created to read:

4 12. 118.46 (1) (a) 13. A <sup>requirement</sup> ~~statement~~ that ~~(if)~~ <sup>district official or employee</sup> a school board has reasonable cause to <sup>whi</sup>  
5 suspect that a bullying incident is a violation of a criminal law, it should report the  
6 incident to a law enforcement agency." *De*

7 ~~END~~

**Rose, Stefanie**

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**From:** Flury, Kelley  
**Sent:** Monday, May 13, 2013 9:02 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2182/1 Topic: Bullying; unlawful use of computerized communications

Please Jacket LRB -2182/1 for the SENATE.