



2013 ASSEMBLY BILL 434

October 17, 2013 - Introduced by Representatives KAHL, BERCEAU, POPE, SCHRAA, BIES, HESSELBEIN, BEWLEY, C. TAYLOR, OHNSTAD, CLARK and WRIGHT, cosponsored by Senators T. CULLEN, RISSER, L. TAYLOR, LASSA, ERPENBACH, LEHMAN, KEDZIE and CARPENTER. Referred to Committee on Education.

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 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 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 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

ASSEMBLY BILL 434

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:

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

