HB41

133689-1

By Representative Galliher

RFD: Education Policy

First Read: 07-FEB-12

PFD: 12/01/2011
SYNOPSIS: Existing law provides for the adoption of policies by public school systems pertaining to the prevention of harassment of one student against another student and requires the Department of Education to develop a model policy for local boards of education pertaining to student harassment prevention.

This bill would allow for the Student Harassment Prevention Act to also be known as the Alex Moore Anti-Bullying Act.

This bill would provide that a student can be reassigned to another school for the purpose of separating the student from his or her harassment victim.

This bill would direct the Department of Education to post its model policy on its website.

This bill would provide that a person shall be immune from civil liability for reporting harassment.
A BILL
TO BE ENTITLED
AN ACT

To amend Sections 16-28B-1, 16-28B-4, 16-28B-5, and 16-28B-9 of the Code of Alabama 1975, relating to student harassment prevention; to allow the Student Harassment Prevention Act to also be known as the Alex Moore Anti-Bullying Act; to provide that a student can be reassigned to another school for the purpose of separating the student from his or her harassment victim; to direct the Department of Education to post its model policy on its website; and to provide that a person shall be immune from civil liability for reporting harassment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-28B-1, 16-28B-4, 16-28B-5, and 16-28B-9 of the Code of Alabama 1975, are amended to read as follows:

"§16-28B-1.

"(a) This chapter shall be known and may be cited as the Student Harassment Prevention Act or the Alex Moore Anti-Bullying Act.

"(b) The Legislature does not intend to imply by this section that any local board of education or any employee of a local board of education assumes any legal responsibility for the death of the individual for whom this act is named.

"§16-28B-4.
"(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.

"(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.

"(c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

"(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

"(e) Absent negligence, wantonness, recklessness, or deliberate misconduct, any person who reports an incident of harassment shall be immune from civil liability for any damages caused by the reporting.

"(f) Nothing in this chapter or in the model policy promulgated by the department shall be construed to require a local board to provide transportation to a student transferred to another school within the school district as a result of a harassment incident.
(g) A local board not in compliance with the requirements of Section 16-28B-5 shall be ineligible to receive state funding.

§16-28B-5.

(a) The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

(1) A statement prohibiting harassment, violence, and threats of violence.

(2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.

(3) A description of the behavior expected of each student.

(4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.

(5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student. by a teacher or other school employee, student, parent, guardian,
or other person who has control or charge of a student, either
anonymously or in the name of the person, at the option of the
person, to report or otherwise provide information on the
harassment activity

"(6) A procedure for the prompt investigation of
reports of serious violations and complaints, specifying that
the principal, or his or her designee, is the person
responsible for the investigation.

"(7) A response procedure for a school to follow
upon confirmation of an incident of intimidation, harassment,
vioence, or threats of violence.

"(8) A statement prohibiting reprisal or retaliation
against any person who reports an act of intimidation,
vioence, threat of violence, or harassment, including the
consequences of and any appropriate remedial action that may
be taken against a person who engages in such reprisal or
retaliation.

"(9) A statement of the consequences of and
appropriate remedial action that may be taken against a person
who has deliberately and recklessly falsely accused another.

"(10) A procedure for publicizing local board
policy, including providing notice that the policy applies to
participation in school-sponsored functions.

"(11) A clearly defined procedure for students to
use in reporting harassment, including, but not limited to,
written reports on local board approved complaint forms and
written reports of instances of harassment, intimidation,
violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment to the principal, or his or her designee.

"(12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.

"(13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause harassment shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board.

"(14) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of
harassment shall immediately report it to the school principal.

"(15) An age-appropriate range of consequences for harassment which shall include, at a minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances.

"(b) The department shall develop and post on its website a list of entities and their contact information which produce anti-harassment training programs and materials deemed appropriate by the department for use in local school systems.

"§16-28B-9.

"(a) Each local board shall establish a policy in compliance with this chapter on or before July 1, 2010 2012. Each local policy or model policy adopted by a local board or the department, respectively, shall be consistent with this chapter.

"(b)(1) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials, a student in grades six through 12 who has committed the offense of harassment for the third time in a school year shall be assigned to an alternative school.

"(2) Each local board shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that the
student has committed an offense of harassment or is a victim of harassment.

"(c) Each local board of education shall ensure that students and parents of students are notified of the prohibition against harassment and the penalties for violating the prohibition by posting the information at each school under its jurisdiction and by including the information in student and parent handbooks."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.