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BILL ANALYSIS



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Senate Bill 137 (Substitute S-1 as reported)
Sponsor: Senator Rick Jones
Committee: Judiciary

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RATIONALE

According to many accounts, bullying in schools is a widespread problem at all grade levels. In 2007, according to the National Center for Education Statistics, about 32% of students reported being bullied at school during the school year. Other sources report higher percentages. According to an article published by the American Psychological Association, it has been estimated that 40% to 80% of school-age children experience bullying at some point during their school careers ("Bullying: A Module for Teachers"). Although there is no standard definition, school bullying generally refers to some form of physical or verbal aggression that disrupts a student's ability to learn or take advantage of school-related programs or activities. Commonly, school bullying involves repeated conduct over time by one or more aggressors against someone who is less powerful.

Reportedly, only Michigan and four other states have not enacted laws that address bullying in schools. Although the Michigan Board of Education adopted a Model Anti-Bullying Policy in 2006, it is not known how many school districts in the State have adopted this or another anti-bullying policy. To ensure that all schools have such a policy, many people believe that State law should mandate the adoption of a policy against bullying or harassment.

CONTENT

The bill would amend the Revised School Code to do the following:

- **Require the board of a school district or intermediate school district (ISD) or board of directors of a public school academy (PSA) to adopt and implement a policy prohibiting bullying or harassment at school.**
- **Require a board to hold at least one public hearing before adopting its policy.**
- **Require a board to submit a copy of its policy to the Michigan Department of Education (MDE).**
- **Require the MDE to report to the legislative standing committees on education regarding the status of adoption of the policies.**

"Bullying or harassment" would mean abuse of a pupil by one or more other pupils that substantially interferes with educational opportunities, benefits, or programs of one or more pupils, or adversely affects the ability of a pupil to participate in or benefit from educational programs or activities by placing him or her in reasonable fear of physical harm or by causing emotional distress.

"At school" would mean in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. The term would include conduct using a telecommunications access device or telecommunications service provider (as those terms are defined in the Michigan Penal Code, MCL 750.219a) that occurs off school premises if the device or provider is

owned by or under the control of the school district or PSA.

Specifically, within six months after the bill's effective date, a school district or ISD board, or PSA board of directors would have to adopt and implement a policy prohibiting bullying or harassment at school. The bill states, "The legislature encourages a board or board of directors to include in its policy provisions concerning education, parental involvement, reporting, investigation, and intervention."

Before adopting a policy, the board or board of directors would have to hold at least one public hearing on the proposed policy. The hearing could be held as part of a regular board meeting. Within 30 days after adopting the policy, the board would have to submit a copy of its policy to the MDE.

Within one year after the deadline for school boards and PSA boards of directors to submit their policies to the MDE, the Department would have to submit to the Senate and House standing committees on education a report summarizing the status of the implementation of policies required by the bill.

The proposed section of the Revised School Code would be known as "Matt's Safe School Law".

Proposed MCL 380.1310b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

School-related bullying can take many forms, occur at any grade level, and take place in all areas, including in and around school buildings—particularly in gym class, hallways, and bathrooms, and on playgrounds; on school buses and at school bus stops; and anywhere after-school activities occur. Bullying can involve physical conduct, such as punching, shoving, kicking, or slapping; emotional abuse, such as spreading malicious rumors or shunning; and verbal harassment, such as name-calling, taunting, or profanity directed at the target. Also, cyberbullying involves abuse

through the use of technology, including text messaging, e-mail, and social networking sites. In addition to physical injuries, victims may experience anxiety, depression, anger, abiding feelings of insecurity and lack of trust, poor academic performance or failure, and other short- and long-term effects that can last into adulthood. In some cases, bullying victims resort to suicide. According to Judiciary Committee testimony, at least 10 suicides have resulted from bullying in Michigan during the past decade.

It is time for Michigan to join the vast majority of other states that have enacted laws addressing school bullying. Although many school districts in this State have voluntarily adopted anti-bullying policies, others have not. By requiring every school district, intermediate school district, and public school academy to adopt and implement a policy prohibiting bullying or harassment at school, the bill would help ensure that schools premises, as well as buses and the sites of school-sponsored activities, were safe havens for students and provided an environment conducive to learning. This measure would protect children from physical harm and emotional torment, and could even save lives.

Opposing Argument

Michigan needs a *comprehensive* anti-bullying law, as recommended by Governor Snyder in his April 27, 2011, special message on education. Unlike other legislative proposals and the State Board of Education's model policy, this bill would not ensure that schools had effective anti-bullying policies.

One of the bill's key flaws is its failure to enumerate protected characteristics. The State Board's model policy defines bullying or harassment as an act or gesture that is "motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression; or a mental, physical, or sensory disability or impairment; or by any other distinguishing characteristic". The vast majority of bullying that is reported today is based on bias, according to Equality Michigan. Enumerating protected characteristics would bring them to educators' attention and provide greater protection for students. In addition, a policy

without enumeration would be overly vague and could be unenforceable.

Reportedly, Oregon enacted an unenumerated law 10 years ago, found it to be ineffective, and then changed the law. Michigan should not make the same mistake.

Response: The bill would take the first step of ensuring that every school had a policy. Enumerating specific characteristics could exclude students who do not fall within the particular categories, and every child deserves to be protected. If Michigan subsequently found that enumeration was necessary, the law could be amended.

Opposing Argument

The bill falls short by failing to include a reporting requirement. If schools were not required to report bullying incidents and their responses to them, there would no way to determine whether school policies were effective or whether there was any statewide consistency. In addition, the bill includes no provisions for enforcement, investigation, staff training, consequences for bullies, or remedial measures, and no guidelines for the involvement of law enforcement.

The bill also includes no repercussions for schools that fail to act. Testimony submitted to the Judiciary Committee described serious bullying incidents in which schools did little or nothing to protect the victim, investigate what happened, punish the perpetrator, report to the police, or even enforce their own policy.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

State: The Department of Education would see slightly increased administrative costs related to the compilation of districts' anti-bullying policies, and subsequent report to the Legislature on the status of the implementation of such policies.

Local: Local districts, intermediate districts, and public school academies could see increased costs associated with the adoption and implementation of a policy prohibiting bullying or harassment at school, if such policy is not already in place. The extent of the fiscal impact would vary based on the

policy adopted, and how that policy compared to existing measures prohibiting bullying.

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.