

115TH CONGRESS
2D SESSION

S. 2572

To amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2018

Mr. CASEY (for himself, Ms. WARREN, Mr. WHITEHOUSE, Mr. BENNET, Ms. HIRONO, Ms. HEITKAMP, Ms. STABENOW, Ms. KLOBUCHAR, Mrs. SHAHEEN, Ms. HARRIS, Mr. KAINE, Ms. CORTEZ MASTO, Mr. BOOKER, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Ms. BALDWIN, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. COONS, Mr. WYDEN, Mr. BROWN, Mr. WARNER, Ms. CANTWELL, Mr. CARPER, Mr. REED, Ms. SMITH, Mr. MARKEY, Mr. LEAHY, Ms. HASSAN, Mr. NELSON, Mr. CARDIN, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Schools Improve-
5 ment Act of 2018”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Bullying and harassment foster a climate of
4 fear and disrespect that can seriously impair the
5 physical and psychological health of its victims and
6 create conditions that negatively affect learning,
7 thereby undermining the ability of students to
8 achieve their full potential.

9 (2) Bullying and harassment contribute to high
10 dropout rates, increased absenteeism, and academic
11 underachievement.

12 (3) Bullying and harassment include a range of
13 behaviors that negatively impact a student's ability
14 to learn and participate in educational opportunities
15 and activities that schools offer. Such behaviors can
16 include hitting or punching, name-calling, intima-
17 tion through gestures or social exclusion, and send-
18 ing insulting or offensive messages through elec-
19 tronic communications, such as internet sites, e-
20 mail, instant messaging, mobile phones and mes-
21 saging, telephone, or any other means.

22 (4) Schools with enumerated anti-bullying and
23 harassment policies have an increased level of re-
24 porting and teacher intervention in incidents of bul-
25 lying and harassment, thereby reducing the overall
26 frequency and number of such incidents.

1 (5) Students have been particularly singled out
2 for bullying and harassment on the basis of their ac-
3 tual or perceived race, color, national origin, sex,
4 disability status, sexual orientation, gender identity,
5 or religion, among other categories.

6 (6) Some young people experience a form of
7 bullying called relational aggression or psychological
8 bullying, which harms individuals by damaging,
9 threatening, or manipulating their relationships with
10 their peers, or by injuring their feelings of social ac-
11 ceptance.

12 (7) Interventions to address bullying and har-
13 assment conduct to create a positive and safe school
14 climate, combined with evidence-based discipline
15 policies and practices, such as Positive Behavior
16 Interventions and Supports (PBIS) and restorative
17 practices, can minimize suspensions, expulsions, and
18 other exclusionary discipline policies to ensure that
19 students are not “pushed-out” or diverted to the ju-
20 venile justice system.

21 (8) According to one poll, 85 percent of Ameri-
22 cans strongly support or somewhat support a Fed-
23 eral law to require schools to enforce specific rules
24 to prevent bullying.

1 (9) Students, parents, educators, and policy-
 2 makers have come together to call for leadership and
 3 action to address the national crisis of bullying and
 4 harassment.

5 **SEC. 3. SAFE SCHOOLS IMPROVEMENT.**

6 (a) IN GENERAL.—Title IV of the Elementary and
 7 Secondary Education Act of 1965 (20 U.S.C. 7101 et
 8 seq.) is amended by adding at the end the following:

9 **“PART G—SAFE SCHOOLS IMPROVEMENT**

10 **“SEC. 4701. PURPOSE.**

11 “The purpose of this part is to address the problem
 12 of bullying and harassment conduct of students in public
 13 elementary schools and secondary schools.

14 **“SEC. 4702. ANTI-BULLYING POLICIES.**

15 “(a) BULLYING.—In this part, the term ‘bullying’ in-
 16 cludes cyber-bullying through electronic communications.

17 “(b) POLICIES.—A State that receives a grant under
 18 this title shall require all local educational agencies in the
 19 State to carry out the following:

20 “(1) Establish policies that prevent and prohibit
 21 conduct, including bullying and harassment, that is
 22 sufficiently severe, persistent, or pervasive—

23 “(A) to limit a student’s ability to partici-
 24 pate in, or benefit from, a program or activity

1 of a public school or local educational agency;
2 or

3 “(B) to create a hostile or abusive edu-
4 cational environment, adversely affecting a stu-
5 dent’s education, at a program or activity of a
6 public school or local educational agency, in-
7 cluding acts of verbal, nonverbal, or physical
8 aggression or intimidation.

9 “(2) The policies required under paragraph (1)
10 shall include a prohibition of bullying or harassment
11 conduct based on—

12 “(A) a student’s actual or perceived race,
13 color, national origin, sex, disability, sexual ori-
14 entation, gender identity, or religion;

15 “(B) the actual or perceived race, color,
16 national origin, sex, disability, sexual orienta-
17 tion, gender identity, or religion of a person
18 with whom a student associates or has associ-
19 ated; or

20 “(C) any other distinguishing characteris-
21 tics that may be defined by the State or local
22 educational agency.

23 “(3) Provide—

24 “(A) annual notice to students, parents,
25 and educational professionals describing the full

1 range of prohibited conduct contained in such
2 local educational agency's discipline policies;
3 and

4 “(B) grievance procedures for students or
5 parents to register complaints regarding the
6 prohibited conduct contained in such local edu-
7 cational agency's discipline policies, including—

8 “(i) the name of the local educational
9 agency officials who are designated as re-
10 sponsible for receiving such complaints;
11 and

12 “(ii) timelines that the local edu-
13 cational agency will establish in the resolu-
14 tion of such complaints.

15 “(4) Collect annual incidence and frequency of
16 incidents data about the conduct prohibited by the
17 policies described in paragraph (1) at the school
18 level that are accurate and complete and publicly re-
19 port such data at the school level and local edu-
20 cational agency level. The local educational agency
21 shall ensure that victims or persons responsible for
22 such conduct are not identifiable.

23 **“SEC. 4703. STATE REPORTS.**

24 “The chief executive officer of a State that receives
25 a grant under this title, in cooperation with the State edu-

1 cational agency, shall submit a biennial report to the Sec-
2 retary—

3 “(1) on the information reported by local edu-
4 cational agencies in the State pursuant to section
5 4702(b)(4); and

6 “(2) describing the State’s plans for supporting
7 local educational agency efforts to address the con-
8 duct prohibited by the policies described in section
9 4702(b)(1).

10 **“SEC. 4704. EVALUATION.**

11 “(a) BIENNIAL EVALUATION.—The Secretary shall
12 conduct an independent biennial evaluation of programs
13 and policies to combat bullying and harassment in elemen-
14 tary schools and secondary schools, including implementa-
15 tion of the requirements described in section 4702, includ-
16 ing whether such requirements have appreciably reduced
17 the level of the prohibited conduct and have conducted ef-
18 fective parent involvement and training programs.

19 “(b) DATA COLLECTION.—The Commissioner for
20 Education Statistics shall collect data from States, that
21 are subject to independent review, to determine the inci-
22 dence and frequency of conduct prohibited by the policies
23 described in section 4702.

24 “(c) BIENNIAL REPORT.—Not later than January 1,
25 2019, and every 2 years thereafter, the Secretary shall

1 submit to the President and Congress a report on the find-
2 ings of the evaluation conducted under subsection (a) to-
3 gether with the data collected under subsection (b) and
4 data submitted by the States under section 4703.

5 **“SEC. 4705. EFFECT ON OTHER LAWS.**

6 “(a) FEDERAL AND STATE NONDISCRIMINATION
7 LAWS.—Nothing in this part shall be construed to invali-
8 date or limit rights, remedies, procedures, or legal stand-
9 ards available to victims of discrimination under any other
10 Federal law or law of a State or political subdivision of
11 a State, including title VI of the Civil Rights Act of 1964
12 (42 U.S.C. 2000d et seq.), title IX of the Education
13 Amendments of 1972 (20 U.S.C. 1681 et seq.), section
14 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C.
15 794, 794a), or the Americans with Disabilities Act of 1990
16 (42 U.S.C. 12101 et seq.). The obligations imposed by this
17 part are in addition to those imposed by title VI of the
18 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
19 IX of the Education Amendments of 1972 (20 U.S.C.
20 1681 et seq.), section 504 of the Rehabilitation Act of
21 1973 (29 U.S.C. 794), and the Americans with Disabil-
22 ities Act of 1990 (42 U.S.C. 12101 et seq.).

23 “(b) FREE SPEECH AND EXPRESSION LAWS.—Noth-
24 ing in this part shall be construed to alter legal standards
25 regarding, or affect the rights (including remedies and

1 procedures) available to individuals under, other Federal
 2 laws that establish protections for freedom of speech or
 3 expression.

4 **“SEC. 4706. RULE OF CONSTRUCTION.**

5 “Nothing in this part shall be construed to prohibit
 6 a State or local entity from enacting any law with respect
 7 to the prevention of bullying or harassment of students
 8 that is not inconsistent with this part.”.

9 (b) TABLE OF CONTENTS.—The table of contents in
 10 section 2 of the Elementary and Secondary Education Act
 11 of 1965 is amended by inserting after the item relating
 12 to section 4644 the following:

“PART D—SAFE SCHOOLS IMPROVEMENT

- “Sec. 4701. Purpose.
- “Sec. 4702. Anti-bullying policies.
- “Sec. 4703. State reports.
- “Sec. 4704. Evaluation.
- “Sec. 4705. Effect on other laws.
- “Sec. 4706. Rule of construction.”.

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