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FISCAL AND POLICY NOTE
Revised

House Bill 38

(Delegate Waldstreicher, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

Nonpublic Schools Participating in State-Funded Education Programs - Bullying,
Harassment, and Intimidation - Policies

This bill requires nonpublic schools that participate in State-funded education programs to adopt, by March 31, 2012, a policy prohibiting bullying, harassment, and intimidation. Nonpublic schools are also encouraged to develop educational bullying prevention programs for students, staff, volunteers, and parents and staff development programs to train teachers and administrators to implement the policies.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: Special fund expenditures may decrease beginning in FY 2012 depending on the number of nonpublic schools that currently participate in State-funded education programs by accepting money from the State for textbooks and computers but choose not to accept the money in order to be exempt from developing bullying policies.

Local Effect: None. The bill is not expected to affect funding for nonpublic special education placements.

Small Business Effect: Nonpublic school expenditures increase minimally in FY 2012 for the development of bullying policies, with minimal ongoing costs thereafter. If a nonpublic school that currently participates in State-funded education programs by accepting money from the State for textbooks and computers chooses to decline the money to be exempt from developing a bullying policy, the school's revenues from the State decrease.

Analysis

Bill Summary: The bill defines bullying, harassment, and intimidation as “any intentional, written, verbal, or physical act, including an electronic communication, that (1) physically harms an individual; (2) damages an individual’s property; (3) substantially interferes with an individual’s education or learning environment; or (4) places an individual in reasonable fear of harm to the individual’s person or property.” In addition, the act must either occur on school property, at a school activity or event, or on a school bus or substantially disrupt the orderly operation of a school.

The policy prohibiting bullying, harassment, and intimidation must include, among other things:

- a definition of bullying, harassment, and intimidation not less inclusive than that set forth in the law;
- standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation, including specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation as well as a requirement that persons who commit acts of bullying, harassment, or intimidation receive bullying prevention services;
- standard procedures for reporting acts of bullying, harassment, or intimidation and promptly investigating such reported acts; and
- standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation.

Nonpublic schools are encouraged to develop the policies in consultation with parents, school employees and administrators, school volunteers, and students and to publicize the policies on their websites and in school handbooks.

The bill also specifies that nonpublic school employees who report acts of bullying, harassment, or intimidation in accordance with school policy are not civilly liable for reporting or failing to report an act of bullying, harassment, or intimidation.

The bill may not be construed to (1) limit the legal rights of a victim of bullying, harassment, or intimidation; or (2) require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

Current Law: Chapter 489 of 2008 required the State Board of Education to develop a model policy that prohibits bullying, harassment, and intimidation in schools. Using the model policy, local boards of education were required to develop policies for the public schools under their jurisdiction.

Background: The American Psychological Association (APA) defines bullying as “aggressive behavior that is intended to cause harm or distress, occurs repeatedly over time, and occurs in a relationship in which there is an imbalance of power or strength.” APA notes that individuals engaging in bullying behavior are generally more likely to exhibit other antisocial behaviors and that the victims of bullying often suffer from loneliness, insecurity, and thoughts of suicide. Various sources indicate that bullying incidents typically peak during middle school years.

To address and prevent bullying, Maryland adopted the Safe Schools Reporting Act of 2005 (Chapter 547), which requires a uniform reporting form to be available in public schools to victims of bullying and requires annual reports from the Maryland State Department of Education (MSDE) on the incidence of harassment and intimidation. In the 2009 report, the rate of reported incidents per 1,000 students ranged from 0.1 in Baltimore City to 17.7 in Somerset County; however, past reports have theorized that the wide range in reporting rates is largely the result of greater levels of bullying awareness in some school systems.

With the access that children and adolescents now have to technology, accounts of “cyberbullying” – using technology such as the Internet, email, text messages, or instant messages to torment others – have become more frequent. The National Conference of State Legislatures notes that “cyberbullying differs from the more traditional forms of bullying in that it can occur at any time, ... and perpetrators can remain anonymous.” In addition, school responses to cyberbullying are sometimes problematic because, although the victims and perpetrators may be schoolmates, the acts typically do not take place on school grounds.

The National Parent-Teacher Association and APA report that the most effective bullying prevention strategies involve the entire school community. Both also recommend the integration of bullying-related content into school curricula and close adult supervision of students throughout the school day to monitor and prevent bullying behavior before it escalates.

During the 2009-2010 school year, 135,722 students attended 1,483 nonpublic schools. The budget for fiscal 2012 includes \$112.7 million in general funds for nonpublic special education programs for students with disabilities and \$4.4 million in aid to qualifying nonpublic schools from the Cigarette Restitution Fund for secular textbooks, computer hardware, and computer software. According to MSDE, nonpublic special education placements are already required to develop bullying policies.

State Expenditures: If any nonpublic schools that accept money for textbooks and computers from the State choose not to accept the money to be exempt from developing a

bullying policy, special fund expenditures may decrease. Any decrease in expenditures depends on how many nonpublic schools that currently accept State aid decline the aid to be exempt from developing a bullying policy. This number is not expected to be significant.

Since nonpublic special education programs are already required by MSDE to have bullying prevention policies, the bill is not expected to affect these providers.

Small Business Effect: Nonpublic schools' expenditures increase minimally for the development of bullying policies. Only minimal costs associated with updating the policies are incurred after fiscal 2012.

If a nonpublic school that currently accepts money from the State chooses to decline the money to be exempt from developing a bullying policy, the school's revenues from the State decrease.

Additional Information

Prior Introductions: HB 1334 of 2010, a similar bill as amended, passed the House, but no further action was taken.

Cross File: SB 489 (Senator Conway, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education, American Psychological Association, National Conference of State Legislatures, National Parent-Teacher Association, Department of Legislative Services

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Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510