S T A T E O F N E W Y O R K

5447

2011-2012 Regular Sessions

I N A S S E M B L Y

February 18, 2011

Introduced by M. of A. McDONOUGH -- read once and referred to the Committee on Education

AN ACT to amend the education law, the penal law, the executive law and the state finance law, in relation to establishing the "anti-bullying bill of rights act" and establishes the New York state commission on bullying in schools; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "anti-bullying bill of rights act".

S 2. Legislative intent. In recent years, the state legislature has taken several steps to ensure that school pupils, teachers and other personnel are provided with a safe and secure learning environment on all school property. Through the enactment of provisions requiring the fingerprinting of a school district's prospective employees and the enactment of the safe schools against violence in education act, the legislature has ensured the increased safety of our schools. However, to address concerns that harassment of pupils and school personnel through acts of harassment, intimidation or bullying can be both disruptive to the learning process and harmful, mentally and/or physically to intended victims, the legislature finds that enactment of this legislation to prohibit bullying on school property is necessary and appropriate to further ensure that New York state's public schools be made as safe as possible.

S 3. Section 305 of the education law is amended by adding four new subdivision 42, 43, 44 and 45 to read as follows:

42. (A) THE COMMISSIONER, IN CONSULTATION WITH RECOGNIZED EXPERTS IN SCHOOL BULLYING FROM A CROSS SECTION OF ACADEMIA, CHILD ADVOCACY ORGANIZATIONS, NONPROFIT ORGANIZATIONS, PROFESSIONAL ASSOCIATIONS, AND GOVERNMENT AGENCIES, SHALL ESTABLISH IN-SERVICE WORKSHOPS AND TRAINING

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PROGRAMS TO TRAIN SELECTED PUBLIC SCHOOL EMPLOYEES TO ACT AS DISTRICT ANTI-BULLYING SPECIALISTS IN ACCORDANCE WITH THIS CHAPTER. THE COMMISSIONER SHALL SEEK TO MAKE THE WORKSHOPS AND TRAINING PROGRAMS AVAILABLE AND ADMINISTERED ONLINE THROUGH THE DEPARTMENT'S WEBSITE OR OTHER EXISTING ONLINE RESOURCES. THE COMMISSIONER SHALL EVALUATE THE EFFECTIVENESS OF THE CONSULTING GROUP ON AN ANNUAL BASIS. THE IN-SERVICE TRAINING PROGRAMS MAY UTILIZE ANY OFFICE, INSTITUTION, AGENCY OR PERSON DEEMED APPROPRIATE BY THE COMMISSIONER. EACH BOARD OF EDUCATION SHALL PROVIDE TIME FOR THE IN-SERVICE TRAINING DURING THE USUAL SCHOOL SCHEDULE IN ORDER TO ENSURE THAT APPROPRIATE PERSONNEL ARE PREPARED TO ACT IN THE DISTRICT AS ANTI-BULLYING COORDINATORS AND SCHOOL ANTI-BULLYING SPECIALISTS.

(B) UPON COMPLETION ON THE INITIAL IN-SERVICE TRAINING PROGRAM, THE COMMISSIONER SHALL ENSURE THAT PROGRAMS AND WORKSHOPS THAT REFLECT THE MOST CURRENT INFORMATION ON HARASSMENT, INTIMIDATION AND BULLYING IN SCHOOLS ARE PREPARED AND MADE AVAILABLE TO DISTRICT ANTI-BULLYING COORDINATORS AND SCHOOL ANTI-BULLYING SPECIALISTS AT REGULAR INTERVALS.

43. THE COMMISSIONER SHALL MAKE AVAILABLE ON THE DEPARTMENT'S WEBSITE, AN ONLINE TUTORIAL ON HARASSMENT, INTIMIDATION AND BULLYING. SUCH ONLINE TUTORIAL SHALL, AT A MINIMUM, INCLUDE BEST PRACTICES IN THE PREVENTION OF HARASSMENT, INTIMIDATION, AND BULLYING, APPLICABLE LAWS, AND OTHER SUCH INFORMATION THAT THE COMMISSIONER DETERMINES APPROPRIATE. SUCH ONLINE TUTORIAL SHALL BE ACCOMPANIED BY A TEST TO ASSESS A PERSON'S UNDERSTANDING OF THE INFORMATION PROVIDED IN THE TUTORIAL.

44. THE COMMISSIONER SHALL DEVELOP A GUIDANCE DOCUMENT TO BE USED BY PARENTS, STUDENTS AND SCHOOL DISTRICTS TO ASSIST IN RESOLVING COMPLAINTS REGARDING HARASSMENT, INTIMIDATION OR BULLYING BEHAVIORS AND CONCERNING THE IMPLEMENTATION BY SCHOOL DISTRICTS OF STATUTORY REQUIREMENTS.

45. THE COMMISSIONER SHALL ESTABLISH A FORMAL PROTOCOL TO BE USED BY SUPERINTENDENTS OF SCHOOL DISTRICTS IN INVESTIGATING COMPLAINTS THAT SUCH SCHOOL DISTRICTS ARE NOT ADHERING TO THE PROVISIONS OF LAW GOVERNING HARASSMENT, INTIMIDATION OR BULLYING IN SCHOOLS.

S 4. The education law is amended by adding a new section 361 to read as follows:

S 361. POLICY ON THE PREVENTION OF HARASSMENT, INTIMIDATION AND BULLYING. THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL ADOPT RULES REQUIRING THAT EACH INSTITUTION OF THE STATE UNIVERSITY, ON OR BEFORE JULY FIRST, TWO THOUSAND TWELVE, ADOPT AND IMPLEMENT A POLICY ON THE PREVENTION OF HARASSMENT, INTIMIDATION AND BULLYING.

S 5. Section 801-a of the education law, as amended by chapter 482 of the laws of 2010, is amended to read as follows:

S 801-a. Instruction in civility, citizenship and character education. The regents shall ensure that the course of instruction in grades kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. SUCH COMPONENT SHALL ALSO ADDRESS METHODS OF DISCOURAGING ACTS OF HARASSMENT, INTIMIDATION OR BULLYING, AS DEFINED IN SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED THREE OF THIS CHAPTER, AGAINST FELLOW STUDENTS. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to

discrimination or harassment and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

S 6. The education law is amended by adding a new section 1504-a to read as follows:

S 1504-A. SCHOOL SAFETY TEAMS. 1. ALL SCHOOL DISTRICTS ARE HEREBY AUTHORIZED AND DIRECTED TO ESTABLISH A SCHOOL SAFETY TEAM IN EACH SCHOOL IN THE DISTRICT TO DEVELOP, FOSTER AND MAINTAIN A POSITIVE SCHOOL CLIMATE BY FOCUSING ON THE ON-GOING, SYSTEMIC PROCESS AND PRACTICES IN THE SCHOOL AND TO ADDRESS SCHOOL CLIMATE ISSUES SUCH AS HARASSMENT, INTIMIDATION OR BULLYING. SUCH TEAM SHALL MEET AT LEAST TWO TIMES PER SCHOOL YEAR.

2. SUCH TEAM SHALL CONSIST OF THE PRINCIPAL OR HIS OR HER DESIGNEE, AND HE OR SHE SHALL APPOINT A TEACHER IN THE SCHOOL, A SCHOOL ANTI-BULLYING SPECIALIST, A PARENT OF A STUDENT IN THE SCHOOL, AND OTHER MEMBERS DEEMED APPROPRIATE BY THE PRINCIPAL.

3. THE SCHOOL ANTI-BULLYING SPECIALIST SHALL ACT AS THE CHAIR OF THE SCHOOL SAFETY TEAM.

4. SUCH TEAM SHALL:

(A) RECEIVE ANY COMPLAINTS OF HARASSMENT, INTIMIDATION, OR BULLYING OF STUDENTS THAT HAVE BEEN REPORTED TO THE PRINCIPAL;

(B) RECEIVE COPIES OF ANY REPORT PREPARED AFTER AN INVESTIGATION OF AN INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING;

(C) IDENTIFY AND ADDRESS PATTERNS OF HARASSMENT, INTIMIDATION, OR BULLYING OF STUDENTS IN THE SCHOOL;

(D) REVIEW AND STRENGTHEN SCHOOL CLIMATE AND THE POLICIES OF THE SCHOOL IN ORDER TO PREVENT AND ADDRESS HARASSMENT, INTIMIDATION, OR BULLYING OF STUDENTS;

(E) EDUCATE THE COMMUNITY, INCLUDING STUDENTS, TEACHERS, ADMINISTRATIVE STAFF, AND PARENTS, TO PREVENT AND ADDRESS HARASSMENT, INTIMIDATION, OR BULLYING OF STUDENTS;

(F) PARTICIPATE IN THE TRAINING REQUIRED PURSUANT TO THE PROVISIONS OF P.L. 2002, C.83 (C.18A:37-13 ET SEQ.) AND OTHER TRAINING WHICH THE PRINCIPAL OR THE DISTRICT ANTI-BULLYING COORDINATOR MAY REQUEST;

(G) COLLABORATE WITH THE DISTRICT ANTI-BULLYING COORDINATOR IN THE COLLECTION OF DISTRICT-WIDE DATA AND IN THE DEVELOPMENT OF DISTRICT POLICIES TO PREVENT AND ADDRESS HARASSMENT, INTIMIDATION, OR BULLYING OF STUDENTS; AND

(H) EXECUTE SUCH OTHER DUTIES RELATED TO HARASSMENT, INTIMIDATION, AND BULLYING AS REQUESTED BY THE PRINCIPAL OR DISTRICT ANTI-BULLYING COORDINATOR.

5. THE MEMBERS OF SUCH TEAM SHALL BE PROVIDED PROFESSIONAL DEVELOPMENT OPPORTUNITIES THAT ADDRESS EFFECTIVE PRACTICES OF SUCCESSFUL SCHOOL CLIMATE PROGRAMS.

S 7. The education law is amended by adding a new section 1504-b to read as follows:

S 1504-B. ANTI-BULLYING COORDINATOR. 1. ALL SCHOOL DISTRICT SUPERINTENDENTS SHALL APPOINT A DISTRICT ANTI-BULLYING COORDINATOR, AND TO THE EXTENT POSSIBLE, SUCH POSITION SHALL BE FILLED BY AN EXISTING DISTRICT EMPLOYEE.

2. THE DISTRICT ANTI-BULLYING COORDINATOR SHALL:

(A) BE RESPONSIBLE FOR COORDINATING AND STRENGTHENING THE SCHOOL DISTRICT'S POLICES TO PREVENT, IDENTIFY AND ADDRESS HARASSMENT, INTIMIDATION AND BULLYING OF STUDENTS;

(B) COLLABORATE WITH SCHOOL ANTI-BULLYING SPECIALISTS IN THE DISTRICT, THE BOARD OF EDUCATION, AND THE SUPERINTENDENT OF SCHOOLS TO PREVENT, IDENTIFY, AND RESPOND TO HARASSMENT, INTIMIDATION, AND BULLYING OF STUDENTS IN THE DISTRICT;

(C) PROVIDE DATA, IN COLLABORATION WITH THE SCHOOL DISTRICT SUPERINTENDENT, TO THE COMMISSIONER, REGARDING HARASSMENT, INTIMIDATION AND BULLYING OF STUDENTS; AND

(D) EXECUTE SUCH OTHER DUTIES RELATED TO SCHOOL HARASSMENT, INTIMIDATION, AND BULLYING AS REQUESTED BY THE SUPERINTENDENT OF SCHOOLS.

3. THE DISTRICT ANTI-BULLYING COORDINATOR SHALL MEET AT LEAST TWICE DURING THE SCHOOL YEAR, WITH ANTI-BULLYING SPECIALISTS IN THE DISTRICT TO DISCUSS AND STRENGTHEN PROCEDURES AND POLICIES TO PREVENT, IDENTIFY AND ADDRESS HARASSMENT, INTIMIDATION AND BULLYING IN THE DISTRICT.

S 8. Subdivision 1 of section 2102-a of the education law is amended by adding a new paragraph b-1 to read as follows:

B-1. BEGINNING WITH THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, IN ADDITION TO THE TRAINING REQUIRED BY PARAGRAPHS A AND B OF THIS SUBDIVISION, EVERY TRUSTEE OR VOTING MEMBER OF A BOARD OF EDUCATION OF A SCHOOL DISTRICT OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, ELECTED OR APPOINTED FOR A FIRST TERM BEGINNING ON OR AFTER THE FIRST OF JULY NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS PARAGRAPH, SHALL, WITHIN THE FIRST YEAR OF HIS OR HER TERM, COMPLETE A TRAINING COURSE ON HARASSMENT, INTIMIDATION AND BULLYING IN SCHOOLS, PROVIDED HOWEVER, SUCH TRUSTEE OR MEMBER SHALL BE REQUIRED TO TAKE SUCH COURSE ONLY ONCE. SUCH TRAINING COURSE SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER.

S 9. Subdivision 2 of section 2801 of the education law is amended by adding two new paragraphs a-1 and f-1 to read as follows:

A-1. PROVISIONS PROHIBITING HARASSMENT, INTIMIDATION OR BULLYING ON SCHOOL PROPERTY, SCHOOL BUS OR SCHOOL BUS STOP INCLUDING A SCHOOL FUNCTION, PURSUANT TO SECTION TWENTY-EIGHT HUNDRED THREE OF THIS ARTICLE, PROVIDED HOWEVER, SUCH SCHOOL DISTRICT SHALL ANNUALLY CONDUCT A RE-EVALUATION, REASSESSMENT, AND REVIEW OF SUCH PROVISIONS, MAKING ANY NECESSARY REVISIONS AND ADDITIONS. THE FIRST REVISED POLICY FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL BE TRANSMITTED TO THE COMMISSIONER NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND TWELVE. NOTICE OF THE SCHOOL DISTRICT'S PROVISIONS REGARDING THE PROHIBITION OF HARASSMENT, INTIMIDATION OR BULLYING SHALL APPEAR IN ANY PUBLICATION OF THE SCHOOL DISTRICT THAT SETS FORTH THE COMPREHENSIVE RULES, PROCEDURES AND STANDARDS OF CONDUCT FOR SCHOOLS WITHIN THE SCHOOL DISTRICT AND IN ANY STUDENT HANDBOOK;

F-1. (I) WHEN ANY SCHOOL EMPLOYEE HAVING REASONABLE CAUSE TO SUSPECT THAT A STUDENT HAS COMMITTED AN ACT OF HARASSMENT, INTIMIDATION OR BULLYING, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED THREE OF THIS ARTICLE, THE SCHOOL EMPLOYEE SHALL VERBALLY REPORT SUCH INCIDENT ON THE SAME DAY WHEN SUCH EMPLOYEE WITNESSED OR RECEIVED INFORMATION REGARDING SUCH INCIDENT, TO THE PRINCIPAL, OR DESIGNEE THEREOF, WHO IN TURN SHALL REPORT SUCH INCIDENT TO THE SUPERINTENDENT, UPON A DETERMINATION BY THE PRINCIPAL, OR DESIGNEE THEREOF, THAT THERE IS A REASONABLE SUSPICION THAT THE ACT OCCURRED. FAILURE OF AN EMPLOYEE TO MAKE A REPORT PURSUANT TO THIS PARAGRAPH MAY NOT BE THE BASIS FOR ANY DISCIPLINARY ACTION OR PROFESSIONAL MISCONDUCT CHARGE AGAINST THE EMPLOYEE, PROVIDED HOWEVER, THE PRINCIPAL, OR DESIGNEE THEREOF, WHO RECEIVES A REPORT OF HARASSMENT, INTIMIDATION, OR BULLYING FROM A SCHOOL EMPLOYEE, WHO FAILS TO INITIATE OR CONDUCT AN INVESTIGATION, OR WHO SHOULD HAVE KNOWN OF AN INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING AND FAILS TO TAKE SUFFICIENT

ACTION TO MINIMIZE OR ELIMINATE THE HARASSMENT, INTIMIDATION, OR BULLYING, MAY BE SUBJECT TO DISCIPLINARY ACTION;

(II) THE PRINCIPAL SHALL INFORM THE PARENTS OR GUARDIANS OF ALL STUDENTS INVOLVED IN THE ALLEGED INCIDENT, AND MAY DISCUSS, AS APPROPRIATE, THE AVAILABILITY OF COUNSELING AND OTHER INTERVENTION SERVICES. ALL ACTS OF HARASSMENT, INTIMIDATION, OR BULLYING SHALL BE REPORTED IN WRITING TO THE SCHOOL PRINCIPAL WITHIN TWO SCHOOL DAYS OF WHEN THE SCHOOL EMPLOYEE WITNESSED OR RECEIVED RELIABLE INFORMATION THAT A STUDENT HAD BEEN SUBJECT TO HARASSMENT, INTIMIDATION, OR BULLYING. IN CASES IN WHICH AN INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING OCCURS EXCLUSIVELY AMONG OR BETWEEN SPECIAL EDUCATION STUDENTS OR STUDENTS WITH DEVELOPMENTAL DISABILITIES, THE SCHOOL EMPLOYEE WHO WITNESSES SUCH AN INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING SHALL HAVE DISCRETION TO DETERMINE WHETHER THE INCIDENT IS NECESSARY TO REPORT OR WHETHER THE INCIDENT MAY HAVE BEEN AFFECTED BY THE CONDITION OF THE STUDENTS AND THEREBY WARRANTS AN ALTERNATIVE APPROACH MORE APPROPRIATE IN THE SPECIAL EDUCATION CONTEXT;

(III) A PROCEDURE FOR PROMPT INVESTIGATION OF REPORTS OF VIOLATIONS AND COMPLAINTS, WHICH SHALL AT A MINIMUM PROVIDE THAT:

(A) AN INVESTIGATION SHALL BE INITIATED BY THE PRINCIPAL OR THE PRINCIPAL'S DESIGNEE WITHIN ONE SCHOOL DAY OF THE REPORT OF THE INCIDENT AND SHALL BE CONDUCTED BY A SCHOOL ANTI-BULLYING SPECIALIST DESIGNATED BY THE PRINCIPAL. THE PRINCIPAL MAY APPOINT ADDITIONAL PERSONNEL TO ASSIST IN THE INVESTIGATION. THE INVESTIGATION SHALL BE COMPLETED AS SOON AS POSSIBLE, BUT NOT LATER THAN TEN SCHOOL DAYS FROM THE DATE OF THE REPORT OF THE INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING;

(B) THE RESULTS OF THE INVESTIGATION SHALL BE REPORTED TO THE SUPERINTENDENT OF SCHOOLS WITHIN TWO SCHOOL DAYS OF THE COMPLETION OF THE INVESTIGATION, AND THE SUPERINTENDENT MAY DECIDE TO PROVIDE INTERVENTION SERVICES, ESTABLISH TRAINING PROGRAMS TO REDUCE HARASSMENT, INTIMIDATION, OR BULLYING AND ENHANCE SCHOOL CLIMATE, IMPOSE DISCIPLINE, OR ORDER COUNSELING AS A RESULT OF THE FINDINGS OF THE INVESTIGATION;

(C) THE RESULTS OF EACH INVESTIGATION SHALL BE REPORTED TO THE BOARD OF EDUCATION NO LATER THAN THE DATE OF THE BOARD OF EDUCATION MEETING NEXT FOLLOWING THE COMPLETION OF THE INVESTIGATION, ALONG WITH INFORMATION ON ANY SERVICES PROVIDED, TRAINING ESTABLISHED, OR DISCIPLINE IMPOSED OR RECOMMENDED BY THE SUPERINTENDENT;

(D) PARENTS OR GUARDIANS OF THE STUDENTS WHO ARE PARTIES TO THE INVESTIGATION SHALL BE ENTITLED TO RECEIVE INFORMATION ABOUT THE INVESTIGATION, IN ACCORDANCE WITH FEDERAL AND STATE LAW AND REGULATION, INCLUDING THE NATURE OF THE INVESTIGATION, WHETHER THE DISTRICT FOUND EVIDENCE OF HARASSMENT, INTIMIDATION, OR BULLYING, OR WHETHER DISCIPLINE WAS IMPOSED OR SERVICES PROVIDED TO ADDRESS THE INCIDENT OF HARASSMENT, INTIMIDATION, OR BULLYING. THIS INFORMATION SHALL BE PROVIDED IN WRITING WITHIN FIVE SCHOOL DAYS AFTER THE RESULTS OF THE INVESTIGATION ARE REPORTED TO THE BOARD OF EDUCATION. A PARENT OR GUARDIAN MAY REQUEST A HEARING BEFORE THE BOARD OF EDUCATION AFTER RECEIVING THE INFORMATION, AND THE HEARING SHALL BE HELD WITHIN TEN DAYS OF THE REQUEST. THE BOARD OF EDUCATION SHALL PROTECT THE CONFIDENTIALITY OF THE STUDENTS DURING THE HEARING. AT THE HEARING THE BOARD OF EDUCATION MAY HEAR FROM THE SCHOOL ANTI-BULLYING SPECIALIST ABOUT THE INCIDENT, RECOMMENDATIONS FOR DISCIPLINE OR SERVICES, AND ANY PROGRAMS INSTITUTED TO REDUCE SUCH INCIDENTS;

(E) AT THE NEXT BOARD OF EDUCATION MEETING FOLLOWING ITS RECEIPT OF THE REPORT, THE BOARD OF EDUCATION SHALL ISSUE A DECISION, IN WRITING, TO AFFIRM, REJECT, OR MODIFY THE SUPERINTENDENT'S DECISION. THE BOARD OF

EDUCATION'S DECISION MAY BE APPEALED TO THE COMMISSIONER, IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN LAW AND REGULATION, NO LATER THAN NINETY DAYS AFTER THE ISSUANCE OF THE BOARD OF EDUCATION'S DECISION;

(IV) THE RANGE OF WAYS IN WHICH A SCHOOL WILL RESPOND ONCE AN INCIDENT OF HARASSMENT, INTIMIDATION OR BULLYING IS IDENTIFIED, SHALL BE DEFINED BY THE PRINCIPAL IN CONJUNCTION WITH THE SCHOOL ANTI-BULLYING SPECIALIST, BUT SHALL INCLUDE AN APPROPRIATE COMBINATION OF COUNSELING, SUPPORT SERVICES, INTERVENTION SERVICES, AND OTHER PROGRAMS, AS DEFINED BY THE COMMISSIONER;

(V) A STATEMENT THAT PROHIBITS REPRISAL OR RETALIATION AGAINST ANY PERSON WHO REPORTS AN ACT OF HARASSMENT, INTIMIDATION OR BULLYING AND THE CONSEQUENCE AND APPROPRIATE REMEDIAL ACTION FOR A PERSON WHO ENGAGES IN REPRISAL OR RETALIATION;

(VI) CONSEQUENCES AND APPROPRIATE REMEDIAL ACTION FOR A PERSON FOUND TO HAVE FALSELY ACCUSED ANOTHER AS A MEANS OF RETALIATION OR AS A MEANS OF HARASSMENT, INTIMIDATION OR BULLYING;

(VII) A STATEMENT OF HOW THE POLICY IS TO BE PUBLICIZED, INCLUDING NOTICE THAT THE POLICY APPLIES TO PARTICIPATION IN SCHOOL-SPONSORED FUNCTIONS;

(VIII) A REQUIREMENT THAT A LINK TO THE POLICY BE PROMINENTLY POSTED ON THE HOMEPAGE OF THE SCHOOL DISTRICT'S WEBSITE AND DISTRIBUTED ANNUALLY TO PARENTS AND GUARDIANS WHO HAVE CHILDREN ENROLLED IN A SCHOOL IN THE SCHOOL DISTRICT; AND

(IX) A REQUIREMENT THAT THE NAME, PHONE NUMBER, ADDRESS AND EMAIL ADDRESS OF THE DISTRICT ANTI-BULLYING COORDINATOR BE LISTED ON THE HOMEPAGE OF THE SCHOOL DISTRICT'S WEBSITE AND THAT ON THE HOMEPAGE OF EACH SCHOOL'S WEBSITE THE NAME, PHONE NUMBER, ADDRESS AND EMAIL ADDRESS OF THE SCHOOL ANTI-BULLYING SPECIALIST AND THE DISTRICT ANTI-BULLYING COORDINATOR BE LISTED. THE INFORMATION CONCERNING THE DISTRICT ANTI-BULLYING COORDINATOR AND THE SCHOOL ANTI-BULLYING SPECIALISTS SHALL ALSO BE MAINTAINED ON THE DEPARTMENT'S WEBSITE.

S 10. The education law is amended by adding a new section 2801-b to read as follows:

S 2801-B. ASSESSMENT OF HARASSMENT, INTIMIDATION AND BULLYING PREVENTION PROGRAMS OR APPROACHES. 1. SCHOOLS AND SCHOOL DISTRICTS SHALL ANNUALLY ESTABLISH, IMPLEMENT, DOCUMENT, AND ASSESS HARASSMENT, INTIMIDATION AND BULLYING PREVENTION PROGRAMS OR APPROACHES, AND OTHER INITIATIVES INVOLVING SCHOOL STAFF, STUDENTS, ADMINISTRATORS, VOLUNTEERS, PARENTS, LAW ENFORCEMENT AND COMMUNITY MEMBERS. THE PROGRAMS OR APPROACHES SHALL BE DESIGNED TO CREATE SCHOOLWIDE CONDITIONS TO PREVENT AND ADDRESS HARASSMENT, INTIMIDATION, AND BULLYING.

2. A SCHOOL DISTRICT MAY APPLY TO THE DEPARTMENT FOR A GRANT TO BE USED FOR PROGRAMS OR APPROACHES ESTABLISHED PURSUANT TO THIS CHAPTER, TO THE EXTENT FUNDS ARE APPROPRIATED FOR THESE PURPOSES OR FUNDS ARE MADE AVAILABLE THROUGH THE BULLYING PREVENTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-EIGHT-D OF THE STATE FINANCE LAW.

3. A SCHOOL DISTRICT SHALL:

A. PROVIDE TRAINING ON THE SCHOOL DISTRICT'S HARASSMENT, INTIMIDATION, OR BULLYING POLICIES TO SCHOOL EMPLOYEES AND VOLUNTEERS WHO HAVE SIGNIFICANT CONTACT WITH STUDENTS;

B. ENSURE THAT THE TRAINING INCLUDES INSTRUCTION ON PREVENTING HARASSMENT, INTIMIDATION AND BULLYING ON THE BASIS OF PROTECTED CATEGORIES AND OTHER DISTINGUISHING CHARACTERISTICS THAT MAY INCITE INCIDENTS OF DISCRIMINATION, HARASSMENT, INTIMIDATION, OR BULLYING; AND

C. INFORMATION REGARDING THE SCHOOL DISTRICT'S POLICY AGAINST HARASSMENT, INTIMIDATION OR BULLYING SHALL BE PROVIDED TO FULL-TIME AND PART-

TIME STAFF, VOLUNTEERS WHO HAVE SIGNIFICANT CONTACT WITH STUDENTS, AND THOSE PERSONS CONTRACTED BY THE DISTRICT TO PROVIDE SERVICES TO THE STUDENTS.

S 11. The education law is amended by adding a new section 2803 to read as follows:

S 2803. HARASSMENT, INTIMIDATION AND BULLYING PROHIBITED. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "PUBLIC SCHOOL" MEANS:

(I) A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, KINDERGARTEN OR PRE-KINDERGARTEN PROGRAM, ADULT OR CONTINUING EDUCATION PROGRAM OR OTHER EDUCATIONAL PROGRAM OPERATED BY A SCHOOL DISTRICT, CHARTER SCHOOL, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, COUNTY VOCATIONAL EDUCATION AND EXTENSION BOARDS; AND

(II) A SCHOOL OR EDUCATIONAL PROGRAM THAT SERVES STUDENTS IN ANY OF GRADES KINDERGARTEN THROUGH TWELVE AND IS OPERATED BY THE DEPARTMENT, OR IS OPERATED OR SUPERVISED BY ANOTHER STATE AGENCY OR A POLITICAL SUBDIVISION AND IS SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED TWELVE OF THIS CHAPTER.

B. "PUBLICLY FUNDED SPECIAL EDUCATION PROGRAM" MEANS AN APPROVED PROVIDER OF SPECIAL EDUCATION PROGRAMS AND SERVICES UNDER SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER, AN APPROVED PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE PROVISION OF SPECIAL SERVICES OR PROGRAMS PURSUANT TO SUBDIVISION TWO OF SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER, A STATE-SUPPORTED SCHOOL SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-FIVE OF THIS CHAPTER OR ANY OTHER AGENCY OR ENTITY THAT PROVIDES SPECIAL EDUCATION PROGRAMS OR SERVICES PURSUANT TO THE PROVISIONS OF ARTICLE EIGHTY-ONE OR EIGHTY-NINE OF THIS CHAPTER.

C. "SCHOOL PROPERTY" MEANS ON OR WITHIN ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND, PARKING LOT OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC SCHOOL OR A PUBLICLY FUNDED SPECIAL EDUCATION PROGRAM; OR IN OR ON A SCHOOL BUS OR SCHOOL BUS STOP, AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THE VEHICLE AND TRAFFIC LAW; AND A "SCHOOL FUNCTION" MEANS A SCHOOL SPONSORED EXTRA-CURRICULAR EVENT OR ACTIVITY.

D. "HARASSMENT, INTIMIDATION OR BULLYING" MEANS ANY GESTURE, WRITTEN, VERBAL OR PHYSICAL ACT, OR ANY ELECTRONIC COMMUNICATION, INCLUDING THREATS, STALKING AND INTIMIDATION, THE USE OF EPITHETS OR SLURS, THAT IS REASONABLY PERCEIVED AS BEING MOTIVATED EITHER BY ANY ACTUAL OR PERCEIVED CHARACTERISTIC, SUCH AS RACE, COLOR, RELIGION, RELIGIOUS PRACTICES, ANCESTRY, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION, OR A MENTAL, PHYSICAL OR SENSORY HANDICAP, OR BY ANY OTHER DISTINGUISHING CHARACTERISTIC, THAT TAKES PLACE ON SCHOOL PROPERTY, AT ANY SCHOOL-SPONSORED FUNCTION OR ON A SCHOOL BUS OR SCHOOL BUS STOP AND THAT:

(I) A REASONABLE PERSON SHOULD KNOW, UNDER THE CIRCUMSTANCES, WILL HAVE THE EFFECT OF PHYSICALLY OR EMOTIONALLY HARMING A STUDENT OR DAMAGING A STUDENT'S PROPERTY, OR PLACING A STUDENT IN REASONABLE FEAR OF HARM TO HIS OR HER PERSON OR DAMAGE TO HIS OR HER PROPERTY;

(II) HAS THE EFFECT OF INSULTING OR DEMEANING ANY STUDENT OR GROUP OF STUDENTS IN SUCH A WAY AS TO CAUSE DISRUPTION IN, OR INTERFERENCE WITH, THE ORDERLY OPERATION OF THE SCHOOL;

(III) CREATES A HOSTILE ENVIRONMENT AT SCHOOL FOR THE STUDENT; OR

(IV) INFRINGES ON THE RIGHTS OF THE STUDENT AT SCHOOL.

E. "ELECTRONIC COMMUNICATION" MEANS A COMMUNICATION TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE, INCLUDING, BUT NOT LIMITED TO, A TELE-

PHONE, CELLULAR PHONE, COMPUTER, HAND-HELD ELECTRONIC COMMUNICATION DEVICE OR PAGER.

2. NO STUDENT SHALL BE SUBJECT TO HARASSMENT, INTIMIDATION OR BULLYING BY ANY STUDENT OF A PUBLIC SCHOOL OR PUBLICLY FUNDED SPECIAL EDUCATION PROGRAM.

3. A. ANY PERSON FOUND TO BE IN VIOLATION OF SUBDIVISION TWO OF THIS SECTION IN A PUBLIC SCHOOL OR ON SCHOOL PROPERTY, SCHOOL BUS OR SCHOOL BUS STOP SHALL BE SUBJECT TO DISCIPLINARY ACTION IN ACCORDANCE WITH THE DISTRICT'S CODE OF CONDUCT ADOPTED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE AND THE DISCIPLINE PROCEDURES APPLICABLE TO STUDENTS OR EMPLOYEES OF THE PUBLIC SCHOOL. ANY PERSON FOUND TO BE IN VIOLATION OF SUBDIVISION TWO OF THIS SECTION IN A PUBLICLY FUNDED SPECIAL EDUCATION PROGRAM SHALL BE SUBJECT TO DISCIPLINE UNDER THE POLICIES AND PROCEDURES OF SUCH PROGRAM GOVERNING STUDENT CONDUCT OR EMPLOYEE DISCIPLINE.

B. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION.

4. NOTHING IN THIS SECTION SHALL APPLY, OR BE CONSTRUED TO APPLY, TO PRIVATE, RELIGIOUS OR DENOMINATIONAL EDUCATIONAL INSTITUTIONS. NOR SHALL THIS SECTION PRECLUDE OR LIMIT, OR BE PERCEIVED TO PRECLUDE OR LIMIT, ANY RIGHT OR CAUSE OF ACTION PROVIDED UNDER ANY LOCAL, STATE OR FEDERAL ORDINANCE, LAW, RULE OR REGULATION.

5. A PLAIN-LANGUAGE, AGE-APPROPRIATE DESCRIPTION OF THE POLICIES OUTLINED IN SUBDIVISION TWO OF THIS SECTION SHALL BE DISTRIBUTED TO EMPLOYEES, STUDENTS AND PARENTS OF EACH PUBLIC SCHOOL OR PUBLICLY-FUNDED SPECIAL EDUCATION PROGRAM ON AT LEAST AN ANNUAL BASIS. IN THE CASE OF PUBLIC SCHOOLS, SUCH REQUIREMENT SHALL BE MET BY INCLUDING SUCH DESCRIPTION IN THE SUMMARY OF THE CODE OF CONDUCT PROVIDED TO EACH STUDENT AND MAILED TO PARENTS PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS ARTICLE.

6. THE PROVISIONS OF THIS SECTION SHALL BE SEVERABLE, AND IF ANY COURT OF COMPETENT JURISDICTION DECLARES ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS ARTICLE TO BE INVALID, OR ITS APPLICABILITY TO ANY GOVERNMENT AGENCY, PERSON OR CIRCUMSTANCE, IS DECLARED INVALID, THE REMAINDER OF THIS ARTICLE AND ITS RELEVANT APPLICABILITY SHALL NOT BE AFFECTED.

S 12. The education law is amended by adding a new section 2803-a to read as follows:

S 2803-A. HARASSMENT, INTIMIDATION AND BULLYING REPORTING SYSTEM. 1. THE COMMISSIONER SHALL ESTABLISH A REPORTING SYSTEM TO REPORT INCIDENTS OF HARASSMENT, INTIMIDATION AND BULLYING INVOLVING STUDENTS.

2. EACH SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND COUNTY VOCATIONAL EDUCATION AND EXTENSION BOARD SHALL SUBMIT TO THE DEPARTMENT, AT A PUBLIC HEARING HELD EVERY SIX MONTHS, A REPORT CARD WHICH INCLUDES DATA IDENTIFYING THE NUMBER AND NATURE OF ALL REPORTS OF HARASSMENT, INTIMIDATION OR BULLYING INVOLVING STUDENTS.

3. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS TO IMPLEMENT A PROGRAM TO GRADE SCHOOLS FOR THE PURPOSE OF ASSESSING THEIR EFFORTS TO IDENTIFY HARASSMENT, INTIMIDATION OR BULLYING.

4. SUCH REPORT CARD SHALL BE USED BY THE DEPARTMENT, TO GRADE SCHOOLS AND DISTRICTS IN THEIR EFFORTS TO IDENTIFY HARASSMENT, INTIMIDATION OR BULLYING.

5. THE GRADE RECEIVED BY THE SCHOOL AND THE DISTRICT SHALL BE POSTED ON THE HOMEPAGE OF THE SCHOOL'S WEBSITE. THE GRADE FOR THE DISTRICT AND EACH SCHOOL OF THE DISTRICT SHALL BE POSTED ON THE HOMEPAGE OF THE DISTRICT'S WEBSITE. A LINK TO THE REPORT SHALL BE AVAILABLE ON THE

DISTRICT'S WEBSITE. SUCH GRADES SHALL BE POSTED WITHIN TEN DAYS OF THE RECEIPT OF THE GRADE BY THE SCHOOL AND DISTRICT.

S 13. Section 3004 of the education law is amended by adding a new subdivision 7 to read as follows:

7. THE COMMISSIONER SHALL PRESCRIBE REGULATIONS REQUIRING THAT ALL PERSONS APPLYING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, FOR A CERTIFICATE OR LICENSE VALID FOR SERVICE AS A CLASSROOM TEACHER, PUPIL PERSONNEL SERVICE PROFESSIONAL, SCHOOL ADMINISTRATOR OR SUPERVISOR OR SUPERINTENDENT OF SCHOOLS, SHALL, IN ADDITION TO ALL THE OTHER CERTIFICATION OR LICENSING REQUIREMENTS, HAVE COMPLETED INSTRUCTION OR TRAINING IN SUICIDE PREVENTION WHICH SHALL INCLUDE INFORMATION ON THE RELATIONSHIP BETWEEN THE RISK OF SUICIDE AND INCIDENTS OF HARASSMENT, INTIMIDATION, AND BULLYING AND INFORMATION ON REDUCING THE RISK OF SUICIDE IN STUDENTS WHO ARE MEMBERS OF COMMUNITIES IDENTIFIED AS HAVING MEMBERS AT HIGH RISK OF SUICIDE. SUCH INSTRUCTION OR TRAINING SHALL BE OBTAINED FROM AN INSTITUTION OR PROVIDER WHICH HAS BEEN APPROVED BY THE DEPARTMENT TO PROVIDE SUCH INSTRUCTION OR TRAINING. SUCH REGULATIONS SHALL ALSO REQUIRE THAT SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES INCLUDE TRAINING FOR TEACHERS AND OTHER CERTIFIED OR LICENSED EMPLOYEES IN IDENTIFYING STUDENTS AT RISK OF SUICIDE.

S 14. Section 3028-c of the education law, as added by chapter 181 of the laws of 2000, is amended to read as follows:

S 3028-c. Protection of school employees who report acts of BULLYING OR violence and weapons possession. Any school employee having reasonable cause to suspect that a person has committed an act of BULLYING AS SUCH TERM IS DEFINED IN SECTION TWENTY-EIGHT HUNDRED THREE OF THIS CHAPTER OR violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of BULLYING AS SUCH TERM IS DEFINED IN SECTION TWENTY-EIGHT HUNDRED THREE OF THIS CHAPTER OR violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

S 15. Paragraph a of subdivision 2-a of section 3214 of the education law, as added by chapter 181 of the laws of 2000, is amended to read as follows:

a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(1) commits an act of violence upon a teacher, administrator or other school employee;

(2) commits, while on school district property, an act of violence upon another student or any other person lawfully upon said property;

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

(5) threatens, while on school district property, to use any instrument that appears capable of causing physical injury or death;

(6) knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon school district property; [or]

(7) knowingly and intentionally damages or destroys school district property; OR

(8) HARASSES, INTIMIDATES OR BULLIES ANOTHER STUDENT, OR A TEACHER, ADMINISTRATOR OR OTHER SCHOOL DISTRICT EMPLOYEE OR ANY PERSON LAWFULLY UPON SCHOOL PROPERTY.

S 16. The education law is amended by adding new section 6305-a to read as follows:

S 6305-A. POLICY ON THE PREVENTION OF HARASSMENT, INTIMIDATION AND BULLYING. THE BOARD OF TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK SHALL ADOPT RULES REQUIRING THAT EACH INSTITUTION OF THE CITY UNIVERSITY, ON OR BEFORE JULY FIRST, TWO THOUSAND TWELVE, ADOPT AND IMPLEMENT A POLICY ON THE PREVENTION OF HARASSMENT, INTIMIDATION AND BULLYING.

S 17. The penal law is amended by adding a new section 240.33 to read as follows:

S 240.33 AGGRAVATED HARASSMENT OF TEACHERS AND SCHOOL PERSONNEL.

A PERSON IS GUILTY OF AGGRAVATED HARASSMENT OF TEACHERS AND SCHOOL PERSONNEL WHEN, WITH INTENT TO HARASS, ANNOY OR ALARM A PERSON WHOM HE OR SHE KNOWS OR REASONABLY SHOULD KNOW TO BE A TEACHER, ADMINISTRATOR OR OTHER STAFF MEMBER OF A PUBLIC OR PRIVATE ELEMENTARY, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL OR HIGH SCHOOL, ENGAGED IN THE COURSE OF HIS OR HER EMPLOYMENT, HE OR SHE STRIKES, SHOVES OR KICKS SUCH TEACHER, ADMINISTRATOR OR OTHER STAFF MEMBER, AND WHEN SUCH CONDUCT TAKES PLACE ON SCHOOL PROPERTY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE EDUCATION LAW WHERE SUCH TEACHER, ADMINISTRATOR OR OTHER STAFF MEMBER IS EMPLOYED OR ASSIGNED ON THE DATE OF SUCH CONDUCT.

AGGRAVATED HARASSMENT OF TEACHERS AND SCHOOL PERSONNEL IS A CLASS B MISDEMEANOR.

S 18. The penal law is amended by adding a new section 240.34 to read as follows:

S 240.34 BIAS INTIMIDATION.

1. A PERSON IS GUILTY OF THE CRIME OF BIAS INTIMIDATION IF HE OR SHE COMMITS, ATTEMPTS TO COMMIT, CONSPIRES WITH ANOTHER TO COMMIT, OR THREATENS THE IMMEDIATE COMMISSION OF AN OFFENSE SPECIFIED IN TITLES H AND I, ARTICLES ONE HUNDRED FORTY, ONE HUNDRED FORTY-FIVE, ONE HUNDRED FIFTY, ONE HUNDRED SIXTY, TWO HUNDRED FORTY-FIVE AND TWO HUNDRED SIXTY-THREE, AND SECTIONS 230.34, 240.25, 240.26, 240.30, 240.31, 265.01, 265.02, 265.03, 265.04, 265.05, 265.06, 265.08, 265.09 AND 265.35 OF THIS CHAPTER:

(A) WITH A PURPOSE TO INTIMIDATE AN INDIVIDUAL OR GROUP OF INDIVIDUALS BECAUSE OF RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY; OR

(B) KNOWING THAT THE CONDUCT CONSTITUTING THE OFFENSE WOULD CAUSE AN INDIVIDUAL OR GROUP OF INDIVIDUALS TO BE INTIMIDATED BECAUSE OF RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY; OR

(C) UNDER CIRCUMSTANCES THAT CAUSED ANY VICTIM OF THE UNDERLYING OFFENSE TO BE INTIMIDATED AND THE VICTIM, CONSIDERING THE MANNER IN WHICH THE OFFENSE WAS COMMITTED, REASONABLY BELIEVED EITHER THAT (I) THE OFFENSE WAS COMMITTED WITH A PURPOSE TO INTIMIDATE THE VICTIM OR ANY PERSON OR ENTITY IN WHOSE WELFARE THE VICTIM IS INTERESTED BECAUSE OF RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY, OR (II) THE VICTIM OR THE VICTIM'S PROPERTY WAS SELECTED TO BE THE TARGET OF THE

OFFENSE BECAUSE OF THE VICTIM'S RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY.

2. PROOF THAT THE TARGET OF THE UNDERLYING OFFENSE WAS SELECTED BY THE DEFENDANT, OR BY ANOTHER ACTING IN CONCERT WITH THE DEFENDANT, BECAUSE OF RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY SHALL GIVE RISE TO A PERMISSIVE INFERENCE BY THE TRIER OF FACT THAT THE DEFENDANT ACTED WITH A PURPOSE TO INTIMIDATE AN INDIVIDUAL OR GROUP OF INDIVIDUALS BECAUSE OF RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY.

3. IT SHALL NOT BE A DEFENSE TO A PROSECUTION FOR A CRIME UNDER THIS SECTION THAT THE DEFENDANT WAS MISTAKEN AS TO THE RACE, COLOR, RELIGION, GENDER, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, NATIONAL ORIGIN, OR ETHNICITY OF THE VICTIM.

4. A PERSON WHO VIOLATES THIS SECTION SHALL BE GUILTY OF:

(A) A CLASS A-I FELONY WHEN THE MOST SERIOUS UNDERLYING OFFENSE IS A CLASS A-II FELONY;

(B) A CLASS A-II FELONY WHEN THE MOST SERIOUS UNDERLYING OFFENSE IS A CLASS B FELONY;

(C) A CLASS B FELONY WHEN THE MOST SERIOUS UNDERLYING OFFENSE IS A CLASS C FELONY;

(D) A CLASS C FELONY WHEN THE MOST SERIOUS UNDERLYING OFFENSE IS A CLASS D FELONY;

(E) A CLASS E FELONY WHEN THE MOST SERIOUS UNDERLYING OFFENSE IS A CLASS B MISDEMEANOR; AND

(F) A CLASS A MISDEMEANOR WHEN THE MOST SERIOUS OFFENSE IS A VIOLATION.

S 19. The penal law is amended by adding a new section 70.31 to read as follows:

S 70.31 ADDITIONAL PENALTIES FOR BIAS INTIMIDATION.

1. IN ADDITION TO ANY FINE OR TERM OF IMPRISONMENT IMPOSED, A COURT MAY ORDER A PERSON CONVICTED OF BIAS INTIMIDATION PURSUANT TO SECTION 240.34 OF THIS CHAPTER, TO ONE OR MORE OF THE FOLLOWING:

(A) COMPLETE A CLASS OR PROGRAM ON SENSITIVITY TO DIVERSE COMMUNITIES, OR OTHER SIMILAR TRAINING IN THE AREA OF CIVIL RIGHTS;

(B) COMPLETE A COUNSELING PROGRAM INTENDED TO REDUCE THE TENDENCY TOWARD VIOLENT AND ANTISOCIAL BEHAVIOR; AND

(C) MAKE PAYMENTS OR OTHER COMPENSATION TO A COMMUNITY-BASED PROGRAM OR LOCAL AGENCY THAT PROVIDES SERVICES TO VICTIMS OF BIAS INTIMIDATION.

2. AS USED IN THIS SECTION "GENDER IDENTITY OR EXPRESSION" MEANS HAVING OR BEING PERCEIVED AS HAVING A GENDER RELATED IDENTITY OR EXPRESSION WHETHER OR NOT STEREOTYPICALLY ASSOCIATED WITH A PERSON'S ASSIGNED SEX AT BIRTH.

S 20. The executive law is amended by adding a new section 168-b to read as follows:

S 168-B. DESIGNATION OF WEEKS OF COMMEMORATION. 1. A WEEK OF COMMEMORATION IS A CALENDAR WEEK SO DESIGNATED BY THIS SECTION OR A CALENDAR WEEK IN ANY ONE YEAR SO DESIGNATED BY A PROCLAMATION OF THE GOVERNOR OR RESOLUTION OF THE SENATE AND ASSEMBLY JOINTLY ADOPTED.

2. A WEEK OF COMMEMORATION SHALL NOT CONSTITUTE A HOLIDAY OR HALF-HOLIDAY BUT SHALL BE A WEEK SET ASIDE IN RECOGNITION AND SPECIAL HONOR OF A PERSON, PERSONS, GROUP IDEAL OR GOAL.

3. THE FOLLOWING WEEK SHALL BE A WEEK OF COMMEMORATION IN EACH YEAR: THE WEEK BEGINNING WITH THE FIRST MONDAY IN OCTOBER, TO BE KNOWN AS "WEEK OF RESPECT".

S 21. The state finance law is amended by adding a new section 98-d to read as follows:

S 98-D. BULLYING PREVENTION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "BULLYING PREVENTION FUND".

2. SUCH FUND SHALL CONSIST OF ALL OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND, FOLLOWING APPROPRIATION BY THE LEGISLATURE, SHALL BE EXPENDED ONLY THROUGH FUND GRANTS TO SCHOOL DISTRICTS TO PROVIDE TRAINING ON HARASSMENT, INTIMIDATION AND BULLYING PREVENTION AND DEVELOPMENT OR OTHER EFFECTIVE MEANS TO CREATE A POSITIVE SCHOOL CLIMATE. MONEYS FOR SUCH PURPOSES SHALL BE USED TO THE EXTENT THAT THEY ARE AVAILABLE WITHIN THE FUND.

4. THE MONEYS OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF EDUCATION. AT THE END OF EACH YEAR, ANY MONEYS REMAINING IN THE FUND SHALL BE RETAINED IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. THE INTEREST AND INCOME EARNED ON MONEY IN THE FUND, AFTER DEDUCTING ANY APPLICABLE CHARGES, SHALL BE CREDITED TO THE FUND.

S 22. 1. A temporary state commission, to be known as the "New York state commission on bullying in schools", is hereby created to study the issue of school harassment, intimidation and bullying and to make recommendations on how to reduce these activities in our schools.

2. The commission shall consist of nine members to be appointed as follows: three members shall be appointed by the governor and shall include, at a minimum, the commissioner of education, and the commissioner of the office of children and family services, four members, with two appointments by the temporary present of the senate and two by the speaker of the assembly, shall be mental health professionals, child advocacy organizations and/or academic professionals with experience in treating victims of harassment, intimidation and bullying and suicide prevention, one member shall be appointed by the minority leader of the senate; and one member shall be appointed by the minority leader of the assembly. Any vacancy on such commission shall be filled in the same manner as the original appointment was made. A chairperson and vice-chairperson of such commission shall be elected by the majority of its members, all members being present.

3. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

4. The commission shall make a report of its findings and make any recommendations it may deem necessary and appropriate to the governor, the temporary president of the senate and the speaker of the assembly no later than one year after the effective date of this act.

S 23. This act shall take effect immediately, provided however that:

a. sections three, four, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of this act shall take effect on the first of July next succeeding the date on which it shall have become a law;

b. section five of this act shall take effect on the same date and in the same manner as section 3 of chapter 482 of the laws of 2010 takes effect;

c. sections seventeen, eighteen and nineteen of this act shall take effect on the first of November next succeeding the date on which it shall have become a law;

d. section twenty-two of this act shall take effect on the ninetieth day after it shall have become a law and shall expire July 1, 2014, when upon such date the provisions of such section shall be deemed repealed; and

e. effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such date.