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

8895--A

I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. CORWIN, CROUCH, GIGLIO, DUPREY, CERETTO, MONTESANO, HAWLEY, PALMESANO, SALADINO, WALTER, CASTRO -- Multi-Sponsored by -- M. of A. BURLING, BUTLER, CALHOUN, GRAF, JOHNS, KATZ, MALLIOTAKIS, McDONOUGH, MURRAY, REILICH, P. RIVERA, TENNEY, THIELE -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to prohibiting cyber-bullying

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

Section 1. Legislative intent. The legislature finds that:

a. Bullying is a long-standing problem among school-aged children in New York state and throughout the nation. With increasing accessibility to electronic means of communication, bullying has transformed from a predominantly school-based issue to a broader societal problem.

b. Researchers have demonstrated that bullying has long-term consequences. Further, bullying goes beyond the classroom to bullying on the job, on athletic teams, on college campuses and the internet.

c. Experts researching bullying have suggested that one tool for schools to use in combatting bullying is to maintain and enforce consistent policies against bullying and harassment, including cyber-bullying. Such enforcement is not always possible if bullying occurs away from school or by a non-student.

d. Perpetrators of cyber-bullying are often more extreme in the threats and taunts they inflict on their victims, as they do not actually see their victim's emotional reaction to the abuse and believe that they are anonymous. Victims of cyber-bullying suffer very real and serious harm as a result of these incidents, often showing signs of depression, anxiety, social isolation, nervousness when interacting with technology, low self-esteem and declining school performance. In some cases, victims attempt or commit suicide in part because of cyber-bullying they've endured.

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

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e. Enactment of this act is necessary and appropriate to further ensure that New York state's public schools are safe and free from cyber-bullying.

S 2. The education law is amended by adding a new section 2803 to read as follows:

S 2803. CYBER-BULLYING. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL MEAN AS FOLLOWS:

A. CYBER-BULLYING SHALL MEAN ENGAGING IN A COURSE OF CONDUCT OR REPEATEDLY COMMITTING ACTS OF ABUSIVE BEHAVIOR OVER A PERIOD OF TIME BY COMMUNICATING OR CAUSING A COMMUNICATION TO BE SENT BY MECHANICAL OR ELECTRONIC MEANS, POSTING STATEMENTS ON THE INTERNET OR THROUGH A COMPUTER NETWORK. ACTS OF ABUSIVE BEHAVIOR SHALL INCLUDE, BUT NOT BE LIMITED TO, TAUNTING; THREATENING; INTIMIDATING; INSULTING; TORMENTING; HUMILIATING; DISSEMINATING EMBARRASSING OR SEXUALLY EXPLICIT PHOTOGRAPHS, EITHER ACTUAL OR MODIFIED, OF A MINOR; DISSEMINATING THE PRIVATE, PERSONAL OR SEXUAL INFORMATION, EITHER FACTUAL OR FALSE, OF A MINOR; OR SENDING HATE MAIL.

B. MINOR SHALL MEAN ANY NATURAL PERSON OR INDIVIDUAL UNDER THE AGE OF EIGHTEEN.

C. PERSON SHALL MEAN ANY NATURAL PERSON OR INDIVIDUAL.

2. NO PERSON SHALL ENGAGE IN CYBER-BULLYING AGAINST ANY MINOR.

3. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF AN UNCLASSIFIED MISDEMEANOR PUNISHABLE BY A FINE OF UP TO ONE THOUSAND DOLLARS AND/OR UP TO ONE YEAR IMPRISONMENT.

4. THIS SECTION SHALL APPLY TO ALL ACTIONS OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

5. IF ANY CLAUSE, SENTENCE, PARAGRAPH OR PART OF THIS SECTION SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED.

S 3. This act shall take effect immediately.