STATE OF NEW YORK

2821

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. BRONSON, SEAWRIGHT, FAHY, EPSTEIN, LAVINE, SIMON, DAVILA, GLICK -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to enacting the "Trevyan Rowe child and young teen mental health community safety act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new article 2-A to read as follows:

ARTICLE 2-A

CHILD & YOUNG TEEN MENTAL HEALTH

Section 20. Short title.
21. Definitions.
22. Child and young teen mental health and community safety.
23. Reporting.
24. Commission.

§ 20. Short title. This article shall be known and may be cited as the "Trevyan Rowe child and young teen mental health community safety act".

§ 21. Definitions. For the purposes of this section, the following terms shall have the following meanings:

1. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment

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

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and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

2. "Cyberbullying" shall mean harassment or bullying as defined in subdivision one of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

3. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

4. "Disability" shall mean (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; (b) a record of such an impairment; or (c) a condition regarded by others as such an impairment.

5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality.

6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression.

7. "Race" shall, for the purposes of this article include traits historically associated with race, including but not limited to, hair texture and protective hairstyles as defined by section eleven of this title.

8. "At-risk children or young teenagers" shall mean children or teenagers seventeen years of age or younger who (a) have a disability or who identify as lesbian, gay, bisexual, transgender, queer, gender non-conforming; and (b) are in need of mental or behavioral health support due to anxiety, trauma, harassment or bullying, physical or mental abuse, suicidal ideation, or self-harm.

9. "Police officer" shall have the same meaning as defined by subdivision thirty-four of section 1.20 of the criminal procedure law.

10. "Peace officer" shall mean a person listed in section 2.10 of the criminal procedure law.

§ 22. Child and young teen mental health and community safety. 1. The board of education and the trustees or sole trustee of every school district shall create policies, procedures, and guidelines, including prevention, intervention, and postvention planning to direct teachers, school administrators, school safety staff, bus drivers, other school district employees, social workers, police officers, and peace officers on how to respond to children or young teenagers, including but not limited to at-risk children or young teenagers, who have:

(a) Demonstrated suicidal ideation, intentions, or inflicted self-harm;

(b) Been victims of harassment or bullying; and/or

(c) Without permission, wandered or eloped from school property, or threatened to do so.

2. In creating the policies, procedures, and guidelines pursuant to subdivision one of this section, a board of education and the trustees or sole trustee of a school district shall coordinate with pediatric mental and behavioral health services providers, community health agen-

cies, local law enforcement and public safety agencies, and any other local municipal agency offering relevant mental or behavioral health services.

3. Upon creation of the policies, procedures, and guidelines pursuant to subdivision one of this section, and annually thereafter, a board of education of a school district shall distribute such policies, procedures, and guidelines to all teachers, school administrators, school safety staff, bus drivers, and other employees of such school district, and any local social services agencies, and local law enforcement and public safety agencies.

§ 23. Reporting. The commissioner shall create a procedure under which boards of education of every school district shall report to the department annually on the policies, procedures, and guidelines developed pursuant to subdivision one of section twenty-two of this article. The commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system under section twenty-eight hundred two of this chapter, and/or the reporting requirements for harassment, bullying and discrimination on school grounds or at a school function under section fifteen of this title.

§ 24. Commission. 1. There is hereby created in the department a "commission on child and young teen mental health and community safety" to evaluate the safety and security of children in primary and secondary public and private schools in this state. The commission, in consultation with the office of children and family services and the office of mental health shall perform the following duties:

(a) evaluate the safety and security of students in primary and secondary private and public schools in this state;

(b) identify any disparate treatment regarding mental health or behavioral health services provided to students in primary and secondary private and public schools in this state and in Monroe county;

(c) examine the effects of COVID-19 on the mental health and behavioral health of primary and secondary students in this state, as it relates to returning to in-person learning;

(d) identify any racial or ethnic disparities in the delivery of educational supports and services to students in primary and secondary private and public schools in this state, whether such students participate in person or through distance learning methods; and

(e) suggest modifications to the personalized recovery-oriented services (PROS) program to allow participants to access mental health services outside of such program through a healthcare provider of their choice without losing eligibility for comprehensive assistance under such program to encourage natural supports and improve medication management.

2. The commission shall consist of eleven members to be appointed as follows:

(a) one member shall be appointed by the governor;

(b) one member shall be appointed by the speaker of the assembly;

(c) one member shall be appointed by the temporary president of the senate;

(d) one member shall be appointed by the minority leader of the assembly;

(e) one member shall be appointed by the minority leader of the senate;

(f) two members shall be appointed by the commissioner of mental health;

(g) two members shall be appointed by the commissioner of the office of children and family services; and

(h) two members shall be appointed by the commissioner.

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 hereunder.

4. The commission may acquire directly from the head of any department, agency, or instrumentality of the state, available information which the commission considers useful in the discharge of its duties. All departments, agencies, and instrumentalities of the state shall cooperate with the commission with respect to such information and shall furnish all information requested by the commission to the extent permitted by law.

5. The commission shall submit a report of its findings and recommendations to the governor, the temporary president of the senate, the speaker of the assembly and the minority leaders of the senate and the assembly no later than one year after the effective date of this section.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that 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 to be made and completed on or before such effective date.