AN ACT

ENTITLED, An Act to require the school board of each school district to adopt a policy prohibiting bullying.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. If a school district does not have a bullying policy, the school district shall follow the model bullying policy in section 6 of this Act until such time as the school district adopts its own bullying policy. Nothing in this Act supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to this Act, may contain any protected classes of students.

Section 2. Bullying is a pattern of repeated conduct that causes physical hurt or psychological distress on one or more students that may include threats, intimidation, stalking as defined in chapter 22-19A, physical violence, theft, destruction of property, any threatening use of data or computer software, written or verbal communication, or conduct directed against a student that:

(1) Places a student in reasonable fear of harm to his or her person or damage to his or her property; and either

(2) Substantially interferes with a student's educational performance; or

(3) Substantially disrupts the orderly operation of a school.

For the purposes of this Act, bullying also includes retaliation against a student for asserting or alleging an act of bullying.

Section 3. Each school district policy developed pursuant to this Act shall contain the following provisions:

(1) A statement prohibiting bullying and a definition of bullying that includes the definition listed in section 2 of this Act;

(2) A description of the type of behavior expected from each student of the school district,

and the consequences for a student of the school district who commits an act of bullying;

(3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and

(4) A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

Section 4. Any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy is immune from any cause of action for damages arising from failure to remedy the reported incident. Moreover, the provisions of this Act do not create a cause of action against any school district, school district employee, school volunteer, student, or parent unless there has been substantial noncomplaince with the school district's policy resulting in injury to a protected person.

Section 5. Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by a school district for conduct determined to meet the definition of bullying in section 2 of this Act.

Section 6. The model bullying policy pursuant to this Act is as follows:

PROHIBITION OF HARASSMENT, INTIMIDATION, AND BULLYING

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity.

Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative

effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

(1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or

(2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

An Act to require the school board of each school district to adopt a policy prohibiting bullying.

I certify that the attached Act originated in the

SENATE as Bill No. 130

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk

Senate Bill No. 130
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State