

# PROGRAM BILL # 43

## GOVERNOR'S PROGRAM BILL

2012

### MEMORANDUM

AN ACT to amend the executive law, in relation to prohibiting bullying and cyberbullying in public schools

#### Purpose:

This legislation will protect students from cyberbullying as well as harassment, bullying and discrimination by requiring school districts to: (1) establish protocols to respond to cyberbullying, harassment, bullying and discrimination, including designating a school official to receive and investigate reports, prompt reporting and investigation; (2) take actions to prevent recurrences; (3) coordinate with law enforcement when appropriate; (4) develop a bullying prevention strategy; and (5) provide notice to all school community members of the school's policies. It would also set training requirements for current and new school employees.

#### Summary of Provisions:

Section 1 of the bill contains legislative findings on the impact of cyberbullying and legislative intent regarding the appropriate response to harassment, bullying, cyberbullying and discrimination.

Section 2 would amend Education Law § 11 to define "bullying" as having the same meaning as "harassment" and provide that "harassment" and "bullying" means the creation of a hostile environment by conduct, threats, intimidation or abuse that: (a) has or would have the effect of unreasonably and substantially interfering with a student's education or well-being; (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; (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 action might reach school property. It also would define "cyberbullying" as harassment or bullying that occurs through any form of electronic communication.

Section 3 would amend Education Law § 12 by adding the term "bullying" to conform to section 2 of the bill.

Section 4 would amend Education Law § 13 to direct local school districts to establish policies and procedures to address cyberbullying, harassment, bullying and

discrimination that do the following: (a) identify a school official charged with receiving reports of such acts; (b) enable students and parents to make a report; (c) require school employees who witness or receive a report to promptly notify the appropriate school official orally within one school day and in writing within three school days; (d) require a school official to lead or supervise a prompt and thorough investigation of all reports and to notify law enforcement when appropriate; (e) when an investigation reveals verified harassment, bullying or discrimination, take prompt responsive action; (f) prohibit retaliation against any individual who assists in an investigation under this section; (g) establish a strategy to prevent harassment, bullying and discrimination; (h) require schools to make a regular report on harassment, bullying and discrimination data and trends to the district superintendent; (i) make appropriate references to the code of conduct; (j) inform all school community members of the policies; and (k) post the policies on the school's website.

This section also would direct school districts to develop guidelines relating to measured, balanced and age-appropriate responses to harassment, bullying or discrimination by students, with remedies and procedures following a progressive model.

Finally, this section would require that school training conducted by school districts pursuant to Education Law § 13 address: (a) the identification, effects and mitigation of harassment, bullying, cyberbullying and discrimination; (b) social patterns of bullying; and (d) strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

Section 5 would amend Education Law § 14 by directing the State Education Commissioner to promulgate regulations to assist school districts in developing guidelines relating to measured, balanced and age-appropriate responses to harassment, bullying or discrimination by students. The Commissioner would also provide guidance and educational materials to school districts related to best practices and engaging families and communities in addressing cyberbullying.

This section also would require school professionals applying after June 30, 2013 for a certificate or license to complete training on the social patterns of harassment and bullying, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

Section 6 would amend Education Law § 15 to add the term "bullying" to conform to section 2 of the bill.

Section 7 would amend Education Law § 16 to provide immunity from civil liability for school personnel who take actions in response to an investigation conducted under section 4 of this bill, or who notify law enforcement authorities in compliance with that section, where those persons act reasonably and in good faith and have reasonable cause to suspect that a student has been subjected to harassment, bullying, cyberbullying or discrimination by an employee or student on school grounds or at a school function.

Section 8 would amend Education Law § 801-a to require that civility, citizenship and character education in grades kindergarten through twelve include components that: (a) emphasize discouraging acts of harassment, bullying and discrimination; and (b) teach safe, responsible use of the Internet and electronic communications.

Section 9 would establish the effective date of the bill.

### **Legislative History:**

This is a new bill.

### **Statement in Support:**

Cyberbullying and other forms of bullying pose a serious risk to school safety and educational success for all children. Every student needs to feel safe in order to maximize his or her academic and social potential. Children cannot succeed when they fear for their safety at school, worry about being bullied or cyberbullied, or suffer discrimination and taunts because of their ethnicity, religion, sexual orientation, disability or any other reason.

Bullying is especially dangerous because, if left unattended, it can rapidly escalate into even more serious violence and abuse. Research has identified a range of serious and long-term consequences associated with bullying behavior that include increased depression, substance use, aggressive impulses, and school truancy by its victims (U.S. Department of Education, 2011). A number of suicides among school-age children and adolescents in New York and nationwide have been linked to chronic bullying and have attracted national attention to the issue.

Cyberbullying is a new and especially insidious form of bullying. It allows bullies to do their work at a distance, outside of schools, in front of a broad audience and sometimes under the protection of anonymity. The use of technology to rapidly transmit vicious content to a wide audience makes acts of cyberbullying highly visible, more pervasive. Research has revealed a link between cyberbullying and low self-esteem, family problems, academic problems, school violence and delinquent behavior (Cyberbullying Research Center, 2012). Recent well-publicized cases involve acts of cyberbullying – sometimes combined with other forms of bullying – that have led to suicide. The threats of cyberbullying and its 24/7 exposure to students makes this a particularly important topic for schools to address.

Bullying and cyberbullying affect many students. In 2009, more than 7 million U.S. students ages 12-18 – representing 28 percent of all students in that age range – were bullied at school and more than 1.5 million students -- 6 percent – were cyberbullied on or off school property (U.S. Department of Education, 2011). A 2011 survey of New

York State high school students revealed that during the previous year nearly 18 percent of students had been bullied on school property and 16 percent (including nearly 21 percent of girls) had been cyberbullied through e-mail, chat rooms, instant messaging, Web sites, texting or other electronic means (Youth Risk Behavior Survey, CDC, 2011).

This bill would require that schools take action when students experience cyberbullying, harassment, bullying or discrimination. It would ensure that school districts immediately seek to end the harmful behavior, prevent recurrence and ensure the safety of the targeted students. It also would establish training to strengthen the ability of teachers and administrators to prevent and respond to such acts.

This legislation is an essential step in the State's ongoing effort to improve education. Every child is entitled to feel safe in the classroom. Failure to respond immediately and appropriately negatively impacts education and fuels violence.

**Budget Implications:**

No fiscal impact.

**Effective Date:**

This bill would take effect July 1, 2013, except that if Chapter 482 of the Laws of 2010 has not taken effect by that date, then this bill would take effect on the same date as that chapter. As enacted, Chapter 482 is scheduled to take effect July 1, 2012.