AN ACT concerning school districts; relating to bullying; requiring policies to identify and investigate incidents thereof; amending K.S.A. 72-6147 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The legislature recognizes that bullying, harassment and cyberbullying, if not appropriately addressed, may lead to mental health issues such as depression, anxiety or stress, and ultimately, hopelessness or suicide. The legislature encourages proactive and local solutions for the betterment of the general health and well-being of students and school district personnel. It recognizes that existing legislation has not provided a sufficient framework to adequately counteract bullying, harassment and cyberbullying of students and school district personnel. Therefore, the legislature enacts this legislation to prevent or minimize bullying, harassment or cyberbullying. Bullying, harassment or cyberbullying of a student or school district personnel is prohibited. The provisions of this act shall be liberally construed to achieve these goals.

(b) The board of education of each school district shall adopt a policy prohibiting bullying, harassment or cyberbullying on school premises, in a school vehicle or during a school-sponsored activity or event whether on or off school premises. Any policy adopted pursuant to this section shall be written through a process that includes representation of parents, school district administrators, teachers, and other employees, school district volunteers, students and members of the community.

(c) Any policy adopted pursuant to this section shall contain, at a minimum, the following:

(1) A statement prohibiting bullying, harassment or cyberbullying of a student or school district personnel;

(2) a definition of bullying, harassment and cyberbullying that is no less inclusive than the definitions for such terms provided in K.S.A. 72-6147, and amendments thereto;

(3) a description of the type of behavior expected from students, parents and school district personnel;

(4) consequences and appropriate remedial actions for a person who commits an act of bullying, harassment or cyberbullying;
(5) a procedure for reporting an act of bullying, harassment or cyberbullying, including a provision that permits a person to report an act of bullying, harassment or cyberbullying anonymously. Such procedure shall require that:

(A) All acts of bullying, harassment or cyberbullying be reported initially, either orally or in writing, to the school principal, or the principal's designee, within 24 hours after the student or school district personnel witnessed or received reliable information regarding any such incident;

(B) the school principal inform the parents of all students involved in the reported incident within 24 hours after receiving the initial report, and discuss, as appropriate, the availability of counseling and other intervention services; and

(C) all acts of bullying, harassment or cyberbullying be reported in writing to the school principal, or the principal's designee, within two school days after the student or school district personnel witnessed or received reliable information regarding any such incident.

(6) a procedure for prompt investigation of reports of bullying, harassment and cyberbullying. Such procedure, at a minimum, shall provide that:

(A) The investigation be initiated by the school principal, or the principal's designee, within one school day after the initial report of the incident. The principal may appoint additional personnel to assist in the investigation. The investigation shall be completed not later than 10 school days from the date of the initial report of the incident. In the event there is information relative to the investigation that is anticipated, but not yet received by the end of such 10-day period, the initial written report may be supplemented to include such additional information;

(B) the results of the investigation shall be reported to the superintendent, or the superintendent's designee, within two school days after the completion of the investigation, and the superintendent, or the superintendent's designee, in accordance with rules and regulations adopted by the state board of education, may decide to provide intervention services, establish training programs to reduce bullying, harassment and cyberbullying, impose discipline, order counseling or take other appropriate action;

(C) the results of each investigation shall be reported to the board of education no later than the date of the board's next meeting following the completion of the investigation, along with information on any services provided, training established, discipline imposed or other action taken by the superintendent, or the superintendent's designee;

(D) to the extent permitted by federal and state laws and rules and regulations adopted thereunder, parents of the students along with the
school district personnel involved in the investigation shall receive information about the investigation, including the nature of the investigation, whether the school district found evidence of bullying, harassment or cyberbullying and whether discipline was imposed or services provided to address the incident. This information shall be provided in writing within five school days after the results of the investigation are completed;

(E) a parent or school district personnel may make a written request for a hearing before the board of education after receiving the investigation report. Such hearing shall be held within 10 days after receipt of the request. The hearing shall be conducted in executive session to protect the confidentiality of the students involved. At the hearing, the board may hear from the investigator, the students involved in the investigation, the parents of such students, the school district personnel involved in the investigation and any other person the board deems appropriate. The board shall consider the information presented at the hearing when deciding whether to affirm, reject or modify the decision of the superintendent, or the superintendent's designee; and

(F) at the next board of education meeting following the board's receipt of the completed investigation report, the board shall issue a decision, in writing, to affirm, reject or modify the decision of the superintendent, or the superintendent's designee. The board's decision may be appealed to the commissioner of education, in accordance with rules and regulations adopted by the state board of education, no later than 90 days after the issuance of the board's decision;

(7) a list of appropriate responses to an incident of bullying, harassment or cyberbullying, including, but not limited to, counseling, support services, intervention services and any other actions or programs recommended by the state board of education;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of bullying, harassment or cyberbullying, and the consequences and appropriate remedial actions for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial actions for a person found to have falsely accused another individual of bullying, harassment or cyberbullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored activities and events whether on or off school premises;

(11) a requirement that a link to the policy be prominently posted on the school district's website homepage and distributed annually to parents who have children enrolled in a school operated by the school district; and

(12) a requirement that the name, phone number, address and email
address of the person designated by the school district to receive reports of bullying, harassment or cyberbullying be listed on the school district's website homepage and the website homepage of each school building. Such contact information also shall be maintained on the department of education's website.

(d) Any time frames included in a policy adopted pursuant to this section may be reasonably extended for good cause. The person requesting an extension of time shall keep a written record of the reason such extension was requested, and any such extension and the reason therefor shall be included in all subsequent reports on the incident.

(e) To the extent permitted by state and federal law and rules and regulations adopted thereunder, each school year, at the board of education meetings held in December and June, the superintendent of the school district shall report to the board on all acts of bullying, harassment and cyberbullying that were reported during the immediately preceding six-month period. The report shall include the number of reports of bullying, harassment and cyberbullying, the status of the investigation of each incident, the names of the investigators, the type and nature of any discipline imposed and any training, educational programs or other measures taken to reduce the incidence of bullying, harassment and cyberbullying. The report shall present the information on both a district-wide basis and by each school within the district. The superintendent shall also submit the report to the department of education within 30 days after the board of education meeting.

(f) To assist school districts in developing policies for the prevention of bullying, harassment or cyberbullying, the state board of education shall develop a model policy applicable to kindergarten and grades one through 12 that reflects the provisions of this section. Such model policy shall include an age-appropriate range of consequences for bullying, harassment or cyberbullying that shall include, at a minimum, disciplinary action or counseling as appropriate under the circumstances. The model policy shall be provided to school districts on or before September 1, 2019.

(g) On or before November 1, 2019, each board of education shall revise its policy on bullying, harassment and cyberbullying and transmit a copy of such policy to the state board of education. Each school year, the board of education of each school district shall conduct a review and evaluation of such policy, and make any necessary revisions. In conducting such review and evaluation the board may receive information from the department of education. The school district shall transmit a copy of any revised policy to the state board of education within 30 days after its adoption.

(h) Notice of the school district's policy 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.

(i) Nothing in this section shall be construed to:

(1) Restrict a school district from adopting and implementing policies against bullying, harassment, cyberbullying or school violence or to promote civility and dignity by students, parents and school district personnel that are more inclusive than the policies required under this section;

(2) permit formal disciplinary action solely on the basis of an anonymous report;

(3) permit the public distribution of information deemed confidential and that is prohibited by federal or state law from being made available to the public; or

(4) unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise or freedom of assembly.

New Sec. 2. (a) A student or school district personnel who has witnessed or has reliable information that a student or school district personnel has been subjected to bullying, harassment or cyberbullying shall report the incident within 24 hours to the appropriate school official designated by the school district's policy, or to the school principal, who shall promptly initiate the school district's procedures concerning a report of bullying, harassment or cyberbullying.

(b) No individual shall engage in reprisal, retaliation or false accusation against a victim of bullying, harassment or cyberbullying or against a witness or other individual with reliable information about an act of bullying, harassment or cyberbullying.

(c) A student or school district personnel who reports an incident of bullying, harassment or cyberbullying to the appropriate school official designated by the school district's policy, or to the school principal, and who makes this report in compliance with the district's policy, shall not be civilly liable for any damages arising as the result of making such report.

(d) A school principal, or other school official designated to receive reports of bullying, harassment and cyberbullying who receives a report of bullying, harassment or cyberbullying from a student, school district personnel or parent and fails to initiate or conduct an investigation, or who reasonably should have known of an incident of bullying, harassment or cyberbullying and fails to take sufficient action to minimize or eliminate the bullying, harassment or cyberbullying, shall be subject to disciplinary action by the school district superintendent or the department of education educator licensure team for possible revocation of such individual's school administrator's certificate.

New Sec. 3. (a) Remedial or disciplinary action shall be taken for all offenses or violations in accordance with policies adopted by the board of
education of the school district. Offending students, parents or school
district personnel shall receive appropriate counseling or other remedial
instruction, guidance, action or discipline.

(b) The legislature encourages school districts, whenever possible and
appropriate, to consider and use proactive and educational measures for
discipline. Reported instances of bullying, harassment or cyberbullying
may be addressed with students, parents or school district personnel, to
develop and encourage age-appropriate behavior, by use of the following
non-exhaustive list of techniques: (1) Correction and conferences with the
offending student, victim, parents or school district personnel; (2) self-
reflection or self-evaluation, including written identification of the
problem and corresponding plan of action or solution, such as from the
offending student, victim, parents or school district personnel; (3) limiting
access to certain areas or restricting seating to certain areas during school
hours or school-sponsored activities or events; (4) educational conferences
or programs to promote the type of behavior expected from students,
parents and school district personnel as described in the policy adopted
pursuant to section 1, and amendments thereto; (5) in-school detention or
suspension; (6) crisis removal or disciplinary transfer of the offending
student from the school building; (7) individualized instruction related to
the offending student's problematic actions or behavior; (8) interim
alternate education setting for the offending student; (9) loss of privileges,
such as attendance at or participation in school-sponsored activities or
events; (10) time in the school building office; (11) escalating periods of
suspension or discipline for repetitive offending behavior; (12) community
service hours for reinstatement of privileges; (13) expulsion; (14)
restitution paid to the victim by the offending student, parent or school
district personnel; or (15) teen court or similar programs. School districts
should consider or use with reluctance policies that suspend or expel
students upon the first occurrence of bullying, harassment or
cyberbullying.

(c) Remedial or disciplinary action may be carried over to the next
school year or subsequent years if deemed reasonably appropriate or
necessary.

New Sec. 4. Nothing in K.S.A. 72-6147, and amendments thereto,
and sections 1 through 3, and amendments thereto, shall be construed to
alter any duty of school district personnel to report or take other
appropriate action with respect to suspected child abuse or neglect.

Sec. 5. K.S.A. 72-6147 is hereby amended to read as follows: 72-
6147. (a) As used in this section and sections 1 through 3, and
amendments thereto:

(1)(a) “Bullying” means: (A) Any intentional gesture or any
intentional written, verbal, electronic or physical act or threat either by any-
student, staff member or parent towards a student or by any student, staff
member or parent towards a staff member that is sufficiently severe,
persistent or pervasive that such gesture, act or threat creates an
intimidating, threatening or abusive educational environment that a
reasonable person, under the circumstances, knows or should know will
have the effect of:
   (i) harming a student or staff member, whether physically or
mentally;
   (ii) damaging a student's or staff member's property;
   (iii) placing a student or staff member in reasonable fear of harm to
the student or staff member; or
   (iv) placing a student or staff member in reasonable fear of damage to
the student's or staff member's property;
   (B) cyberbullying; or
   (C) any other form of intimidation or harassment prohibited by the
board of education of the school district in policies concerning bullying
adopted pursuant to this section or subsection (e) of K.S.A. 72-1138, and
amendments thereto the intentional or knowing harassment, intimidation,
humiliation, ridicule, defamation, threat or incitement of violence by a
student, parent or school district personnel against a student or school
district personnel by a written, verbal, electronic or physical act that may
address an attribute of the other student or school district personnel, or a
person with whom such other student or school district personnel is
associated, and that causes or creates actual or reasonably foreseeable:
   (1) physical harm to a student or school district personnel, or
damage to the property of a student or school district personnel;
   (2) substantial interference with a student's education, or with school
district personnel duties and responsibilities;
   (3) hostile educational environments for one or more students or
school district personnel due to the severity, persistence or pervasiveness
of the act; or
   (4) substantial disruption of the orderly operation of the school,
school-sponsored event or educational environment.
(2)(b) "Cyberbullying" means bullying by use of any electronic
communication device through means electronically transmitted
communications, including, but not limited to, e-mail, social media
applications, instant messaging, text messages, blogs, mobile phones,
pagers, online games and websites, drawings and video clips, that a
student has knowingly created or exhibited toward another student or
school district personnel with the intention to frighten, coerce, intimidate,
abuse, harass or alarm such other student or school district personnel,
and is sufficiently severe, persistent or pervasive that it creates an
intimidating, threatening or abusive educational environment. It shall be
considered cyberbullying, regardless of whether the communication is conducted:

(A) On campus or other school premises, in a school vehicle or during a school-sponsored activity or event whether on or off school premises;

(B) through the use of school district computer networks; or

(C) through the use of computer networks not owned or otherwise controlled by a school district.

(2) In evaluating whether the conduct constitutes cyberbullying, special attention shall be given to the words chosen or the actions taken, whether the conduct occurred in front of other individuals, was published publicly or privately or was communicated to other individuals, how the perpetrator interacted with the victim, and the motivation for the conduct, whether admitted or appropriately inferred.

(c) "Harassment" means engaging in any of the following conduct with the intention or reasonable likelihood to frighten, coerce, intimidate, abuse or alarm another student or school district personnel:

(1) Striking, shoving, kicking or otherwise touching a student or school district personnel in an offensive manner or subjecting such person to offensive physical contact;

(2) insulting, taunting or challenging another student or school district personnel in a manner likely to provoke a violent response;

(3) making verbal or non-verbal expressions that causes another student or school district personnel to feel uncomfortable, pressured, threatened or in danger because of reasons that include, but are not limited to, such person's race, color, national origin, ancestry, sex, religion, disability, sexual orientation or gender identity or expression that creates an intimidating, hostile or offensive educational environment, or interferes with the education of a student, or otherwise adversely affects the educational opportunity of a student;

(4) name-calling, making rude gestures, insulting or teasing another student or school district personnel with the intent to humiliate, intimidate, threaten or embarrass such student or school district personnel;

(5) directing anonymous communications to another student or school district personnel repeatedly, at inconvenient times or with the use of offensive language;

(6) causing fear so as to prevent or inhibit another student or school district personnel from accessing or using school buildings, facilities, services or other premises; or

(7) physically harming, physically restraining, threatening or stalking another student or school district personnel, or a combination of any of the foregoing.

(3)(d) "Parent" includes a guardian, custodian or other person with
(4)(e) "School district" or "district" means any unified school district organized and operating under the laws of this state.

(f) "School district personnel" means an individual employed by a school district, a member of the board of education, a volunteer or a contract service provider.

(5)(g) "School vehicle" means any school bus, school van, other school vehicle and private vehicle used to transport students or staff members to and from school or any school-sponsored activity or event.

(6) "Staff member" means any person employed by a school district.

(b) The board of education of each school district shall adopt a policy to prohibit bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on or while utilizing school property, in a school vehicle or at a school-sponsored activity or event.

(e) The board of education of each school district shall adopt and implement a plan to address bullying either by any student, staff member or parent towards a student or by a student, staff member or parent towards a staff member on school property, in a school vehicle or at a school-sponsored activity or event. Such plan shall include provisions for the training and education for staff members and students.

(d) The board of education of each school district may adopt additional policies relating to bullying pursuant to subsection (e) of K.S.A. 72-1138, and amendments thereto.

(e) Nothing in this section shall be construed to limit or supersede or in any manner affect or diminish the requirements of compliance by a staff member with the provisions of K.S.A. 2018 Supp. 38-2223 or 38-2226, and amendments thereto.

(h) "Student" means a person enrolled in a public school operated by a school district.

(i) "Substantial disruption" means the occurrence of any one or more of the following as a result of bullying:

1. Necessary or appropriate cessation of instruction or educational activities;
2. Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile educational environment;
3. Imposition of severe or repetitive disciplinary measures in the classroom or during educational activities; or
4. Exhibition of other behaviors that substantially interfere with the educational environment or school-sponsored activity.

Sec. 6. K.S.A. 72-6147 is hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its
publication in the statute book.