

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2578

By Committee on Education

1-30

1 AN ACT concerning school districts; relating to publication of bullying  
2 polices; **relating to teacher contracts**; amending K.S.A. 2017 Supp.  
3 **72-2252, 72-2253, 72-2254, 72-2260 and 72-6147** and repealing the  
4 existing ~~section~~ **sections**.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2017 Supp. 72-6147 is hereby amended to read as  
8 follows: 72-6147. (a) As used in this section:

9 (1) "Bullying" means: (A) Any intentional gesture or any intentional  
10 written, verbal, electronic or physical act or threat either by any student,  
11 staff member or parent towards a student or by any student, staff member  
12 or parent towards a staff member that is sufficiently severe, persistent or  
13 pervasive that such gesture, act or threat creates an intimidating,  
14 threatening or abusive educational environment that a reasonable person,  
15 under the circumstances, knows or should know will have the effect of:

16 (i) Harming a student or staff member, whether physically or  
17 mentally;

18 (ii) damaging a student's or staff member's property;

19 (iii) placing a student or staff member in reasonable fear of harm to  
20 the student or staff member; or

21 (iv) placing a student or staff member in reasonable fear of damage to  
22 the student's or staff member's property;

23 (B) cyberbullying; or

24 (C) any other form of intimidation or harassment prohibited by the  
25 board of education of the school district in policies concerning bullying  
26 adopted pursuant to this section or ~~subsection (e)~~ of K.S.A. 2017 Supp. 72-  
27 1138(e), and amendments thereto.

28 (2) "Cyberbullying" means bullying by use of any electronic  
29 communication device through means including, but not limited to, email,  
30 instant messaging, text messages, blogs, mobile phones, pagers, online  
31 games and websites.

32 (3) "Parent" includes a guardian, custodian or other person with  
33 authority to act on behalf of the child.

34 (4) "School district" or "district" means any unified school district  
35 organized and operating under the laws of this state.

36 (5) "School vehicle" means any school bus, school van, other school

1 vehicle and private vehicle used to transport students or staff members to  
2 and from school or any school-sponsored activity or event.

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

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

9 (c) The board of education of each school district shall adopt and  
10 implement a plan to address bullying either by any student, staff member  
11 or parent towards a student or by a student, staff member or parent towards  
12 a staff member on school property, in a school vehicle or at a school-  
13 sponsored activity or event. Such plan shall include: provisions for the  
14 training and education for staff members and students; **consequences and**  
15 **appropriate remedial action for a person who commits an act of**  
16 **bullying, harassment or cyberbullying; a procedure for reporting an**  
17 **act of bullying, harassment or cyberbullying, including a provision**  
18 **that permits a person to report an act of bullying, harassment or**  
19 **cyberbullying anonymously; a procedure for prompt investigation of**  
20 **reports of bullying, harassment and cyberbullying; and a list of**  
21 **appropriate responses to an incident of bullying, harassment or**  
22 **cyberbullying.** *Such plan shall be published on the school district's*  
23 *website with a link prominently posted on the home page of such website,*  
24 *and distributed annually to parents and guardians who have children*  
25 *enrolled in a school in the school district. The plan also shall be submitted*  
26 *to the department of education and shall be kept on file with the*  
27 *department.*

28 (d) The board of education of each school district may adopt  
29 additional policies relating to bullying pursuant to ~~subsection (e) of~~ K.S.A.  
30 2017 Supp. 72-1138(e), and amendments thereto.

31 (e) Nothing in this section shall be construed to limit or supersede or  
32 in any manner affect or diminish the requirements of compliance by a staff  
33 member with the provisions of K.S.A. 2017 Supp. 38-2223 or 38-2226,  
34 and amendments thereto.

35 **Sec. 2. K.S.A. 2017 Supp. 72-2252 is hereby amended to read as**  
36 **follows: 72-2252. As used in this act K.S.A. 2017 Supp. 72-2252 through**  
37 **72-2262, and amendments thereto: (a) "Teacher" means any professional**  
38 **employee who is required to hold a certificate to teach in any school**  
39 **district and any teacher or instructor in any technical college, the**  
40 **institute of technology at Washburn university or community college.**  
41 **The term "teacher" does not include within its meaning any**  
42 **supervisors, principals, superintendents or any person employed under the**  
43 **authority of K.S.A. 2017 Supp. 72-1134, and amendments thereto, or any**

1 persons employed in an administrative capacity by any technical  
2 college, the institute of technology at Washburn university or  
3 community college.

4 (b) "Board" means the *board of education of any school district*,  
5 governing body of any technical college or the institute of technology  
6 at Washburn university, and the board of trustees of any community  
7 college.

8 Sec. 3. K.S.A. 2017 Supp. 72-2253 is hereby amended to read as  
9 follows: 72-2253. (a) Whenever a teacher is given written notice of  
10 intention by a board to not renew or to terminate the contract of the  
11 teacher as provided in K.S.A. 2017 Supp. 72-2251, and amendments  
12 thereto, the written notice of the proposed nonrenewal or termination  
13 shall include: (1) A statement of the reasons for the proposed  
14 nonrenewal or termination; and (2) a statement that the teacher may  
15 have the matter heard by a hearing officer upon written request filed  
16 with *the clerk of the board of education or the board of control or the*  
17 *secretary of the board of trustees* within 15 calendar days from the  
18 date of such notice of nonrenewal or termination.

19 (b) Within 10 calendar days after the filing of any written request  
20 of a teacher to be heard as provided in subsection (a), the board shall  
21 notify the commissioner of education that a list of qualified hearing  
22 officers is required. Such notice shall contain the mailing address of  
23 the teacher. Within 10 days after receipt of notification from the  
24 board, the commissioner shall provide to the board and to the teacher,  
25 a list of five randomly selected, qualified hearing officers.

26 (c) Within five days after receiving the list from the  
27 commissioner, each party shall eliminate two names from the list, and  
28 the remaining individual on the list shall serve as hearing officer. In  
29 the process of elimination, each party shall eliminate no more than one  
30 name at a time, the parties alternating after each name has been  
31 eliminated. The first name to be eliminated shall be chosen by the  
32 teacher within five days after the teacher receives the list. The process  
33 of elimination shall be completed within five days thereafter.

34 (d) Either party may request that one new list be provided within  
35 five days after receiving the list. If such a request is made, the party  
36 making the request shall notify the commissioner and the other party,  
37 and the commissioner shall generate a new list and distribute it to the  
38 parties in the same manner as the original list.

39 (e) In lieu of using the process provided in subsections (b) and (c),  
40 if the parties agree, they may make a request to the American  
41 arbitration association for an arbitrator to serve as the hearing officer.  
42 Any party desiring to use this alternative procedure shall so notify the  
43 other party in the notice required under subsection (a). If the parties

1 agree to use this procedure, the parties shall make a joint request to  
2 the American arbitration association for a hearing officer within 10  
3 days after the teacher files a request for a hearing. If the parties  
4 choose to use this procedure, the parties shall each pay one-half of the  
5 cost of the arbitrator and of the arbitrator's expenses.

6 (f) The commissioner of education shall compile and maintain a  
7 list of hearing officers comprised of residents of this state who are  
8 attorneys at law. Such list shall include a statement of the  
9 qualifications of each hearing officer.

10 (g) Attorneys interested in serving as hearing officers under the  
11 provisions of this act shall submit an application to the commissioner  
12 of education. The commissioner shall determine if the applicant is  
13 eligible to serve as a hearing officer pursuant to the provisions of  
14 subsection (h).

15 (h) An attorney shall be eligible for appointment to the list if the  
16 attorney has: (1) Completed a minimum of 10 hours of continuing  
17 legal education credit in the area of education law, due process,  
18 administrative law or employment law within the past five years; or  
19 (2) previously served as the chairperson of a due process hearing  
20 committee prior to the effective date of this act. An attorney shall not  
21 be eligible for appointment to the list if the attorney has been  
22 employed to represent a board or a teacher in a due process hearing  
23 within the past five years.

24 Sec. 4. K.S.A. 2017 Supp. 72-2254 is hereby amended to read as  
25 follows: 72-2254. The hearing provided for under K.S.A. 2017 Supp.  
26 72-2253, and amendments thereto, shall commence within 45 calendar  
27 days after the hearing officer is selected unless the hearing officer  
28 grants an extension of time. The hearing shall afford procedural due  
29 process, including the following:

30 (a) The right of each party to have counsel of such party's own  
31 choice present and to receive the advice of such counsel or other  
32 person whom such party may select;

33 (b) the right of each party or such party's counsel to cross-  
34 examine any person who provides information for the consideration of  
35 the hearing officer, except those persons whose testimony is presented  
36 by affidavit;

37 (c) the right of each party to present such party's own witnesses  
38 in person, or their testimony by affidavit or deposition, except that  
39 testimony of a witness by affidavit may be presented only if such  
40 witness lives more than 100 miles from the location of *the unified*  
41 *school district office*, the technical college, institute of technology at  
42 Washburn university or community college, or is absent from the  
43 state, or is unable to appear because of age, illness, infirmity or

1 imprisonment. When testimony is presented by affidavit the same  
2 shall be served upon *the clerk of the board of education, the board of*  
3 *control, the secretary of the board of trustees or the agent of the board*  
4 *and upon the teacher in person or by first-class mail to the address of*  
5 *the teacher which is on file with the board not less than 10 calendar*  
6 *days prior to presentation to the hearing officer;*

7 (d) the right of the teacher to testify in the teacher's own behalf  
8 and give reasons for the teacher's conduct, and the right of the board  
9 to present its testimony through such persons as the board may call to  
10 testify in its behalf and to give reasons for its actions, rulings or  
11 policies;

12 (e) the right of the parties to have an orderly hearing; and

13 (f) the right of the teacher to a fair and impartial decision based  
14 on substantial evidence.

15 Sec. 5. K.S.A. 2017 Supp. 72-2260 is hereby amended to read as  
16 follows: 72-2260. (a) *Except as otherwise provided in this section, the*  
17 *provisions of K.S.A. 2017 Supp. 72-2253 through 72-2258, and*  
18 *amendments thereto, apply only to:*

19 (1) Teachers who have completed not less than three consecutive  
20 years of employment, and been offered a fourth contract, in the *school*  
21 *district, technical college, institute of technology at Washburn*  
22 *university or community college by which any such teacher is*  
23 *currently employed; and*

24 (2) teachers who have completed not less than two consecutive  
25 years of employment, and been offered a third contract, in the *school*  
26 *district, technical college, institute of technology at Washburn*  
27 *university or community college by which any such teacher is*  
28 *currently employed if at any time prior to the current employment the*  
29 *teacher has completed the years of employment requirement of*  
30 *paragraph (1) of this subsection in any school district, technical*  
31 *college, the institute of technology at Washburn university or*  
32 *community college in this state.*

33 (b) Any board may waive, at any time, the years of employment  
34 requirements of subsection (a)(1) for any teacher employed by it.

35 (c) The provisions of this ~~subsection~~ section are subject to the  
36 provisions of K.S.A. 2017 Supp. 72-2262, and amendments thereto.

37 (d) *The provisions of K.S.A. 2017 Supp. 72-2253 through 72-2258,*  
38 *and amendments thereto, do not apply to any teacher whose license has*  
39 *been non-renewed or revoked by the state board of education because the*  
40 *teacher has:*

41 (1) *Been convicted of a felony under K.S.A. 2010 Supp. 21-36a01*  
42 *through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the*  
43 *Kansas Statutes Annotated, and amendments thereto, or any felony*

1 violation of any provision of the uniform controlled substances act prior to  
2 July 1, 2009;

3 (2) been convicted of a felony described in any section of article 34  
4 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or  
5 article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017  
6 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, or  
7 an act described in K.S.A. 21-3412, prior to its repeal, or K.S.A. 2017  
8 Supp. 21-5413(a), or K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2017  
9 Supp. 21-5414, and amendments thereto, if the victim is a minor or  
10 student;

11 (3) been convicted of a felony described in any section of article 35  
12 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or  
13 article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2017  
14 Supp. 21-6419 through 21-6421, and amendments thereto, or has been  
15 convicted of an act described in K.S.A. 21-3517, prior to its repeal, or  
16 K.S.A. 2017 Supp. 21-5505(a), and amendments thereto, if the victim is a  
17 minor or student;

18 (4) been convicted of any act described in any section of article 36 of  
19 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or  
20 article 56 of chapter 21 of the Kansas Statutes Annotated, and  
21 amendments thereto;

22 (5) been convicted of a felony described in article 37 of chapter 21 of  
23 the Kansas Statutes Annotated, prior to their repeal, or article 58 of  
24 chapter 21 of the Kansas Statutes Annotated or K.S.A. 2017 Supp. 21-  
25 6412(a)(6), and amendments thereto;

26 (6) been convicted of an attempt under K.S.A. 21-3301, prior to its  
27 repeal, or K.S.A. 2017 Supp. 21-5301, and amendments thereto, to commit  
28 any act specified in this subsection;

29 (7) been convicted of any act that is described in K.S.A. 21-4301, 21-  
30 4301a or 21-4301c, prior to their repeal, or K.S.A. 2017 Supp. 21-6401 or  
31 21-6402, and amendments thereto;

32 (8) been convicted in another state or by the federal government of  
33 an act similar to any act described in this subsection; or

34 (9) has entered into a criminal diversion agreement after having been  
35 charged with any offense described in this subsection.

36 Sec. ~~2~~. **6.** K.S.A. 2017 Supp. **72-2252, 72-2253, 72-2254, 72-2260**  
37 **and 72-6147** ~~is~~ **are** hereby repealed.

38 Sec. ~~3~~. **7.** This act shall take effect and be in force from and after its  
39 publication in the statute book.