

CHAPTER 125

(HB 91)

AN ACT relating to the safety, learning, and well-being of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Any employee of a school or a local board of education who knows or has reasonable cause to believe that a school student has been the victim of a violation of any felony offense specified in KRS Chapter 508 committed by another student while on school premises, on school-sponsored transportation, or at a school-sponsored event shall immediately cause an oral or written report to be made to the principal of the school attended by the victim. The principal shall notify the parents, legal guardians, or other persons exercising custodial control or supervision of the student when the student is involved in an incident reportable under this section. The principal shall file with the local school board and the local law enforcement agency or the Department of Kentucky State Police or the county attorney within forty-eight (48) hours of the original report a written report containing:*
 - (a) *The names and addresses of the student and his or her parents, legal guardians, or other persons exercising custodial control or supervision;*
 - (b) *The student's age;*
 - (c) *The nature and extent of the violation;*
 - (d) *The name and address of the student allegedly responsible for the violation; and*
 - (e) *Any other information that the principal making the report believes may be helpful in the furtherance of the purpose of this section.*
- (2) *An agency receiving a report under subsection (1) of this section shall investigate the matter referred to it. The school board and school personnel shall participate in the investigation at the request of the agency.*
- (3) *Anyone acting upon reasonable cause in the making of a report required under this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.*
- (4) *Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding student harassment, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding student harassment.*

➔Section 2. KRS 158.444 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.
- (2) The Kentucky Department of Education shall:
 - (a) Collaborate with the Center for School Safety in carrying out the center's mission;~~and~~
 - (b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:
 1. a. All ~~incidents~~~~incidences~~ of violence and assault against school employees and students;
 - b. All ~~incidents~~~~incidences~~ of possession of guns or other deadly weapons on school property or at school functions; ~~and~~
 - c. All ~~incidents~~~~incidences~~ of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions; **and**
 - d. *All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct*

constituting a violation of any offense specified in KRS Chapter 508, or Section 4 of this Act occurring on school premises, on school-sponsored transportation, or at school functions, or Section 5 of this Act;

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;
 3. The number of suspensions, expulsions, and corporal punishments; and
 4. Data required during the assessment process under KRS 158.445; ~~and~~
- (c) ~~The department shall~~ Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.
- (3) *The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.*
- (4) *All personally identifiable student data collected pursuant to subsection (2)(b) of this section shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its implementing regulations.*
- (5) *Parents, legal guardians, or other persons exercising custodial control or supervision shall have the right to inspect or challenge the personally identifiable student records as permitted under the Kentucky Family Education Rights and Privacy Act and the federal Family Educational Rights and Privacy Act and implementing regulations.*
- (6) *Data collected under this section on an individual student committing an incident reportable under subsection (2)(b)1. of this section shall be placed in the student's disciplinary record.*

➔Section 3. KRS 158.148 is amended to read as follows:

- (1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop *or update as needed and distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:*
 - (a) Statewide student discipline guidelines to ensure safe schools, *including the definition of serious incident for the reporting purposes as identified in Section 2 of this Act; ~~and~~*
 - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement *and*
 - (c) *A model policy to implement the provisions of this section and Sections 1, 2, 4, and 5 of this Act.*
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles *and legal requirements* to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. ***The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.***
- (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.
- (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
- (c) ***The code shall contain:***
1. ***Procedures for identifying, documenting, and reporting incidents of violations of the code and incidents for which reporting is required under Section 1 of this Act;***
 2. ***Procedures for investigating and responding to a complaint or a report of a violation of the code or of an incident for which reporting is required under Section 1 of this Act, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;***
 3. ***A strategy or method of protecting from retaliation a complainant or person reporting a violation of the code or an incident for which reporting is required under Section 1 of this Act;***
 4. ***A process for informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school employees of the requirements of the code and the provisions of this section and Sections 1, 2, 4, and 5 of this Act, including training for school employees; and***
 5. ***Information regarding the consequences of violating the code and violations reportable under Section 1 or 2 of this Act.***
- (d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.
- ~~(e)~~ (d) A copy of the code of behavior and discipline adopted by the board of education shall be posted at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, ***legal guardians, or other persons exercising custodial control or supervision*** shall be provided copies of the code.

➔Section 4. KRS 525.070 is amended to read as follows:

- (1) A person is guilty of harassment when with intent to ***intimidate***, harass, annoy, or alarm another person he ***or she***:
- (a) Strikes, shoves, kicks, or otherwise subjects him to physical contact; or
 - (b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact; or
 - (c) In a public place, makes an offensively coarse utterance, gesture, or display, or addresses abusive language to any person present; or
 - (d) Follows a person in or about a public place or places; or
 - (e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose; ***or***
 - (f) ***Being enrolled as a student in a local school district, and while on school premises, on school-sponsored transportation, or at a school-sponsored event:***
 1. ***Damages or commits a theft of the property of another student;***
 2. ***Substantially disrupts the operation of the school; or***

3. *Creates a hostile environment by means of any gestures, written communications, oral statements, or physical acts that a reasonable person under the circumstances should know would cause another student to suffer fear of physical harm, intimidation, humiliation, or embarrassment.*

- (2) (a) Except as provided in paragraph (b) of this subsection, harassment is a violation.
 (b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor.

➔Section 5. KRS 525.080 is amended to read as follows:

- (1) A person is guilty of harassing communications when with intent to *intimidate*, harass, annoy, or alarm another person he *or she*:
- (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;~~or~~
- (b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; *or*
- (c) *Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.*
- (2) Harassing communications is a Class B misdemeanor.

Signed by Governor April 15, 2008.