

CHAPTER 122
FORMERLY
SENATE BILL NO. 102

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO NON-ACADEMIC TRAINING AND RELATED RESOURCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 41, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 41. ~~General~~ Regulatory Provisions.

Section 2. Further amend Chapter 41, Title 14 of the Delaware Code by designating §§ 4101 through 4137 as part of a new Subchapter I by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter I. General Regulatory Provisions.

Section 3. Further amend Chapter 41, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Regulatory Provisions for Non-Academic Training and Related Resources.

Section 4. Amend Subchapter I, Chapter 41, Title 14 of the Delaware Code and Subchapter II, Chapter 41, Title 14 of the Delaware Code by transferring §§ 4112D, 4112E, 4123C, and 4124 of Subchapter I, Chapter 41, Title 14 to Subchapter II, Chapter 41, Title 14 and by redesignating §§ 4112D, 4112E, 4123C, and 4124 of Subchapter I, Chapter 41, Title 14 as §§ 4164, 4166, 4163, and 4165 of Subchapter II, Chapter 41, Title 14, respectively.

Section 5. Further amend Subchapter II, Chapter 41, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4161. Definitions.

For purposes of this subchapter:

(1) "Bullying" means any intentional written, electronic, verbal, or physical act against another student, a school district or charter school volunteer, or a school district or charter school employee that a reasonable person under the circumstances should know will have any of the following effects:

a. Place a student, school district or charter school volunteer, or school district or charter school employee in reasonable fear of substantial harm to the student's, volunteer's, or employee's emotional or physical well-being or substantial damages to the student's, volunteer's, or employee's property.

b. Create a hostile, threatening, humiliating, or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target.

c. Interfere with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

d. Perpetuate bullying by inciting, soliciting, or coercing an individual or group to demean, dehumanize, embarrass, or cause emotional, psychological, or physical harm to another student, school district or charter school volunteer, or school district or charter school employee.

(2) “Charter school” means a public school established under Chapter 5 of this title.

(3) “Child abuse” means causing or inflicting any of the following on a child:

a. Sexual abuse.

b. Serious physical injury or death, or physical injury through unjustified force not permitted under § 468 of Title 11. For purposes of this paragraph (3)b. of this section, “serious physical injury” and “physical injury” mean as defined in § 222 of Title 11.

c. Emotional abuse.

d. Torture.

e. Exploitation.

f. Maltreatment or mistreatment.

(4) “Child sexual abuse”, “sexual abuse”, or “sexually abused” means the commission of any act that is listed in the definition of sexual offense in § 761 of Title 11.

(5) “Criminal youth gang” means as defined in § 617(a) of Title 11.

(6) “Parent” means a natural parent, an adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(7) “Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.

(8) “School district” means a clearly defined geographic subdivision of the State organized for the purpose of administering public education in that area and includes a district specifically created to administer a system of vocational or technical education.

(9) “School district and charter school employee.” “school district or charter school employee.” or “employee” means all individuals, including teachers, school administrators, school support personnel, instructional aides, nurses, school counselors, coaches, custodial staff, and nutrition staff, hired by a school district or charter school or a program established under Chapter 16 of this title, who provide services to students on a regular, ongoing basis. “School district and charter school employee.” “school district or charter school employee.” or “employee” does not include contractors or subcontractors, such as bus drivers or security guards; substitute employees; and individuals hired by or subcontracted by other state agencies to work on school property.

(10) “Sexual assault” means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood or marriage. “Sexual assault” includes the following behaviors: sexual harassment, as defined in § 763 of Title 11;

sexual contact, as defined in § 761 Title 11; sexual intercourse, as defined in § 761 of Title 11; sexual penetration, as defined in § 761 of Title 11; and sexual abuse.

(11) “Teen dating violence” means assaultive, threatening, or controlling behavior, including stalking as defined in § 1312 of Title 11, that one person uses against another person in order to gain or maintain power or control in a current or past relationship and can occur in both heterosexual and same sex relationships and in serious or casual relationships.

§ 4162. Child safety awareness, prevention, and other non-academic trainings.

(a) Each school district and charter school shall require its employees to receive 12.5 hours of training every 3 years consisting of all of the following:

(1) 3 hours of a child abuse and child safety awareness, prevention, detection, and reporting training program established under § 4163(b)(1) of this title.

(2) 3 hours of a school bullying prevention and criminal youth gang detection training program established under § 4164(a) of this title.

(3) 4.5 hours of a suicide prevention training program established under § 4165(a) of this title, with each school district and charter school employee receiving 90 minutes of such training each year.

(4) 2 hours of additional, non-academic training programs that are evidence-based, whenever available, and are related to a training subject required by this subchapter, as selected by the school district or charter school.

(b) Each school district and charter school shall require a school administrator, school nurse, or school counselor serving one or more of the grades in grade 7 through 12 to receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title every 3 years. This training may be included in paragraph (a)(4) of this section.

(c) Notwithstanding subsection (a) of this section, a school district or charter school shall require all of the following:

(1) That a new school district or charter school employee receive 1 hour of a child abuse detection and reporting training program established under § 4163(b)(1) of this title within 30 days of employment with the school district or charter school, unless the new school district or charter school employee received such training within the last year.

(2) That a new school administrator, school nurse, or school counselor serving one or more of the grades in grade 7 through 12 in a school district or charter school receive 2 hours of a teen dating violence and sexual assault training program established under § 4166(a) of this title within 1 year of employment in such position.

(d) A school district or charter school shall provide any in-service training required under this section within the contracted school year as provided in § 1305(e) of this title.

(e) A school district or charter school may provide the trainings required under this section to any of its volunteers or contractors.

~~§ 4123C § 4163. Personal body safety and child sexual abuse awareness and prevention~~ Child abuse and child safety awareness, prevention, detection, and reporting.

(a) ~~For purposes of this section:—[Repealed.]~~

(1) ~~“Child sexual abuse,” “sexual abuse,” or “sexually abused” means the commission of any act that is listed in the definition of “sexual offense” in § 761 of Title 11.~~

(2) ~~“Parent” means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.~~

(3) ~~“Personal body safety” means understanding the difference between appropriate and inappropriate touching and how to communicate inappropriate behavior to a trusted adult.~~

(4) ~~“School district” includes charter schools and vocational technical school districts.~~

(b) Educational programming. - The Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families shall ~~develop and maintain a curriculum~~ identify and maintain educational programming to be used by each school district and charter school for ~~educating public school~~ informing school district and charter school employees, students, and parents about personal body safety and ~~child sexual abuse~~ child abuse and about how to detect and report child abuse. The ~~curriculum~~ educational programming must include all of the following:

(1) ~~Evidence-based training and education for public school employees who are employed at schools with any of the grades pre-kindergarten through 6~~ Training and education for school district and charter school employees that is evidence-based, whenever available, in order to raise awareness of issues regarding personal body safety and child sexual abuse safety, child abuse, and child safety. Such training and education must include the warning signs indicating that a child may be a victim of sexual abuse and other forms of child abuse, techniques for responding when ~~child sexual abuse~~ child abuse is suspected or disclosed, and the employee’s mandatory reporting requirement under § 903 of Title 16.

(2) Evidence-based, whenever available, age-appropriate instruction for students enrolled in grades pre-kindergarten through 6 that is related to personal body safety and ~~child sexual abuse~~ sexual abuse and other forms of child abuse. Such instruction shall include information on the difference between appropriate and inappropriate conduct and the actions that a child may take to be protected from sexual abuse and other forms of child abuse. Such instruction shall be designed to build on skills learned the previous year.

(3) Information for parents of students enrolled in grades pre-kindergarten through 6 on all of the following:

a. Warning signs of a child who is being sexually abused or suffering from other forms of child abuse.

b. Effective, age-appropriate methods for discussing personal body safety ~~and sexual abuse with a child~~ and sexual abuse and other forms of child abuse with a child.

c. Resources for reporting ~~child sexual abuse~~ child abuse.

d. Counseling and other resources available to a child who has been ~~sexually abused~~ the victim of child abuse.

(c) Role of the Department of Education. - The Department of Education shall provide technical expertise to assist the Child Protection Accountability Commission and the Division of Family Services of the Department of Services for Children, Youth, and Their Families in their ~~development and maintenance of the curriculum~~ identification of educational programming under subsection (b) of this section and the Department of Education shall ~~provide the curriculum~~ make a list of the approved educational programing available to each school district and charter school.

(d) Implementation of training program. - Each school district and charter school shall implement the ~~curriculum developed~~ educational programming provided under subsection (b) of this section as follows:

(1) The ~~curriculum developed~~ educational programing provided under paragraph (b)(1) of this section shall must be provided to all of its employees ~~who are employed at schools with any of the grades pre-kindergarten through 6 through the district's existing professional development program and may be provided to the district's volunteers as required by § 4162 of this title.~~

(2) The ~~curriculum developed~~ educational programing provided under paragraph (b)(2) of this section shall must be provided to all students enrolled in grades pre-kindergarten through 6 through health education programs or related classes.

(3) The ~~curriculum developed~~ educational programing provided under paragraph (b)(3) of this section shall must be provided to parents of students enrolled in grades pre-kindergarten through 6 through written ~~materials~~ materials, available online through the school district's or charter school's website or in hard copy upon a request by parents, on an annual basis and may be provided through live presentations.

(e) Notification of parents. - Prior to providing any instruction under paragraph (d)(2) of this section, each school district and charter school shall inform the parent of any student enrolled in grades pre-kindergarten through 6 in writing that the parent may examine and review the educational materials before the materials are taught.

(f) Accountability. -

(1) Each school district and charter school shall designate an individual responsible for overseeing the implementation of the ~~curriculum developed~~ educational programing provided under subsection (b) of this section. Each school district and charter school shall provide the name and contact information for the individual designated under this subsection to the Department of Education no later than November 15 of each year.

~~(g)~~ (2) Each individual designated under ~~subsection (f)~~ paragraph (f)(1) of this section shall report to the Department of Education no later than November 15 of each year how the ~~curriculum~~ educational programming has been implemented by that individual's school district or charter school.

~~(h)~~ (3) The Department of Education shall submit a written report to the Governor, the members of the General Assembly, and the Director of the Division of Research no later than January 15 of each year. The report must include the ~~curriculum developed~~ educational programing provided under subsection (b) of this

section and how the curriculum has been implemented by each school district and charter school under subsection (d) of this section.

(g)(1) Each school in a school district and each charter school shall post, in a conspicuous location where notices to students are customarily posted, the number for the toll-free telephone report line for child abuse and neglect as established under § 905 of Title 16. The posting must be made in English and Spanish and must be made in a format and language that is clear, simple, and understandable to students.

(2) There is no private right of action for a violation of this subsection.

(h) Short title. – This section shall be known and may be cited as “Erin’s Law”.

§ 4112D § 4164. School bullying awareness and prevention; criminal youth gang detection.

(a) Definition of bullying. — As used in this section, “bullying” means any intentional written, electronic, verbal or physical act or actions against another student, school volunteer or school employee that a reasonable person under the circumstances should know will have the effect of:

(1) Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damages to his or her property; or

(2) Creating a hostile, threatening, humiliating or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target; or

(3) Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or

(4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.

School bullying prevention and criminal youth gang detection training program. - The Department of Justice and the Department of Education, in collaboration with law-enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association, and the Delaware Association of School Administrators, shall identify and maintain a school bullying prevention and criminal youth gang detection training program for school district and charter school employees.

(b) Prohibition of bullying. —

(1) Each school district and charter school shall prohibit bullying and reprisal, ~~retaliation~~ retaliation, or false accusation against a target, ~~witness~~ witness, or one with reliable information about an act of bullying.

(2) Each school district and charter school shall establish a policy which, at a minimum, includes the following components:

a. A statement prohibiting bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer ~~network~~ network, or other electronic technology of a school district or charter school from kindergarten through grade 12. For purposes of this section, “school property” and “school functions” ~~have the same definition as mean as defined~~ as mean as defined in § 4112 of this title.

b. A definition of bullying no less inclusive than that in ~~subsection (a) of this section~~ § 4161 of this title.

c. Direction to develop a school-wide bullying prevention program.

d. A requirement that each school establish a site-based committee that is responsible for coordinating the school's bully prevention program including the design, ~~approval~~ approval, and monitoring of the program. A majority of the members of the site-based committee ~~shall~~ must be members of the school professional staff, of which a majority ~~shall~~ must be instructional staff. The committee also shall contain representatives of the administrative staff, support staff, student body (for a school enrolling students in grades 7 through 12), ~~parents~~ parents, and staff from the before- or after-school program or programs. These representatives shall be chosen by members of each respective ~~group~~ group, except that the school principal shall appoint the representatives of the nonemployee groups ~~shall be appointed by the school principal~~. The committee shall operate on a 1-person, 1-vote principle. ~~In the event~~ If a site-based school discipline committee has been established ~~pursuant to~~ under § 1605(7)a. and b. of this title, that committee shall vote whether ~~or not~~ to accept the ~~mentioned~~ responsibilities of this paragraph (b)(2)d. of this section.

e. A requirement that any school district or charter school employee that has reliable information that would lead a reasonable person to suspect that a person is a target of bullying ~~shall~~ must immediately report it to the administration.

f. A requirement that each school have a procedure for the administration to promptly investigate in a timely manner and determine whether bullying has occurred, and that such procedure include investigation of such instances, including a determination of whether the target of the bullying was targeted or reports being targeted wholly or in part due to the target's race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity or expression, or national origin. This subsection does not preclude schools from identifying other reasons or criteria why a person is a target of bullying.

g. A requirement that, to the extent that funding is available, each school develop a plan for a system of supervision in nonclassroom areas. The plan ~~shall~~ must provide for the review and exchange of information regarding nonclassroom areas.

h. An identification of an appropriate range of consequences for bullying.

i. A procedure for a student ~~and parent, guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian or parent~~ to provide information on bullying activity. However, this paragraph does not permit formal disciplinary action solely based on an anonymous report.

j. A requirement that a parent, ~~guardian or relative caregiver pursuant to § 202(f) of this title or legal guardian~~ of any target of bullying or ~~person who bullies another as defined herein,~~ perpetrator of bullying be notified and provided with a form to be generated by the Department of Justice describing the role of the Department of Justice School Ombudsman and providing contact information. This form ~~shall also inform parents, guardians, or relative caregivers of their~~ must also inform a parent of the parent's right

to know when the bullying incident in question has been reported to the Department of Education pursuant to ~~under~~ paragraph (b)(2)k. of this section.

k. A requirement that all reported incidents of bullying, regardless of whether the school could substantiate the incident, be reported to the Department of Education within 5 working days pursuant to ~~under~~ Department of Education regulations. ~~The parents, guardians, or relative caregivers~~ The school shall notify a parent of all students involved in the reported incident ~~shall be notified~~ when the report is made.

l. A statement prohibiting retaliation following a report of bullying.

m. A procedure for communication between school staff members and medical professionals who are involved in treating students for bullying issues.

n. A requirement that the school bullying prevention program be implemented throughout the year, and integrated with the school's discipline policies and § 4112 of this title.

(c) *Dissemination of policy and accountability.* —

(1) Each school district and charter school shall adopt the policy consistent with subsection (b) of this section and submit a copy to the ~~Delaware~~ Department of Education by ~~January 1, 2008;~~ January 1 of each year, or by January 1 of a newly approved charter school's first year of operation. For purposes of this paragraph, "submit" includes providing access to the policy via the school district's or charter school's website. Each school district and charter school shall submit a revised policy to the Department of Education within 30 calendar days of a school district's or charter school's revision. The Department of Education shall review a policy or a revised policy submitted under this paragraph for compliance with state and federal law.

(2) ~~The policy shall appear~~ Each school district and charter school shall include the policy adopted under subsection (b) of this section in the student and staff ~~handbook and if~~ handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall distribute a copy of the policy ~~will be distributed~~ annually to all students, parents, ~~faculty~~ faculty, and staff. ~~The~~ Each school district and charter school shall provide the telephone number of the Department of Justice School Ombudsperson ~~shall be provided~~ in writing to parents, students, ~~faculty and staff;~~ faculty, and staff and ~~shall be provide the telephone number~~ on the school district's or charter school's website and the website of each school and in the school district. ~~The contact information shall also be~~ Each school district shall prominently display the telephone number of the Department of Justice School Ombudsperson prominently displayed in each school in the school district. Each charter school shall prominently display the telephone number of the Department of Justice School Ombudsperson in the school.

(3) ~~The policy shall be submitted to the Delaware Department of Education by January 1 of each subsequent year. Access to the policy via the district or charter school's website will meet the criteria as being submitted. Revision or revisions to an existing district or charter school policy shall be submitted to the Department within 30 days of a district's school board or charter school's board of directors approval of the revision or revisions. The Department shall review such policy or revision or revisions to policy for compliance with state and federal law and regulations promulgated by the Department of Education.~~

(4) The ~~Delaware~~ Department of Education shall prepare an annual report, which ~~shall~~ must include a summary of all reported and all substantiated incidences of bullying, ~~and shall include~~ a summary of the information gathered ~~pursuant to~~ under paragraph (b)(2)f. of this ~~section~~ section, and the results of audits conducted ~~pursuant to~~ under paragraph (d)(4) of this section. ~~This report shall be posted on the Delaware Department of Education's website~~ The Department shall post the report required by this subsection on its website.

(d) *Duties of the Department of Education.* —

(1) The ~~Delaware~~ Department of Education shall collaborate with the ~~Delaware~~ Department of Justice to ~~develop~~ identify and maintain a model policy, ~~that may change from time to time~~, that is applicable to kindergarten through grade 12, and post this policy, along with the contact information for the School Ombudsperson, on their websites in order to assist the school districts and charter schools. In addition, the Department of Education shall promulgate a uniform cyberbullying policy, which shall be based upon a model prepared by the Department of Justice and public comment upon that model. ~~This uniform cyberbullying policy shall be formally adopted as written by each charter school and school district within 90 days of becoming final~~ Each school district and charter school shall adopt the Department's uniform cyberbullying policy within 90 days of the policy becoming final.

(2) Distribution of the Comprehensive School Discipline Improvement Program funds to a school district and charter school provided in the General Appropriations Act starting in fiscal year 2009 and thereafter is contingent upon Department of Education approval of the school district's or charter school's bullying prevention policy.

(3) To the extent that funding is ~~available~~ available, the ~~State~~ Department of Education ~~will~~ shall provide for an award system for schools with exemplary programs based on criteria promulgated by the ~~Delaware~~ Department of Education.

(4) The Department of Education shall conduct random audits of schools to insure compliance with paragraphs (b)(2)i. and (b)(2)k. of this section. The Department shall report the results of these audits annually in the report required by paragraph (c)(4) of this section.

(e) *Immunity.* — A school district or charter school employee, school district or charter school ~~volunteer~~ volunteer, or student is individually immune from a cause of action for damages arising from reporting bullying in good faith and to the appropriate person ~~or persons~~ using the procedures specified in the ~~school district and charter school's~~ school district's or charter school's bullying prevention policy, but there ~~shall be~~ is no such immunity if the act of reporting constituted gross negligence ~~and/or~~ or reckless, ~~wilful~~ wilfull, or intentional conduct.

(f) *Other defenses.* —

(1) The physical location or time of access of a technology-related incident is not a valid defense in any disciplinary action by the school district or charter school initiated under this section provided there is sufficient school nexus.

(2) This section does not apply to any person who uses data or computer software that is accessed through a computer, computer system, computer ~~network~~ network, or other electronic technology when acting within the scope of that person's lawful employment or investigation of a violation of this section in accordance with school district or charter school policy.

(g) ~~Relationship to school crime reporting law reporting requirements.~~ — An incident may meet the definition of bullying and also the definition of a particular crime under state or federal law. Nothing in this section or in the policies promulgated as a result ~~thereof shall prevent~~ of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this ~~title,~~ title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under ~~that section~~ § 4112 of this title. Nothing in this section ~~shall abrogate~~ abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title ~~46,~~ 16 or any other reporting requirement under state or federal law.

(h) ~~Rules and regulations.~~ — Notwithstanding any provision to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section. [Repealed.]

~~§ 4124~~ § 4165. Suicide awareness and prevention.

(a) ~~Each local education agency shall ensure that its public school employees receive combined training each year totaling 90 minutes on suicide prevention. The training materials shall be evidence based and developed and/or approved by the Suicide prevention training program. - The Department of Health and Social Services, the Department of Services for Children, Youth and their Families Families, and the Department of Education shall identify and maintain a suicide prevention training program for school district and charter school employees that is evidence-based, whenever available. Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title.~~

(b) Suicide prevention policy. - Each ~~local education agency~~ school district and charter school shall establish a policy which shall require ~~but not be limited to~~ , at a minimum, all of the following:

- (1) Recognition of the serious problem of youth suicide.
- (2) The development of a suicide prevention program.
- (3) That each school within a ~~local education agency~~ school district and each charter school establish a committee that is responsible for coordinating the suicide prevention program within that school.
- (4) A statement prohibiting retaliation against ~~an~~ a school district or charter school employee, a school district or charter school ~~volunteer~~ volunteer, or student for reporting the warning signs of suicide.
- (5) That a procedure be established for the confidential and anonymous reporting of the warning signs of suicide.
- (6) That a procedure be established for communication between school staff members and medical professionals who are involved in treating students for suicide issues.

(c) Accountability. - Each ~~local education agency~~ school district and charter school shall adopt the policy required by subsection (b) of this section and shall submit a copy to the ~~Delaware~~ Department of Education by September 1, 2016 and by September 1 of a newly approved charter school's first year of operation. ~~Any policy~~

~~changes shall be provided~~ Each school district and charter school shall provide any changes to the policy to the Department within 60 calendar days. For any local education agency opening after September 1, 2016, the policy shall be provided by September 1 of the year the local education agency opens.

(d) Dissemination of policy. - ~~The policy adopted pursuant to~~ Each school district and charter school shall ensure that the policy adopted under this section shall appear appears in the student and staff handbook and on its website ~~the website of each local education agency.~~

(e) Immunity. - A school district or charter school employee, school district or charter school ~~volunteer~~ volunteer, or student is individually immune from a cause of action for damages arising from reporting warning signs of suicide to the appropriate person ~~or persons~~ using the procedures specified in the ~~local education agency's~~ school district's or charter school's suicide prevention policy, but there ~~shall be~~ is no such immunity if the act of reporting constituted gross negligence ~~and/or or~~ reckless, ~~wilful~~ wilful, or intentional conduct.

~~§ 4112E § 4166. School Teen Dating Violence and Sexual Assault Act~~ Teen dating violence and sexual assault awareness and prevention.

(a) Definitions. — ~~The following words, terms and phrases when used in this section shall have the meaning ascribed to them except where the context clearly indicates a different meaning;~~

(1) "Sexual assault." — ~~As used in this section, "sexual assault" means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood, marriage or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment as defined in § 763 of Title 11; sexual contact as defined in § 761 Title 11; sexual intercourse as defined in § 761 of Title 11; sexual penetration as defined in § 761 of Title 11; and child sexual abuse as defined in § 901 of Title 10.~~

(2) "Teen dating violence." — ~~As used in this section, "teen dating violence" means assaultive, threatening or controlling behavior, including stalking as defined in § 1312 of Title 11, that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.~~ Teen dating violence and sexual assault training program. - The Delaware Domestic Violence Coordinating Council shall identify and maintain a teen dating violence and sexual assault training program for school administrators, school nurses, and school counselors serving one or more of the grades in grade 7 through 12.

(b) Teen dating violence and sexual assault policies. — ~~Each school district and charter school serving any grades~~ serving one or more of the grades in grade 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault, which at a minimum, shall include that includes, at a minimum, all of the following components:

(1) Definitions of teen dating violence and sexual assault, the behaviors which constitute ~~each~~ each, and the consequences for committing ~~offenses;~~ offenses.

(2) Guidelines on mandatory reporting and confidentiality as required by ~~statute, district policy, and charter school policy;~~ the law of this State and school district or charter school policy.

(3) A protocol for responding to incidents of teen dating violence and sexual assault which ~~shall include, but is not limited to~~ includes all of the following:

- a. Procedures regarding initial ~~response;~~ response.
- b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is ~~required;~~ required.
- c. Procedures for the documentation of ~~incidents;~~ incidents.
- d. Procedures for working with ~~victims;~~ victims.
- e. Procedures for working with perpetrators.

~~(c) Each school district and charter school shall ensure that its administrator(s), school nurses(s) and school counselor(s) in schools serving any grade 7 through 12 receive teen dating violence and sexual assault policies and protocol training during their first year of assignment as an administrator, school nurse or school counselor in 1 of those schools and at least once in every 3-year period thereafter. The training materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council. Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title. [Repealed.]~~

(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the Health Standards adopted by the Delaware Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

(e) *Dissemination of policy and accountability.* —

(1) Each school district and charter school shall adopt a policy consistent with subsection (b) of this section. Following review by the Domestic Violence Coordinating Council, each school district and charter school shall submit a copy to the Delaware Department of Education by January 5, 2015, or by January 5 of a newly approved charter school's first year of operation.

~~(2) The policy shall appear~~ Each school district and charter school shall ensure that its policy adopted under subsection (b) of this section appears in the student and staff handbook and if handbook. If no handbook is available, or if it is not practical to reprint new handbooks, each school district and charter school shall ensure that a copy of the policy shall be is distributed annually to all students, parents, faculty faculty, and staff.

(3) The Delaware Department of Education shall prepare an annual report, which shall include a summary of reported incidences of teen dating violence and sexual assault. ~~The report shall be submitted~~ Department shall submit the report to the Domestic Violence Coordinating Council by August 1 of each year.

(f) *Immunity.* — A school district or charter school employee, school ~~volunteer~~ district or charter school volunteer, or student is individually immune from a cause of action for damages arising from reporting teen dating violence ~~and/or~~ or sexual assault in good faith and to the appropriate person ~~or persons~~ using the procedures specified in the ~~school district or charter school's~~ school district's or charter school's teen dating violence and sexual

assault policy, but there ~~shall be~~ is no such immunity if the act of reporting constituted gross negligence ~~and/or or~~ reckless, ~~wilful~~ wilful, or intentional conduct.

(g) ~~Relationship to school-crime-reporting~~ reporting requirements. — Nothing in this section or in the policies promulgated as a result ~~thereof shall prevent~~ of this section prevents school officials from fulfilling all of the reporting requirements of § 4112 of this ~~title,~~ title or from reporting probable crimes that occur on school property or at a school function which are not required to be reported under that section. For purposes of this subsection, “school property” and “school function” mean as defined in § 4112 of this title. Nothing in this section abrogates the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16 or any other reporting requirement under state or federal law.

~~(h) Nothing in this section shall abrogate the reporting requirements for child abuse or sexual abuse set forth in Chapter 9 of Title 16, or any other reporting requirement under state or federal law.~~

~~(i) Rules and regulations. — Notwithstanding any provisions to the contrary, the Delaware Department of Education may promulgate rules and regulations necessary to implement this section. [Repealed.]~~

(j) *Short title.* — This section shall be known and may be cited as the “Liane Sorenson Act.”

§ 4167. Regulatory authority.

The Department of Education may promulgate regulations necessary to implement and enforce this chapter.

Section 6. Amend § 4123, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4123. ~~Child abuse detection; reporting training.~~ [Repealed.]

~~(a) Each public school shall ensure that each full-time teacher receives 1 hour of training every year in detection and reporting of child abuse. This training, and all materials used in such training, shall be prepared by the Division of Family Services.~~

~~(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title.~~

Section 7. Amend § 4123A, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4123A. ~~School bullying prevention and criminal youth gang detection training.~~ [Repealed.]

~~(a) Each school district and charter school shall ensure that its public school employees receive combined training each year totaling 1 hour in the identification and reporting of criminal youth gang activity pursuant to § 617 of Title 11 and bullying prevention pursuant to § 4112D of this title. The training materials shall be prepared by the Department of Justice and the Department of Education in collaboration with law enforcement agencies, the Delaware State Education Association, the Delaware School Boards Association and the Delaware Association of School Administrators.~~

~~(b) Any in-service training required by this section shall be provided within the contracted school year as provided in § 1305(e) of this title.~~

Section 8. Amend § 4123B, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4123B. ~~Posting child abuse and neglect telephone report line.~~ [Transferred to § 4163(g) of this title.]

~~(a) Each public school, including charter schools, shall post, in a conspicuous location where notices to students are customarily posted, the number for the toll free telephone report line for child abuse and neglect as established pursuant to § 905 of Title 16. The posting shall be made in English and Spanish and shall be made in a format and language that is clear, simple, and understandable to students.~~

~~(b) There is no private right of action for violation of this section.~~

Section 9. Amend § 402, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 402. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(2) "Good cause" ~~shall mean~~ means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, a reported, recorded, and substantiated instance of "bullying" against their child as defined in ~~§ 4112D of this title~~ § 4161 of this title, or participation by a child in a substance abuse or mental health treatment program, or a set of circumstances consistent with this definition of "good cause."

Section 10. Amend § 407, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 407. Duration of enrollment in receiving district.

(a)(1) A pupil accepted for enrollment in a school or program pursuant to this chapter shall be entitled to remain enrolled therein until graduation from the school or completion of the program provided that the pupil continues to meet the requirements for such school or program, provided however, that upon the concurrence of the boards of both the district of residence and the receiving district, a pupil's right to remain enrolled may be terminated prior to graduation from or completion of the program where such termination is based upon the pupil's

(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of 2 years unless, during that 2-year period,

g. The pupil's parents or guardians wish to terminate the agreement due to a reported, recorded, and substantiated instance of "bullying" against their child as defined in ~~§ 4112D of this title~~ § 4161 of this title.

Section 11. Amend § 506, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 506. Restrictions.

(d) A pupil accepted for enrollment in a charter school pursuant to this chapter shall remain enrolled therein for a minimum of 1 year unless, during that 1-year period, good cause exists for the failure to meet this requirement.

For purposes of this section only, "good cause" shall be defined as a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in the marital status of the child's parents, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, participation by a child in a substance abuse or mental health treatment program, a reported, recorded and substantiated instance of "bullying" against their child as defined in ~~§ 4112D of this title~~ § 4161 of this title, mutual agreement by the board of directors of the charter school, the board of the receiving district and the parent or parents or guardian of such child to the termination of such enrollment, or a set of circumstances consistent with this definition of "good cause."

Section 12. Amend § 4112A, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4112A. Office of School Criminal Offense and Bullying Ombudsperson.

(b) The purpose of the Ombudsperson is to ensure the proper administration of the school criminal offense reporting law contained in § 4112 of this title and the school bullying prevention law contained in ~~§ 4112D of this title~~ § 4161 of this title.

Section 13. Amend § 2515, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2515. Exceptions.

(c) Notwithstanding any other provision of this title, a public school district or charter school that is a defendant in a legal action because of its adoption or use of the cyberbullying policy required under ~~§ 4112D(d)(1) of Title 14~~ § 4164(d)(1) of Title 14 shall have the option of being represented by the Department of Justice if:

- (1) The State of Delaware or 1 of its agencies is a party to the same action based upon the State's requirement that the district or school adopt the cyberbullying policy at issue;
- (2) The Department's representation of both entities is permissible under the Rules of Professional Conduct; and
- (3) The Department determines that enforcement of the cyberbullying policy by the school or district was done in good faith and in the public interest.

Communications and documents regarding the Department's obligation to represent a school or district under this subsection and/or a school or district's decision whether to accept representation by the Department are privileged and not subject to disclosure.

Section 14. If this Act is enacted before August 1, 2017, this Act, except § 4163(b)(2) of Title 14 as contained in this Act, takes effect on August 1 following its enactment into law. If this Act is enacted on or after August 1, 2017, this Act, except § 4163(b)(2) of Title 14 as contained in this Act, takes effect upon enactment.

Section 15. Section 4163(b)(2) of Title 14 as contained in this Act takes effect on August 1, 2019.

Approved August 9, 2017