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Legislative Document

No. 980

H.P. 724

House of Representatives, March 8, 2011

An Act To Prohibit Cyberbullying in Public Schools

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PILON of Saco.
Cosponsored by Representatives: BLODGETT of Augusta, MOULTON of York, Senator CRAVEN of Androscoggin, Senator LANGLEY of Hancock and Representatives: JOHNSON of Greenville, LOVEJOY of Portland, RICHARDSON of Carmel, WEBSTER of Freeport.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §506-C** is enacted to read:

3 **§506-C. Harassment by cyberbullying**

4 1. A person is guilty of harassment by cyberbullying if, without reasonable cause, the
5 person engages in any course of conduct that involves deliberate repeated or pervasive
6 bullying through the use of technology or any electronic communication, including, but
7 not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of
8 any nature transmitted by the use of any electronic device, including, but not limited to, a
9 computer, telephone, cellular telephone, text messaging device and personal digital
10 assistant.

11 2. Violation of this section is a civil violation for which a fine of not more than \$500
12 may be adjudged.

13 **Sec. 2. 20-A MRSA §1001, sub-§15, ¶G,** as amended by PL 2005, c. 307, §2, is
14 further amended to read:

15 G. Establish guidelines and criteria concerning the appropriate circumstances when
16 the superintendent or the superintendent's designee may provide information to the
17 local police or other appropriate law enforcement authorities regarding an offense
18 that involves violence committed by any person on school grounds or other school
19 property; ~~and~~

20 **Sec. 3. 20-A MRSA §1001, sub-§15, ¶H,** as enacted by PL 2005, c. 307, §3, is
21 amended to read:

22 H. Establish policies and procedures to address bullying, cyberbullying, harassment
23 and sexual harassment; and

24 **Sec. 4. 20-A MRSA §1001, sub-§15, ¶I** is enacted to read:

25 I. Establish policies and procedures for isolating a violator of a protection from
26 harassment order from the recipient of a protection from harassment order when the
27 protection from harassment order arises from a violation of Title 5, section 4681;
28 Title 17, section 2931; or Title 17-A, section 201, 202, 203, 204, 207, 208, 209, 210,
29 210-A, 211, 253, 301, 302, 303, 506-A, 506-C, 511, 556, 802, 803-A, 805 or 806.

30 **Sec. 5. 20-A MRSA §6553,** as amended by PL 1999, c. 351, §4, is repealed.

31 **Sec. 6. 20-A MRSA §6553-A** is enacted to read:

32 **§6553-A. Adoption of school policy prohibiting offensive student or organizational**
33 **behavior**

34 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
35 following terms have the following meanings.

1 A. "Bullying" means the repeated use by one or more persons of a written, verbal or
2 electronic expression or a physical act or gesture or any combination thereof directed
3 at a victim that:

4 (1) Causes physical or emotional harm to the victim or damage to the victim's
5 property;

6 (2) Places the victim in reasonable fear of harm or of damage to the victim's
7 property;

8 (3) Creates a hostile environment at school for the victim;

9 (4) Infringes on the rights of the victim at school; or

10 (5) Materially and substantially disrupts the education process or the orderly
11 operation of a school.

12 "Bullying" includes cyberbullying.

13 B. "Cyberbullying" means bullying through the use of technology or any electronic
14 communication, including, but not limited to, a transfer of signs, signals, writing,
15 images, sounds, data or intelligence of any nature transmitted by the use of any
16 electronic device, including, but not limited to, a computer, telephone, cellular
17 telephone, text messaging device and personal digital assistant.

18 C. "Harassment" means engaging in a course of conduct with the intention to harass,
19 torment, threaten or intimidate another person without reasonable cause.

20 D. "Injurious hazing" means any action or situation that recklessly or intentionally
21 endangers the mental, emotional or physical health of any person. "Injurious hazing"
22 includes harassment.

23 E. "Offensive behavior" includes bullying, cyberbullying, harassment and injurious
24 hazing.

25 F. "School grounds" means property on which a school building or facility is located
26 or property that is owned, leased or used by a school for a school-sponsored activity,
27 function, program, instruction or training.

28 **2. Adoption of policy.** A school board shall adopt a policy that prohibits offensive
29 behavior. The policy must include a prohibition against offensive behavior that takes
30 place at school or on school grounds and at any school-sponsored activity or event. The
31 policy must include a prohibition against offensive behavior that occurs at any other time
32 or place that substantially disrupts the instructional program or operations of the school or
33 the welfare of students or staff members. The policy must include a prohibition against
34 use of a computer, telephone, cellular telephone, text messaging device or personal digital
35 assistant to engage in offensive behavior, whether the use of the computer, telephone,
36 cellular telephone, text messaging device or personal digital assistant occurs on or off
37 school grounds. The school board shall include in the policy age-appropriate instruction
38 on bullying prevention and shall provide a copy of the instruction to each grade, which
39 must be incorporated into the curriculum of the school. The school board shall include in
40 the policy a procedure for reporting offensive behavior to the local law enforcement
41 agency and for removing any computer, telephone, cellular telephone, text messaging

1 device and personal digital assistant used to engage in offensive behavior from school
2 grounds.

3 The school board shall include in the policy penalties for violation of the policy. The
4 penalties must include, but not be limited to:

5 A. When the person is not associated with the school, the ejection of the person from
6 school grounds;

7 B. When the person is a student, administrator or staff member, the person's
8 suspension or expulsion or other appropriate disciplinary action; and

9 C. When an organization affiliated with the school authorizes injurious hazing, the
10 rescission of permission for that organization to operate on school grounds or receive
11 any other benefit of affiliation with the school.

12 **3. Administrative responsibility.** The school board shall assign responsibility for
13 administering the policy to the superintendent and establish procedures for appealing the
14 action or lack of action of the superintendent.

15 **4. Dissemination.** The school board shall clearly set forth the policy and penalties
16 adopted and shall distribute copies of them to all students.

17 **SUMMARY**

18 Current law requires each school board to adopt a policy that addresses injurious
19 hazing. This bill repeals the injurious hazing law and enacts provisions requiring school
20 boards to adopt policies prohibiting offensive student or organizational behavior,
21 including injurious hazing, harassment, bullying and cyberbullying. It requires the school
22 board to include in the policy a procedure for reporting the offensive behavior to the
23 authorities. The bill also makes harassment by cyberbullying a civil violation.