

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 707

Short Title: School Violence Prevention Act. (Public)

Sponsors: Senators Tucker; Bingham, Daniel, and Rabon.

Referred to: Judiciary II.

April 20, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE SCHOOL VIOLENCE PREVENTION ACT.

3 Whereas, the General Assembly of North Carolina finds that a safe and civil  
4 environment in school is necessary in order for students to learn and achieve high academic  
5 standards; and

6 Whereas, bullying and harassment, like other disruptive or violent behaviors, is  
7 conduct that disrupts both a student's ability to learn and a school's ability to educate its  
8 students in a safe environment; and

9 Whereas, bullying and harassing behaviors create a climate that fosters violence in  
10 our schools; and

11 Whereas, it is essential to enact a law that seeks to protect the health and welfare of  
12 North Carolina students and improve the learning environment for North Carolina students; and

13 Whereas, to do so, State and national data and anecdotal evidence have established  
14 the need to identify the most vulnerable targets and potential victims of bullying and  
15 harassment; and

16 Whereas, the sole purpose of this law is to protect all children from bullying and  
17 harassment, and no other legislative purpose is intended nor should any other intent be  
18 construed from passage of this law; Now, therefore,

19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** G.S. 115C-276 is amended by adding a new subsection to read:

21 "(u) To Report Certain Acts to Law Enforcement and the Local Board of Education. –  
22 When the superintendent has personal knowledge or actual notice from school personnel that  
23 an act has occurred on school property involving assault resulting in serious personal injury,  
24 sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault  
25 involving the use of a weapon, possession of a firearm in violation of the law, possession of a  
26 weapon in violation of the law, or possession of a controlled substance in violation of the law,  
27 the superintendent shall immediately report the act to the appropriate local law enforcement  
28 agency. Failure to report to law enforcement under this subsection is a Class 3 misdemeanor.  
29 For purposes of this subsection, "school property" shall include any public school building, bus,  
30 public school campus, grounds, recreational area, or athletic field in the charge of the principal.

31 The superintendent or the superintendent's designee shall notify the members of the local  
32 board of education in writing or by electronic mail regarding any report made to law  
33 enforcement under this subsection. This notification shall occur by the end of the workday in  
34 which the incident occurred when reasonably possible but not later than the end of the  
35 following workday."

36 **SECTION 2.** G.S. 115C-391 is amended by adding a new subsection to read:



1        "(d6) The local board of education shall expel, or the superintendent shall remove to an  
2 alternative education setting, any student who has been convicted of a felony, adjudicated  
3 delinquent for an offense that would be a felony if committed by an adult, arrested two or more  
4 times, or alleged to be delinquent or undisciplined two or more times."

5        **SECTION 3.** Article 37 of Chapter 115C of the General Statutes is amended by  
6 adding a new section to read:

7        **"§ 115C-532.1. No probation officer or juvenile court counselor visits at school.**

8        Probation officers and juvenile court counselors shall not visit students during the school  
9 day or on school property."

10        **SECTION 4.** G.S. 115C-390 reads as rewritten:

11        **"§ 115C-390. School personnel may use reasonable force.**

12        (a) Except as restricted or prohibited by rules adopted by the local boards of education,  
13 principals, teachers, substitute teachers, voluntary teachers, and teacher assistants and student  
14 teachers in the public schools of this State may use reasonable force in the exercise of lawful  
15 authority to restrain or correct pupils and maintain order.

16        (b) No local board of education, nor its members, employees, designees, agents, or  
17 volunteers shall be liable in civil damages to any person for acting or failing to act to stop or  
18 intervene in an altercation between students unless that act or omission amounts to gross  
19 negligence, wanton conduct, or intentional wrongdoing.

20        (c) No school employee shall be reprimanded or dismissed for acting or failing to act to  
21 stop or intervene in an altercation between students."

22        **SECTION 5.** G.S. 115C-366 is amended by adding a new subsection to read:

23        "(i) A student who is convicted under G.S. 14-458.2 of cyber-bullying a school  
24 employee shall be transferred to another school within the local school administrative unit."

25        **SECTION 6.** G.S. 15A-301 is amended by adding a new subsection to read:

26        "(b1) Approval by District Attorney. – Notwithstanding any other provision of law, no  
27 warrant for arrest, order for arrest, criminal summons, or other criminal process shall be issued  
28 by a magistrate without the prior written approval of the district attorney against a school  
29 employee as defined in G.S. 14-33(c)(6) for an offense that occurred while the school employee  
30 was in the process of discharging his or her duties of employment. For purposes of this  
31 subsection, the term "district attorney" means the person elected to the office of district  
32 attorney.

33        This subsection does not apply if the offense is a traffic offense or if the offense occurred in  
34 the presence of a sworn law enforcement officer."

35        **SECTION 7.** Article 60 of Chapter 14 of the General Statutes is amended by  
36 adding a new section to read:

37        **"§ 14-458.2. Cyber-bullying of school employee by student; penalty.**

38        (a) The following definitions apply in this section:

39        (1) School employee. – The term means any of the following:

40        a. An employee of a local board of education, a charter school  
41 authorized under G.S. 115C-238.29D, or a nonpublic school which  
42 has filed intent to operate under Part 1 or Part 2 of Article 39 of  
43 Chapter 115C of the General Statutes.

44        b. An independent contractor or an employee of an independent  
45 contractor of a local board of education, a charter school authorized  
46 under G.S. 115C-238.29D, or a nonpublic school which has filed  
47 intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C  
48 of the General Statutes, if the independent contractor carries out  
49 duties customarily performed by employees of the school.

50        (2) Student. – A person who is enrolled in the school at which the school  
51 employee is employed or a person who has been suspended or expelled

- 1           within the last year from the school at which the school employee is  
2           employed.
- 3       (b) Except as otherwise made unlawful by this Article, it shall be unlawful for any  
4 student to use a computer or computer network to do any of the following:
- 5           (1) With the intent to intimidate or torment a school employee:
- 6           a. Build a fake profile or Web site;  
7           b. Post or encourage others to post on the Internet private, personal, or  
8           sexual information pertaining to a school employee;  
9           c. Post a real or doctored image of the school employee on the Internet;  
10          d. Access, alter, or erase any computer network, computer data,  
11          computer program, or computer software, including breaking into a  
12          password-protected account or stealing or otherwise accessing  
13          passwords; or  
14          e. Use a computer system for repeated, continuing, or sustained  
15          electronic communications, including electronic mail or other  
16          transmissions, to a school employee.
- 17          (2) Plant any statement, whether true or false, tending to provoke or that actually  
18          provokes any third party to stalk or harass a school employee.
- 19          (3) Copy and disseminate, or cause to be made, an unauthorized copy of any  
20          data pertaining to a school employee for the purpose of intimidating or  
21          tormenting that school employee (in any form, including, but not limited to,  
22          any printed or electronic form of computer data, computer programs, or  
23          computer software residing in, communicated by, or produced by a computer  
24          or computer network).
- 25          (4) Sign up a school employee for a pornographic Internet site.
- 26          (5) Without authorization of the school employee, sign up a school employee for  
27          electronic mailing lists or to receive junk electronic messages and instant  
28          messages, resulting in intimidation or torment of the school employee.
- 29       (c) Any student who violates this section is guilty of cyber-bullying a school employee,  
30 which offense is punishable as a Class H felony.
- 31       (d) Whenever any student pleads guilty to or is guilty of an offense under this section,  
32 the court may, without entering a judgment of guilt and with the consent of the student, defer  
33 further proceedings and place the student on probation upon such reasonable terms and  
34 conditions as the court may require. Upon fulfillment of the terms and conditions of the  
35 probation provided for in this subsection, the court shall discharge the student and dismiss the  
36 proceedings against the student. Discharge and dismissal under this subsection shall be without  
37 court adjudication of guilt and shall not be deemed a conviction for purposes of this section or  
38 for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.  
39 Upon discharge and dismissal pursuant to this subsection, the student may apply for an order to  
40 expunge the complete record of the proceedings resulting in the dismissal and discharge,  
41 pursuant to the procedures and requirements set forth in G.S. 15A-146."
- 42       **SECTION 8.** Article 8 of Chapter 14 of the General Statutes is amended by adding  
43 a new section to read:
- 44 **"§ 14-34.10. Felony assault on a school employee.**
- 45       (a) The following definitions apply in this section:
- 46       (1) School employee. – The term means any of the following:
- 47       a. An employee of a local board of education, a charter school  
48       authorized under G.S. 115C-238.29D, or a nonpublic school which  
49       has filed intent to operate under Part 1 or Part 2 of Article 39 of  
50       Chapter 115C of the General Statutes.

1                   b.     An independent contractor or an employee of an independent  
2                   contractor of a local board of education, a charter school authorized  
3                   under G.S. 115C-238.29D, or a nonpublic school which has filed  
4                   intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C  
5                   of the General Statutes, if the independent contractor carries out  
6                   duties customarily performed by employees of the school.

7                   (2)    Student. – A person who is enrolled in the school at which the school  
8                   employee is employed or a person who has been suspended or expelled  
9                   within the last year from the school at which the school employee is  
10                  employed.

11                  (b)    Unless the conduct is covered under some other provision of law providing greater  
12                  punishment, any person who is a student 16 years of age or older who commits a violation  
13                  under G.S. 14-33(c)(6) against a school employee is guilty of a Class H felony."

14                  **SECTION 9.** Article 30 of Chapter 14 of the General Statutes is amended by  
15 adding a new section to read:

16                  "**§ 14-266.4. Intimidation of school employee by school administrator to prevent**  
17                  **employee from reporting assault by student on employee; failure to report**  
18                  **assault on school employee.**

19                  (a)    If a person who is the employer or supervisor of a school employee shall by threats,  
20                  menaces, or in any other manner intimidate or attempt to intimidate the school employee from  
21                  reporting an assault under either G.S. 14-33 or G.S. 14-34.10 to a law enforcement officer or  
22                  law enforcement agency, the person is guilty of a Class 3 misdemeanor.

23                  (b)    If a person who is the employer or supervisor of a school employee and who knows  
24                  that a school employee has been assaulted by a student in violation of either G.S. 14-33 or  
25                  G.S. 14-34.10 fails to report the assault against a school employee, the person is guilty of a  
26                  Class 3 misdemeanor."

27                  **SECTION 10.** Article 8 of Chapter 14 of the General Statutes is amended by  
28 adding a new section to read:

29                  "**§ 14-33.3. No civil or criminal liability for good-faith actions of a school employee to end**  
30                  **a fight between students.**

31                  No school employee as defined in G.S. 14-33(c)(6) who in the performance of his or her  
32                  duties as a school employee takes actions in good faith to end a fight or altercation between  
33                  students shall incur any civil or criminal liability as the result of the performance of those  
34                  actions."

35                  **SECTION 11.** Sections 6, 7, 8, 9, and 10 of this act become effective December 1,  
36 2011, and apply to offenses committed on or after that date. The remainder of this act is  
37 effective when it becomes law. Sections 1, 2, 3, 4, and 5 apply beginning with the 2011-2012  
38 school year.