

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 123

Introduced by Heidemann, 1; Adams, 24; Avery, 28; Cornett, 45;
Council, 11; Dubas, 34; Fischer, 43; Haar, 21; Hansen,
42; Howard, 9; Krist, 10; Mello, 5; Schilz, 47;
Sullivan, 41; Wightman, 36.

Read first time January 06, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend sections 79-283 and
2 79-2,137, Reissue Revised Statutes of Nebraska, and
3 section 79-267, Revised Statutes Cumulative Supplement,
4 2010; to provide for disciplinary actions against
5 students and policies relating to cyber-bullying; to
6 harmonize provisions; to repeal the original sections;
7 and to declare an emergency.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-267, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-267 (1) The following student conduct shall constitute
4 grounds for long-term suspension, expulsion, or mandatory
5 reassignment, subject to the procedural provisions of the Student
6 Discipline Act, when such activity occurs on school grounds, in a
7 vehicle owned, leased, or contracted by a school being used for a
8 school purpose or in a vehicle being driven for a school purpose by a
9 school employee or by his or her designee, or at a school-sponsored
10 activity or athletic event:

11 ~~(1)~~ (a) Use of violence, force, coercion, threat,
12 intimidation, or similar conduct in a manner that constitutes a
13 substantial interference with school purposes;

14 ~~(2)~~ (b) Willfully causing or attempting to cause
15 substantial damage to property, stealing or attempting to steal
16 property of substantial value, or repeated damage or theft involving
17 property;

18 ~~(3)~~ (c) Causing or attempting to cause personal injury to
19 a school employee, to a school volunteer, or to any student. Personal
20 injury caused by accident, self-defense, or other action undertaken
21 on the reasonable belief that it was necessary to protect some other
22 person shall not constitute a violation of this subdivision;

23 ~~(4)~~ (d) Threatening or intimidating any student for the
24 purpose of or with the intent of obtaining money or anything of value
25 from such student;

1 ~~(5)~~—(e) Knowingly possessing, handling, or transmitting
2 any object or material that is ordinarily or generally considered a
3 weapon;

4 ~~(6)~~—(f) Engaging in the unlawful possession, selling,
5 dispensing, or use of a controlled substance or an imitation
6 controlled substance, as defined in section 28-401, a substance
7 represented to be a controlled substance, or alcoholic liquor as
8 defined in section 53-103.02 or being under the influence of a
9 controlled substance or alcoholic liquor;

10 ~~(7)~~—(g) Public indecency as defined in section 28-806,
11 except that this subdivision shall apply only to students at least
12 twelve years of age but less than nineteen years of age;

13 ~~(8)~~—(h) Engaging in bullying as defined in section
14 79-2,137;

15 ~~(9)~~—(i) Sexually assaulting or attempting to sexually
16 assault any person if a complaint has been filed by a prosecutor in a
17 court of competent jurisdiction alleging that the student has
18 sexually assaulted or attempted to sexually assault any person,
19 including sexual assaults or attempted sexual assaults which occur
20 off school grounds not at a school function, activity, or event. For
21 purposes of this subdivision, sexual assault means sexual assault in
22 the first degree as defined in section 28-319, sexual assault in the
23 second degree as defined in section 28-320, sexual assault of a child
24 in the second or third degree as defined in section 28-320.01, or
25 sexual assault of a child in the first degree as defined in section

1 28-319.01, as such sections now provide or may hereafter from time to
2 time be amended;

3 ~~(10)-(j)~~ Engaging in any other activity forbidden by the
4 laws of the State of Nebraska which activity constitutes a danger to
5 other students or interferes with school purposes; or

6 ~~(11)-(k)~~ A repeated violation of any rules and standards
7 validly established pursuant to section 79-262 if such violations
8 constitute a substantial interference with school purposes.

9 (2) Cyber-bullying as defined in section 79-2,137 shall
10 constitute grounds for long-term suspension, expulsion, or mandatory
11 reassignment, subject to the procedural provisions of the Student
12 Discipline Act, if such conduct causes or is reasonably projected to
13 cause a substantial or material disruption of the school environment
14 or threatens the safety and security of students or school personnel,
15 regardless of whether such conduct occurs or is initiated on or off
16 of school grounds.

17 (3) It is the intent of the Legislature that alternatives
18 to suspension or expulsion be imposed against a student who is
19 truant, tardy, or otherwise absent from required school activities.

20 Sec. 2. Section 79-283, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-283 (1) Written notice of the findings and
23 recommendations of the hearing examiner and the determination of the
24 superintendent under section 79-282 shall be made by certified or
25 registered mail or by personal delivery to the student or the

1 student's parent or guardian. Upon receipt of such written notice by
2 the student, parent, or guardian, the determination of the
3 superintendent shall take immediate effect.

4 (2) Except as provided in subsections (3) and (4) of this
5 section, the expulsion of a student shall be for a period not to
6 exceed the remainder of the semester in which it took effect unless
7 the misconduct occurred (a) within ten school days prior to the end
8 of the first semester, in which case the expulsion shall remain in
9 effect through the second semester, or (b) within ten school days
10 prior to the end of the second semester, in which case the expulsion
11 shall remain in effect for summer school and the first semester of
12 the following school year subject to the provisions of subsection (5)
13 of this section. Such action may be modified or terminated by the
14 school district at any time during the expulsion period.

15 (3) The expulsion of a student for (a) the knowing and
16 intentional use of force in causing or attempting to cause personal
17 injury to a school employee, school volunteer, or student except as
18 provided in subdivision ~~(3)~~(1)(c) of section 79-267 or (b) the
19 knowing and intentional possession, use, or transmission of a
20 dangerous weapon, other than a firearm, shall be for a period not to
21 exceed the remainder of the school year in which it took effect if
22 the misconduct occurs during the first semester. If the expulsion
23 takes place during the second semester, the expulsion shall remain in
24 effect for summer school and may remain in effect for the first
25 semester of the following school year. Such action may be modified or

1 terminated by the school district at any time during the expulsion
2 period.

3 (4) The expulsion of a student for the knowing and
4 intentional possession, use, or transmission of a firearm, which for
5 purposes of this section means a firearm as defined in 18 U.S.C. 921
6 as of January 1, 1995, shall be for a period as provided by the
7 school district policy adopted pursuant to section 79-263. This
8 subsection shall not apply to (a) the issuance of firearms to or
9 possession of firearms by members of the Reserve Officers Training
10 Corps when training or (b) firearms which may lawfully be possessed
11 by the person receiving instruction under the immediate supervision
12 of an adult instructor who may lawfully possess firearms.

13 (5) Any expulsion that will remain in effect during the
14 first semester of the following school year shall be automatically
15 scheduled for review before the beginning of the school year. The
16 review shall be conducted by the hearing examiner after the hearing
17 examiner has given notice of the review to the student and the
18 student's parent or guardian. This review shall be limited to newly
19 discovered evidence or evidence of changes in the student's
20 circumstances occurring since the original hearing. This review may
21 lead to a recommendation by the hearing examiner that the student be
22 readmitted for the upcoming school year. If the school board or board
23 of education or a committee of such board took the final action to
24 expel the student, the student may be readmitted only by action of
25 the board. Otherwise the student may be readmitted by action of the

1 superintendent.

2 Sec. 3. Section 79-2,137, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 79-2,137 (1) The Legislature finds and declares that:

5 (a) Bullying ~~disrupts~~ and cyber-bullying disrupt a
6 school's ability to educate students; and

7 (b) Bullying ~~threatens~~ and cyber-bullying threaten public
8 safety by creating an atmosphere in which such behavior can escalate
9 into violence.

10 (2) For purposes of this section: -

11 (a) Bullying ~~bullying~~ means any ongoing pattern of
12 physical, verbal, or ~~electronic abuse~~ written abuse, other than
13 cyber-bullying, on school grounds, in a vehicle owned, leased, or
14 contracted by a school being used for a school purpose by a school
15 employee or his or her designee, or at school-sponsored activities or
16 school-sponsored athletic events; and -

17 (b) Cyber-bullying means any ongoing use of electronic
18 mail, text messaging, social networking web sites, or any other form
19 of electronic communication, on or off of school grounds, with the
20 intention of causing harm or serious emotional distress to students
21 or school personnel.

22 (3) On or before July 1, 2009, each school district as
23 defined in section 79-101 shall develop and adopt a policy concerning
24 bullying prevention and education for all students consistent with
25 the Student Discipline Act.

1 (4) On or before July 1, 2011, each school district as
2 defined in section 79-101 shall develop and adopt a policy concerning
3 cyber-bullying prevention and education for all students consistent
4 with the Student Discipline Act.

5 ~~(4)~~(5) The school district shall review ~~the policy~~ such
6 policies annually.

7 Sec. 4. Original sections 79-283 and 79-2,137, Reissue
8 Revised Statutes of Nebraska, and section 79-267, Revised Statutes
9 Cumulative Supplement, 2010, are repealed.

10 Sec. 5. Since an emergency exists, this act takes effect
11 when passed and approved according to law.