

115TH CONGRESS  
2D SESSION

# S. 2572

To amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

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## IN THE SENATE OF THE UNITED STATES

MARCH 20, 2018

Mr. CASEY (for himself, Ms. WARREN, Mr. WHITEHOUSE, Mr. BENNET, Ms. HIRONO, Ms. HEITKAMP, Ms. STABENOW, Ms. KLOBUCHAR, Mrs. SHAHEEN, Ms. HARRIS, Mr. KAINE, Ms. CORTEZ MASTO, Mr. BOOKER, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Ms. BALDWIN, Mrs. MURRAY, Mrs. GILLIBRAND, Mr. COONS, Mr. WYDEN, Mr. BROWN, Mr. WARNER, Ms. CANTWELL, Mr. CARPER, Mr. REED, Ms. SMITH, Mr. MARKEY, Mr. LEAHY, Ms. HASSAN, Mr. NELSON, Mr. CARDIN, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Schools Improve-  
5 ment Act of 2018”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Bullying and harassment foster a climate of  
4 fear and disrespect that can seriously impair the  
5 physical and psychological health of its victims and  
6 create conditions that negatively affect learning,  
7 thereby undermining the ability of students to  
8 achieve their full potential.

9 (2) Bullying and harassment contribute to high  
10 dropout rates, increased absenteeism, and academic  
11 underachievement.

12 (3) Bullying and harassment include a range of  
13 behaviors that negatively impact a student's ability  
14 to learn and participate in educational opportunities  
15 and activities that schools offer. Such behaviors can  
16 include hitting or punching, name-calling, intimidat-  
17 ion through gestures or social exclusion, and send-  
18 ing insulting or offensive messages through elec-  
19 tronic communications, such as internet sites, e-  
20 mail, instant messaging, mobile phones and mes-  
21 saging, telephone, or any other means.

22 (4) Schools with enumerated anti-bullying and  
23 harassment policies have an increased level of re-  
24 porting and teacher intervention in incidents of bul-  
25 lying and harassment, thereby reducing the overall  
26 frequency and number of such incidents.

1           (5) Students have been particularly singled out  
2           for bullying and harassment on the basis of their ac-  
3           tual or perceived race, color, national origin, sex,  
4           disability status, sexual orientation, gender identity,  
5           or religion, among other categories.

6           (6) Some young people experience a form of  
7           bullying called relational aggression or psychological  
8           bullying, which harms individuals by damaging,  
9           threatening, or manipulating their relationships with  
10          their peers, or by injuring their feelings of social ac-  
11          ceptance.

12          (7) Interventions to address bullying and har-  
13          assment conduct to create a positive and safe school  
14          climate, combined with evidence-based discipline  
15          policies and practices, such as Positive Behavior  
16          Interventions and Supports (PBIS) and restorative  
17          practices, can minimize suspensions, expulsions, and  
18          other exclusionary discipline policies to ensure that  
19          students are not “pushed-out” or diverted to the ju-  
20          venile justice system.

21          (8) According to one poll, 85 percent of Ameri-  
22          cans strongly support or somewhat support a Fed-  
23          eral law to require schools to enforce specific rules  
24          to prevent bullying.

1           (9) Students, parents, educators, and policy-  
 2           makers have come together to call for leadership and  
 3           action to address the national crisis of bullying and  
 4           harassment.

5 **SEC. 3. SAFE SCHOOLS IMPROVEMENT.**

6           (a) IN GENERAL.—Title IV of the Elementary and  
 7           Secondary Education Act of 1965 (20 U.S.C. 7101 et  
 8           seq.) is amended by adding at the end the following:

9           **“PART G—SAFE SCHOOLS IMPROVEMENT**

10 **“SEC. 4701. PURPOSE.**

11           “The purpose of this part is to address the problem  
 12           of bullying and harassment conduct of students in public  
 13           elementary schools and secondary schools.

14 **“SEC. 4702. ANTI-BULLYING POLICIES.**

15           “(a) BULLYING.—In this part, the term ‘bullying’ in-  
 16           cludes cyber-bullying through electronic communications.

17           “(b) POLICIES.—A State that receives a grant under  
 18           this title shall require all local educational agencies in the  
 19           State to carry out the following:

20                   “(1) Establish policies that prevent and prohibit  
 21                   conduct, including bullying and harassment, that is  
 22                   sufficiently severe, persistent, or pervasive—

23                           “(A) to limit a student’s ability to partici-  
 24                           pate in, or benefit from, a program or activity

1 of a public school or local educational agency;  
2 or

3 “(B) to create a hostile or abusive edu-  
4 cational environment, adversely affecting a stu-  
5 dent’s education, at a program or activity of a  
6 public school or local educational agency, in-  
7 cluding acts of verbal, nonverbal, or physical  
8 aggression or intimidation.

9 “(2) The policies required under paragraph (1)  
10 shall include a prohibition of bullying or harassment  
11 conduct based on—

12 “(A) a student’s actual or perceived race,  
13 color, national origin, sex, disability, sexual ori-  
14 entation, gender identity, or religion;

15 “(B) the actual or perceived race, color,  
16 national origin, sex, disability, sexual orienta-  
17 tion, gender identity, or religion of a person  
18 with whom a student associates or has associ-  
19 ated; or

20 “(C) any other distinguishing characteris-  
21 tics that may be defined by the State or local  
22 educational agency.

23 “(3) Provide—

24 “(A) annual notice to students, parents,  
25 and educational professionals describing the full

1 range of prohibited conduct contained in such  
 2 local educational agency's discipline policies;  
 3 and

4 “(B) grievance procedures for students or  
 5 parents to register complaints regarding the  
 6 prohibited conduct contained in such local edu-  
 7 cational agency's discipline policies, including—

8 “(i) the name of the local educational  
 9 agency officials who are designated as re-  
 10 sponsible for receiving such complaints;  
 11 and

12 “(ii) timelines that the local edu-  
 13 cational agency will establish in the resolu-  
 14 tion of such complaints.

15 “(4) Collect annual incidence and frequency of  
 16 incidents data about the conduct prohibited by the  
 17 policies described in paragraph (1) at the school  
 18 level that are accurate and complete and publicly re-  
 19 port such data at the school level and local edu-  
 20 cational agency level. The local educational agency  
 21 shall ensure that victims or persons responsible for  
 22 such conduct are not identifiable.

23 **“SEC. 4703. STATE REPORTS.**

24 “The chief executive officer of a State that receives  
 25 a grant under this title, in cooperation with the State edu-

1 cational agency, shall submit a biennial report to the Sec-  
2 retary—

3 “(1) on the information reported by local edu-  
4 cational agencies in the State pursuant to section  
5 4702(b)(4); and

6 “(2) describing the State’s plans for supporting  
7 local educational agency efforts to address the con-  
8 duct prohibited by the policies described in section  
9 4702(b)(1).

10 **“SEC. 4704. EVALUATION.**

11 “(a) BIENNIAL EVALUATION.—The Secretary shall  
12 conduct an independent biennial evaluation of programs  
13 and policies to combat bullying and harassment in elemen-  
14 tary schools and secondary schools, including implementa-  
15 tion of the requirements described in section 4702, includ-  
16 ing whether such requirements have appreciably reduced  
17 the level of the prohibited conduct and have conducted ef-  
18 fective parent involvement and training programs.

19 “(b) DATA COLLECTION.—The Commissioner for  
20 Education Statistics shall collect data from States, that  
21 are subject to independent review, to determine the inci-  
22 dence and frequency of conduct prohibited by the policies  
23 described in section 4702.

24 “(c) BIENNIAL REPORT.—Not later than January 1,  
25 2019, and every 2 years thereafter, the Secretary shall

1 submit to the President and Congress a report on the find-  
2 ings of the evaluation conducted under subsection (a) to-  
3 gether with the data collected under subsection (b) and  
4 data submitted by the States under section 4703.

5 **“SEC. 4705. EFFECT ON OTHER LAWS.**

6       “(a) FEDERAL AND STATE NONDISCRIMINATION  
7 LAWS.—Nothing in this part shall be construed to invali-  
8 date or limit rights, remedies, procedures, or legal stand-  
9 ards available to victims of discrimination under any other  
10 Federal law or law of a State or political subdivision of  
11 a State, including title VI of the Civil Rights Act of 1964  
12 (42 U.S.C. 2000d et seq.), title IX of the Education  
13 Amendments of 1972 (20 U.S.C. 1681 et seq.), section  
14 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C.  
15 794, 794a), or the Americans with Disabilities Act of 1990  
16 (42 U.S.C. 12101 et seq.). The obligations imposed by this  
17 part are in addition to those imposed by title VI of the  
18 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title  
19 IX of the Education Amendments of 1972 (20 U.S.C.  
20 1681 et seq.), section 504 of the Rehabilitation Act of  
21 1973 (29 U.S.C. 794), and the Americans with Disabil-  
22 ities Act of 1990 (42 U.S.C. 12101 et seq.).

23       “(b) FREE SPEECH AND EXPRESSION LAWS.—Noth-  
24 ing in this part shall be construed to alter legal standards  
25 regarding, or affect the rights (including remedies and



1 procedures) available to individuals under, other Federal  
 2 laws that establish protections for freedom of speech or  
 3 expression.

4 **“SEC. 4706. RULE OF CONSTRUCTION.**

5 “Nothing in this part shall be construed to prohibit  
 6 a State or local entity from enacting any law with respect  
 7 to the prevention of bullying or harassment of students  
 8 that is not inconsistent with this part.”.

9 (b) TABLE OF CONTENTS.—The table of contents in  
 10 section 2 of the Elementary and Secondary Education Act  
 11 of 1965 is amended by inserting after the item relating  
 12 to section 4644 the following:

“PART D—SAFE SCHOOLS IMPROVEMENT

- “Sec. 4701. Purpose.
- “Sec. 4702. Anti-bullying policies.
- “Sec. 4703. State reports.
- “Sec. 4704. Evaluation.
- “Sec. 4705. Effect on other laws.
- “Sec. 4706. Rule of construction.”.

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