

Legislation on Cyberbullying

This IPRO report examines trends in cyberbullying laws and expands on a 2007 IPRO report that presented bullying legislation in general. The laws summarized in this report do not enforce or punish cyberbullying, but instead require school districts to adopt cyberbullying policies or grant authority to school districts to discipline cyberbullying. As of October 2009, 20 states have enacted cyberbullying legislation, making cyberbullying one of the fastest growing areas of cyberlegislation.¹

Cyberbullying Overview

Due to technological advancements in communication, such as instant messaging and social networking websites (e.g. Facebook, MySpace), a new form of bullying commonly called cyberbullying has emerged. The National Conference of State Legislatures defines cyberbullying as the “willful and repeated use of cell phones, computers, and other electronic communication devices to harass and threaten others.”² E-mails, instant messages, and messages posted on websites and in chat rooms are the most common methods used by cyberbullies. It is often difficult to trace cyberbullies, because the messages can be sent anonymously.³

Cyberbullying can take many forms including online fights, impersonation, trickery, cyberstalking, and harassment. Examples include using someone else’s user name to spread rumors or lies, sending mean or otherwise hurtful messages, or posting inappropriate pictures and messages.⁴ According to the National Crime Prevention Center, 43 percent of teenagers were victims of cyberbullying in 2008.⁵

Cyberbullying Issues – Jurisdiction and Free Speech

States often delegate the authority to control and punish bullying to individual school districts. However, because cyberbullying is a relatively new phenomenon that frequently originates off-campus, it is often unclear how far the school district’s jurisdiction extends. Similarly, it is unclear whether school officials can be held responsible for cyberbullying between students, especially if the act is committed on a student’s home computer. Controlling the online speech of students also raises concerns regarding the violation of free speech rights.

Federal Action

While the federal government has not enacted cyberbullying legislation, U.S. Representative Linda Sanchez (D-CA) sponsored the Megan Meier Cyberbullying Prevention Act in 2008 in response to the

¹ Beckstrom, Darryn C. “State Legislation Mandating School Cyberbullying Policies and the Potential Threat to Students’ Free Speech Rights.” Retrieved on October 24, 2009 from <http://lawreview.vermontlaw.edu/articles/14%20Beckstrom%20Book%202,%20Vol.%2033.pdf>

² “Cyberbullying.” Retrieved on October 19, 2009 from National Conference of State Legislatures website: <http://www.ncsl.org/default.aspx?tabid=12903>

³ Ibid

⁴ Brady, Kevin P. and Kathleen Conn (2006). “Bullying Without Borders: The Rise of Cyberbullying in American’s Schools.” *School Business Affairs*. Retrieved October 19, 2009 from http://asbointl.org/asbo/files/ccLibraryFiles/Filename/000000001674/ASBO_Oct06_SBA_Article_Cyberbullying.pdf

⁵ “Stop Cyberbullying Before it Starts.” Retrieved on October 21, 2009 from National Crime Prevention Center website: <http://www.ncpc.org/resources/files/pdf/bullying/cyberbullying.pdf>

suicide of Megan Meier, a 13-year-old girl from Missouri.* The act seeks to amend the federal criminal code to punish anyone who uses electronic means to send a communication intended to “coerce, intimidate, or cause substantial emotional distress to another person.”⁶ The bill has not passed.

Opponents of the bill argue that this act threatens free speech rights and would continue a trend of “overcriminalization”—using criminal laws to solve problems and punish mistakes instead of using civil penalties.

State Action – Iowa

Iowa passed a law in 2007 that requires school districts to adopt anti-bullying and anti-harassment policies. The law’s definition of bullying includes electronic communication, which is defined as the transmission of information via e-mail, cell phones, text messaging, or internet-based communications.

The mandated policies must include an anti-bullying statement, the definition of bullying as established in the law, the expected prevention measures, reporting process and investigation procedures to be followed by school employees, parents, and students, and a description of how the policy will be publicized.⁷ The Iowa law defines school bullying as bullying “in school, on school property, and at any school function, or school-sponsored activity regardless of its location.”⁸ However, the law does not specify whether cyberbullying would be punishable if it originated off-campus.⁹

State Action – Other States

IPRO researchers identified 19 states, including Iowa, with cyberbullying laws. Table 1 summarizes these laws and is separated into three distinct sections: definitions, location of cyberbullying, and school regulation.

Please note that Table 1 only reports on laws specific to cyberbullying. For example, a law that establishes an advisory board to develop a policy specific to cyberbullying would be included, but a law that establishes an advisory board to develop a policy on bullying in general is not included, even if cyberbullying is included in the definition of bullying.

Definitions

All 19 states included in the table amended their original bullying law to include cyberbullying. Thirteen of these 19 state laws specify that “school bullying” is bullying on school property, at a school-sponsored activity, or bullying through the school’s computer system.

Off-campus cyberbullying

* Megan Meier was taunted by her 47-year-old neighbor through the MySpace profile of a fictitious 16-year-old boy. Megan’s parents blame her suicide solely on this online bullying.

⁶ “H.R. 6123 – Megan Meier Cyberbullying Prevention Act.” Retrieved October 19, 2009 from http://www.opencongress.org/bill/110-h6123/actions_votes

⁷ “Cyberbullying: State Legislation.” Retrieved October 20, 2009 from National Conference of State Legislatures website: <http://www.ncsl.org/default.aspx?tabid=12903>

⁸ “Senate File 61.” Retrieved on October 24, 2009 from <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&ga=82&hbill=SF61>

⁹ Beckstrom, Darryn C. “State Legislation Mandating School Cyberbullying Policies and the Potential Threat to Students’ Free Speech Rights.” Retrieved on October 24, 2009 from <http://lawreview.vermontlaw.edu/articles/14%20Beckstrom%20Book%202,%20Vol.%2033.pdf>

A key issue in state cyberbullying legislation is whether the law clearly gives school districts the authority to punish off-campus cyberbullying between students. The four columns in Table 1 that pertain to the location of cyberbullying summarize how states address this issue.

Nebraska is the only state whose cyberbullying law explicitly says that off-campus cyberbullying is not included in the law. At the other extreme, Arkansas's and Oklahoma's laws explicitly cover bullying whether or not it originates on school computers. Delaware and Pennsylvania grant schools the authority to expand their definition of bullying to include off-campus cyberbullying.

The rest of the states in Table 1 do not specify whether schools can discipline off-campus cyberbullying. In some cases, state agencies make the determination. For instance, New Jersey's law does not include language regarding disciplining off-campus cyberbullying, but the New Jersey Department of Education established guidelines that allow school districts to discipline off-campus cyberbullying that interferes with the operation of school.¹⁰ This example illustrates how many of the current cyberbullying laws do not provide straightforward guidelines regarding the punishment of off-campus cyberbullying.

School Regulation

Seven states require school officials to develop policies or programs to help prevent and control bullying, which includes cyberbullying. Only 2 states, California and Idaho, explicitly allow schools to suspend or recommend expulsion for cyberbullying, and 3 states require schools to provide cyberbullying awareness training.

Advisory Boards

Michigan's law is not included in Table 1 because it does not fall into any of the categories outlined in the table. Instead, the Michigan law charges an advisory board to establish and maintain accountability-based programs to enhance school safety, specifically mandating a program to address cyberbullying.¹¹ Similarly, in addition to the requirements noted in the table, Washington's law charges an advisory committee to develop a model policy prohibiting electronic harassment on school grounds during the school day.

¹⁰ Beckstrom, Darryn C. "State Legislation Mandating School Cyberbullying Policies and the Potential Threat to Students' Free Speech Rights." Retrieved on October 24, 2009 from <http://lawreview.vermontlaw.edu/articles/14%20Beckstrom%20Book%202,%20Vol.%2033.pdf>

¹¹ "Executive Order No. 2007-46." Retrieved on October 24, 2009 from [http://www.legislature.mi.gov/\(S\(py2lnp55ctwm31bnyeuu5krj\)\)/documents/publications/executiveorders/2007-EO-46.htm](http://www.legislature.mi.gov/(S(py2lnp55ctwm31bnyeuu5krj))/documents/publications/executiveorders/2007-EO-46.htm)

Table 1 – Summary of State Action on Cyberbullying

	Definitions		Location of Cyberbullying				School Regulation		
	Amends previous law to include electronic communication	Bullying on school property or at school-sponsored events and/or use of data or computer software accessed through school computer systems	Does not apply to off-campus bullying	Applies whether or not electronic communication originated at school or through school equipment	Law did not specify whether schools can discipline off-campus cyberbullying	School can define bullying to include off-campus cyberbullying	Requires schools to provide specific cyberbullying training, such as disseminating informational materials	Includes cyberbullying in school district harassment prevention policies.	School officials can suspend or recommend expulsion for bullying, including bullying by electronic act
Arkansas ¹¹	X	X		X				X	
California ¹²	X								X
Delaware ¹³	X	X				X			
Florida ¹⁴	X	X							
Idaho ¹⁵	X				X				X
Iowa ¹⁶	X				X				
Kansas ¹⁷	X	X			X				
Maryland ¹⁸	X	X			X				
Minnesota ¹⁹	X							X	
Missouri ²⁰	X	X							
Nebraska ²¹	X	X	X						
New Jersey ²²	X	X						X	
Oklahoma ²³	X	X		X				X	
Oregon ²⁴	X	X			X		X	X	
Pennsylvania ²⁵	X	X				X		X	
Rhode Island ²⁶	X	X			X				
South Carolina ²⁷	X	X			X				
Utah ²⁸	X						X		
Washington ²⁹	X				X		X	X	

*For information on Michigan’s law, please see last paragraph on previous page.

¹¹ “HB 1072.” Retrieved on October 24, 2009 from <http://www.arkleg.state.ar.us/assembly/2007/R/Bills/HB1072.pdf>

¹² “AB 86.” Retrieved on October 24, 2009 from http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0051-0100/ab_86_bill_20080930_chaptered.html

¹³ “HB 7.” Retrieved on October 24, 2009 from [http://legis.delaware.gov/LIS/lis144.nsf/vwLegislation/HB+7/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis144.nsf/vwLegislation/HB+7/$file/legis.html?open)

¹⁴ “HB 669.” Retrieved on October 24, 2009 from <http://www.flsenate.gov/data/session/2008/House/bills/billtext/pdf/h066902er.pdf>

¹⁵ “HB. 750.” Retrieved on October 24, 2009 from <http://www3.state.id.us/oasis/2006/H0750.html>

¹⁶ “Senate File 61.” Retrieved on October 24, 2009 from <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&ga=82&hbill=SF61>

¹⁷ “House Bill No. 2758.” Retrieved on October 24, 2009 from <http://www.kslegislature.org/bills/2008/2758.pdf>

¹⁸ “House Bill 199.” Retrieved on October 24, 2009 from <http://mlis.state.md.us/2008rs/bills/hb/hb0199e.pdf>

-
- ¹⁹ "121A.0695." Retrieved on October 24, 2009 from <https://www.revisor.leg.state.mn.us/bin/showPDF.php>
- ²⁰ "Senate Bills 818 & 795." Retrieved on October 24, 2009 from <http://www.senate.mo.gov/08info/pdf-bill/tat/SB818.pdf>
- ²¹ "Legislative Bill 205." Retrieved on October 24, 2009 from <http://nebraskalegislature.gov/FloorDocs/100/PDF/Slip/LB205.pdf>
- ²² "Assembly, No. 3803." Retrieved on October 24, 2009 from http://www.njleg.state.nj.us/2006/Bills/A4000/3803_R1.PDF
- ²³ "Bill No. 1941." Retrieved on October 24, 2009 from <http://www.sos.state.ok.us/documents/Legislation/51st/2008/2R/SB/1941.pdf>
- ²⁴ "House Bill 2637." Retrieved on October 24, 2009 from <http://www.leg.state.or.us/07reg/measpdf/hb2600.dir/hb2637.en.pdf>
- ²⁵ "House Bill 1067." Retrieved on October 24, 2009 from <http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=H&billTyp=B&billNbr=1067&pn=4199>
- ²⁶ "S 2012 Substitute B." Retrieved on October 24, 2009 from <http://www.rilin.state.ri.us/BillText08/SenateText08/S2012B.pdf>
- ²⁷ "A353, R400, H3573." Retrieved on October 24, 2009 from http://www.scstatehouse.gov/sess116_2005-2006/bills/3573.htm
- ²⁸ "Resolution Encouraging School Boards to Adopt Policy Prohibiting Bullying." Retrieved on October 24, 2009 from <http://www.le.state.ut.us/~2006/bills/sbillenr/scr001.pdf>
- ²⁹ "Substitute Senate Bill 5288." Retrieved on October 24, 2009 from <http://www.leg.wa.gov/pub/billinfo/2007-08/Pdf/Bills/Senate%20Passed%20Legislature/5288-S.PL.pdf>