

112TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. CASEY (for himself, Mr. KIRK, Mr. KERRY, Mr. BROWN of Ohio, Mr. DURBIN, Mr. LAUTENBERG, Ms. KLOBUCHAR, Mr. SANDERS, Mrs. MURRAY, Mr. MERKLEY, Mr. WYDEN, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Mrs. BOXER, Mrs. GILLIBRAND, Mr. SCHUMER, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on _____

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 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

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

20 (4) Schools with enumerated anti-bullying and
21 harassment policies have an increased level of re-
22 porting and teacher intervention in incidents of bul-
23 lying and harassment, thereby reducing the overall
24 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 or gender iden-
5 tity, 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 and create a positive and safe school cli-
14 mate, combined with evidence-based discipline poli-
15 cies and practices, such as Positive Behavior Inter-
16 ventions and Supports (PBIS) and restorative prac-
17 tices, 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 a recent poll, 85 percent of
22 Americans strongly support or somewhat support a
23 Federal law to require schools to enforce specific
24 rules 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 D—SAFE SCHOOLS IMPROVEMENT**

10 **“SEC. 4401. PURPOSE.**

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

14 **“SEC. 4402. STATE REQUIREMENTS.**

15 “(a) STATE REPORTING, NEEDS ASSESSMENT, AND
16 TECHNICAL ASSISTANCE.—Each State that receives funds
17 under this Act shall carry out the following:

18 “(1) COLLECTION AND REPORT OF INFORMA-
19 TION.—

20 “(A) IN GENERAL.—The State shall collect
21 and report information on the incidence, preva-
22 lence, age of onset, perception of health risk,
23 and perception of social disapproval of bullying
24 and harassment by youth in elementary schools

1 and secondary schools and communities in the
2 State.

3 “(B) SOURCE OF INFORMATION.—In col-
4 lecting information described in subparagraph
5 (A), the State shall include information col-
6 lected from incident reports by school officials,
7 anonymous student surveys, and anonymous
8 teacher, administrator, specialized instructional
9 support personnel, and other school personnel
10 surveys reported to the State on a school-by-
11 school basis but shall not identify victims of
12 bullying or harassment or persons accused of
13 bullying or harassment.

14 “(C) REPORT.—The chief executive officer
15 of the State, in cooperation with the State edu-
16 cational agency, shall—

17 “(i) submit a biennial report on the
18 information described in this paragraph to
19 the Secretary; and

20 “(ii) make such information readily
21 available to the public.

22 “(2) NEEDS ASSESSMENT.—The State shall
23 conduct, and publicly report the results of, a needs
24 assessment for bullying and harassment prevention

1 programs, which shall be based on ongoing State
2 evaluation activities, including data on—

3 “(A) the incidence and prevalence of re-
4 ported incidents of bullying and harassment;
5 and

6 “(B) the perception of students, parents,
7 and communities regarding their school envi-
8 ronment, including with respect to the preva-
9 lence and seriousness of incidents of bullying
10 and harassment and the responsiveness of the
11 school to those incidents.

12 “(3) TECHNICAL ASSISTANCE.—The State shall
13 provide technical assistance to local educational
14 agencies and schools in their efforts to prevent and
15 appropriately respond to incidents of bullying and
16 harassment.

17 “(b) AVAILABLE FUNDING FOR STATES.—To imple-
18 ment the requirements described in subsection (a), the
19 State may use—

20 “(1) administrative funds consolidated under
21 section 9201; or

22 “(2) other funds available to the State under
23 this Act, to the extent consistent with the authorized
24 uses of such funds.

1 **“SEC. 4403. LOCAL EDUCATIONAL AGENCY REQUIREMENTS.**

2 “(a) LOCAL EDUCATIONAL AGENCY DISCIPLINE
3 POLICIES, PERFORMANCE INDICATORS, AND GRIEVANCE
4 PROCEDURES.—Each local educational agency that re-
5 ceives funds under this Act shall—

6 “(1) include within the agency’s comprehensive
7 discipline policies clear prohibitions against bullying
8 and harassment for the protection of all students;

9 “(2) establish and monitor performance indica-
10 tors for incidents of bullying and harassment;

11 “(3) provide annual notice to parents, students,
12 and educational professionals—

13 “(A) describing the full range of bullying
14 and harassment conduct prohibited by the agen-
15 cy’s discipline policies; and

16 “(B) reporting on the numbers and nature
17 of bullying and harassment incidents for each
18 school served by the local educational agency;
19 and

20 “(4) establish and provide annual notice to stu-
21 dents, parents, and educational professionals of
22 grievance procedures for students, parents, or edu-
23 cational professionals who seek to register com-
24 plaints regarding bullying and harassment prohib-
25 ited by the discipline policies, including—

1 “(A) the name of the local educational
2 agency official who is designated as responsible
3 for receiving such complaints; and

4 “(B) timelines that the local educational
5 agency will follow in the resolution of such com-
6 plaints.

7 “(b) AVAILABLE FUNDING FOR LOCAL EDU-
8 CATIONAL AGENCIES.—To implement the requirements
9 described in subsection (a), the local educational agency
10 may use—

11 “(1) administrative funds consolidated under
12 section 9203; or

13 “(2) other funds available to the local edu-
14 cational agency under this Act, to the extent con-
15 sistent with the authorized uses of such funds.

16 **“SEC. 4404. EVALUATION.**

17 “(a) BIENNIAL EVALUATION.—The Secretary shall
18 conduct an independent biennial evaluation of programs
19 to combat bullying and harassment in elementary schools
20 and secondary schools, including implementation of the re-
21 quirements described in sections 4402 and 4403, including
22 whether such programs have appreciably reduced the level
23 of bullying and harassment and have conducted effective
24 parent involvement and training programs.

1 “(b) DATA COLLECTION.—The Commissioner for
2 Education Statistics shall collect data, that are subject to
3 independent review, to determine the incidence and preva-
4 lence of bullying and harassment in elementary schools
5 and secondary schools in the United States. The collected
6 data shall include incident reports by school officials,
7 anonymous student surveys, anonymous parent surveys,
8 and anonymous teacher, administrator, specialized in-
9 structional support personnel, and other school personnel
10 surveys.

11 “(c) BIENNIAL REPORT.—Not later than January 1,
12 2012, and every 2 years thereafter, the Secretary shall
13 submit to the President and Congress a report on the find-
14 ings of the evaluation conducted under subsection (a) to-
15 gether with the data collected under subsection (b) and
16 data submitted by the States under section
17 4402(a)(1)(C)(i).

18 **“SEC. 4405. DEFINITIONS.**

19 “In this part:

20 “(1) BULLYING.—The term ‘bullying’—

21 “(A) means conduct, including an elec-
22 tronic communication, that adversely affects the
23 ability of 1 or more students to participate in
24 or benefit from the school’s educational pro-
25 grams or activities by placing the student (or

1 students) in reasonable fear of physical harm;
2 and

3 “(B) includes conduct that is based on—

4 “(i) a student’s actual or perceived—

5 “(I) race;

6 “(II) color;

7 “(III) national origin;

8 “(IV) sex

9 “(V) disability;

10 “(VI) sexual orientation;

11 “(VII) gender identity; or

12 “(VIII) religion;

13 “(ii) any other distinguishing charac-
14 teristics that may be defined by a State or
15 local educational agency; or

16 “(iii) association with a person or
17 group with 1 or more of the actual or per-
18 ceived characteristics listed in clause (i) or
19 (ii).

20 “(2) ELECTRONIC COMMUNICATION.—The term
21 ‘electronic communication’ means a communication
22 transmitted by means of an electronic device, such
23 as a telephone, cellular phone, computer, or pager.

24 “(3) HARASSMENT.—The term ‘harassment’—

1 “(A) means conduct, including an elec-
2 tronic communication, that adversely affects the
3 ability of 1 or more students to participate in
4 or benefit from the school’s educational pro-
5 grams or activities because the conduct, as rea-
6 sonably perceived by the student (or students),
7 is so severe, persistent, or pervasive; and

8 “(B) includes conduct that is based on—

9 “(i) a student’s actual or perceived—

10 “(I) race;

11 “(II) color;

12 “(III) national origin;

13 “(IV) sex;

14 “(V) disability;

15 “(VI) sexual orientation;

16 “(VII) gender identity; or

17 “(VIII) religion;

18 “(ii) any other distinguishing char-
19 acteristic that may be defined by a State
20 or local educational agency; or

21 “(iii) association with a person or
22 group with 1 or more of the actual or per-
23 ceived characteristics listed in clause (i) or
24 (ii).

1 **“SEC. 4406. EFFECT ON OTHER LAWS.**

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

19 “(b) FREE SPEECH AND EXPRESSION LAWS.—Noth-
20 ing in this part shall be construed to alter legal standards
21 regarding, or affect the rights (including remedies and
22 procedures) available to individuals under, other Federal
23 laws that establish protections for freedom of speech or
24 expression.

1 **“SEC. 4407. RULE OF CONSTRUCTION.**

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

6 (b) TABLE OF CONTENTS.—The table of contents in
7 section 2 of the Elementary and Secondary Education Act
8 of 1965 is amended by inserting after the item relating
9 to section 4304 the following:

“PART D—SAFE SCHOOLS IMPROVEMENT

“Sec. 4401. Purpose.

“Sec. 4402. State requirements.

“Sec. 4403. Local educational agency requirements.

“Sec. 4404. Evaluation.

“Sec. 4405. Definitions.

“Sec. 4406. Effect on other laws.

“Sec. 4407. Rule of construction.”.