

HB0134S01 compared with HB0134

~~text~~ shows text that was in HB0134 but was deleted in HB0134S01.

text shows text that was not in HB0134 but was inserted into HB0134S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Gage Froerer proposes the following substitute bill:

PARENTAL NOTIFICATION RELATED TO STUDENT SAFETY

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires parental notification of certain safety threats to a parent's student.

Highlighted Provisions:

This bill:

- ▶ requires a school to notify a parent:
 - if the parent's student threatens to commit suicide; or
 - of an ~~incident~~ incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving the parent's student; ~~and~~
- ▶ requires a school to ~~have a parent sign~~ produce and maintain a ~~statement~~ acknowledging record that ~~the~~ verifies that a parent was notified of ~~the suicide~~

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~~threat or bullying;~~ certain incidents or threats; and

- ▶ requires a school board to adopt a policy regarding the process for:
 - notifying a parent of certain incidents or threats; and
 - producing and retaining a record that verifies that a parent was notified of certain incidents or threats; and
- ▶ requires a local school board or charter school governing board to update the school board's policies regarding bullying, cyber-bullying, harassment, hazing, and retaliation by September 1, 2013, to include procedures for parental notification.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-11-605, as last amended by Laws of Utah 2012, Chapter 425

53A-11a-301, as last amended by Laws of Utah 2011, Chapter 235

53A-13-302, as last amended by Laws of Utah 1999, Chapter 284

ENACTS:

53A-11a-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-11-605** is amended to read:

53A-11-605. Definitions -- School personnel -- Medical recommendations --

Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means ~~[any]~~ a school district or charter school employee, including a licensed, part-time, contract, ~~[and]~~ or nonlicensed ~~[employees]~~ employee.

(2) School personnel may:

(a) provide information and observations to a student's parent or guardian about that

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student, including observations and concerns in the following areas:

- (i) progress;
- (ii) health and wellness;
- (iii) social interactions;
- (iv) behavior; or
- (v) topics consistent with Subsection 53A-13-302(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53A-11-904; and

(f) complete a behavioral health evaluation form if requested by a student's parent or guardian to provide information to a licensed physician.

(3) School personnel shall:

- (a) report suspected child abuse consistent with Section 62A-4a-403;
- (b) comply with applicable state and local health department laws, rules, and policies;

and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2) [~~and~~], Subsection (6), and Section 53A-11a-203, school personnel may not:

(a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

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(c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and

(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

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(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53A-8a-502.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

Section 2. Section **53A-11a-203** is enacted to read:

53A-11a-203. Parental notification of certain incidents and threats required.

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

(a) notify a parent;

(a) if the parent's student threatens to commit suicide; or

(b) notify the parents of ~~an alleged~~ each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving the ~~parent's~~ parents' student.

(3) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall require the parent to sign produce and maintain a statement acknowledging record that verifies that the parent was notified of the incident or threat.

(4) ~~The~~ A school board shall maintain a copy of a parental statement described adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3) ~~for at least four years~~.

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

Section 3. Section **53A-11a-301** is amended to read:

53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.

(1) On or before September 1, ~~2012~~ 2013, each school board shall adopt a update the school board's bullying, cyber-bullying, harassment, and hazing, and retaliation policy consistent with this chapter.

(2) The policy shall:

(a) be developed only with input from:

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- (i) students;
 - (ii) parents;
 - (iii) teachers;
 - (iv) school administrators;
 - (v) school staff; or
 - (vi) local law enforcement agencies; and
- (b) provide protection to a student, regardless of the student's legal status.
- (3) The policy shall include the following components:
- (a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent with this chapter;
 - (b) language prohibiting bullying, cyber-bullying, harassment, and hazing;
 - (c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this chapter; ~~and~~
 - (d) language prohibiting making a false report of bullying, cyber-bullying, harassment, hazing, or retaliation~~[-]; and~~
 - (e) as required in Section 53A-11a-203, parental notification of:
 - (i) a student's threat to commit suicide; and
 - (ii) an incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving ~~fa}the~~ parent's student~~, as required in Section 53A-11a-203}.~~
- (4) A copy of the policy shall be included in student conduct handbooks and employee handbooks.
- (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, harassment, hazing, or retaliation.
- (6) Nothing in this chapter is intended to infringe upon the right of a school employee or student to exercise their right of free speech.

Section 4. Section **53A-13-302** is amended to read:

53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Policies adopted by a school district under Section 53A-13-301 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the

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student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the State Board of Education, political philosophies;
- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- (h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) ~~[The]~~ Except as provided in Section 53A-11a-203, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.

(4) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

- (a) records or information, including information about relationships, that may be examined or requested;
- (b) the means by which the records or information shall be examined or reviewed;
- (c) the means by which the information is to be obtained;
- (d) the purposes for which the records or information are needed;
- (e) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
- (f) a method by which a parent of a student can grant permission to access or examine

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the personally identifiable information.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7) Local school boards shall provide inservice for teachers and administrators within their respective school districts on the implementation of this section.

(8) The board shall provide procedures for disciplinary action for violations of this

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section.

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Legislative Review Note

———— as of ~~2-11-13 3:47 PM~~

———— ~~Office of Legislative Research and General Counsel~~