

**Senator Luz Robles** proposes the following substitute bill:

**PARENTAL NOTIFICATION RELATED TO STUDENT**

**SAFETY**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: Luz Robles

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23 \_\_\_\_\_  
24 **LONG TITLE**



25 **General Description:**

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

27 **Highlighted Provisions:**

28 This bill:

- 29 ▶ requires a school to notify a parent:
- 30 • if the parent's student threatens to commit suicide; or
  - 31 • of an incident of bullying, cyber-bullying, harassment, hazing, or retaliation
- 32 involving the parent's student;

- 33 ▶ requires a school to produce and maintain a record that verifies that a parent was
- 34 notified of certain incidents or threats; and

- 35 ▶ requires a school board to adopt a policy regarding the process for:
- 36 • notifying a parent of certain incidents or threats; and
  - 37 • producing and retaining a record that verifies that a parent was notified of
- 38 certain incidents or threats;

- 39 ▶ provides that a record verifying that a parent was notified of certain incidents or
- 40 threats is a private record for purposes of the Government Records Access and
- 41 Management Act;

- 42 ▶ requires a local school board or charter school governing board to update the school
- 43 board's policies regarding bullying, cyber-bullying, harassment, hazing, and
- 44 retaliation by September 1, 2013, to include procedures for parental notification;
- 45 and

- 46 ▶ requires the State Board of Education to update the Board's model policy on
- 47 bullying, cyber-bullying, harassment, hazing, and retaliation.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **53A-11-605**, as last amended by Laws of Utah 2012, Chapter 425

55 **53A-11a-301**, as last amended by Laws of Utah 2011, Chapter 235

56 53A-11a-302, as last amended by Laws of Utah 2011, Chapter 235

57 53A-13-302, as last amended by Laws of Utah 1999, Chapter 284

58 63G-2-302, as last amended by Laws of Utah 2012, Chapters 74, 145, and 202

59 ENACTS:

60 53A-11a-203, Utah Code Annotated 1953



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

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

64 **53A-11-605. Definitions -- School personnel -- Medical recommendations --**  
65 **Exceptions -- Penalties.**

66 (1) As used in this section:

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

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

71 (2) School personnel may:

72 (a) provide information and observations to a student's parent or guardian about that  
73 student, including observations and concerns in the following areas:

74 (i) progress;

75 (ii) health and wellness;

76 (iii) social interactions;

77 (iv) behavior; or

78 (v) topics consistent with Subsection 53A-13-302(6);

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

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

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

87 (e) exercise their authority relating to the placement within the school or readmission  
88 of a child who may be or has been suspended or expelled for a violation of Section  
89 53A-11-904; and

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

92 (3) School personnel shall:

93 (a) report suspected child abuse consistent with Section 62A-4a-403;

94 (b) comply with applicable state and local health department laws, rules, and policies;

95 and

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

98 (4) Except as provided in Subsection (2) [~~and~~], Subsection (6), and Section

99 53A-11a-203, school personnel may not:

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

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

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

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

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

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

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

116 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would  
117 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under

118 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of  
119 others.

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

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

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

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

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

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

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

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

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

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

140 **53A-11a-203. Parental notification of certain incidents and threats required.**

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

142 (2) A school shall:

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

144 (b) notify the parents of each student involved in an incident of bullying,

145 cyber-bullying, harassment, hazing, or retaliation of the incident involving each parent's  
146 student.

147 (3) If a school notifies a parent of an incident or threat required to be reported under

148 Subsection (2), the school shall produce and maintain a record that verifies that the parent was

149 notified of the incident or threat.

150 (4) A school board shall adopt a policy regarding the process for:

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

152 (b) producing and retaining a record that verifies that a parent was notified of an

153 incident or threat as required in Subsection (3).

154 (5) At the request of a parent, a school may provide information and make

155 recommendations related to an incident or threat described in Subsection (2).

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

157 **53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation**  
158 **policy.**

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

162 (2) The policy shall:

163 (a) be developed only with input from:

164 (i) students;

165 (ii) parents;

166 (iii) teachers;

167 (iv) school administrators;

168 (v) school staff; or

169 (vi) local law enforcement agencies; and

170 (b) provide protection to a student, regardless of the student's legal status.

171 (3) The policy shall include the following components:

172 (a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent  
173 with this chapter;

174 (b) language prohibiting bullying, cyber-bullying, harassment, and hazing;

175 (c) language prohibiting retaliation against an individual who reports conduct that is  
176 prohibited under this chapter; ~~[and]~~

177 (d) language prohibiting making a false report of bullying, cyber-bullying, harassment,  
178 hazing, or retaliation~~[-];~~ and

179 (e) as required in Section 53A-11a-203, parental notification of:

- 180 (i) a student's threat to commit suicide; and
- 181 (ii) an incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving
- 182 the parent's student.

183 (4) A copy of the policy shall be included in student conduct handbooks and employee  
184 handbooks.

185 (5) A policy may not permit formal disciplinary action that is based solely on an  
186 anonymous report of bullying, cyber-bullying, harassment, hazing, or retaliation.

187 (6) Nothing in this chapter is intended to infringe upon the right of a school employee  
188 or student to exercise their right of free speech.

189 Section 4. Section **53A-11a-302** is amended to read:

190 **53A-11a-302. Model policy and State Board of Education duties.**

191 On or before September 1, [2011] 2013, the State Board of Education shall:

192 (1) [~~develop a~~] update the State Board of Education's model policy on bullying,  
193 cyber-bullying, harassment, hazing, and retaliation; and

194 (2) post the model policy described in Subsection (1) on the State Board of Education's  
195 website.

196 Section 5. Section **53A-13-302** is amended to read:

197 **53A-13-302. Activities prohibited without prior written consent -- Validity of**  
198 **consent -- Qualifications -- Training on implementation.**

199 (1) Policies adopted by a school district under Section 53A-13-301 shall include  
200 prohibitions on the administration to a student of any psychological or psychiatric examination,  
201 test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the  
202 student's parent or legal guardian, in which the purpose or evident intended effect is to cause  
203 the student to reveal information, whether the information is personally identifiable or not,  
204 concerning the student's or any family member's:

205 (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of  
206 the State Board of Education, political philosophies;

207 (b) mental or psychological problems;

208 (c) sexual behavior, orientation, or attitudes;

209 (d) illegal, anti-social, self-incriminating, or demeaning behavior;

210 (e) critical appraisals of individuals with whom the student or family member has close

211 family relationships;

212 (f) religious affiliations or beliefs;

213 (g) legally recognized privileged and analogous relationships, such as those with  
214 lawyers, medical personnel, or ministers; and

215 (h) income, except as required by law.

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

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

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

225 (a) records or information, including information about relationships, that may be  
226 examined or requested;

227 (b) the means by which the records or information shall be examined or reviewed;

228 (c) the means by which the information is to be obtained;

229 (d) the purposes for which the records or information are needed;

230 (e) the entities or persons, regardless of affiliation, who will have access to the  
231 personally identifiable information; and

232 (f) a method by which a parent of a student can grant permission to access or examine  
233 the personally identifiable information.

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

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

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

242 granted.

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

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

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

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

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

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

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

263 (8) The board shall provide procedures for disciplinary action for violations of this  
264 section.

265 Section 6. Section **63G-2-302** is amended to read:

266 **63G-2-302. Private records.**

267 (1) The following records are private:

268 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
269 social services, welfare benefits, or the determination of benefit levels;

270 (b) records containing data on individuals describing medical history, diagnosis,  
271 condition, treatment, evaluation, or similar medical data;

272 (c) records of publicly funded libraries that when examined alone or with other records

273 identify a patron;

274 (d) records received by or generated by or for:

275 (i) the Independent Legislative Ethics Commission, except for:

276 (A) the commission's summary data report that is required under legislative rule; and

277 (B) any other document that is classified as public under legislative rule; or

278 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

279 unless the record is classified as public under legislative rule;

280 (e) records received or generated for a Senate confirmation committee concerning

281 character, professional competence, or physical or mental health of an individual:

282 (i) if prior to the meeting, the chair of the committee determines release of the records:

283 (A) reasonably could be expected to interfere with the investigation undertaken by the

284 committee; or

285 (B) would create a danger of depriving a person of a right to a fair proceeding or

286 impartial hearing; and

287 (ii) after the meeting, if the meeting was closed to the public;

288 (f) employment records concerning a current or former employee of, or applicant for

289 employment with, a governmental entity that would disclose that individual's home address,

290 home telephone number, Social Security number, insurance coverage, marital status, or payroll

291 deductions;

292 (g) records or parts of records under Section 63G-2-303 that a current or former

293 employee identifies as private according to the requirements of that section;

294 (h) that part of a record indicating a person's Social Security number or federal

295 employer identification number if provided under Section 31A-23a-104, 31A-25-202,

296 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

297 (i) that part of a voter registration record identifying a voter's:

298 (i) driver license or identification card number;

299 (ii) Social Security number, or last four digits of the Social Security number; or

300 (iii) email address;

301 (j) a record that:

302 (i) contains information about an individual;

303 (ii) is voluntarily provided by the individual; and

304 (iii) goes into an electronic database that:  
305 (A) is designated by and administered under the authority of the Chief Information  
306 Officer; and  
307 (B) acts as a repository of information about the individual that can be electronically  
308 retrieved and used to facilitate the individual's online interaction with a state agency;  
309 (k) information provided to the Commissioner of Insurance under:  
310 (i) Subsection 31A-23a-115(2)(a);  
311 (ii) Subsection 31A-23a-302(3); or  
312 (iii) Subsection 31A-26-210(3);  
313 (l) information obtained through a criminal background check under Title 11, Chapter  
314 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;  
315 (m) information provided by an offender that is:  
316 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap  
317 Offender Registry; and  
318 (ii) not required to be made available to the public under Subsection 77-41-110(4);  
319 (n) a statement and any supporting documentation filed with the attorney general in  
320 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
321 homeland security;  
322 (o) electronic toll collection customer account information received or collected under  
323 Section 72-6-118, including contact and payment information and customer travel data;  
324 (p) an email address provided by a military or overseas voter under Section  
325 20A-16-501;  
326 (q) a completed military-overseas ballot that is electronically transmitted under Title  
327 20A, Chapter 16, Uniform Military and Overseas Voters Act; [~~and~~]  
328 (r) records received by or generated by or for the Political Subdivisions Ethics Review  
329 Commission established in Section 11-49-201, except for:  
330 (i) the commission's summary data report that is required in Section 11-49-202; and  
331 (ii) any other document that is classified as public in accordance with Title 11, Chapter  
332 49, Political Subdivisions Ethics Review Commission[;]; and  
333 (s) a record described in Subsection 53A-11a-203(3) that verifies that a parent was  
334 notified of an incident or threat.

335 (2) The following records are private if properly classified by a governmental entity:

336 (a) records concerning a current or former employee of, or applicant for employment  
337 with a governmental entity, including performance evaluations and personal status information  
338 such as race, religion, or disabilities, but not including records that are public under Subsection  
339 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

340 (b) records describing an individual's finances, except that the following are public:

341 (i) records described in Subsection 63G-2-301(2);

342 (ii) information provided to the governmental entity for the purpose of complying with  
343 a financial assurance requirement; or

344 (iii) records that must be disclosed in accordance with another statute;

345 (c) records of independent state agencies if the disclosure of those records would  
346 conflict with the fiduciary obligations of the agency;

347 (d) other records containing data on individuals the disclosure of which constitutes a  
348 clearly unwarranted invasion of personal privacy;

349 (e) records provided by the United States or by a government entity outside the state  
350 that are given with the requirement that the records be managed as private records, if the  
351 providing entity states in writing that the record would not be subject to public disclosure if  
352 retained by it; and

353 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
354 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
355 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

356 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
357 records, statements, history, diagnosis, condition, treatment, and evaluation.

358 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
359 doctors, or affiliated entities are not private records or controlled records under Section  
360 63G-2-304 when the records are sought:

361 (i) in connection with any legal or administrative proceeding in which the patient's  
362 physical, mental, or emotional condition is an element of any claim or defense; or

363 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
364 relies upon the condition as an element of the claim or defense.

365 (c) Medical records are subject to production in a legal or administrative proceeding

366 according to state or federal statutes or rules of procedure and evidence as if the medical  
367 records were in the possession of a nongovernmental medical care provider.