

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: Luz Robles

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 of bullying, cyber-bullying, harassment, hazing, or retaliation

involving the parent's student;

▶ requires a school to produce and maintain a record that verifies that a parent was notified of 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.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53A-11-605**, as last amended by Laws of Utah 2012, Chapter 425

33 **53A-11a-301**, as last amended by Laws of Utah 2011, Chapter 235

34 **53A-13-302**, as last amended by Laws of Utah 1999, Chapter 284

35 ENACTS:

36 **53A-11a-203**, Utah Code Annotated 1953



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

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

40 **53A-11-605. Definitions -- School personnel -- Medical recommendations --**

41 **Exceptions -- Penalties.**

42 (1) As used in this section:

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

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

47 (2) School personnel may:

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

50 (i) progress;

51 (ii) health and wellness;

52 (iii) social interactions;

53 (iv) behavior; or

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

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

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

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

63 (e) exercise their authority relating to the placement within the school or readmission
64 of a child who may be or has been suspended or expelled for a violation of Section
65 53A-11-904; and

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

68 (3) School personnel shall:

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

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

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

74 (4) Except as provided in Subsection (2) [~~and~~], Subsection (6), and Section
75 53A-11a-203, school personnel may not:

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

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

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

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

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

88 consent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

116 **53A-11a-203. Parental notification of certain incidents and threats required.**

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

118 (2) A school shall:

- 119 (a) notify a parent if the parent's student threatens to commit suicide; or
- 120 (b) notify the parents of each student involved in an incident of bullying,
- 121 cyber-bullying, harassment, hazing, or retaliation, of the incident involving the parents' student.

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

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

- 126 (a) notifying a parent as required in Subsection (2); and
- 127 (b) producing and retaining a record that verifies that a parent was notified of an
- 128 incident or threat as required in Subsection (3).

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

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

132 **53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation**
133 **policy.**

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

137 (2) The policy shall:

138 (a) be developed only with input from:

- 139 (i) students;
- 140 (ii) parents;
- 141 (iii) teachers;
- 142 (iv) school administrators;
- 143 (v) school staff; or
- 144 (vi) local law enforcement agencies; and

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

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

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

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

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

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

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

155 (i) a student's threat to commit suicide; and

156 (ii) an incident of bullying, cyber-bullying, harassment, hazing, or retaliation involving
157 the parent's student.

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

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

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

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

165 **53A-13-302. Activities prohibited without prior written consent -- Validity of**
166 **consent -- Qualifications -- Training on implementation.**

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

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

175 (b) mental or psychological problems;

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

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

178 (e) critical appraisals of individuals with whom the student or family member has close
179 family relationships;

180 (f) religious affiliations or beliefs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

211 (d) A written withdrawal of authorization submitted to the school principal by the

212 authorizing parent or guardian terminates the authorization.

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

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

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

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

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

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

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