

HB0134S02 compared with HB0134S01

~~{deleted text}~~ shows text that was in HB0134S01 but was deleted in HB0134S02.

inserted text shows text that was not in HB0134S01 but was inserted into HB0134S02.

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}~~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

Cosponsors:

Jerry B. Anderson

Johnny Anderson

Patrice M. Arent

Stewart Barlow

Roger E. Barrus

Jim Bird

Joel K. Briscoe

Derek E. Brown

Rebecca Chavez-Houck

Tim M. Cosgrove

Rich Cunningham

Jack R. Draxler

Susan Duckworth

James A. Dunnigan

Rebecca P. Edwards

Steve Eliason

Janice M. Fisher

Francis D. Gibson

Richard A. Greenwood

Stephen G. Handy

Lynn N. Hemingway

Gregory H. Hughes

Don L. Ipson

Michael S. Kennedy

Brian S. King

David E. Lifferth

Ronda Rudd Menlove

Carol Spackman Moss

Michael E. Noel

Jeremy A. Peterson

Val L. Peterson

Dixon M. Pitcher

HB0134S02 compared with HB0134S01

Marie H. Poulson

Dean Sanpei

John R. Westwood

Paul Ray

Jennifer M. Seelig

Mark A. Wheatley

Edward H. Redd

V. Lowry Snow

Ryan D. Wilcox

Angela Romero

Earl D. Tanner

Larry B. Wiley

Douglas V. Sagers

R. Curt Webb

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;
- ▶ provides that a record verifying that a parent was notified of certain incidents or threats is a private record for purposes of the Government Records Access and Management Act;
- ▶ 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 and
- ▶ requires the State Board of Education to update the Board's model policy on bullying, cyber-bullying, harassment, hazing, and retaliation.

HB0134S02 compared with HB0134S01

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

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

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

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 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);

HB0134S02 compared with HB0134S01

(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;

(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

HB0134S02 compared with HB0134S01

(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

(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.

HB0134S02 compared with HB0134S01

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

(2) A school shall:

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

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

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

(4) A school board shall 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).

(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:

(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:

HB0134S02 compared with HB0134S01

(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 the parent's student.

(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-11a-302 is amended to read:

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

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

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

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

Section ~~{4}~~ 5. 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 student's parent or legal guardian, in which the purpose or evident intended effect is to cause

HB0134S02 compared with HB0134S01

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 the personally identifiable information.

HB0134S02 compared with HB0134S01

(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 section.

HB0134S02 compared with HB0134S01

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

63G-2-302. Private records.

(1) The following records are private:

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

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

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

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

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

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

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

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

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

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

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

(f) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;

(g) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(h) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202,

HB0134S02 compared with HB0134S01

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

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

(i) driver license or identification card number;

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

(iii) email address;

(j) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information

Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(k) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(2)(a);

(ii) Subsection 31A-23a-302(3); or

(iii) Subsection 31A-26-210(3);

(l) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(m) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap

Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(n) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(o) electronic toll collection customer account information received or collected under Section 72-6-118, including contact and payment information and customer travel data;

(p) an email address provided by a military or overseas voter under Section

20A-16-501;

(q) a completed military-overseas ballot that is electronically transmitted under Title

HB0134S02 compared with HB0134S01

20A, Chapter 16, Uniform Military and Overseas Voters Act; [and]

(r) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission[-]; and

(s) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat.

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

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

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

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

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

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

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

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

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

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

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

HB0134S02 compared with HB0134S01

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

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

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

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.