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AN EXPLORATORY STUDY OF EXISTING STATE ANTI-BULLYING STATUTES

By

John-Robert Curtin, Jr.  
B.A. Syracuse University, 1971  
University of Rhode Island MMA Program, 1974

A Dissertation  
Submitted to the Faculty of the  
School of Interdisciplinary and Graduate Studies  
in Partial Fulfillment of the Requirements for the Degree of

Doctor of Philosophy  
in Interdisciplinary Studies

University of Louisville  
Louisville, Kentucky

May 2016

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A Dissertation Approved On

April 1, 2016

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## DEDICATION

This exploratory study is dedicated to the following individuals that have encouraged, guided, and led by example as I have undertaken this work. They include, J. Price Foster, PhD, my mentor, friend, and coach. David Simpson, PhD, who has encouraged my work and improved my qualitative research skills. Dean Susan Duncan, JD, who shares my passion for restorative justice and mentored my legal scholarship. Tony Belak, JD, who helped me develop my skills as a restorative mediator and ombuds.

In addition, I would be remiss if I did not acknowledge the never-ending encouragement and support of my three grown children, Emily Culler, Taylor Davidson, and Rob Curtin. I especially wish to express my undying love and admiration for my wife, Karen Cost, PhD, who not only encourages my work but also has shared and celebrated every success and helped me put into perspective every setback with style and grace.

Finally, this exploratory study is dedicated to the thousands of children that might possibly be positively affected by schools adopting new strategies for preventing and correcting school-based bullying.

## ACKNOWLEDGEMENTS

This exploratory study would not have been possible without the ground breaking work of Sameer Hinduja, and Justin W. Patchin, (2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013) and their analyses of the 50 state anti-bullying statutes currently in existence. Also, the work of the International Institute for Restorative Practices, with Terry O'Connell and Ted Wachtel, PhD, has led the way in providing both practical examples and research based evidence for the life changing impact of Restorative Practice on students, schools, and communities.

I also wish to acknowledge The University of Louisville, for without the University's Interdisciplinary PhD program led by Paul DeMarco, PhD, I would not have had the opportunity to undertake this work.

## ABSTRACT

### AN EXPLORATORY STUDY OF EXISTING STATE ANTI-BULLYING STATUTES

John-Robert Curtin, Jr.

April 1, 2016

This qualitative exploratory study examines the current state of school anti-bullying legislation in the United States by reviewing the 50 state statutes and builds on the work of Sameer Hinduja, and Justin W. Patchin, (2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013). Their work on comparing state bullying statutes did not address restorative justice/practices, protections for special populations, safe-reporting systems, or stakeholder knowledge. This study addresses these four areas that were not addressed and they are the focus. In addition, this exploratory study addresses the following questions:

- What are the theories that explain youth bullying?
- How effective is current state legislation in preventing and correcting bullying behavior at the local level; are there specific problems with current legislation?
- What might be done to improve the current legislation at the local, state and national level?
- Is there a new strategy that incorporates a three-part system of knowledge, safe reporting, and restorative practice that could be included in state statutes to help local schools deal with bullying for all school populations?



A bullying environment has been linked to virtually every one of the horrific school shootings in the United States, (Vossekuil, Fein, Reddy, Borum, Modzeleski, 2002). A strong relationship connects youth bullying behavior with subsequent crime. Students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999). Bullying has been shown to be one of the three fast tracks for juveniles that evolve into adult criminals (Loeber, 1990). Targets of bullying have been shown to have long-term negative health consequences (Olweus 1984; Boston Children’s Hospital, Healthy Passages 2014). Experience shows that school officials are often hesitant to develop comprehensive anti-bullying strategies until either a school tragedy occurs or state statutes require schools to adopt anti-bullying plans and policies.

This study presents Restorative Justice and Safe-Reporting Systems as tools for correcting school bullying and suggests ‘model legislative language’ to assist states in determining what statute amendments might impact bullying at the local school level in their states. Additionally, this study presents the need for: (1) effective programs for intervening with bullies at the individual and relationship level; (2) structural strategies that interrupt bullying incidents; (3) social norm change that reduces the appeal of bullying; (4) reporting systems that can track bullying perceptions and incidents, and thereby support a climate change at each of the aforementioned levels; (5) restorative justice and restorative practice strategies and programs to deal with the harm done to all the participants, offenders, targets, and bystanders. If a program is to become effective in changing bullying behavior, all three groups involved, the targets, the offenders, and the

bystanders, must be included and become part of the restorative resolution (Braithwaite, 1996; IIRP 2009).

**Key Search Words:** bullying, harassment, restorative practices, civility, social justice, special school populations, and school reporting.

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## PREFACE

Every day thousands of teens wake up afraid to go to school. Bullying affects millions of students of all races and classes. Bullying worries everyone, not just the kids on its receiving end. Yet because parents, teachers, and other adults do not always see it, they may not understand how extreme bullying can get, (*TeensHealth, June 2007*).

Bullying has been highly correlated to be one of the three fast tracks to adult crime (Loeber, 1990). A bullying environment has been linked to virtually every one of the horrific school shootings in the United States (Vossekuil, Fein, Reddy, Borum, Modzeleski, 2002). A relationship exists between bullying and subsequent crime: students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999). Several criminal justice theories exist that help explain bullying behavior, including ecological systems theory, (Bronfenbrenner, 1979) that behavior is influenced by various environments encountered in one lifespan. Social learning theory, (Bandura, 1960) and (Akers and Burgess, 1990), work using social learning theory to explain deviant behavior and demonstrate that bullying is a learned activity. All 50 states have passed anti-bullying legislation but the legislation has not necessarily improved the anti-bullying climate at local schools. This study is intended to help states address bullying at the local school level and to provide examples of model legislation to facilitate its improvement.

CHAPTER I  
THE BULLYING PROBLEM

Introduction

All fifty states currently have state statutes directed toward bullying and harassment in schools. Most if not all of the state anti-bullying laws basically cobbled together existing juvenile statutes into their bullying law. This has had the effect of making incidents that were already reportable under existing statutes reportable under their new bullying statutes. Many critics and anti-bullying experts, including the Federal government see the state statutes as little more than window dressing to allow legislators to claim that they have addressed the problem, (DOE, Safe Schools Conference, 2012). Typically, incidents that are reportable are at a misdemeanor or felony level and unfortunately the statutes do little if anything to address the majority of ongoing issues of bullying below the criminal level at local schools. Three categories of state legislation can be identified in this context: (1) general prohibitions against bullying and harassment, (2) general prohibitions against discrimination on the basis of personal characteristics, and (3) specific prohibitions targeting the mistreatment of particularly vulnerable and at risk populations. Given the persistence of the bullying problem in spite of all these laws and policies, several interrelated questions must be asked. Are we in need of better laws and policies? Should the primary focus be on the implementation stage, where a well-intentioned system of rules and consequences often appears to break down? Or are laws and policies even the answer in this specific area (Biegel, 2012)? The reporting required

in the state statutes directs schools to report to state authorities with little attention paid to encouraging reports from students or parents to the local school.

### The Problem

An estimated 160,000 children miss school every day due to fear of attack or intimidation by other students (NEA, 2005). School-based bullying has long been recognized worldwide as a serious problem. Bullying has been identified as a precursor to numerous maladaptive behaviors, especially youth violence (Hawke, Boulton, 2000; Holmes Brandenburg-Ayres, 1998). As young people deal with bullying over time, some of the anger they feel can manifest itself in violence, either inward through depression and suicide, or outward through murder and mayhem. Boys subjected to regular bullying have been shown to be over five times more likely to be depressed than those not being bullied and frequently bullied girls were eight times more likely to commit suicide (Kaltiala-Heino, Rimpela, Marttunen, Rimpela, Rantanen, 1999). A 1994 study by Olweus demonstrated higher levels of depression and poorer self-esteem at the age of twenty-three in persons who had been bullied as youth. This finding occurred even though as adults they were not harassed or socially isolated any more than other adults who had not experienced bullying as children (Olweus, 1994). This work was reconfirmed by the Boston Children's Hospital in a study titled "Healthy Passages" (February 2014).

In addition, bullying has been correlated with the three fast pathways to adult crime, (Loeber, 1990):

1. **Authority Conflict Pathway:** Begins early with stubborn behavior leading to defiance, it moves from Defiance to Authority Avoidance (truancy, running away) and on to more serious offences, drug abuse and other personally destructive actions.

2. **Covert Pathway:** Begins with minor underhanded behavior (lying, stealing, shoplifting) from here to property damage and to more serious crimes, pick pocketing, larceny, theft.
3. **Overt Pathway:** Escalation of aggressive acts, beginning with bullying and aggression from here to fighting and violence.

Loeber says each of these pathways may lead a youth into a sustained criminal career.

Some enter two or all three simultaneously and are the one most likely to be persistent offenders.

A bullying environment has been linked to virtually every one of the horrific school shootings in the United States (Vossekuil, Fein, Reddy, Borum, Modzeleski, 2002). Students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999).

The following itemization presents some additional facts about the relationship between bullying and subsequent crime:

- In 1999, 12 students and one teacher were killed at Columbine High School in Littleton, CO. The year before the Columbine tragedy, five persons were killed at Westside Middle School in Jonesboro, Arkansas. Post-event analysis produced evidence that the shooters, four boys ranging between 11-18 years old, were victims of bullying in their schools.
- On December 1, 1997, at Heath High School in West Paducah, KY, fourteen-year-old Michael Carneal opened fire on a group of praying students killing three girls and wounding five others. Michael Carneal was frequently bullied. He would bring items to school and sell them in an attempt to make friends.

Carneal's name was published in a middle school paper gossip column that he had

feelings for another male student. This led to name-calling, with students using names that referenced his supposed homosexuality (Webber, 2003).

- According to a brief from the International Association of Chiefs of Police, almost three-quarters of student shooters in these and other attacks apparently felt bullied or threatened at school (Vossekuil, Fein, Reddy, Borum, Modzeleski, 2002).

Moreover, the problem is metastasizing. A new form of bullying, cyber-bullying, exists through text messaging, social networking, picture manipulation, instant messaging, and myriad other forms of technology that are being introduced as rapidly as technology is developed (Juvonen Gross, 2008). Often, neither parents nor school staffs have any inkling that this type of technology may be used by adolescents to bully until the 'new bullying technique' has been well entrenched in the student community.

Cyberbullying gained national prominence in 2006 after the tragic suicide of a thirteen-year old Megan Meier. Megan lived in St Louis and had begun corresponding through MySpace with what she believed to be a young man, her age, named Josh. After initial flattering contacts, seemingly caring, admiration, and interest, Josh turned on Megan and began criticizing her with harsh-mean spirited negative language and expressed that he no longer wanted to be her friend. A devastated Megan hanged herself. After some investigation it was determined that Josh never existed, but was a creation of a neighbor who was using the 'Josh' character to see if she could learn if Megan had been saying negative things about her daughter. In spite of national outrage, there was no specific statute that Missouri could invoke against the offender. In 2008, Missouri Governor Matt Blunt signed a bill that criminalized 'cyberbullying' by amending state



laws against harassment, Missouri Rev. Stat, 565.090 (2008). In a strange turn of events, the offender began being seriously cyberbullied by outraged mobs of Internet abusers. Her husband divorced her and she moved away from the community (Safe Schools Conference, 2012).

### Importance of the Legislative Problem

Over the last ten years all 50 states have passed legislation intended to correct the bullying problems in their schools. Their efforts have encouraged and often mandated that local schools and districts begin developing bullying policies at the local level. Unfortunately, few states provided sufficient guidance for schools and the statutes did not address elements to make the state statutes effective in reducing and correcting bullying at the local school level. Since most statutes are directed at having schools report incidents to the state, many schools have begun reclassifying incidents so as to not be required to report (DOE, 2015). The effect of schools reclassifying bullying incidents causes bullying statistics to be unreliable and difficult to use for historical comparisons. It is therefore difficult to determine if bullying is reducing or if only the reported numbers are being reduced.

The more important problem to be addressed is how to reduce bullying and provide corrective restorative measures for victims, offenders and bystanders (Duncan 2010). Until states amend their legislation to include strategies and procedures for local schools to employ the problem will continue. This exploratory study examines the existing legislation for inclusion of the elements needed for comprehensive programs. It reviews effective strategies for prevention, correction, and restoration of bullying

incidents. Finally, the exploratory study presents model legislative language for amending the current statutes to incorporate the strategies at the local school level.

## CHAPTER II

### LITERATURE REVIEW

#### Overview

This chapter presents current research on bullying subdivided into the following main topics:

- Youth Bullying in Historical Perspective
- Relevant Theories that Explain Youth Bullying
- Youth Bullying in Special Populations
- Status of Current State Legislation
- Current Programs and Interventions
- Restorative Justice: An Emerging and Promising Intervention

#### Youth Bullying in Historical Perspective

There exists a long-standing misconception that bullying is a part of growing up, or surviving bullying is a rite of passage. That the effects of bullying are short term and soon forgotten, and that bullies mature and abandon their negative behaviors. Another misconception involves how to deal with a bully; it is sometimes referred to as the ‘Christmas Story’<sup>1</sup> notion, in that the way to stop being bullied is to fight back. In the movie, Ralphie confronts and fights the local bully and the bully shows himself to be a coward. This misconception, like the others mentioned are myths and are more

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<sup>1</sup>‘A Christmas Story’, based on semi-fictional anecdotes by Jean Sheppard in his book *In God We Trust: All Others Pay Cash*, was made into a popular movie in 1983.

destructive than informative. In addition, many people believe that all bullying is essentially the same type of physical abuse and they miss the long-term health effects to the victims and also to the offenders (Olweus 1994). They also often overlook the cruelty of social exclusion that is often more common with female bullies which again has lasting health effects (Boston Children's Hospital, 2014). Cyberbullying and other technology-based forms of bullying have sometimes been thought to be different from the more traditional forms, but upon further examination cyberbullying has the same underlying motives (Sacco, et al. 2013). The major differences with cyberbullying is that cyberbullying can be anonymous, around the clock, and faster for others to join into the bullying (DOE 2010). Traditionally, attempts to deter bullying have involved punishment of the bully, with little attention paid to rehabilitation or counseling for the bully, the victim, or the bystanders (Duncan 2010).

Evidence suggests that bullying behavior increases as children age, with the peak incidence occurring in middle school (Pellegrini, Long, 2002). Bullying is often fueled by inequalities in power, which may originate from social status, money, or physical dominance (Rigby, 2003). Given that children develop at different rates, both socially and physically, it is easy to see why late primary and middle schools might provide the perfect environment for bullying to flourish: the children are at an age where these inequalities are exaggerated. By high school, the incidence of bullying seems to decline, not only because late-developing teens begin to catch up, but also because it is viewed as less acceptable behavior by peers (Elsea , Smith, 1995). In many cases bullying only seems to decline since bullies tend to sophisticate their bullying and often carry this behavior into college and then into the workforce (Yamada, 2015).

Middle school children trapped in an environment where bullying occurs are often subjected to a climate of fear, with attendant negative impacts on student self-esteem and subsequent disengagement with school. In fact, research in the United States indicates that as adolescents move from elementary school into middle schools, there are notable changes in motivation that have been linked directly to changes in the social contexts of classrooms, (Anderman, Maehr, 1994; Eccles, Midgley, 1989). If the changes in social context involve an increased level of bullying, then students will feel trapped in their environment. Unless there are interventions by trained professionals the students will suffer the negative effects of the culture and the bullying environment.

A 2007 survey found that 64 percent of students surveyed replied, “Bullying incidents were most likely not reported” (Education Development Center, 2010). Reporting also varied with the types of bullying and was more likely to be reported if it involved “injury, physical threats, destruction of property, physical contact, greater frequency, multiple types, more than one location, or at least one occurrence on a school bus” (Education Development Center, 2010). The *National Education Association’s Nationwide Study of Bullying*, found a difference between the way students and staff viewed bullying which created a disincentive for students to report bullying when they thought it would not be properly handled, (Bradshaw et al. 2011). Students need to feel safe in their learning communities. A safe and secure reporting system coupled with practices designed to provide restorative interventions for all three groups, - offenders, targets and bystanders, - allows students to begin to manage the bullying environment in their schools, (IIRP, 2009). By empowering them through a safe and easily accessible

reporting system, and with interventions, based on restorative practices, students are able to refocus on learning and away from interpersonal conflict (IIRP, 2011).

In addition, a person-environment-fit perspective acknowledges that when individuals are situated or trapped in contexts that do not fit their needs, there are negative motivational consequences (Hunt, 1975; Mitchell, 1969). Person-environment-fit theory has been applied to research examining the learning and motivation of adolescents in classroom settings (Hunt, 1975). Eccles, Midgley, and their colleagues have extended this argument and re-phrased this phenomenon as stage-environment fit (Eccles, Midgley, 1989; Eccles et al. 1993; Midgley, Middleton, Gheen, Kumar, 2002). Specifically, they argue that, particularly during adolescence, it is critical for the contexts of classrooms to be matched with the developmental needs of students. If classroom contexts are antithetical to the developmental needs of adolescents, severe decrements in motivation may occur which can include being the bully, being bullied, or both. In contrast, classroom contexts well matched to the developmental needs of adolescent students will lead to adaptive motivational outcomes and increased resiliency.

#### First Amendment Considerations

Attempts to address bullying and cyberbullying at the local school level, must necessarily consider the dictates of freedom of expression principles. Evidence from K-12 case law demonstrates the First Amendment does not--absent additional fact--automatically preclude legislation seeking to prevent peer-to-peer violence by promoting respectful interaction between and among all members of K-12 school communities (Biegel, 2009).

It is well established that the First Amendment right to freedom of speech extends to students in public schools. The United States Supreme Court declared almost fifty years ago, public school students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate” (*Tinker v. Des Moines Independent School District*, 393 U.S. 503, 89 S. Ct. 733 (1969)). The Supreme Court also recognized the need for schools to be able to exercise a certain amount of authority over the speech of their students to retain order and control of the educational environment. The Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, “consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools” (*Morse v. Frederick*, 551 U.S.393, 127 S. CT. 2618 (2007)).

Many schools fear that school cyberbullying policies will run afoul of the First Amendment and interfere with students’ rights to free speech (*Morse v. Frederick* (2007)). A school must first decide whether it has jurisdiction over the speech. The legal standard differs depending on whether the speech originated on-or-off-campus. Off-campus speech is the most difficult for a school to determine if the school has proper jurisdiction. Second the school must determine whether, consistent with law, it can regulate the speech. This second inquiry will fall into two subcategories: (i) whether the school is able to categorically regulate the speech; and if not, then (ii) under the “*Tinker* standard,” whether the speech materially disrupts class work or substantially impinges on the rights of others.

Despite its limitations, education officials have considerable latitude under *Tinker v. Des Moines Independent School District*, 393 U.S. 503, 89 S. Ct. 733 (1969) if

substantial disruption will occur or there is interference with the rights of others. The Fifth Circuit Court determined that in the aftermath of the tragic events at Columbine in 1999 and in light of the U.S. Supreme Court's decision in *Morse v. Frederick*, 551 U.S.393, 127 S. CT. 2618 (2007)

“the heightened vulnerability of students arising from the lack of parental protection and the close proximity of students with one another make schools places of ‘special danger’ to the physical safety of the student. And it is this particular threat that functions as the basis for restricting the First Amendment in schools: school officials must have greater authority to intervene before speech leads to violence.” *Ponce v. Socorro Independent School District* 508 F.3d 765 (5<sup>th</sup> Cir. 2007).

#### Need for Institutional Knowledge

Most of the existing state anti-bullying legislation directs schools to develop policies to address bullying and several require, to various degrees that schools should make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. Schools need to know what happens and what the consequences are if the behavior is ignored and not corrected as shown in the list provided by “Dear Colleague Letter’ Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010. The list provided explains that prospective effects of student-on-student harassment and bullying include:

- Lowered academic achievement and aspirations
- Increased anxiety



- Loss of self-esteem and confidence
- Depression and post-traumatic stress
- General deterioration in physical health
- Self-harm and suicidal thinking
- Feelings of alienation in the school environment, such as fear of other children
- Absenteeism from school

The letter also emphasized that schools need to know how dangerous it is to do the wrong things, i.e. nothing, zero-tolerance, immediate punishment or other strictly punitive actions.

Zero tolerance policies have fundamentally changed the role of expulsion in the American public school system. Justification for denying educational access after expulsion would be more persuasive under a disciplinary system in which schools expelled only a few older students, for violent offenses, as a last resort (Biegel, 2012). By their very definition, zero tolerance policies involve expelling students for first offenses rather than reserving the most serious disciplinary option for cases of last resort. Thus, under zero tolerance policies, schools expel students, who may have not had other disciplinary problems (Biegel, 2012).

The problem associated with zero tolerance policies was made abundantly clear to the attendees at the U.S. Department of Education's, Safe and Drug Free Conference in August 2012. There, at the request of federal officials, were the parents of two students who had been suspended from their respective schools under zero tolerance policies. Both students, in spite of having no previous disciplinary problems were suspended without any opportunity to explain their actions, or tell their stories. Tragically, both students

committed suicide believing that they had ruined their lives and the lives of their families. The youngest was only 11 years old and had been assured by his parents that he was not in trouble and that they understood that he had acted in self-defense. After the school had failed to deter the bullying he was receiving, even though it had been repeatedly reported, he fought back, was caught, and suspended. In both cases the students involved were caught in a 'mindless trap' of good school intentions gone terribly wrong. Zero tolerance, although politically popular, is fundamentally flawed, dangerous, unfair, and may raise serious due process questions, (Biegel, 2012).

### Relevant Theories That Explain Youth Bullying

There is no single criminal justice theory can fully explain bullying behavior and that several theories combined can give some insight into various ways that bullying behavior develops and continues. The following presents several theories that each explain some aspect of why bullying behavior can be developed and Loeber's analysis below demonstrates the implication of bullying on the longer term development of the offender.

Bullying has been correlated with the three fast tracks to adult crime (Loeber, 1990).

1. **Authority Conflict Pathway:** Begins early with stubborn behavior leading to defiance, it moves from Defiance to Authority Avoidance (truancy, running away) and on to more serious offences, drug abuse and other personally destructive actions.
2. **Covert Pathway:** Begins with minor underhanded behavior (lying, stealing, shoplifting) from here to property damage and to more serious crimes, pick pocketing, larceny, theft.
3. **Overt Pathway:** Escalation of aggressive acts, beginning with bullying and aggression from here to fighting and violence.

Loeber demonstrated that each of these pathways may lead a youth into a sustained criminal career. Some enter two or all three simultaneously and are the one most likely to be persistent offenders.

A bullying environment has been linked to virtually every one of the horrific school shootings in the United States. Students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999). Often the response to bullying has been one that would be considered under the Classical Theory of crime (Beccaria, 1764, Bentham, 1789) being that, schools often punish bullies believing that if potential bullies see the punishment as more painful than the alternatives, they will not continue to be involved in bullying. Recent experience has shown that this simply does not work, and often the punishment has the exact opposite effect with bullies seeing the punishment as a form of negative reinforcement allowing them to gain the attention they so desperately wanted. Unfortunately, many school officials and others continue to believe in this Classical Theory of delinquency. Many also believe that punishment and accountability are the same...they are not. Bullying is a learned behavior in response to a fundamental need, an underlying problem, or a negative way of relating to others and can be explained as Social Learning Theory, (Bandura, 1960). Additional evidence comes from using social learning theory to explain deviant behavior and demonstrate that bullying is a learned activity, (Akers and Burgess, 1990). Similarly bullying can also be explained by Sutherland's theory of Differential Association, whereby children either learn from observation or are rewarded for negative behavior (Sutherland, 1939).

Because many schools over time have failed to recognize the seriousness of bullying and its long term effect on offenders, targets, and bystanders they have often failed to take positive corrective actions for all three groups, leaving everyone involved to the mercy of the consequences of unmanaged negative behavior (Belak, 2013). Defiance Theory, can explain negative reinforcement whereby some youth feel a compelling need to express defiance of authority (Christensen, Sherman, 1997). If this behavior is rewarded by peer admiration or other consequences that the bully interprets as positive, Defiance Theory will have a continuing impact on the repetition of the negative behavior. Defiance Theory also reinforces the learned nature of bullying whereby bullies will continue to bully due to peer admiration and other perceived rewards.

Some bullying can be explained under Labeling Theory (Lemert, 1951) where others label a person and the person often accepts and mimics the label. Labeling Theory can be a form of stereotyping and more often than not becomes a self-fulfilling prophecy. When told that they are a bully some youth will accept this label and continue to act accordingly, especially if the punishment is seen as a reward by the bully as part of inherence to Deviance Theory. The initial label and any secondary labels can explain the reason some bullies continue with the behavior as they try to live up to the negative label that has been assigned to them.

If Labeling Theory is considered with Defiance Theory, as mentioned above, as well as with Social Learning Theory, it is possible to see how all three theories can be interconnected to somewhat explain bullying behavior. However, Strain Theory (Merton, 1957) may also play into bullying where bullies see their actions as a way of getting what they want. It may also help explain how friends and associates of the bully will often join

in the bullying so as not to become a target themselves. Strain Theory shows that social structures within a society can pressure individuals to commit crimes in order to obtain what they believe they need to function in the society. It can therefore explain the discrepancies between culturally defined goals and the desire to find any means to achieve those goals. Merton described five types of deviance, (1) conformity, (2) innovation, (3) ritualism, (4) retreatism, and (5) rebellion. Again, learned behavior plays an important role in continued bullying and demonstrates that bullying might best be explained through a combination of criminal justice theories acting in concert.

The most powerful arguments may be explained by bullying being seen as a learned behavior (Sutherland, 1942), and it is reinforced as the bully continues to use the bullying behavior to either self-medicate, or to satisfy an underlying need. Many juvenile delinquents continue to offend into their adulthood with bullying being classified as one of the three fast tracks to adult crime, (Loeber, 1990). Loeber defines the three pathways to adult crime as (1) Authority Conflict, stubbornness, defiance authority avoidance; (2) Covert Behavior, lying, shoplifting, property damage, joy riding, writing illegal checks; (3) Overt Behavior, bullying fighting, violence.

Some speculation can be considered that bullying, like Loeber's first two pathways, might be positively affected by Pathway Theory (Sampson and Laub, 1995), whereby criminal tendencies and behavior are subject to certain life trajectory predictors that can change or accelerate actions, behaviors, and beliefs over one's lifespan. Under this theory the tendency to develop certain life experiences, for example a job, or marriage can help reduce the tendency to continue with criminal behavior. Questions arise if the typically cited life changing experiences can truly affect bullying behavior,

since bullying often become more sophisticated over time, as the bully learns to hide the behavior from authorities. Workplace bullying is a continuation of school based bullying which becomes even more sophisticated over time as the bully learns to hide his or her actions (Yamada, 2015). Other life changing experiences can also alter the behavior. The restorative justice process has demonstrated its ability to change behavior patterns as offenders learn empathy toward victims and the impact on the offender's own family and friends (Braithwaite, 1989). Considerable 'chicken and egg' discussions can be debated concerning whether the behavior is inherited from a parent or if the child, under Socialization Theory, (Hurrelmann, 1989, 2009), observes the parent's behavior and copies it. Either way the behavior will demonstrate an attention to both learned and reinforced behavior. It is especially true if the behavior is reinforced by the bully acquiring what they were seeking, either through reward or as a medication for an underlying problem.

Since no single criminal justice theory can fully explain bullying behavior, several theories combined can give some insight but perhaps it is more important to examine prevention and correction strategies. The work that appears to be most promising in interrupting the negative behavior and helping bullies to address their actions and begin to change comes from the work of John Braithwaite and his Theory of Re-Integrative Shaming (Braithwaite, 1989). Often misunderstood as harmful shaming, rather than a positive force that combines personal embarrassment with remorse, Braithwaite's work has become a key component of Restorative Justice, where the offender not only begins to realize the harm they have caused the victim, but the harm they have caused to those they love and care about. The re-integrative aspect that Braithwaite promotes happens

when the offender understands this harm, takes responsibility for the harm, feels an obligation to correct the harm, and works to find a way to integrate back into their community in a positive way.

### Youth Bullying in Special Populations

A considerable amount of literature exists on bullying of special needs children and bullying of LGBT children but the level of bullying that exists in homeless communities has not been well documented in published literature. Also the terms ‘homeless community’ is a misnomer, since there are several distinct types of homeless individuals and often share little in common other than their homelessness and are rarely a community. Although there is a void of published research concerning the bullying homeless children might endure, it can be assumed that the level of bullying can be correlated to the extensive bullying research available for all children. In analyzing that research it is possible to extrapolate and assume that homeless children would be at increased vulnerability to bullying by classmates, other children, and adults due to their unstable situation (Peguero, 2012; Pain, 2003).

In the media, both print and broadcast, are numerous articles and stories concerning homeless adults and how they are treated in many communities. The term ‘bullying’ is often used or implied in those articles and stories concerning the treatment of the homeless by cities and by businesses that wish to remove the homeless from sight. Even in that coverage there is often little if any information about the plight of homeless families and homeless children. In Louisville, Kentucky there was extensive coverage of several attempts of the Wayside Christian Mission, a major shelter provider, to relocate to property they were attempting to buy to establish a new shelter for families. Wayside

was denied zoning variations when they attempted to purchase a former school in a residential area. When they began a new process, to purchase a former hotel in the downtown area, they were again denied the zoning changes they requested (The Courier Journal, 2011). Finally, in spite of several objections and threatened lawsuits, they were able to buy and occupy the property by deciding to reopen the facility as a hotel and charging the families to be housed a penny per day as a room rate. Throughout the process the animosity and attempts to deny them access, by the city and the local businesses, bordered on bullying. It is ironic that in spite of the original animosity by the city, the success of the Hotel Louisville with its housing, education, family support, and other empowering resiliency projects, is now seen as a model and touted as part of Louisville's Compassionate Cities Initiative.

In the media coverage there is often little mention of homeless families or even the number of homeless children. For example, in Louisville in the 2014 school year there were over 12,000 homeless children enrolled in the Jefferson County School System (JCPS Office of the Homeless Coordinator, 2014). That number was cut in half in 2015, not by programs and services, but because the School District chose to modify the classification used in 2014, by not including students that were doubled up with other family members even though they were living there temporarily (JCPS, 2015). The media did not cover the student numbers or the change in classification.

#### The Available Statistics

The National Alliance to End Homelessness publishes a data summary based on data from the U.S. Department of Housing and Urban Development. They report on an annual census of homeless populations as part of a Continuum of Care (CoC), (National



Alliance, 2015). HUD requires that CoCs make the count every year. The data is limited by the scope of what is measured and the capacity each surveyed community has to conduct the census, (HUD 2015). The census is taken on a given night so it is really a point in time and therefore does not include everyone who might have been eligible to be included in the count (National Alliance, 2015). The reliability of the count can also be affected by the fact that since low-income homeless people are, out of necessity, mobile as they seek basic human needs, they can be either counted multiple times or not counted at all (National Alliance, 2015). Also, most school districts can only count enrolled students and many districts do not have dedicated staff to identify homeless students. With all of the potential for inaccuracy, the information is still valuable as a snapshot in time. Even if the actual number cannot be validated as totally accurate, comparisons with previous years can provide insight into changes and trends. The 2014 count showed that there were 578,424 people experiencing homelessness on any given night in the United States. In that number are 216,197 in families and 362,163 individuals. Fifteen percent of the homeless population, 84,291 are considered chronically homeless and nine percent of the homeless people are veterans (HUD, 2015). The 2014 count showed that individual chronic homelessness decreased 2.5 percent from 2013, (HUD, 2015). It also showed that 37 percent of chronically homeless individuals were unsheltered in 2014 and that chronically homeless families decreased by 7 percent for 2013 to 2014 (HUD, 2105). Among the states and the District of Columbia, 29 states reported a decrease in chronic individual homelessness and 32 states reported fewer chronically families than the national average in 2014 (HUD, 2015). Kentucky has been following the national trend showing decreases in both chronic homelessness and family homelessness (HUD, 2015).

Multiple reasons exist for the decreases, including the recovery from the 2008 recession as well as coordinated efforts to provide housing and support (National Alliance, 2015).

### Confusion in the Numbers

The HUD data comes from a single night and describes the population on any given night. There is therefore confusion when one examines other homeless data, for example the Child Trends Data Bank estimates that there were 1.3 million homeless students in 2013 school year (CTDB 2014). The National Coalition for the Homeless estimates 1.35 million children from 600,000 homeless families in 2009 (NCH, 2009). The question of why are the HUD numbers are so different can be answered by the fact that HUD estimates are based on ‘any given night’ and since the homeless with the exception of the chronic homeless are, as mentioned above a transient, fluid, and changing population, the individuals in the ‘on any given night’ will differ greatly and over the course of a year the total number of persons homeless in the year should be significantly higher than on ‘any given night’. Therefore, it is very possible that the cited examples are consistent and correlate.

Worldwide the last time there was an attempt to estimate the number was by the United Nations in 2005. The U.N. estimated that approximately 100 million were homeless worldwide and as many as 1 billion people were lacking adequate housing.

### Bullying of Homeless Children

Even with only sporadic research on the extent of ongoing bullying for either youth or adults in homeless populations, evidence demonstrates that bullying and violence are prevalent with young women. Young women are particularly vulnerable because of their dependence on partners for financial and practical support (Pain, 2003).

An extremely high incidence of bullying is encountered by both female and male homeless children and the subsequent violence, and threats of violence becomes considerably higher after becoming homeless (Coates, McKenzie-Mohr, (2010). Often a chain of events that occur for homeless children will lead to confidence issues, which can manifest as being prone to being bullied. The limited number of published articles concerning homeless youth still makes the connection of homelessness to being the targets of bullies. In Jefferson County Public Schools, Louisville, Kentucky, the administration believes that the homeless children experience a higher level of being bullied and of being bullies themselves, even though separate statistics on bullying within the over 12,000 homeless children are not kept as a separate category (JCPS, 2014). The administration concedes that it would be good to have a separate tracking but to date have not been able to implement the tracking. If homeless children suffer bullying at the same rate or higher than their non-homeless peers, then the rate of bullying experienced would be 22-28 percent of the students (DOE, 2015). The anecdotal information gathered from local experts in Louisville would have that percentage higher for homeless students than for the average student, and suggests that special protections for homeless students should be adopted (JCPS, 2014).

#### Special Protections for Homeless Children

In Australia the Adelaide Department of Human Services has found that in dealing with homeless children there needs to be strong, inclusive, cross-departmental practices to provide services to marginalized children. The services need to be coordinated and monitored so that marginalized children have the opportunity to be successful. The services should include schools, health and human services, and medical

services (Wearing, 2011). The United Kingdom has an ongoing effort to identify the needs and risks facing children that are, or may become, homeless and connect the children and families with services to reduce the risks of homelessness and the inherent consequences of becoming homeless and resultant bullying (Quilgars, Johnsen, Pierce, 2008). These efforts have been cited as models of good practices throughout the United Kingdom, and are quite similar to those identified in Adelaide, Australia.

Two agencies in Cardiff, Wales collaborated to create what is thought to be the first anti-bullying policy as a positive way to coordinate services and lessen the bullying toward homeless individuals and children (Joly, Goodman, Froggatt, 2011). The two agencies set out to collaborate in order to directly impact bullying. Other work has shown the importance of resiliency, or personal strength, in homeless youth is key to their self-esteem and their well-being, and all efforts to help homeless youth develop and maintain resilience are critical for improving and maintaining some normalcy in their lives. The developed and maintained resiliency can be a significant factor in helping homeless youth lessen their chances of being bullied and lessen their chance of becoming bullies out of frustration (Kidd, Shahar, 2008).

#### Status of Current State Legislation

All fifty states have bullying laws. The first of these laws was passed in 1999, partly in response to the Columbine shootings (DOE 2011). The most recent was Montana in 2015, when the legislature passed a bullying law to replace their here-to-fore bullying policy. A number of the laws have been amended over time and the legal landscape continues to change. Minnesota and Massachusetts have the most comprehensive statutes, although they are still missing restorative justice and safe-

reporting systems (Duncan 2010). Massachusetts and Georgia allow for anonymous reporting but they do not specify how they plan to keep the reporters safe, nor do they outline how a local school can implement the reporting to include students, parents and bystanders.

There is great verity in the content and detail of the various state laws with some states for example; Hawaii, Maine, and New Mexico have brief requirements for school districts to develop policies. Some are more complex with numerous provisions and borrow language from other statutes especially harassment statutes. Kentucky is an example of a state that in its law defines harassment rather than bullying. Virtually all states require reporting from the school to the state after a local investigation. Few states provide any information about possible funding sources to help schools implement the procedures, or education their populations (Sacco, et al. 2013).

When Montana changed its policy to a statute it joined the other 49 states that also have relatively ineffective anti-bullying statutes for correcting bullying at the local school level (DOE, 2012). The Minnesota, Massachusetts, Georgia, and Colorado statutes are arguably better than most others, but still fall short in affecting bullying at the local school level (DOE, 2015). Since most if not all of the state anti-bullying laws basically cobbled together existing juvenile statutes into their bullying law, this has had the effect of making incidents that were already reportable under existing statutes reportable under their new bullying statutes. The reorganization of the existing statutes into new bullying statutes did not produce improved results. Many critics and anti-bullying experts, including the Federal government see the state statutes as little more than window dressing to allow legislators to claim that they have addressed the problem, (DOE, Safe

Schools Conference 2012). The incidents that are reportable are at a misdemeanor or felony levels and unfortunately the statutes do little if anything to address the majority of ongoing issues of bullying below the criminal level at local schools and only a few states require any corrective programs based on restorative justice (Duncan, 2010).

Clearly, states may need to amend their statutes and policies to assist schools in addressing and correcting bullying at much earlier stages.

“Bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential.” Russlynn Ali, “Dear Colleague Letter” Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010.

The Assistant Secretary continued that “some student misconduct that falls under a school’s anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department’s Office for Civil Rights (OCR)...by limiting its response to a specific application of its anti-bullying disciplinary policy’ s schools may fail to properly consider whether the student misconduct also results in discriminatory harassment.”

The letter explains in detail the way in which schools can be in compliance with the law as well as the consequences and prospective effects of student bullying and harassment.

The current state statutes have largely been ineffective in reducing bullying at the local level. New amended statutes are needed to contain the requirement for local innovation strategies that will reduce bullying and other harassing behavior (DOE, 2012).

### Restorative Justice, Restorative Practice: An Emerging Promising Intervention

#### History and Procedures of Restorative Justice

Restorative justice is a process that focuses on the harm done to victims and the obligation that it creates for the offender, and the society, to rectify the harm, and reintegrate the offender into society. Restorative justice roots are ancient, dating back to

a time when we existed in clans and tribes (Zehr, 2002). At that period in human history, small groups of people needed every member of their group for the group's survival. Since they needed everyone for the survival of the clan, they did not have the luxury of banning or disposing of members of the group, simply because they broke one of the rules or offended another member of the clan. Many early tribes in North America, New Zealand, and Australia used what is now commonly referred to as restorative justice, through tribal councils or societal circles, to determine the harm caused by an offense, to rectify the harm, and to reform the offender to return to being a functioning part of the tribe, (Zehr 2002).

Modern day Restorative Justice in North America grew out of an interesting experiment in Elmira, Ontario, Canada. Mark Yantzi, then a probation officer, was working with two juveniles that had vandalized several properties in Elmira in 1974. He wondered what would happen if the young men actually met the people that owned the properties the young men vandalized and if it would change anything. The property owners agreed to meet. The success of that meeting and the subsequent healing that took place for the owners and the offenders was profound (Ottawa Citizen, September 11, 2004).

Mark Yantzi was an active member of the Mennonite church and word quickly spread throughout the Church of the remarkable success the he had achieved. The practice quickly spread to other Mennonite churches and also to the 7<sup>th</sup> Day Adventist Church and modern day restorative justice was born in North America.

Although new forms of restorative justice are beginning to gain acceptance in present western societies, with New Zealand and Australia leading the way, in most

jurisdictions within the United States restorative justice is being used primarily for minor offenses. In Australia and New Zealand, the criminal justice systems began by adopting the family group conferencing patterned after the original people's tribal conferencing circles (Wachtel, O'Connell, Wachtel, 2010).

New Zealand adopted the system of Family Group Conferencing, based on the ancient traditions of the Maori people and in 1989 New Zealand revised its entire juvenile justice system to make restorative justice through Family Group Conferencing the norm for virtually all of its juvenile cases (Zehr, 2002). New Zealand's Ministry of Justice lists eight principles of practice for restorative justice to succeed. These include:

1. Restorative justice principles are underpinned by voluntariness.
2. Full participation of the offense victim and the offender should be encouraged, however, the victim may send a representative.
3. Effective participation requires that participants, particularly the victim and the offender be well informed.
4. Restorative justice processes must hold the offender accountable.
5. Flexibility and responsiveness are inherent characteristics of restorative justice process.
6. Emotional and physical safety of participants is an over-riding concern.
7. Restorative justice providers (and facilitators) must ensure the delivery of an effective process. (New Zealand, Restorative Justice Facilitator Induction Training)
8. Restorative justice process should only be undertaken in appropriate cases.



The International Institute for Restorative Practices (IIRP) has documented many success stories and has provided ongoing training and workshops for schools and restorative justice practitioners. Ted Wachtel developed the IIRP after he spent time with Terry O’Connell, a former police sergeant in Wagga Wagga, Australia. O’Connell had been developing using restorative justice based on the family group conferences that originated in New Zealand as part of the Children, Youth and Families Act of 1989. O’Connell’s success in adopting the concept, revitalizing, and utilizing restorative justice provided a breakthrough in helping the young people within a local Australian tribe to rectify harms and to become good citizens without resorting to traditional juvenile punishments. Wachtel learned the process from O’Connell when O’Connell was visiting the United States, Canada, the United Kingdom, and South Africa through a Winston Churchill Fellowship to demonstrate a new response to school misconduct using ‘family group counseling’ or what is sometime referred to as ‘community accountability conferencing’ or ‘diversionary conferencing’. This restorative process is now most commonly referred to as a ‘restorative conference’. After hearing O’Connell speak in Pennsylvania, Wachtel with O’Connell’s help and support founded the Real Justice movement that ultimately grew to be the International Institute for Restorative Practice, (IIRP).

### School Based Restorative Practices

School personnel need to be trained in restorative justice practices in order to correctly address all three groups, targets, offenders, and bystanders (Braithwaite, 1996). First they must restore all parties to a stable a position that deals with the harm done and the obligations to rectify that harm (Wachtel, O’Connell, Wachtel, 2010). Secondly they

need to assist all three groups in moving toward a positive direction and to set goals, objectives, and necessary progressive steps to begin to achieve the goals and objectives. The restorative justice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop an environment of trust, respect, and dignity (Duncan, 2010)

The two basic forms of justice in the United States are criminal justice system and restorative justice. They differ dramatically, in that restorative justice is victim focused. It is a process that is directed toward the harm that has been done to the victim and the responsibility and obligations the offender has to rectify the harm. The principle underlying restorative justice is dealing with the harm done to the victim, repairing the harm with the help of the offender, and then reintegrating the offender into society (Zehr, 2002). In the restorative justice process the victim plays a significant central role in determining what will repair the harm and how the offender will agree to meet obligations and responsibilities. The offender agreement should to not only repair the harm, but should also allow the offender to be reintegrated into society.

The criminal justice system is better known by most Americans, and is based on the premise that offenses are crimes against the state. The court system will determine who is to blame and decide what the correct penalty should be for the offense. The criminal justice system is primarily focused on the offender, leaving the victim with a minor role, since the state has in essence actually taken over the role of victim.

The following is a comparison of the two systems:

<b>Criminal Justice</b>	<b>Restorative Justice</b>
What laws have been broken?	Who has been harmed?
Who did it?	What are the needs of the victim?
What do they deserve?	Whose obligations are these?
	Howard Zehr, 2002, <i>"Little Book on Restorative Justice"</i>

Clearly restorative justice is different; it is focused on victims, while the criminal justice system is focused on offenders. In fact, the entire criminal justice system is offender focused. Crimes are considered acts against the state and all cases are basically the 'state versus the offender'. Victims have a small role in the criminal justice system and often feel that they continue to be re-victimized by the criminal justice process. The criminal justice system sees crime as a violation of the law and of the state, while restorative justice views crime as a violation of people and relationships (Zehr, 2002). Under criminal justice, violations create guilt, and under restorative justice, violations create obligations. Criminal justice requires the state to determine blame (guilt) and to impose pain (punishment). Restorative justice finds that justice involves victims, offenders, and community members to put things right (Zehr, 2002). The central focus of criminal justice is offenders getting what they deserve, while the central focus of restorative justice is victim needs and offender responsibilities for repairing harm (Zehr, 2002).

There are three basic principles that are the pillars of restorative justice:

### **Three Pillars of Restorative Justice**

1. Restorative Justice focuses on harm
2. Wrongs or harms result in obligations
3. Restorative justice promotes engagement or participation

Howard Zehr, *Little Book on Restorative Justice (2002)*

The restorative justice process normally begins with an explanation of the process to the three main groups involved: the offender, the victim, and the bystander/supporters. The initial meetings should be conducted independently to determine if the parties understand the process and if the victim is willing to go forward with the process. The victim has the right to refuse to participate and that right should be completely and totally permitted without any pressure or collusion. Since the process focuses on the harm that has been caused and the damage done to a real person, the rights of the harmed supersede the rights of the offender and the bystanders. If the victim does not want to participate or is unable to participate, the restorative justice practitioner should still meet with the offender to begin the process of the offender confronting the harm the offender has caused. Often a bystander/supporter of the victim might agree to stand in as a surrogate and offer insight into the effect the offense has had on the victim. Often their story telling can have almost the same effect as having the actual victim present (Harvey, 2010).

At this point in the process the purpose is for the offender to begin to understand that the victim is a human being, has a real name, a family, a life interrupted, and a need to understand ‘why’. “Why did you do what you did, and why to me?” It is also an important part of the process for the offender to hear from their own family and friends to understand the impact their offense has had on their supporters as well. After hearing from their supporters, offenders often feel what has been called reintegrative shaming, (Braithwaite 1989), and begin to realize that their actions affect not only victims but also their own family and friends. Reintegrative shame basically centers on the act, not the person, and separates the act from the actor (Morrison, 2002). There continues to be debate over the term ‘shame’ with many misunderstanding or confusing what Braithwaite meant by reintegrative shame. Personal embarrassment might be a better term without the negative stigma connotations of shame; which is perhaps what Braithwaite may have meant when he coined the term reintegrative shaming. The offender often feels embarrassed when they realize the harm they have caused, not only to the victim, but also to their own family and friends. It can be a powerful moment in the process when offenders make this realization and feel this embarrassment. Only a small number of people, 1 to 3%, are estimated to be true psychopaths or sociopaths that cannot feel empathy (American Psychiatric Association, 2000). The rest of the population can have a learned, and if practiced, level of caring that can continue to grow under the right conditions. It is in this process of reintegrative shaming or personal embarrassment, when the offender realizes the harm they have caused their family and friends as well as the victim that the power of reintegrative shaming and restorative justice begin to take hold (Braithwaite 1989).

For the victim the process toward understanding and forgiveness begins at this stage as well, especially if the victim understands that forgiveness does not mean forgetting, but means understanding. It is an understanding of the ‘why’, even if it does not make logical sense, it is the end of asking why and the beginning of understanding. This crucial step allows the victim to adopt forgiveness, not for the offender, but for himself or herself. For as long as they hang on to the question ‘why’ they allow the offense to control their life. The process of forgiveness is to free one’s own life, not necessarily the life of the offender.

Once the offender and the victim have begun to move forward it is important to address and seek the cooperation of the bystanders/support group. This group is made up of several components and it is important to recognize to which group each individual belongs. The listening skills of the restorative justice facilitator are invaluable in determining where each belongs. For example, some bystanders may have been witnesses to the offense, others may have learned about it later from any one of the parties involved. There may be supporters of the offender, supporters of the victim, supporters of justice. There will be bystanders that just like the drama and would like it to continue (Karpman, 1968). All of these group members are involved in the process and can be invaluable or they can destroy the process and any good work done. Each must be either brought into the process for good or at least neutralized, and separated from the process. “If you really want to help ‘name of target’ then you will” is a good statement, or it can be a good question as in “what would you like to do to help ‘name of target or name of the offender’ heal and move forward with their life? The facilitator should listen carefully to their answer and if possible have them commit it to writing to

be used later in the process when creating a statement of agreement with all of the parties involved (IIRP, 2009).

At this point in the process it may be possible for the offender, the victim and the constructive bystanders/supporters to begin a facilitated discussion to help determine what corrective measures are possible. Again, the restorative justice facilitator must have the correct skills and questions to ensure that the meeting does not cause further harm. Questions must be asked and answers given to begin the restorative process. The process continues until the three groups, victim, offender, and bystanders, begin to come to a shared bond and possible agreement. At this point, much like in a compassionate mediation settlement, the question becomes where do you want to go from here? What would cure the harm done? What does justice look like in this case and how can we achieve it (Harvey, 2010)?

As the process unfolds the restorative justice practitioner begins developing a written contract that will be in sufficient detail so that each person signing will know the role that they have agreed to perform moving forward. The contract becomes a morally binding agreement and in some cases, when the courts or criminal justice system are involved the contract may become a legal document.

Restorative justice is a true attempt at real justice with both the victim and the offender being able to understand and move forward in positive directions. It can restore the faith of the victim and be the first step in changing a pattern of negative actions for the offender (IIRP, 2009).

There are some common myths about restorative justice that are important to address:

- Myth: Restorative Justice only works with minor offenses—Wrong, the New Zealanders have had considerable success with Restorative Justice in capital crimes and in 1989 New Zealand formally revised its juvenile justice system to make restorative justice the norm for all juvenile offenses (Zehr, 2002).
- Myth: Restorative Justice is only agreed to by offenders in order to reduce or eliminate jail time—Wrong, sometimes that may be an initial motive, but experience has shown that during the process most offenders change and begin to truly take real responsibility for the harm they have caused (Harvey, 2010).
- Myth: Restorative Justice is too time consuming and there are not the available resources to pay for it—Wrong, it is important to consider the amount time spent in pretrial activities. Then there is the time and cost of trials. Often after a trial none of the parties involved feel satisfied. It can be difficult for any of the parties to the trial to begin to move forward. Often the harm has not been addressed nor repaired, and the parties continue to trade punches, at least mentally. It can be hard to see if justice has truly been served in the current criminal justice system, unless one only considers punishment as serving justice (IIRP, 2009).

In school situations, much time is spent re-correcting the same negative behaviors. Since bullying and harassment are often a symptom of underlying problem or a learned behavior that offenders sees as rewards, taking the time to help correct the underlying problem can have life long positive effects.

Restorative justice can help the offenders to understand the harm that their underlying problem is causing them. They can also learn the harm that it has



caused the victim, the school community, the family and friends of the victim, as well as to the offenders own family and friends (IIRP, 2011).

- Myth: Restorative Justice is difficult for the victim and the victim's supporters-- Wrong, since restorative justice is victim focused and the victim's safety and well being are paramount, it is not nearly as difficult on the victim as being re-victimized in court by both the prosecutor and the defense attorney. In court, the victim rarely gets to tell their own story or fully understand what is destroying their self-confidence or self-esteem. The prosecutor and the defense attorney will both tell a story that may have only some reference to the victim's story. Victims almost never learn to understand the 'why'. Why did this happen, why me? Victims are often trapped in the 'Why', some for the rest of their lives. Restorative Justice can be the first step in escaping the 'Why' trap. In addition, since restorative justice is victim focused, a victim can avoid the process, if it will be too traumatizing, by allowing a surrogate to stand-in and explain the effect the offense has had on the victim. Once a conference has occurred, if the offender is ready to be part of the restoration process, and has agreed to a designated plan, often the victim can re-enter the process and begin healing (Harvey, 2010).
- Myth: Restorative justice does not hold the offender accountable---Wrong, the process is designed to truly hold the offender accountable since real accountability comes when the offender understands and accepts the harm that they have caused (Braithwaite 1989). In some cases, there can be punishment, including jail time where it is appropriate. Too often people believe that punishment makes the offender accountable. In fact, many offenders accept the

punishment but do not take personal accountability for their actions. Restorative justice helps break this cycle and can allow the offender to make significant changes in their future decision making in a positive direction. Numerous examples exist of new positive relationships developing between the offender and the victim (IIRP 2011). Restorative justice can be a powerful process to not only correct harms and reintegrate the offender into society, but also to help the victim and the society heal from the offense and build new positive relationships.

### Why Restorative Justice should be used in Schools

Worldwide the principles of restorative justice and restorative practices have been gaining acceptance in local school settings. Although many American schools are adopting restorative practices no states had amended their legislation for its inclusion, (Duncan, 2010) until Colorado adopted restorative practices statewide for most juvenile offenses and mandates it for their schools. Colorado still needs to formerly amend its bullying statutes to include restorative justice for all bullying offenses. Maine and Minnesota have added restorative practices to their state statutes and both encourage local schools to adopt them.

The U.S. Department of Education and the U.S. Department of Justice have been studying, and promoting guidelines for restorative justice as a way to get schools to move away from dangerous zero tolerance policies and foster better school climates. “*We can’t expel our way to safer schools...we need to build positive relationships to get ourselves there*”, Joseph Roy, Superintendent, Bethlehem Area School District, Bethlehem, Pennsylvania (SaferSaner Schools, IIRP, 2009, pg. 27).

As some schools moved away from zero tolerance policies and began to think beyond just passing the problem children on to someone else, they began looking for alternative strategies to change school culture. The more progressive schools have been finding restorative justice and restorative practices as a positive way to make their schools more inclusive, more caring, and better learning environments. As studies were published showing the successes of restorative practices, more schools began learning how it might positively affect their schools. The IIRP has led the way in providing training, research, and positive examples of the school-changing potential of restorative practices. The research has shown positive effects on school climate, inclusiveness, reduced suspensions, improved dropout rates.

Since African American students are three times more likely to be suspended than white students and just one suspension doubles a student's risk of dropping out, restorative practices can help ameliorate the problems and help African American students be more successful in school (Advancement Project, July 2013). For example:

*“With restorative practices, Chicago Public Schools has made significant progress in reducing suspensions and expulsions and giving our students every opportunity to thrive in a positive and safe learning environment that prepares them for success in college, career and life”,* Barbara Byrd-Bennett CEO Chicago Public Schools (IIRP, 2009, pg. 15). Further, *“We are 100 percent committed to deepening and extending our practices of positive tiered behavioral interventions and alternatives to suspension in order to increase instructional time and reduce racial disparities”,* Richard Carranza, Superintendent, San Francisco, CA. (IIRP, pg. 17)

Many schools have found that restorative practices help students make positive choices in an environment where the entire school has adopted the concepts and have made the adjustment to see that all students have the chance to thrive in a safe and caring environment. *“More students are making the right choices, and our principals, teachers*

*and school staff members are providing the right supports and guidance. We are very proud of what our school communities continue to accomplish”*, William Hite Jr., Superintendent Philadelphia, PA, (IIRP, 2009, pg. 17). Schools throughout the world have begun to employ restorative justice practices with similar results, including schools in Ireland, England, the Netherlands, Hungary, Australia, Canada, and New Zealand. As more studies are completed and more schools adopt the principles and procedures of restorative practices we will see the movement expand and more student, schools, and communities will benefit from the adoption (IIRP, 2009).

### Restorative Practice in Schools

The IIRP reports that “they are seeing improved teacher-student relationships in classrooms with a high level of restorative practices implementation, and that this improvement tends to narrow the ‘racial-discipline gap,’ a concern in schools nationwide”, (IIRP, 2009). Classrooms with a high level of restorative practice implementation had fewer disciplinary referrals for defiance and misconduct compared with classrooms with little or no restorative practices, (Anne Gregory, Rutgers University (IIRP, 2009). Researchers have also found that restorative practices are not just for discipline; they are also essential to high-quality teaching and learning (IIRP, 2009). Schools involved in restorative justice/practice have learned that the process builds social capital and a sense of community with students feeling connected to their group and beginning to take responsibility for each other. Students need to feel safe in their learning communities. Restorative justice practices have shown to address the needs of students as well as the overall positive climate of schools, “*My students are now in better shape—both academically and behaviorally—than they’ve ever been”*, Rhonda Richetta,

Principal, City Springs Elementary/Middle School Baltimore, Maryland (IIRP, 2009 pg. 18).

Currently several studies are underway to further validate the practice in schools through such groups as Johns Hopkins University and the RAND Corporation studying 16 schools in Maine with additional funding from the National Institutes of Health, the U.S. Department of Justice and the National Institute of Mental Health. Their studies are exploring effects on graduation rates, social competency, academic achievement, alcohol abuse and bullying (IIRP 2015).

Additional support for restorative justice in schools has come from the American Federation of Teachers with encouragement for more teachers to adopt restorative discipline practices as well as using restorative practices to foster healthy relationships and promote positive discipline, (AFT, 2014). Other support for restorative practices has come from the Education Week Research Center in their description of social and emotional learning (edweek.org, 2012). In a written statement to the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights, the American Civil Liberties Union encouraged the Subcommittee to look to restorative practice as a positive way to address the fundamental human rights of American students and to end the school to prison pipeline, (ACLU, 2015). The American Psychological Association Zero Tolerance Task Force argued for addressing zero tolerance policies in schools and recommended restorative practices as a potential solution, (APA, 2014). The NAACP Legal Defense and Educational Fund in a letter to Vice President Biden recommended ways of preserving school safety in the Wake of the Sandy Hook tragedy, and urged the

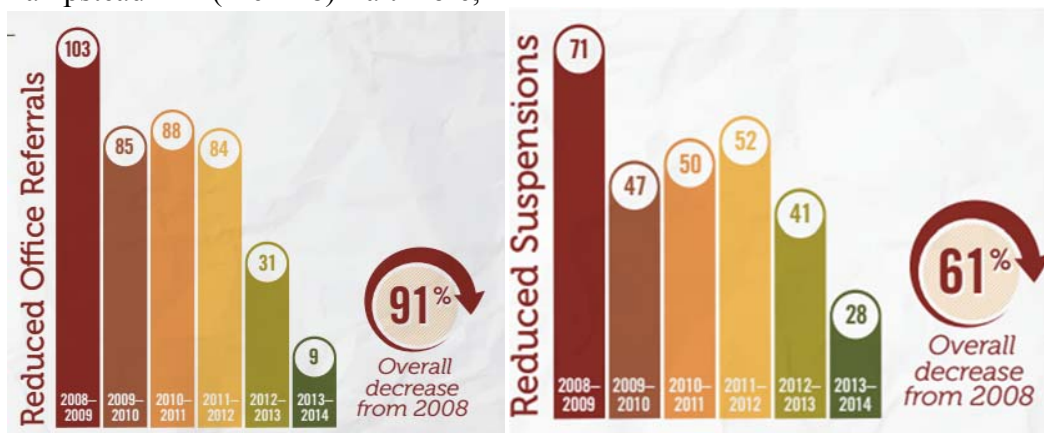
Vice President to look at alternatives for school safety including restorative practices, (NAACP, 2013).

The restorative justice process works well provided the school is committed to making positive change in regard to the school environment, (McCluskey, Lloyd, Kane, Riddell, 2008). Restorative justice is highly successful where good relationships, mutual respect and a sense of belonging are seen as being key to successful teaching and integrates restorative principles and practice into every policy, every lesson, every meeting and every event in the school day, (Hopkins, 2003). A restorative justice approach has been demonstrated to be a success in schools and can readily be customized to meet the needs and resources of different schools, (Morrison, 2002).

What follows are some school results as measured in studies released through the IIRP in 2015:

#### School Results of Restorative Practices (IIRP 2015)

Hampstead Hill (Pre-K-8) Baltimore, MD



(IIRP, 2015)

Freedom High School, Bethlehem, PA



Glenmount School (K-8), Baltimore, MD



(IIRP, 2015)

Restorative justice, restorative practice shows great promise in helping schools change their social and learning environments in positive ways, (Gregory et al. Rutgers University (IIRP, 2009). The question of how to encourage more school, districts, and states to explore the successes of restorative justice, restorative practices and make them available at the local school level remains a challenge. As more studies are released and encouragement to schools comes from the U.S. Departments of Education, and Justice, and from the major teachers' unions, scholars, think tanks, and private citizens, perhaps more schools, districts, and states will begin to look to the practice as a new, although ancient, way for communities and schools to dramatically alter their current practices and move to a more reasoned approach through restorative justice and restorative practices.

Despite numerous documented success stories, from local schools throughout the United States, most notably, San Francisco, Philadelphia, Baltimore, Bethlehem, and the State of Colorado, and in spite of the many school personnel trained by the IIRP, many schools have not been willing to change or embrace restorative practices. At the state level there has been a noticeable lack of inclusion of restorative justice in state anti-

bullying statutes (Duncan, 2010). As noted above the exceptions are Colorado, Maine, and Minnesota that have shown that school discipline improved after the state passed restorative justice requirements for local schools. Even though restorative justice has shown to dramatically and positively affect local school environments, interrupted the school to prison pipeline, and helped all students return to positive directions in their lives, many schools, districts, and states have yet to adopt the practice. Often the reasons given for not adopting restorative justice, range from a fear of additional cost, to a fear of another time commitment for an already overworked staff. Since many schools are reluctant to change without either experiencing a bullying tragedy, or having to adjust to a state directive, the best approach may be to encourage states to amend their anti-bullying statutes to include provisions and training for restorative justice at the local school level (Duncan, 2010).

#### Current Programs and Interventions

Increasingly, bullying prevention initiatives have gained momentum in many United States schools. Interventions have largely focused on individual-level strategies, some of which have been found to reduce aggression and other forms of school violence (CDC, 2008). Structural interventions, such as adapting staffing patterns in schools and increasing monitoring functions, have also been implemented to a lesser degree.

The preceding discussion underscores the need for: (1) effective programs for intervening with bullies at the individual and relationship level; (2) structural strategies that interrupt bullying incidents; and (3) social norm change that reduces the appeal of bullying; (4) reporting systems that can track bullying perceptions and incidence, and thereby support a climate change at each of the aforementioned levels; (5) restorative



justice and restorative practice strategies (Braithwaite, 1996); and (6) programs to deal with the harm done to all the participants, offenders, targets, and bystanders. The bystanders can include those that were present and those who learn of the bullying later. They can readily include students, parents, family, staff, faculty, and administrators. They are not a homogeneous group and will have strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to become effective in changing bullying behavior all three groups, offenders, targets, and bystanders must be included in the resolution (IIRP, 2009).

Experience has shown that school officials can sometimes be reluctant to develop comprehensive anti-bullying strategies until either there is a school tragedy or they are required to adopt anti-bullying plans by state statutes. The importance of having comprehensive, state statutes to address bullying at the local school level is a critical component of reversing the impact of bullying. States should encourage, and mandate that schools adopt a three-part strategy of knowledge, safe-reporting, and restorative justice/restorative practices (DOE, Safe Schools Conference, 2012). The Discussion chapter of this exploratory study presents additional information and further justification for encouraging states to adopt this model.

## CHAPTER III

### RESEARCH METHODOLOGY

#### Need for the Research

The current state statutes have largely been ineffective in reducing bullying at the local level. Amended statutes need to contain the requirement for local intervention strategies that will reduce bullying and other harassing behaviors (DOE, 2012).

This exploratory study has been designed to identify the deficiencies in the current state statutes in terms of directives toward good practices at the local school level. State legislators should be encouraged to amend their current anti-bullying legislation and policies to require that all schools within their jurisdiction have the critical elements for a successful anti-bullying strategy.

#### Bullying as a Public Health Issue

The underlying methodology for this exploratory study addresses bullying as a public health issue, rather than a criminal justice issue. The long-term mental health impact of bullying to victims, offenders and bystanders makes it ripe for a public health approach (Mercy , O'Carroll, (1998), (Olweus et al. 1994). The importance of treating bullying as a public health issue will allow states to consider amending their state statutes to find the root causes of bullying at the local school level. States could develop intervention strategies to correct behavior before the behavior leads to serious health, safety, and criminal issues.

Braithwaite's work along with the work of Wachtel, O'Connell and Wachtel (2010) in restorative practice, show a roadmap for greatly improved approaches to public policy. The continuing negative implications of strictly punishing, labeling, and stigmatizing offenders has had little success (Duncan 2010). A different public policy may be needed at the local school, state and national levels. Punishment does not equate with accountability. Punishment perpetuates negativity, isolation, resentment, and revenge and does little to restore citizens to re-integrate into society (Braithwaite, 1989). Punishment does little to nothing for the victims or bystanders and sets the stage for an ongoing perpetuation of the classic drama triangle (Karpman, 1968). The Drama Triangle is a psychological and social model of human interaction, based on the work of Eric Berne, M.D in *"Games People Play; The basic Handbook of Transactional Analysis"* (1964). Typically, the drama triangle consists by interchanging the roles of offender, victim, and rescuer, thereby becoming cyclical providing continued drama to all three groups, unless interrupted through a restorative process. For example, in bullying incidents if some bystanders intervene and physically or electronically attack the bully then the original bully becomes bullied and therefore the new victim. The bystanders become the bullies and the original victim becomes the new bystander. If the original victim, now the new bystander, were to attempt to intervene with the bullying of the original offender, by the original bystanders, then the cycle is again reversed. If not interrupted or treated, the drama triangle can simply continue as a sick, damaging and expanding cyclical game.

The public policy change of treating bullying as a public health issue, rather than a criminal issue, shows great promise in positively impacting the lives and re-integration

of offender, targets, and bystanders to healthy roles in society. This approach coupled with early restorative practice (Wachtel, O'Connell and Wachtel 2010) at the first instances of bullying, may interrupt the continuing learned behavior rewards of bullying and change the offender's behavior to a more positive direction.

### Expanding the Body of Knowledge

This study adds to the body of knowledge by building on the work of Sameer Hinduja, and Justin W. Patchin (2013). Their significant work on comparing state bullying statutes addressed a number of important criteria but did not address 1) restorative justice/practices, 2) protections for special populations, 3) safe-reporting systems, or 4) stakeholder knowledge. This exploratory study then further analyzes state anti-bullying statutes and then extends their work to include the four areas not previously researched.

This study also addresses a concept that treats bullying as a public health issue. It investigates the corrective premise that treating and preventing bullying can be accomplished through a three-part system of stakeholder knowledge, safe-reporting and restorative practices. It underscores the need for effective programs for intervening with bullies at the individual and relationship level, structural strategies that interrupt bullying incidents, social norm changes that reduce the appeal of bullying, and reporting systems that can track bullying perceptions and incidences. It thereby supports a climate change at each of the aforementioned levels utilizing restorative justice and restorative practice strategies and programs to deal with the harm done to all the participants, offenders, targets, and bystanders (Braithwaite, 1996). The bystanders can include those who were present and those who learn of the bullying later. They can readily include students,

parents, family, staff, faculty, and administrators. Bystanders are not a homogeneous group and the members will have strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to change bullying behavior all three groups, offenders, victims, and bystanders must be included to in the resolution (IIRP, 2014).

### Research Process

Each state statute was reviewed and coded by Hinduja and Patchin to understand how comprehensive the existing language of the statute is in regard to the following criteria:

1. Law or policy
2. Provides for criminal sanctions
3. Provides for school sanctions
4. Requirements for local school policies
5. Provides guidance to local schools
6. Defines and addresses cyberbullying and electronic harassment
7. Addresses off campus behaviors
8. Scope of this Exploratory study

Since Hinduja and Patchin researched and cataloged the above eight criteria this exploratory study primarily addresses the following additional criteria not addressed by Hinduja and Justin Patchin.

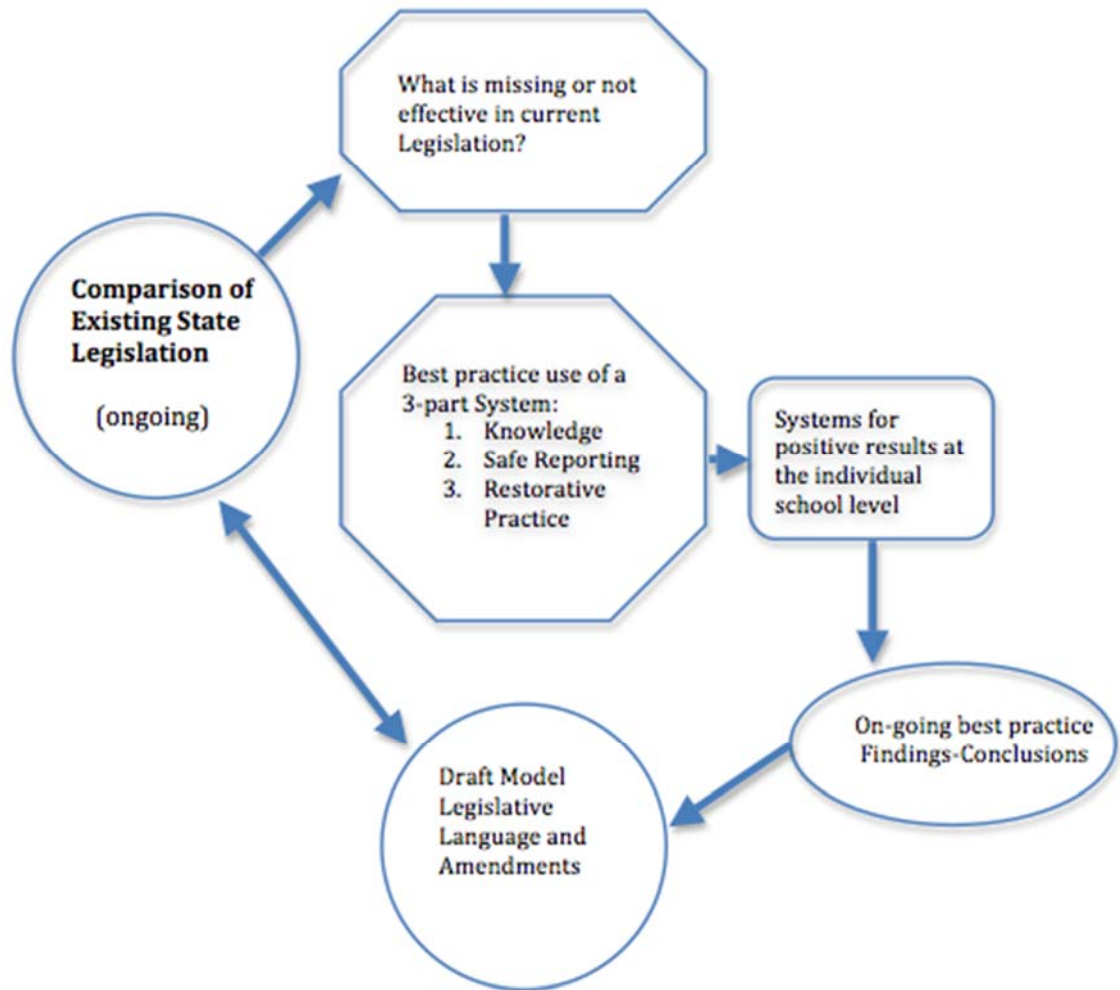
9. Provisions for restorative practices
10. Provisions for a safe local school reporting system
11. Provisions for statewide analysis of local school data.

This exploratory study addresses the above three criteria in regard to each state statute's language and how the statute or policy addresses the needs of all students, including those of special populations, i.e. disabled, special needs, homeless, immigrant, and disempowered. The purpose of this intensive review is to determine and compare the strengths and weakness in each state statute or policy. The underlying purpose of this research is to develop 'Model Legislative Language' that can be adopted by states as amendments to improve their existing statutes. The new language should assist states in building anti-bullying capacity at the local school level. In addition, the language should provide states with the ability to analyze their existing legislation and compare their statute with recognized practice standards, as published by the U.S. Departments of Education and of Justice. The 'Model Legislative Language' to be presented addresses bullying of all students including additional strategies for bullying prevention and intervention for special populations, including, special needs, immigrant, Section 504, homeless, gay, lesbian, bisexual, transgender and disempowered students.

The exploratory study methodology arrays the existing statutes in a matrix that includes categories for assessing how each statute addresses the following bullying policy or law; cyberbullying; electronic harassment; criminal sanctions; school sanctions; school policy knowledge; teacher training; off campus behavior; restorative practices; and school based safe reporting. The matrix demonstrates the level at which each state statute is currently meeting the need for bullying prevention, correction, and restoration and provides possible language to amend and improve their statutes. The understanding of the current body of knowledge concerning bullying, and the ability for states to

benchmark against existing suggested practices may provide them with a valuable tool to assist them in protecting students at the local school level.

Research Design Flow Chart



### Relevant Previous Research

Again, as previously stated, Hinduja and Patchin, reviewed the 50 state anti-bullying statutes and organized the requirements of the statutes into the following categories:

1. Law or policy
2. Provides for criminal sanctions
3. Provides for school sanctions
4. Requirements for local school policies
5. Provides guidance to local schools
6. Defines and addresses cyberbullying and electronic harassment
7. Addresses off campus behaviors

Since Hinduja and Patchin work did not address (8) restorative justice/practices, (9) safe-reporting systems, or (10) stakeholder knowledge, this exploratory study addresses these three areas as the focus of this exploratory study.

### Previous Work on Safe Reporting Systems

Through collaborations with educators and behavioral scientists, a safe reporting system that addresses peer-based violence has been designed and tested. Developed was an Incident Reporting Software and Kindness Software that is a hosted “software platform” that consists of tools that local schools can utilize as a technology-based underpinning for their anti-bullying efforts. The reporting system provides a technology infrastructure to allow schools to monitor bullying in real time and to collect and analyze data in order to determine if anti-bullying programs are having the desired effect in



reducing bullying and improving the school environment. The reporting system provides three major tools for local schools to utilize in their anti-bullying efforts:

- (1) Online Perception Surveys—for students, teachers, staff, and neighbors—measure the perception of the level and type of bullying present in the school environment. These surveys can be used to determine attitudes toward the causes of and solutions to bullying. The surveys also provide an environmental scan of school facilities and culture, and identify both real and perceived problem areas that can then be addressed. Understanding the way these groups perceive bullying is a critical first step in bullying prevention and in helping students and parents become partners in reducing negative behaviors.
- (2) A full time Safe Incident/Concern Reporting System that can be accessed by phone, email, or web-site to alert school personnel of bullying activity and other dangerous situations where quick action may be necessary.
- (3) Kindness Software: The purpose of this anonymous online tool is to measure each classroom's collective perception about their school environment in regard to interpersonal and group relations as part of an anti-bullying strategy. Students assess how they and their classmates are treating others. Students input how they believe they are treating each other on a scale of 1 to 5, with a 1 being as kind and wonderful as possible and a 5 as awful, mean and cruel. They are asked to cite any significant acts of kindness they have observed and are also asked to cite any serious acts of meanness they have observed. Schools can also ask students to cite any concerns they have about themselves or another student, or anything they have seen in Cyberspace about anyone at the school that upsets them. The reports

are automatically compiled and the authorized administrator can review them for information and for any necessary action. The information generated from the kindness reporting system can serve as the basis for classroom discussions led by the classroom teacher or the school counselor. Acts of special kindness can be acknowledged and acts of negative behavior can be corrected. Giving students the ability to anonymously report concerns for themselves, or others, coupled with the ability to cite concerns they have from the Cyber-world provides important insight into the world in which the students exist and provides each school with early warning system allowing schools to act before more serious incidents occur. Information from the three tools is stored in a secured system whereby it can be analyzed by the local school and reviewed on a regular basis in order to provide the necessary information for continuous improvement in the school environment.

The reporting system has been successfully demonstrated in the Archdiocese Schools in Louisville, Kentucky, at The University of Louisville's Office of the Ombuds, and at Spalding University. The software system is currently available to all schools and universities. The reporting system was designed to be used both in conjunction with other programs or as a stand-alone system. Since many local schools have already adopted an established anti-bullying program, the reporting system provides a technology overlay to those efforts and establishes a self-evaluative continuous improvement tool. The reporting system infrastructure enables each school to select any anti-bullying project or projects and evaluate their impact on the school environment. The reporting system enables school administrators and teachers to evaluate their anti-bullying initiatives by giving them ready access to data from students, parents, and teachers about

bullying incidents as well as actual and perceived precursors to bullying. It gives schools the opportunity to ‘hear from students (Oliver, Candappa, 2003) in real time and to provide positive interventions, not only for bullying and cyberbullying, but for other related problems, such as drugs, alcohol, depression, bulimia, sexual harassment, and social exclusion.

### Theoretical Frameworks

Three separate theoretical frameworks underlie the development and operation of the reporting system. These frameworks explain the mechanisms by which the system (1) engages students, teachers, and parents and (2) creates positive change in reducing bullying acceptance and incidence.

*1. Expectancy-Value Framework: The expectancy-value model of motivation* (Eccles (Parsons) et al., 1983; Wigfield, Eccles, 1992) is an empirically validated theory that has been used widely to explain adolescent motivation in a variety of school domains (Anderman et al., 2001; Fredricks, Eccles, 2002). Researchers that utilize an expectancy-value framework have demonstrated that motivation consists of two components: (1) *expectancies* for success and (2) *achievement values*. Expectancies refer to individuals’ beliefs about their abilities to successfully perform tasks, whereas values refer to individuals’ reasons for engaging with those tasks. Expectancies and values are predictors of important educational outcomes. For example, in the domain of mathematics, positive expectancy beliefs predict achievement (both grades and standardized test scores), whereas values predict both intentions to enroll in future math courses and subsequent enrollment (Eccles (Parsons) et al., 1983; Meece, Wigfield, Eccles, 1990; Wigfield, Eccles, 1992). Although the expectancy component is generally

represented by one single construct, factor analytic studies have identified four different components that make up achievement values: (1) attainment value (i.e., the personal importance of doing well on a task), (2) intrinsic value (i.e., an individual's perceived liking or enjoyment of a task), (3) utility value (i.e., the usefulness of the task for an individual in terms of obtaining future goals), and (4) cost (i.e., perceptions of whether or not it is worth spending one's time on the task) (Eccles, Wigfield, 1995; Wigfield, Eccles, 1992).

2. *Stage-Environment Fit*: A person-environment-fit perspective acknowledges that when individuals are situated in contexts that do not fit their needs, there often are negative motivational consequences (Hunt, 1975; Mitchell, 1969). Person-environment-fit theory has been applied to research examining the learning and motivation of adolescents in classroom settings (e.g., Hunt, 1975). Eccles, Midgley, and their colleagues have extended this argument and re-phrased this phenomenon as stage-environment fit (Eccles, Midgley, 1989; Eccles et al., 1993; Midgley, Middleton, Gheen, Kumar, 2002). Specifically, they argue that, particularly during adolescence, it is extremely important for the contexts of classrooms to be matched with the developmental needs of students. If classroom contexts are antithetical to the developmental needs of adolescents, severe decrements in motivation may occur. In contrast, classroom contexts that are well matched to the developmental needs of adolescent students will lead to adaptive motivational outcomes.

3. *Expectancy-value theory and bullying prevention framework*: Encouraging schools, through state anti-bullying statutes to provide for a three-element system of institutional knowledge, safe-reporting, and restorative practices will lead to safer school

environments for both populations (Anderman et al., 2001; Fredricks, Eccles, 2002).

This is primarily a question of motivation: first by the state, and second if teachers, parents and students are motivated to use the three-element system, school personnel will better be able to prevent and address acts of bullying in the school environment.

Although students' and parents' motives for using the reporting system will be different than teachers' motives, all will be motivated to use the reporting system if they perceive it is confidential and safe. Since they expect that they can successfully navigate the reporting system (i.e., it is perceived as simple to use by the students), and (2) they value the outcomes of using the reporting system, and restorative practices (e.g., less bullying and a safer school environment), all groups will feel confident in utilizing the three-element system.

Expectancy-value theory serves as a strong framework for this study because schools have been reluctant to incorporate knowledge, safe reporting and restorative practices into the school environments without state intervention.

### Research Methods

This exploratory study and the earlier work of Hinduja and Patchin, basically address policy evaluation often referred to as evaluation research. It is a qualitative analysis that is designed to determine the effects of policies and programs that affect social norms and patterns of social institutions, whether they are government agencies, not-for profit organizations, or private businesses. Basic evaluation research addresses the cause and effect. It differs from other forms of explanatory research since it focuses on one type of cause: programs, policies, and other conscious efforts to create change (Lewis-Beck, Bryman, Liao 2004).

Questions to be considered in undertaking evaluative research for policy design can be:

- How needed is the program?
- How does the program operate, or does it operate as the result of other forces?
- Is it possible to evaluate the program and can it be examined apart from other factors?
- Is the current program having the desired effect?
- What is the current impact and can it be measured?

How the evaluation and research evolves should be based on the answers or non-answers to the above questions.

The policy research begins with a needs assessment of the population that the current policy is intended to positively affect, i.e. k-12 school children. The needs assessment begins with an examination of the effected populations and should be examined through social indicators and current outcomes. It begins with a current literature reviews, interviews with effective populations, other stakeholders, and surveys of populations, school leaders, and government officials, and parents (Rossi, Lipsey, Freeman, 1989). Definitions, perceptions, values, knowledge, beliefs, and traditions as well as other social norms can seriously hamper the understanding of need. Most qualitative researchers undertaking a policy review and evaluation will rightly choose a multidimensional approach to the investigation of need. For example, in examining the need for addressing bullying, care should be taken with the differing needs of the three groups involved, offenders, victims, and bystanders, as well as the institutional needs of the families, schools, districts, and states. Each group will have its own perception of the problem, the need for solutions, and the consequences of any potential policy solutions.

A second critical step is an ‘evaluability’ assessment, i.e.

1. Can the program be evaluated within the available time and resources?

For this research the time frame is adequate to research the 50 state statutes and compare and contrast them to each other and to the standards articulated by the U.S. Department of Education especially since as mentioned previously, this work builds on other published research.

2. Are there other credible research sources available to help narrow the focus of the evaluation?

This exploratory study builds on the work of Hindura, S. , Patchin, J. (2009, 2013, 2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013) their work provided an analysis of the existing statutes in the fifty states. In addition to their analysis, this exploratory study provides additional data on the inclusion or lack of inclusion for safe-reporting systems, stakeholder knowledge programs, and inclusion of restorative practices.

3. Can the process of the policy be evaluated to determine if process problems are present that affect the outcome for the policy?

For example, if the current school policy is one of zero tolerance and the policy calls for the school to expel the bully, then the process of expelling does little to correct the problem, except at that school. In fact, the process problem is the transfer of the problem to a new school where it will be reintroduced as the bully repeats his or her negative actions. Additionally, the expelling of the student is only a short-term feel good solution for the victims and bystanders and any long lasting health effects connected with the bullying will persist.

For some studies a process evaluation can be a Formative Evaluation for ongoing programs. The formative evaluation is most helpful for new programs that need ongoing analysis in order to make corrections while the program is being implemented. If from this exploratory study some states adopt the ‘model language’ proposed, then a formative evaluation at the local and state level would prove helpful in making adjustments to the new process. Once the process has been refined at the local school and state level a Summative Evaluation of the overall project and policy change would be needed to truly measure the impact of the policy change at the state and local level.

### Research Plan

#### Research Step One

As with the work of Hinduja, and Patchin each existing state statute will be analyzed in comparison to existing good practice as promulgated by the U. S. Department of Education and the U.S. Department of Justice. Attention will also be directed toward monitoring any new amendments to the existing state statutes and policies, so that the coding and ultimate comparisons will continue to be accurate.

#### Research Step Two

Begins with a content analysis. Content analysis is similar to Secondary Data Analysis in that it uses existing sources of data to be used in a new analysis. Content analysis looks at the available material, data, communications, statutes, legislative conference language, and other available sources and utilizes a quantitative analysis to evaluate the qualitative criteria that has been analyzed in a multi-step process.

The first step in the coding process is to determine a theory and rationale of what content will be evaluated and why. The second step is a conceptualization to determine



which variables should be measured in this exploratory study and the conceptualization should mirror the measures adopted for this exploratory study. For example, in examining existing state bullying statutes the categories for the analysis will be determined according to the following list:

1. Provides for criminal sanctions
2. Provides for school sanctions
3. Requirement for local school policies
4. Provides guidance to local schools
5. Define and address cyberbullying and electronic harassment
6. Addresses off campus behaviors
7. Provides for statewide analysis of local school data
8. Provides for restorative practices
9. Provides or requires a safe local school reporting system
10. Provides for system wide stakeholder knowledge

Since this exploratory study builds on the published work of Hinduja and Patchin, this exploratory study addresses numbers 8-10 and arrays them in conjunction with the previous work. The third step includes a more in-depth process, which is more interpretative in judging the relationship of the individual elements in each state statute. One of two codes is utilized:

1. Is each of the above ten statute elements consistent with good practice as determined by the U.S. Department of Education and the U.S. Justice Department?

2. Is the statute missing one or more of the necessary elements needed for intervention at the local school level?

Since Hinduja and Patchin's work has been published and deemed accurate, the work in the dissertation will examine those elements that were not analyzed in the existing exploratory study.

The strength of content analysis in using secondary data eliminates any harm that might be done in the basic research, and therefore does not require an approval from an Institutional Review Board.

#### Research Step Three

Array the coded information into a comparative matrix that compares the existing statutes in an understandable comparative chart so that the state statutes can be readily compared and contrasted. Determine the frequency of positive and negative elements as compared to existing good practice theory. Determine the elements that are missing, poorly represented, or contrary to accepted policies and procedures.

#### Research Step Four

Based on good practice knowledge, draft 'Model Legislation' using parts of the existing legislative language from the best examples, as found in the initial review of all statutes. Incorporate into the 'Model Legislation' the new language to address areas not previously addressed in the existing legislation.

#### Research Step Five

Develop an Executive Summary for Legislators to include the 'Matrix' and 'Model Legislative Language'. The summary might encourage legislators to compare their existing statute with other states and with the language presented in the 'Model

Legislative Language’. The Comparative Matrix and the Model Legislative language should be packaged together for distribution as part of the Executive Summary.

### Study Logistics

#### IRB/Human Subjects Review

Since this exploratory study is totally directed toward existing printed and approved state anti-bullying statutes there are no human subjects involved in the exploratory study and therefore there where no Institutional Review Board concerns to be addressed.

#### Results Based on Prior Work

Prior work shows that the Three-Part System, “Knowledge, Safe Local Reporting Restorative Practice” is effective. Knowledge is essential for any program to work and the knowledge should be system wide involving all stakeholders. Preliminary work with the Software has shown its usefulness in university and business settings. Restorative Justice/Practice is becoming increasingly documented and accepted.

The major challenge to this exploratory study will come after completion during a distribution phase whereby the various state legislators may or may not have an interest in re-examining their current legislation. It is possible that the U.S. Justice Department, and the U.S. Department of Education might be encouraged to help in reaching out to states with suggestions for review. There may be some acceptance at the local school level but prior experience has shown that until there is a local tragedy, a regulation, or a legislative mandate, local schools are reluctant to change existing behaviors (DOE, 2010).

### Outlets for Distribution

The major outlet for publication will be the use of this exploratory study to provide “Model Legislative Language” and the ‘Comparative Matrix’ to state legislators. The U.S. Departments of Education and Justice are also good candidates for the distribution. The National Association of States Attorneys General may also have an interest in this exploratory study for distribution to their members.

### Methodology Conclusion

Since this researcher has been involved in considerable preliminary work in this area, the following conclusion is offered to this proposed exploratory study to demonstrate “work to date” and existing knowledge.

The amended state statutes need to address the concepts outlined above in the “Three-part System” and provide schools with options to meet those concept objectives. In a preliminary review of all fifty state statutes and policies, few if any provisions were found for restorative justice or restorative practice (Duncan, 2010). It may be being practiced at the local level but few existing statutes have a provision for, or require any restorative practices. It was also found that the only reporting was from the local school district to the state, and it confirmed the assumption that there were no reporting criteria mandated at the local level (Hinduja and Patchin, 2015). Most of the state statutes require school districts to have an anti-bullying policy, but only a few provided any guidance, and fewer actually fund any training. The challenge for many districts has been allocating the funding to develop a program, since state funding was not approved at the time of the passage of the legislation. Additionally, there were few if any operational guidelines for schools to utilize. Many districts are still waiting for funding even though

they have been required to have a written plan, trained staff and have prepared to implement their anti-bullying protocols at the classroom levels (Education Development Center, 2010). For many they are still struggling with what should be included in their district level policies with too many districts still believing in dangerous zero-tolerance policies. Both Ohio and Iowa require an annual tally of all bullying incidents and it has been observed that requiring a complete tallying often causes misclassification and downgrading of incidents to reduce the number that would normally be reported (DOE, 2010).

No mention the three components of any bullying incident, the offender, the victim, and the bystanders have been found in any of the existing statutes. The statutes are all directed at offenders and at best they express sympathy for victims but do not offer any concrete measures for assisting them other than punishing bullies, which is dangerous to the victims, the bystanders, and the offenders.

Not many states were as comprehensive in producing a guiding document, as were Massachusetts and Minnesota. Their statutes address most of the elements that should be included in a bullying prevention program, however, there are no requirements for a “safe in the eyes of the reporter” system to report bullying incidents nor do they have any provision for restorative justice. Some states require that there be anonymous reports available, most notably Georgia and Massachusetts, but they do not provide any guidance on how to make the reports safe. Some states make reporting mandatory for teachers and other adults. Interesting enough this is already required through existing abuse statutes, where reporting is mandatory, and where emotional abuse is classified consistently with physical abuse as a requirement for reporting. Few if any cases of

emotional abuse have ever been reported, and few if any, school personnel know that emotional abuse is considered reportable under their state statutes.

Research to date has confirmed the need to offer states model language to help them amend statutes to a specificity that will address bullying on a classroom level. The new statute language needs to provide schools with the incentive or requirement for effective anti-bullying practices. The new statute should provide information and guidance for schools to acquire the necessary information and resources to understand bullying, as well as the tools to institute restorative justice practices, and safe reporting systems. The statutes should encourage school districts to acquire an understanding of the long term negative affect of unresolved, or poorly resolved bullying situations.

This exploratory study discusses the bullying theories as outlined above and examines the current public policies and their failure to significantly impact bullying. Most public policy, both school based and state mandated, primarily address the offenders. At most, they show sympathy for the victims and virtually disregard the constellation of bystanders. Restorative justice shows the most promise in positively dealing with all three groups involved in all incidents, offender, target, and bystanders. It also addresses the harm done to all three groups by the continuation of the application and dedication to the Classical Theories of Crime versus positive and corrective aspects of restorative justice.

Since previous work has demonstrated the viability of the three-element system, knowledge, safe school-based reporting, and restorative practices, state legislatures should be encouraged to amend their current anti-bullying legislation and policies to require that all schools within their jurisdiction have the critical three elements for a

successful anti-bullying strategy adopted and included in each district and school. The proposed requirement for a safe school-based reporting does necessarily necessitate that each school use prescribed software, but that each school would need to have a safe school-based reporting system in place. The system they choose must be safe in the eyes of the reporters, i.e. students, parents, others and not just be safe in the eyes of administrators. Finally, the reporting must be automatically forwarded to trained personal at the school level, so that can intervene and correct behavior for all three groups involved in all bullying and harassment incidents. The necessary administrative reporting to the school district and to the state should come after intervention at the lowest level of a strategy and system for detecting and correcting negative behavior at the individual school level.

#### Usefulness

The ‘Model Legislative Language’ and the ‘Comparative Matrix’ will combine existing state statute good practice examples with new language to help states and ultimately local schools address and prevent bullying. State legislators will be able to compare and analyze their current statutes with the possibility of amending their existing statutes to reflect the current body of knowledge with regard to bullying. They should readily see the value in incorporating new language into their existing statutes to assist schools in addressing bullying and other negative behaviors. Legislators should be encouraged to amend their existing statutes or at least understand why their existing statutes might be inadequate.

## CHAPTER IV

### DATA ANALYSIS

#### Introduction of Analysis

This exploratory study builds on the work of Hindura, S., Patchin (2009, 2013, 2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013) in their analyses of the existing statutes in the fifty states. In addition to their and this author's analyses, additional data are presented on the inclusion or lack of inclusion for safe-reporting system, stakeholder knowledge programs, and inclusion of restorative practices.

#### Results of Research Step One and Two

##### Bullying Definitions

Researchers have traditionally defined bullying as a repeated pattern of aggressive behavior that involves an imbalance of power and that purposefully inflicts harm on the bullying victim. According to the U.S. Department of Education (DOE, 2011), these definitions vary greatly, some state laws focus on specific actions (e.g., physical, verbal, or written), some focus on the intent or motivation of the aggressor, others focus on the degree and nature of harms that are inflicted on the victim, and many address multiple factors. In many instances, minor language, omitted or inserted into laws, can significantly alter the way in which the behavior and pattern of aggressive circumstances are legally defined (e.g., inclusion of the terms 'physical', 'overt', 'or 'repeated'). For example, eight states define bullying only as encompassing behaviors that are 'repetitive', 'systematic', or 'continuous' and five states define bullying to encompass



only perceived differentiating characteristics, and provide a non-exclusive list of what the differentiating characteristics could be. Some states either do not define bullying or leave it up to local school districts to define. By not defining bullying states make it difficult for there to be a unified system with standardization of good practice in bullying education, training, reporting, prevention, and restoration. In addition, a consistent bullying definition helps prevent overreacting to singular events that are sometime harmful, but are not bullying. Without a clear definition it is too easy to have parents demanding action on bullying anytime another child is mean to their child even if the meanness is an isolated one-time event. Also, without a clear bullying definition it is difficult to identify and correct the underlying causes of bullying and thereby begin to change the school culture.

Some states do not recognize cyberbullying in their statutes and others (six) interpret cyberbullying separately from traditional bullying, causing schools to treat it differently. Thirty-eight other states see cyberbullying as having the same underlying causes as traditional bullying, but just like almost everything else in the digital age, it is faster, can be twenty-four a day, and the audience of bystanders and additional bullies can grow at viral speeds. These states also understand that there can be an anonymous nature to cyberbullying that makes it more difficult to readily identify offenders. They recognize that the speed and potential anonymous nature of cyberbullying does not set it apart as a separate behavior, but is the traditional behavior at viral speed. Most would agree that the corrective resolution of cyberbullying should be the same as with traditional bullying. Since 2005 when the first state bullying statutes were passed several states have amended their statutes to include a recognition of cyberbullying.

## Harassment and Bullying

Several states crafted their bullying statutes under existing harassment statutes and therefore did not define bullying directly. Several including Kentucky are in the process of amending their statutes to include a formal definition of bullying, often for the reasons cited above. Eighteen states provide some treatment of targets ‘differentiating characteristics’. The characteristics combined include: academic status; age; ancestry; color; creed; developmental, emotional, learning, mental, physical, or sensory disability; ethnicity; familial status; gender; gender expression or identity; health condition; intellectual ability; marital status; military status; national origin; nationality; need for special education services; obesity; physical appearance; physical attributes; physical or mental ability or disability; political belief; political party preference; race; religion; religious practice; sex; sexual orientation; socioeconomic status; source of income; unfavorable discharge from military service; weight; or association with a person or group with one or more of such differentiating characteristics. The varying treatment of differentiating characteristics may be because, according to DOE, “the legislative language used in crafting bullying laws often borrows directly from harassment statutes. This has frequently led to a conflation of terms used to define prohibited conduct, with ‘bullying’ and ‘harassment’ often used interchangeably in laws, despite their important legal distinctions”. Harassment is distinguishable from more general forms of bullying in that it must be motivated by characteristics of the targeted victim. It is generally viewed as a subset of more broadly defined bullying behavior. Harassment also usually violates federal civil rights laws as a form of unlawful discrimination.

### Stakeholder Knowledge

The statutes in nine states provide some form of comprehensive stakeholder knowledge and forty-two states contemplate some form of bullying education or prevention programs for students, while laws in eight states (Arizona, Hawaii, Idaho, Kentucky, Louisiana, Maine, Missouri, and Wisconsin) do not refer to education or prevention programs. Sixteen states require and six states encourage schools or school districts to provide staff training or professional development on bullying prevention. Every state suggests or requires informing parents of the districts' bullying policy although many states do not provide sufficient guidance or training on what those policies should entail.

### Reporting

Although no state provides for truly safe-reporting of bullying incidents, thirteen allow for anonymous reporting. Even though this is an attempt to provide a measure of safety they do not specify how it can be made safe in the eyes of the students that need to report bullying. In addition, several states limit the corrective measures that can be taken to anonymous only reports. Seventeen states require staff to report incidents of bullying they witness or of which they are otherwise aware. Three of these seventeen states (Alaska, Rhode Island, and South Carolina) also require students to report incidents of bullying they witness or of which they are aware. They make this requirement without any mechanism to provide measures of safety for the reporters other than to the threat of punishment for retaliation.

## Corrective Measures

Mississippi and Texas both allow students to engage in reasonable self-defense against bullying. Thirty-four states require, and two states encourage, the districts to provide disciplinary consequences for bullying. Most envision disciplinary consequences under the the Classical Theory of Crime, (Beccaria, 1764) coupled with Deterrence Theory (Bentham, 1789), in that schools punish bullies believing that if potential bullies see the punishment as more painful than the alternatives, they will not continue to be involved in the behavior bullying. This arcane model is sometimes also called Rational Man or Choice Theory. Two states (Massachusetts and Rhode Island) specify that disciplinary actions must be balanced with the need to teach appropriate behavior. Fourteen states require, and in two states encourage, that there be a provision for counseling or other support services, or referral to such services, included in the school districts' policies as a possible response to an incident of bullying. Arizona envisions counseling only for targets. With three states (Louisiana, Oklahoma, and Georgia) envision only counseling for aggressors. Seven states (California, Connecticut, Florida, Massachusetts, New Hampshire, New Jersey, and Rhode Island) envision counseling for both aggressors and targets. Three states (New York, Tennessee, and Pennsylvania) leave it ambiguous as to which students should be provided with or referred to counseling. Two states (Maryland and Texas) envision counseling for both aggressors and targets, as well as for any witnesses to incidents. And finally only 3 states (Colorado, Maine, Minnesota) provide for Restorative Practice. The next section will present this information in a graphic matrix and in maps.

### Addressing Research Step Three

This section presents a matrix that summarizes and combines the work of Hindura, S. , Patchin (2009, 2013, 2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013) along with the work of this researcher displayed in chart form to allow for the comparison of state bullying laws. Also presented are U.S. Maps that display the current level of Stakeholder Knowledge, Safe-Reporting and Restorative Practice. An individual state analysis of the existing state statutes can be found in Appendix B.

### Comparative Matrix

See next page.

State	Law	Cyber-bullying	Electronic Harassment	Criminal Sanction	School Sanction	School Policy Knowledge	Off-Campus Behavior	Restorative Justice or Practices	Stakeholder Knowledge	Safe School Reporting System
Alabama	Yes	No	Yes	No	No	Yes	No	No	No	No
Alaska	Yes	No	No	Yes	Yes	Yes	No	No	No	No
Arizona	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Arkansas	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
California	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No
Colorado	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	No
Connecticut	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Delaware	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Florida	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Georgia	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	No	Anonymous
Hawaii	Yes	Yes	Yes	Proposed	Yes	Yes	No	No	No	No
Idaho	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Illinois	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No
Indiana	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Iowa	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Kansas	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Kentucky	Yes	Proposed	Yes	Yes	Yes	Yes	No	No	No	No
Louisiana	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Maine	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No
Maryland	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	No
Massachusetts	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Michigan	Yes	Yes	Yes	Proposed	No	Yes	No	No	No	No
Minnesota	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes
Mississippi	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Missouri	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
Montana	Yes	No	Yes	Yes	No	No	No	No	No	No
Nebraska	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	No	No
Nevada	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	No
New Hampshire	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	No
New Jersey	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Anonymous
New Mexico	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
New York	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
North Carolina	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Anonymous
North Dakota	Yes	No	Yes	Yes	Yes	Yes	No	No	No	Anonymous
Ohio	Yes	NO	Yes	No	Yes	Yes	No	No	No	No
Oklahoma	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Oregon	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Anonymous
Pennsylvania	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Rhode Island	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Anonymous
South Carolina	Yes	No	Yes	No	Yes	Yes	No	No	No	Anonymous
South Dakota	Yes	No	Yes	No	Yes	Yes	Yes	No	No	No
Tennessee	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Anonymous
Texas	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Utah	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Vermont	Yes	No	Yes	No	Yes	Yes	Yes	No	No	No
Virginia	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Washington	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No
West Virginia	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Wisconsin	Yes	No	No	Yes	Yes	Yes	No	No	No	No
Wyoming	Yes	No	Yes	No	Yes	Yes	No	No	No	Anonymous
<b>State Totals</b>	<b>50</b>	<b>23</b>	<b>48</b>	<b>18</b>	<b>45</b>	<b>49</b>	<b>14</b>	<b>3</b>	<b>9</b>	<b>13</b>

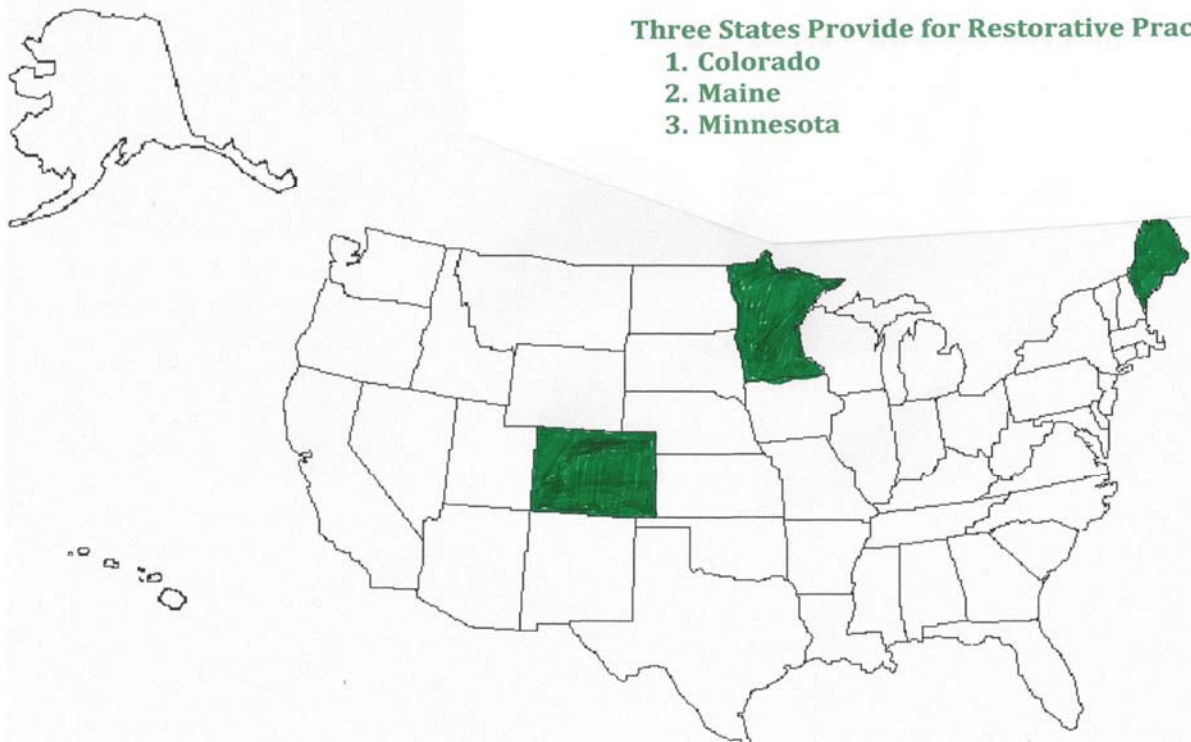
**Nine States Provide Some Form of Comprehensive Stakeholder Knowledge**

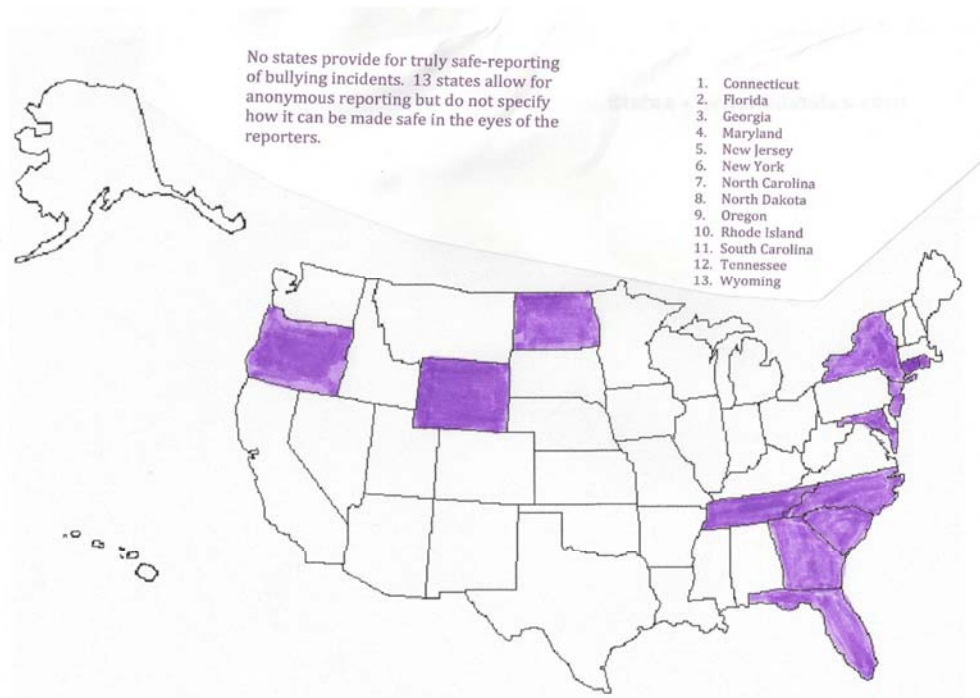
1. Connecticut
2. Florida
3. Maine
4. Maryland
5. Massachusetts
6. Nevada
7. New Hampshire
8. New Jersey
9. Washington



**Three States Provide for Restorative Practice**

1. Colorado
2. Maine
3. Minnesota





### Focused Case Study of Six States

Six states were selected for an examination of the underlying criminal justice theories that may have been applied to each states' bullying statute and to each states' bullying policy. In some cases, the inclusion was intentional in other cases the theories describe what the statute or policy mandates, even if the framers did not know they were applying the theories. The six states selected are (1) Connecticut; (2) Florida; (3) Maine; (4) Maryland; (5) Massachusetts and (6) New Jersey.

The case study is a review of the underlying reasons, factors, and possible theories that each of the six states utilized to produce and amend their anti-bullying statutes that passed their legislative bodies and were signed into law. This case study also examines the anti-bullying policies developed by each state's department of education in response to the state's legislation. It is important to look at the policies, since they give insight



into the intent of the framers of the legislation, and any underlying criminal justice theories employed in developing either the legislation or the policies.

Attention was paid to theories that were adopted by states to prevent and correct bullying. The review also analysis if there is a connection between the causal theories and the corrective and prevention theories. For example, if a theory of causation is based on Social Learning Theory, is there a corresponding program, i.e. Restorative Justice to assist offenders in amending their negative behaviors by learning new positive responses to satisfy their needs in acceptable ways. If the corrective, preventive theory is based on increasing levels of punishment then the underlying theory would be the Classical Theory, whereby the belief is that if punishments outweigh rewards, then people will choose to not commit a crime. Using Classical Theory is mismatch with Social Learning Theory, and will do little to correct the problem. It is not uncommon for states to apply conflicting theories in legislation as they attempt to legislate between causation and correction often without understanding the implications of conflicting theories.

A second analysis attempts to determine the possible reason each statute was initially proposed. Since public concern over the physical and emotional health of bullying victims and the climate of public schools became more pronounced, a demand for a government response was created. This increased pressure for stronger school policy and action to mitigate bullying problems has been reflected in the proliferation of state statutes since 2002. In addition, it is reflected in the increase in the number of court cases filed seeking legal remedies for students who have been victimized (Greene, Ross, 2005). The literature examining legislation that has been promulgated by the 50 state statutes and subsequent legal implications has also grown (Srabstein, Berkman, Pyntikova, 2008;

Alley, Limber, 2009; Green, Ross, 2005). This collection of studies illuminates the disparate nature of the legislation that defines and addresses bullying behavior and identifies the inconsistencies in the way that laws have been implemented (Associate Press, 2009). The issue becomes even more acute when studied at the local level. A recent study of South Carolina's Safe School Climate Act found that the law had not substantially improved the climate of South Carolina schools due to inadequate implementation of its provisions (Terry, 2010). In Vermont a study examining compliance with requirements for districts to "ensure that teachers and other staff receive training in preventing, recognizing, and responding to the harassment" found that no mandatory in-service or pre-service training options have been developed to address school bullying and no mechanism was available to monitor training compliance (Vermont Human Rights Commission, 2009). Kentucky's statutes only addressed harassment, but there currently are bills in the Kentucky House of Representatives and the Kentucky Senate to amend the legislation to define bullying.

### Connecticut

Public Act 11-232, An Act Concerning the Strengthening of School Bullying Laws, was signed into law by Governor Dannel Malloy on July 13, 2011, after clearing the Connecticut General Assembly with unanimous approval. Language concerning the law stated "the new law takes comprehensive steps to prevent bullying and ensure every child the right to learn in public school without fear of teasing, humiliation or assault". At a Connecticut Commission on Children's November 2010 forum on bullying in schools , more than 500 people heard Kevin Jennings of the U.S. Department of Education (USDOE) recommend that every school do the following: (1) adopt a clear

policy against bullying behaviors; (2) train all school staff who interact with students on how to prevent bullying; (3) ensure that all school staff take immediate action whenever they observe bullying or receive a report; and (4) gather data to assess the extent of bullying in the school. With the Commission's help the new law required all of these steps. Due to Jennings presentation, which presented the USDOE's position on the underlying theories of bullying behavior, the Commission became aware and sensitized to both Labeling Theory and Social Learning Theory as corresponding causes for continued bullying behavior.

Labeling Theory (Lemert, 1951) demonstrates that people often adopt the behavior of labels that are applied to them. If people in authority continue to confront the offender and label the offender as a bully, there is a good chance the offender will adopt the label and continue to bully, since he or she now believes that that is what they are; it becomes their new normal. The label also provides an excuse for continuing the behavior and the continued labeling by others essentially brands the offender with the label. Often the offender will try to live up to the label. Social Learning Theory (Bandura, 1973) also referred to as "observational learning" proposes that bullying is a behavior that children often learn from others. In addition, the learning is often reinforced by the offender getting what he or she wants from the social transaction of bullying. Therefore, if a child learns early in life that if they want something and they bully another child to get it, then the 'observation' made by the bullying child is that this is the way to satisfy needs. If a child is dealing with an underlying problem, whether it be self-esteem, a need of attention, recognition, or posturing for friends, if the act of bullying satisfies the need then the behavior is reinforced. If the school or the other students label the offender a

bully, then the label becomes accepted by the offender as additional justification.

Connecticut's Department of Education developed their bullying policy based in part on Jennings' presentation and includes an examination of using the term bullying to label offenders and incidents. In addition, the policy directs the existing safe school committees to reconstitute and to examine the underlying causes of bullying and address new ways to improve school climates. Although Connecticut does not directly address labeling theory or social learning theory in the policy or statute, when read in total there is a clear sense that they relied heavily on the Kevin Jennings and the U.S. Department of Education guidelines.

Connecticut attempted to follow Jennings' advice toward bullying and to make reporting safer by allowing anonymous reports for bullying, but restricts the allowable anonymous reports to those made by students and to school employees. The statute requires school districts to create "safe school climate reports" and "school safety support plans" for students who are targets of bullying. Schools must (1) notify the parents of the offender and the parents of the target, and (2) invite both sets of parents to a meeting. There is no mention of restorative practices, but the school must describe their response to the incident and describe the consequence for further bullying. Connecticut's law has provisions for stakeholder knowledge. They attempt to create a safer reporting system and they have the beginning element of restorative justice with offering a meeting with the parents of the offender and the target.

### Florida

In 2008, after a mother's emotional and dedicated three-year mission, the Florida legislature passed an anti-bullying bill named after her son, who committed suicide in

2005. The Jeffrey Johnson Stand Up for All Students Act requires all Florida schools to adopt anti-bullying policies that discourage bullying in person and online. The Act threatens the loss of state funding for schools that do not comply. An attorney who campaigned for the Jeffrey Johnson bill said that threatening to hold back funds from schools was a final resort, since logic, morality, and legality, did not work in getting change at either the state or the local level. The drafting of the act and the subsequent passage after three years of crusading by the mother shows how political pressure and public concern caused the act to become law.

The act requires each school district to adopt an anti-bullying policy that is in substantial conformity with the Florida Department of Education's model policy. The school district bullying policy must afford all students the same protection, under the law, regardless of their status. The suggested school district policy should provide for anonymous reporting, but does not permit formal disciplinary action to be based solely on an anonymous report. A school employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying or harassment to the appropriate school official designated in the school district's policy is immune from a cause of action for damages arising out of the reporting itself or any failure to remedy the reported incident. The district policy should also provide for training in recognizing bullying and harassment, and be available to students, parents, and school personnel. The policy must have a procedure to refer victims and perpetrators of bullying or harassment for counseling, which is an early step toward restorative justice and an understanding of that there are underlying causes of bullying which suggest somewhat of an understanding of social learning theory and labeling theory. Section (j) of the statute requires, "A

procedure to refer victims and perpetrators of bullying or harassment for counseling.” Section (L) provides for “instruction on recognizing behaviors that lead to bullying and harassment and taking preventive action based on those observations.” Again both passages suggest a beginning understanding of social learning theory and restorative practices.

The Florida statute, although created in response to political pressure, is comprehensive and provides for stakeholder knowledge, safe reporting, and referral to counseling for offenders and victims. Because the statute was a reaction to political pressure and was driven by the reaction to the case of Jeffery Johnston, there is little evidence that the framers directly considered any causation theories. However, the drafters of the model policy did, and the provisions for counseling to offenders and victims suggest that there is an understanding of social learning theory and an attempt to somewhat deviate from the tradition classical theory of punishment.

### Maine

Maine passed its comprehensive anti-bullying statute in 2011 and created a model policy through the Maine Department of Education. The state requires all school districts to adopt a similar policy. The Department of Education created the policy largely based on the work of researchers Stan Davis and Charisse Nixon, titled Youth Voice Project (2011). Their research looks at the underlying theoretical causes of bullying. For example, they cite Social Learning Theory (Bandura, 1973) as a theory in the development of bullies, stating, “Some youth who mistreat peers are imitating the behavior of adults and of other youth they admire and/or are reflecting perceived peer social norms”. Many educators, sociologist and criminologist are familiar with Alfred

Bandura's Bobo doll experiment (Bandura, Ross, , Ross, 1961). In this now famous experiment, children watched a video where they witnessed an adult behaving aggressively toward a plastic clown (the Bobo doll). Bandura described the adult actions in this way: "...the model pummels it on the head with a mallet, hurls it down, sits on it and punches it on the nose repeatedly, kicks it across the room, flings it in the air, and bombards it with balls..." (Bandura, 1973).

After viewing the video, children were led to a room where they have the same toys they saw in the Bobo doll video. The question was: Would the children imitate the aggressive behavior they saw earlier? Study findings showed that the majority of children modeled the aggressive behavior of the adult beating the doll. Moreover, eight months later 40 percent of those same children reproduced those behaviors. Bandura (1977) coined the term, "observational learning" to describe the use of modeling to learn new behaviors. Social Learning also occurs when a particular behavior produces a predictable result. Often bullies learn early in life that they can achieve some desired end by the use of their negative behavior toward others. The success of their negative behavior reinforces their learning and the negative behavior becomes a normal part of the offender's personality tool kit.

The Maine statute, which was based in part on the work contained in the Youth Voice Project (2011) indirectly reflects an understanding of Bandura's work by prominently referencing and linking their anti-bullying web-site, to the Youth Voice Project. The report features Bandura's Social Learning Theory as a basis for understanding an underlying cause of bullying. In addition, Maine expresses in their opening statement that: "All students have the right to attend public schools that are safe

and secure learning environments.... bullying is detrimental to the school environment and student learning, achievement and well-being. It interferes with the mission of the schools to educate their students and disrupts the operation of the schools. Bullying affects not only students who are targets but also those who participate and witness such behavior”.

Maine allows for anonymous reporting in writing. They seek to prevent reprisal or retaliation against any person who reports an incident of bullying. They set out disciplinary consequences for false reporting. Maine also suggests alternative discipline which includes meeting with parents, some mediation if there is mutual conflict and acceptance, counseling, anger management, skill building, and resolution activities including restorative conferencing. The Maine statute provides for and encourages stakeholder knowledge, an attempt at safe-reporting and restorative practices.

#### Massachusetts

Massachusetts clearly states in its model policy and in other Department of Education publications that they use the word “target” instead of “victim” and “aggressor” instead of “perpetrator”. The careful use of the terms target and aggressor shows Massachusetts has a clear understanding of Labeling Theory. They require stakeholder knowledge by requiring districts to be clear that the district policy and plans apply to all members of the school staff, including, but not limited to educators, administrators, school nurses, cafeteria workers, custodian, bus drivers, athletic coaches, advisors to extracurricular activity, and paraprofessionals. They state that “Leaders have a primary role in teaching students to be civil to one another and (in) promoting (the) understanding of and respect for diversity and difference”.



In order to create a policy that would be a blueprint for local district plans the Massachusetts anti-bullying statute required that the model plan be developed with representatives of the Departments of Education, Public Health, Mental Health, the Office of Attorney General, Districts Attorney's Association, the Massachusetts Aggression Reduction Center, the Massachusetts Advocates for Children, the Massachusetts Association of School Superintendents, principals and other school personnel, and parent and other advocacy organizations. This requirement for the composition of the task force to reflect a number of research disciplines to create the policy demonstrates an attention to research in determining policy and suggests a possible understanding of Social Learning Theory and Labeling Theory. The model policy shows an understanding of existing research and it pays particular attention to special populations and allows districts to add special protections for those students. They provide for training and stakeholder knowledge with ongoing professional development for school staff. They suggest identifying counseling and other services for targets, aggressors, and their families, and for providing referrals to ensure the underlying emotional needs of each is met. This requirement suggests an understanding of restorative practice. They allow for anonymous reporting and establish a procedure for addressing reports.

They provide for some restorative practice elements, with a list of possible actions including skill-building approaches that the principal or designee may consider:

- offering individualized skill-building sessions based on the school's or district's anti-bullying curricula;

- providing relevant educational activities for individual students or groups of students, in consultation with guidance counselors and other appropriate school personnel;
- implementing a range of academic and nonacademic positive behavioral supports to help students understand pro-social ways to achieve their goals;
- meeting with parents and guardians to engage parental support and to reinforce the anti-bullying curricula and social skills building activities at home;
- adopting behavioral plans to include a focus on developing specific social skills; and
- making a referral for evaluation.

These skill-building approaches represent several elements of Restorative Practice Theory. Referrals for evaluation to determine underlying causes, and an understanding that new skills can be learned to help change behavior supports all three theories, Social Learning, Labeling and Restorative Practice since: (1) suggesting skill building recognizes that there are alternatives to punishment only regiments; (2) that perpetrators are worth attempts at behavior modification through skill building; and (3) that in order to provide positive counseling and skill building, negative labels should be avoided. They also provide a suggestion for approaching disciplinary action consistent with the school's code of conduct for escalating penalties, which is somewhat based on the Classical Theory of Crime, whereby if the penalties are sufficient people will choose not to commit the crime. Although this classical theory has consistently proven to have little effect on prevention, it is still the preferred approach for many states, and Massachusetts is no

exception. Massachusetts at least only couples escalating penalties with restorative practice as a last resort to discipline.

Massachusetts promotes the use of evidence-based approaches toward bullying prevention and lists several additional resources on its anti-bullying website, (<http://www.doe.mass.edu/bullying/>) including;

- The Center for the Study and Prevention of Violence at the Institute of Behavioral Science at the University of Colorado at Boulder (<http://www.colorado.edu/cspv/blueprints/>).
- The Nation Registry of Evidence Based Programs and Practices ([http://nrepp.samhsa.gov/01\\_landing.aspx](http://nrepp.samhsa.gov/01_landing.aspx))
- The Promising Practice Network (<http://www.promisingpractices.net/>)

They list a number of other resources available to school districts and schools to help them develop good evidence based practices for their anti-bullying efforts.

### Minnesota

On February 21, 2012, Governor Mark Dayton established a Task Force on the Prevention of School Bullying (Executive Order 12-01). The order's purpose was to ensure that all students in Minnesota schools have a safe environment wherein each student is accepted and valued in order to maximize each student's learning potential. "Inherent with this responsibility is the assurance that all students will be equally protected, specifically as it relates to bullying, harassment, and intimidation, while engaging in educational pursuits." Although not explicitly stated in the Executive Order, the Task Force recommendations, specifically the definitions, apply to both students and

adults who should be protected from bullying and who deserve an educational environment in which to participate and thrive.

The Task Force, after considering and deliberating the written and public comments from students, parents, and citizens who have been impacted by bullying, harassment, and intimidation, as well as the testimony of professionals in relevant fields throughout the state and nation, advised the Governor of the following recommendations for immediate and urgent action:

1. The repeal of existing ineffective Minnesota statutes on bullying, harassment, and intimidation and the replacement of such statutes with strong and effective law(s) incorporating the recommendations contained within the Task Force report;
2. The adoption of the operational definitions for the concepts of bullying, harassment, and intimidation as contained within the Task Force report so as to assist students, parents, school personnel, communities, and collaborative agencies in more effectively identifying and responding to the behaviors;
3. The creation of clear and consistent baseline policies to address bullying, harassment, and intimidation within every public and private school. Each child should be equally protected in every school environment, public and private, throughout the state;
4. The creation of policies and practices that enhance communication among and between school personnel, students, parents, and communities related to strategies and techniques employed to reduce bullying, harassment, and intimidation, as well as the effectiveness of those efforts;

5. The creation of a uniform, baseline, data collection system in all schools to assist in the monitoring of incidents and types of bullying, harassment, and intimidation;
6. The creation of interagency and interdepartmental collaborations to assist schools in more effectively identifying, preventing, intervening in, and addressing the ramifications of bullying, harassment, and intimidation.
7. The creation of a School Climate Center within the Minnesota Department of Education to provide information and technical assistance to school districts on implementing strategies, techniques, and programs that remove social-emotional impediments to learning; improve positive, safe, and supportive whole-school learning environments for students; and increase restorative practices and discipline which focuses on remediation whenever incidents of bullying, harassment, and intimidation occur; and,
8. Fiscal resources commensurate to fulfilling the recommendations of the Task Force to be provided at the state and local levels in order to help school districts implement the bullying, harassment, and intimidation recommendations.

The Task Force believed it was urgent to accept and implement these recommendations at the earliest possible opportunity. Children deserve to know they can depend upon adults to care, to provide for their health and safety, to act responsibly and to provide assistance when necessary. During the deliberations and the final report, the Task Force demonstrates, by their actions and their adopted language a cursory understanding of Social Learning Theory, Labeling Theory. Their requirement for “intervening in, and addressing the ramifications of bullying, harassment, and intimidation” shows a beginning understanding Restorative Practice Theory, and builds

that understanding into the recommendations for the amended statutes that Minnesota passed in 2014. The model policy was made available for schools in November 2014.

### New Jersey

On January 5, 2011, Governor Chris Christie signed into law P.L. 2010, an act concerning harassment, intimidation and bullying, which includes the requirements for the prevention and intervention on and off school grounds, at school-sponsored functions and on school buses. Off school grounds refers to incidents when they substantially disrupt or interfere with the orderly operation of the school or the rights of other students. The statute required the creation of a model policy that local districts and schools could utilize as the basis for developing their own individual policies.

The opening statement in the model policy released by the New Jersey Department of Education (NJDOE) states, “that decisions about consequences and actions to be taken in response to violations of policies prohibiting harassment, intimidation, and bullying should take into consideration the unique circumstances of the acts and the persons involved, as well as the unique conditions in and characteristics of each school district.” This statement is a recognition that the NJDOE sees the negative behavior as having unique characteristics which set it apart from other offences. Their statement, recognizing the unique characteristics underlying bullying behaviors, demonstrates an understanding that there may be more complications than a simple ‘just bad actors’ definition and suggest an understanding of Social Learning Theory and Labeling Theory. It also recognizes that bullying and harassment are more complicated than many other negative acts and therefore requires different approaches. The policy guidelines require school districts to have a policy toward consequences and remediation

which suggests a beginning understanding of the basis for restorative practices. They also require a procedure for reporting acts of harassment, intimidation, and bullying with procedures for responding to those reports. They prohibit reprisal and retaliation for reporters of violations. They provide guidance for procedures for providing stakeholder knowledge and for publicizing the local policies.

New Jersey also has a comprehensive statewide anti-bullying website and the New Jersey Attorney General also has a comprehensive anti-bullying website that is consistent with the NJDOE website. Both sites list a number of evidence-based program databases and numerous other resources for schools, parents, and students.

The New Jersey statute and policy strongly encourages stakeholder knowledge, and restorative practices as a form of remediation. They do not directly address support for targets or safe-reporting, but they do allow for anonymous reports and prohibit retaliation. They list possible consequences for offenders beginning with a series of suggested steps that are consistent with Restorative Practice Theory.

#### Discussion of the Focused Case Studies

All six of their present anti-bullying statutes are the result of amendments over time as state policy makers, especially department of education leaders, continue to acquire a better understanding of the causes and underlying criminal justice theories to explain bullying. The original statutes were often the result of political pressure from parents, with Florida being the most-clear cut example. Many of the original bills were a compilation of other existing statutes under a new name. Over time, and with ongoing education by the U.S. Department of Education through its Safe and Drug Free Schools Program, education professionals in many states have become more sensitized to the the

causes, and possible remedies for bullying, harassment, and intimidation. Evidence based efforts by numerous researchers, and by such groups as the International Institute for Restorative Practice, have contributed significantly to the body of knowledge surrounding bullying. What has emerged in at least these six states is a beginning understanding of some underlying conditions that cause bullying. Florida's statute was originally proposed in response to political pressure, but the Florida Anti-bullying policy has evolved over time including that "policy shall afford all students the same protection regardless of their status under the law." Maine's Policy was based on the work of Stan Davis and Charisse Nixon's Youth Voice Project (2011) which uses social learning theory as its base. Connecticut's legislation has been amended several times, with the latest amendments, in 2011, moving toward restorative practices with evaluation referrals for offenders. Referrals for evaluation demonstrates an understanding that there are underlying causes and that these causes might be mitigated through counseling rather than strictly punishment. Underlying causes suggests social learning theory and counseling suggest restorative practice. Massachusetts clearly states in its model policy and in other Massachusetts' Department of Education publications, that they use the word "target" instead of "victim" and "aggressor" instead of "perpetrator." The careful use of the terms target and aggressor shows Massachusetts has a clear understanding of Labeling Theory. Minnesota, during the deliberations and the final report, demonstrates their understanding of Social Learning Theory, Labeling Theory and Restorative Practice Theory and builds that understanding into the recommendations for the amended statutes that Minnesota passed in 2014. New Jersey recognizes that bullying and harassment are



more complicated than many other negative acts and, therefore, requires different approaches for resolution and change.

The understanding of possible causation theories such as Social Learning Theory is only beginning to be reflected in correction protocol in legislation, with four of the six states beginning to recognize the power of restorative practice to change behavior with less reliance on punishment as the first action. Even with this beginning movement toward restorative practice, states are still reluctant to move past the Classical Theory of Crime and still rely on punishment as an often used first option. Legislators, schools, and school districts are still accountable to the public and “tough on crime” beliefs are hard to overcome. Many Americans cling to the punishment regimen as a way of showing that they will not tolerate negative behavior.

As discussed earlier in this overall study, schools are only recently beginning to realize the terrible consequences of zero tolerance policies. Perhaps in time as more evidence-based research and practices are introduced, the general public will be more acceptable of alternative correction practices. If so, schools will feel justified in using more restorative practices, not only to correct negative behavior, but more importantly help redirect offenders from negative practices, targets from fear, and bystanders to being supportive of positive school climates.

Theories Utilized and Provisions for Stakeholder Knowledge, Safe-Reporting, and Provisions for Restorative Justice

<u>States</u>	<u>Prevention Theories Utilized</u>	<u>Correction Theories Utilized</u>	<u>Provides for Stakeholder Knowledge</u>	<u>Provides for Safe-Reporting</u>	<u>Provides for Restorative Practice</u>
<u>Connecticut</u>	Social Learning Theory Labeling Theory	Classical Theory	State Policy calls for Stakeholder Knowledge	Anonymous Reporting	Some Restorative Practice Concepts
<u>Florida</u>	Initially only Political Pressure	Classical Theory	State Policy calls for Stakeholder Knowledge	Anonymous Reporting with protection for Reporter	Provides for Counseling of Targets and Offenders
<u>Maine</u>	Social Learning Theory Labeling Theory	Restorative Practice Theory	State Policy calls for Stakeholder Knowledge	Anonymous Reporting with protection for Reporter	Provides for the Use of Restorative Practice
<u>Massachusetts</u>	Social Learning Theory Labeling Theory	Restorative but also Classical Theory as last resort	State Policy calls for Stakeholder Knowledge	Anonymous Reporting with protection for Reporter	Provides for Some Use of Restorative Practice
<u>Minnesota</u>	Social Learning Theory Labeling Theory	Restorative but also Classical Theory as last resort	State Policy calls for Stakeholder Knowledge	Anonymous Reporting	Suggest Restorative Practice
<u>New Jersey</u>	Social Learning Theory Labeling Theory	Restorative but also Classical Theory as last resort	State Policy calls for Stakeholder Knowledge	Anonymous Reporting	Suggest Restorative Practice

### Conclusions from the Focused Case Studies

This review of the six states serves as a microcosm of what has been occurring in all fifty states as legislators, in conjunction with education professionals, continue to amend their state statutes to keep pace with new research, education, and publications. It took until 2015 for all 50 states to have formal legislation. Many of the states that adopted legislation in the early 2000's, are amending their legislation to follow the U.S. Departments of Education and Justice's guidelines. Kentucky currently has a bill that has cleared the Kentucky House, and a corresponding bill in the Kentucky Senate to define bullying and provide stakeholder knowledge. There have been attempts at amendments to include safe-reporting and restorative practices. If the legislation fails in this session, or if the efforts to amend the current bills are unsuccessful, the effort will continue with additional legislation in the next session. This pattern is beginning to appear in many other states as the understanding of bullying prevention and correction continues to evolve and sophisticate.

## CHAPTER V

### DISCUSSION

The data analysis confirms the lack of consistency in the state statutes as well as the need for states to include provisions for consistent stakeholder knowledge, safe-reporting systems, and restorative practices. A recent report examines the anti-bullying policies of all 13,181 school districts across the country and demonstrates that few districts or schools have specific policies to protect ‘special populations’ from bullying (GLSEN, 2015). Additionally, the fifty state anti-bullying statutes examined in this exploratory study show that the statutes are largely void of any reference to the needs of these same special populations which include students with disabilities, homeless students, lesbian, gay, bisexual, and transgender students. Any amendments to state statutes should address the need for protection of special populations along with the protection of all students.

Many of the state anti-bullying statutes are still based on the Classical Theory of Crime, whereby increasingly severe punishment is thought to be a motivator in preventing crime. This belief in the Classical Theory is responsible for attention to punishment rather than correction and culture change. States and schools often emphasize punishment of offenders with little if any attention to targets or bystanders. This plays well to the general public and presents a hard on crime persona but has little to do with changing behavior or changing cultural environments within schools. Bullying has been shown to be a learned behavior under Social Learning Theory (Bandura, 1960)

and can be reinforced under Labeling Theory, (Lemert, 1951). Strain Theory (Merton, 1957) whereby persons see their actions as a way of getting what they want, even if what they are seeking is essentially medicating a fundamental or underlying need or deficiency.

A more comprehensive holistic approach to preventing and correcting bullying following the U.S. Department of Education guidelines shows that there are three distinct roles in every bullying incident, the offender, the target, and the bystanders. The bystanders can include those that were present and those who learn of the bullying later. They can readily include students, parents, family, staff, faculty, and administrators. They are not a homogeneous group and often have a constellation of strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to become effective in changing bullying behavior all three groups, targets, offenders, and bystanders, must be included and become part of the solution (Braithwaite, 1996). Long-term, well-trained and active bystanders can be the most important group for continual improvement of the school environment. Through education of the school community, and thereby potential future bystanders, a school can begin to change the social norm from an appeal of bullying to individuals, to a new social norm whereby bullying behavior is seen in a negative context by all including offenders.

It is important that states encourage schools to adopt a three-part strategy; consisting of stakeholder knowledge, safe-reporting, and restorative practices to fully address bullying at the local school level.

*Stakeholder Knowledge:* The stakeholder knowledge requirements vary greatly among states with only a few states providing information to students, parents, faculty,

staff, board, and other interested stakeholders. Schools should insure that all participants, i.e. students, faculty, staff, parents, and others directly working with students, understand the seriousness of bullying, cyberbullying and harassment. They need to know what potentially happens and what the consequences are if the behavior is ignored and not corrected. They also need to know how dangerous it is to do the wrong things, i.e. zero-tolerance, immediate punishment or other punitive actions. In addition, they need to understand that all bullying incidents have three components, the offender, the target and the bystanders and successful intervention requires attention be given to all three groups.

*Safe-Reporting:* Schools need a safe and secure reporting system for students, parents and staff to safely report incidents. The system needs to be safe in the eyes of the reporter and not just the school administration, if it is to be fully utilized by those needing to report. “Just come and tell us” is not a safe system, neither is the “anonymous box”, since it is easily perceived by victims and bystanders as another way that they can be discovered and further victimized by the offenders. Additionally, since parents and school personnel often misunderstand each other, simply telling the school has proven to be ineffective since many times the school misunderstands what they are being told and the parent misbelieves that either the school heard them or chose to do nothing. There is a famous case from South Hadley Massachusetts where a 15-year-old recent Irish immigrant, Phoebe Prince, committed suicide after weeks of cruel bullying by her classmates. In the court case the mother explained how six weeks before Phoebe’s tragic death she told the school. The school personnel testified that they only learned about the bullying two-days before the tragedy and not from the mother. In reading the transcripts and in discussions with several parties who were involved in the case, it is clear that both

the mother and the school personnel were all telling the truth. The mother told the school how unhappy Phoebe was with the new school and did not specifically say that Phoebe was being bullied. Since often people do not really hear each other, the school personnel did not ask if Phoebe was being bullied, and incorrectly assumed that she was just going through a new student adjustment period, and since there was no safe-reporting system, the communication was incomplete. Had there been a safe-reporting system the mother could have used the system, or the school personnel could have asked her to input into the system. The South Hadley, Massachusetts's school would have known the extent of the negative behavior that was occurring and the mother would have known that she had formally told them.

A second famous case involves the child molestation problem at Penn State University where a graduate assistant from the football program attempted to report the incident. The language used to describe what had occurred used the term "horsing around" which may have been interpreted by those who received the verbal reports as normal locker room banter. Since there was no formal safe-reporting system the verbal reporting was misinterpreted and no corrective action was taken until several years later when the incident exploded on the national press and resulted in major penalties for Penn State, its president, athletic director, hall of fame coach, and the original offender who is now in prison. If Penn State had a formal safe-reporting system available, to the graduate assistant, at the time of the incident a more complete investigation would have taken place. Penn State would have formal records to show their due diligence. The safe-reporting process would have allowed for the speedy restoration of the incident with help for the child, prosecution for the offender, and protection for the graduate assistant,

coach, athletic director, and president. Since those involved would have had the facts they would, most likely, not have covered up for the offender. Without a formal safe-reporting system, each person in authority interpreted the information they were given in their own way, minus the facts, that were either confusing or non-existent. Each then made a serious mistake in judgment as distorted information moved up the chain of command.

*Restorative Practices:* School personnel need to be trained in restorative practices in order to correctly address all three groups, to enable and restore all parties, target, offender, and the constellation of bystanders, to a stable a position that deals with the harm done and the obligations to rectify that harm. The process should help all three groups move in a positive direction to set goals, objectives, and progressive steps to begin to achieve their goals and objectives. The restorative practice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop a shared environment of trust, respect, and dignity.

It is important that states encourage schools to adopt a three-part strategy to address bullying. *First*, they should make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. It also includes the dangers and consequences of bullying, what happens if the behavior is ignored and also the consequences of taking the wrong actions, i.e. zero tolerance, suspension, and other only punitive actions. An adoption and implementation of restorative practices at the local school level would go a long way to improving each school's response. *Second*, they need a safe and secure school-based reporting system for students, parents and staff to safely report incidents.



*Third*, school personnel need to be trained in restorative practices in order to correctly address all three groups and restore all parties to a stable a position that deals with the harm done and the obligations to rectify that harm. They need to help all three groups, offenders, victims and bystanders, move in a positive direction and to set goals, objectives, and necessary progressive steps to begin to achieve the goals and objectives. The restorative practice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop an environment of trust, respect, and dignity.

## CHAPTER VI

### CONCLUSION

This qualitative exploratory study examined the current state of school anti-bullying legislation in the United States by reviewing the 50 state statutes and building on the work of Sameer Hinduja, and Justin W. Patchin, (2015) and Sacco, D, Silbaugh, K, Corredor, F, Casey, J, Doherty, D. (2013). Their work on comparing state bullying statutes did not address restorative justice/practices, protections for special populations, safe-reporting systems, or stakeholder knowledge. Therefore, this exploratory study addressed these four areas not addressed as the focus of this exploratory study. In addition, this exploratory study addressed the following questions:

1. What are the theories that explain youth bullying?
2. How effective is current state legislation in preventing and correcting bullying behavior at the local level; are there specific problems with current legislation?
3. What might be done to improve the current legislation at the local, state and national level?
4. Is there a new strategy that incorporates a three-part system of knowledge, safe reporting, and restorative practice that could be included in state statutes to help local schools deal with bullying for all school populations?

A bullying environment has been linked to virtually every one of the horrific school shootings in the United States, (Vossekuil, Fein, Reddy, Borum, Modzeleski, 2002). A strong relationship connects youth bullying behavior with subsequent crime.

Students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999). Bullying has been shown to be one of the three fast tracks for juveniles that evolve to adult crimes (Loeber, 1990). Targets of bullying have been shown to have long-term negative health consequences (Olweus 1984; Boston Children's Hospital, Healthy Passages 2014). Experience shows that school officials are often hesitant to develop comprehensive anti-bullying strategies until either a school tragedy occurs or state statutes require schools to adopt anti-bullying plans and policies.

This study presents Restorative Justice and Safe-Reporting Systems as tools for correcting school bullying and suggests 'model legislative language' to assist states in determining what statute amendments might impact bullying at the local school level in their states. Additionally, this study has presented the need for: (1) effective programs for intervening with bullies at the individual and relationship level; (2) structural strategies that interrupt bullying incidents; (3) social norm change that reduce the appeal of bullying; (4) reporting systems that can track bullying perceptions and incidences, and thereby support a climate change at each of the aforementioned levels; (5) restorative justice and restorative practice strategies and programs to deal with the harm done to all the participants, offenders, targets, and bystanders. If a state's anti-bullying statute is to become effective in changing bullying behavior, all three groups involved, the targets, the offenders, and the bystanders, must be included and become part of the restorative resolution (Braithwaite, 1996; IIRP 2009). This study demonstrates a three-part system that includes Stakeholder Knowledge, Safe-Reporting, and Restorative Practice. If adopted, at the local school level, the system should impact bullying behavior and its

consequences for all students. The system can provide additional protections for special student populations, including special needs students, homeless students, LGBT students, and protect all students from the unnecessary consequences of bullying.

Included as Appendix A is copy for a short brochure in lay language and a comparative matrix of state statutes that might prove helpful in allowing states to compare their current statute to other states and to the suggested practices as defined by DOE, other researchers, and this author.

Conclusions toward defining Model Bullying Language include the following definitions and components that a comprehensive bullying law and policy should contain the following:

#### Definition of Bullying

The information provided to states, as part of this study, builds from the definition of bullying as defined by the U.S. Department of Education and established researchers,

“Bullying and cyberbullying are defined as unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The negative behavior may be electronic or in person. It can occur on or off campus and since it will ultimately be introduced into the learning environment schools should address the behavior under restorative practices (DOE 2012).”

In order to be considered bullying, the behavior must be aggressive and include:

- An Imbalance of Power: Kids who bully use their power—such as physical strength, access to embarrassing information, or popularity—to control or harm others. Power imbalances can change over time and in different situations, even if they involve the same people.

- Repetition: Bullying behaviors happen more than once or have the potential to happen more than once.

Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally, and excluding someone from a group on purpose and includes both personal actions and electronic actions that are often referred to as cyberbullying, (DOE 2012).

### Stakeholder Knowledge

Schools must provide all stakeholders, students, parents, teachers, staff and others information on the seriousness of bullying, including the long-term effects of bullying on the target, the offender and the bystanders. The school should provide its bullying policy, and state the need to address bullying incidents in a positive restorative manner with restorative practice as a first step in helping targets, offenders, and victims begin to deal with the bullying in a constructive manner. This practice does not mean offenders do not need to deal with the consequences of their actions, but includes their beginning to understand of the causes behind their actions, and what they must do to change the behavior, and to make amends. For many it may be the first time they have confronted the impact of their actions on everyone involved.

### Safe Reporting System

Each local school should provide a safe-reporting system for students, parents, teachers, staff and others to report bullying or suspected bullying to a trained counselor that can investigate, document, and recommend restorative practice for resolution. The safe-reporting system must be safe in the “eyes” of the reporter to insure that the system does not deter clear and honest reporting.

## Restorative Justice--Restorative Practices

School personnel need to be trained and experienced in school based restorative practices as defined by the U.S. Department of Education and the International Institute for Restorative Practices.

## Protections for Special Populations

Anti-bullying policies, procedures, reporting, and restorative practices must clearly address the additional needs of the special populations of students including LGBT, disabled, and homeless students. Special attention should be made to assure the safe-reporting system selected addresses the needs of all students including special populations. Restorative practice facilitators should be trained in working with special populations. This training should include an understanding of emotional, spiritual (transpersonal), and cultural intelligence.

What follows is a model statute. The model statute borrows a good deal of language from the State of Minnesota Statute passed in the spring of 2015, but has been updated and adapted to include stakeholder knowledge, safe-reporting and restorative practices, as well as protections for special populations.

## Model Legislative Language

### **MODEL SCHOOL STUDENT BULLYING STATUTE**

#### **Scope and Application**

- (a) This section applies to bullying by a student against another student enrolled in a public school and which occurs:
  - (1) on the school premises, at the school functions or activities, on school transportation, or away from school if the incident causes subsequent disruption at school;
  - (2) by use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or

- (3) by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.
- (b) All nonpublic schools and all home schools are encouraged to adopt policies and procedures consistent with this statute for the purpose of protecting all students from the effects of bullying.
- (c) A school-aged child who voluntarily participates in a public school activity, such as policy provisions applicable to the public school students participating in the activity.

**Definitions.**

- (a) For purposes of this section, the following terms have the meanings given them.
- (b) "Student" means a student enrolled in a school.
- (c) "Bullying," means intimidating, threatening, abusive, or harming conduct that is objectively offensive and:
  - (1) there is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior and the conduct is repeated or forms a pattern; or
  - (2) materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.
- (d) "Cyberbullying" means bullying using technology or other electronic communication, including but not limited to a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network Internet Web site or forum, transmitted through a computer, cell phone, or other electronic device.
- (e) Intimidating, threatening, abusive, or harming conduct may involve, but is not limited to, conduct that causes physical harm to a student or a student's property or causes a student to be in reasonable fear of harm to person or property; under (*Insert State Name*) common law, violates a student's reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional distress against a student; is directed at any student or students, including those based on a person's actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, or age. However, prohibited conduct need not be based on any particular characteristic defined in this paragraph.
- (f) "Prohibited conduct" means bullying or cyberbullying as defined under this subdivision or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.
- (g) "Remedial response" means restorative practice measures to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student who is the target of the prohibited conduct, and the bystanders who are aware of the negative behavior. The bystanders may have a constellation of interest, from support of the target, support

of the offender, support of justice, or an interest in perpetuating drama. All bystanders should be addressed under the restorative practice model.

- (h) “Safe-reporting” means a system or procedure for incidents of bullying to be reported to the school in a manner that the ‘reporter’ considers safe. The reporter should be assured they have notified the school. The school should, as soon as possible, notify the reporter that they have received the report and begin to intervene under restorative practices procedures.

### **Local district and school policy**

- (a) Districts and schools, in consultation with students, parents, and community organizations, to the extent practicable, shall adopt, implement, and, on a cycle consistent with other district policies, review, and revise where appropriate, a written policy to prevent and prohibit student bullying consistent with this statute.
- (b) Each local district and school policy must establish research-based, developmentally appropriate practices that include preventive and remedial measures and effective restorative discipline for deterring policy violations; apply throughout the school or district; and foster active student, parent, and community participation.

The policy shall:

- (1) define the roles and responsibilities of students, school personnel, and volunteers under the policy;
  - (2) emphasize remedial responses under accepted restorative practices;
  - (3) be distributed to all parents, staff, faculty and students and be conspicuously posted in the administrative offices of the school and school district in summary form;
  - (4) be given to each school employee, volunteer, and independent contractor, if a contractor regularly interacts with students, at the time of employment with the district or school;
  - (5) be included in the student handbook on school policies; and
  - (6) be available to all parents and other school community members in an electronic format in the languages appearing on the district or school Web site, consistent with the district policies and practices.
- (c) Consistent with its applicable policies and practices, each district must discuss its policy with students, school personnel, and volunteers and provide appropriate training for all school personnel to prevent, identify, and respond to prohibited conduct. Districts and schools must establish a training cycle, not to exceed a period of three school years, for school personnel under this paragraph. Newly employed school personnel must receive the training within the first year of their employment with the district or school. A district or school administrator may accelerate the training cycle or provide additional training based on a particular need or circumstance.
  - (d) Each district and school must submit an electronic copy of its prohibited conduct policy to the commissioner.



#### **4. Local policy components.**

(a) Each district and school policy implemented under this section must, at a minimum:

(1) designate a staff member as the primary contact person in the school building to receive reports of prohibited conduct, ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters implicating both the district or school and the department;

(2) require school employees who witness prohibited conduct or possess reliable information that would lead a reasonable person to suspect that a student is a target of prohibited conduct to make reasonable efforts to address and immediately report the prohibited conduct, through the safe-reporting system;

(3) provide a procedure to begin to investigate reports of prohibited conduct within three school days of the report, and make the primary contact person responsible for the investigation and any resulting record and for keeping and regulating access to any record;

(4) indicate how a school will respond to an identified incident of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct.

(5) A district or school official will notify the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial restorative practice responses to the prohibited conduct; and ensuring that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history;

(6) prohibit reprisals or retaliation against any person who asserts, alleges, or reports prohibited conduct or provides information about such conduct and establish appropriate restorative practice consequences for a person who engages in reprisal or retaliation;

(7) Establish a safe-reporting system to allow both identified reporting and anonymous reporting.

(8) provide information about available community resources to the target, actor, and other affected individuals, as appropriate;

(9) where appropriate for a child with a disability, or for homeless students provide additional protections to prevent or respond to prohibited conduct, and to allow the child's individualized education program or section 504 plan to address the skills and proficiencies the child needs to respond to or not engage in prohibited conduct;

(10) use new employee training materials, the school publication on school rules, procedures, and standards of conduct, and the student handbook on school policies to publicize the policy;

(11) require ongoing professional development, to build the skills of all school personnel who regularly interact with students, including but not limited to educators, administrators, school counselors, social workers, psychologists, other school mental health professionals, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, extracurricular

- activities advisors, and paraprofessionals to identify, prevent, and appropriately address prohibited conduct;
- (12) allow the alleged actor in an investigation of prohibited conduct to present a defense and through restorative practices be reintegrated into the school community.
- (13) inform affected students and their parents of their rights under state and federal data practices laws to obtain access to data related to the incident and their right to contest the accuracy or completeness of the data. Inform them of their rights and protections under restorative practices.
- (b) Professional development under a local policy includes, but is not limited to, information about:
- (1) developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;
  - (2) the complex dynamics affecting an actor, target, and bystanders to prohibited conduct;
  - (3) research on prohibited conduct, including specific categories of students at risk for prohibited conduct in school;
  - (4) the incidence and nature of cyberbullying; and
  - (5) Internet safety and cyberbullying.
  - (6) Ongoing training in restorative practices.

### **Safe and supportive schools programming.**

- (a) Districts and schools are encouraged to provide developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct; value diversity in school and society; develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and make effective prevention and intervention programs available to students. Districts and schools must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.
- (b) Districts and schools are encouraged to:
- (1) engage all students in creating a safe and supportive school environment;
  - (2) partner with parents and other community members to develop and implement prevention, restorative practice, and intervention programs;
  - (3) engage all students and adults in integrating education, intervention, and other restorative practice responses into the school environment;
  - (4) train student bystanders to intervene in and report incidents of prohibited conduct to the school's primary contact person, through the school's safe-reporting system;
  - (5) teach students to advocate for themselves and others;
  - (6) prevent inappropriate referrals to special education of students who may engage in prohibited conduct; and
  - (7) foster student collaborations that foster a safe and supportive school climate.

### **State model policy.**

(a) The commissioner of education, in consultation with the commissioner of human rights, shall develop and maintain a state model policy. A district or school that does not adopt and implement a local policy must implement and may supplement the provisions of the state model policy. The commissioner must assist districts and schools to implement the state policy. The state model policy must:

- (1) define prohibited conduct, consistent with this section;
- (2) apply the prohibited conduct policy components in this section;
- (3) for a child with a disability, whenever an evaluation by an individualized education program team or a section 504 team indicates that the child's disability affects the child's social skills development or the child is vulnerable to prohibited conduct because of the child's disability, the child's individualized education program or section 504 plan may address the skills and proficiencies the child needs to not engage in and respond to such conduct; and provide a similar positive strategy for homeless children: and
- (4) encourage violence prevention and character development education programs;
- (5) provide guidance on restorative practice programs;
- (6) provide guidance on safe-reporting systems.

(b) The commissioner of education shall develop and post departmental procedures for:

- (1) periodically reviewing district and school programs and policies for compliance with this section;
- (2) investigating, reporting, and responding to noncompliance with this section, which may include an annual review of plans to improve and provide a safe and supportive school climate; and
- (3) allowing students, parents, and educators to file a complaint about noncompliance with the commissioner.

### **7.Relation to existing law.**

This section does not:

- (1) establish any private right of action;
- (2) limit rights currently available to an individual under other civil or criminal law; or
- (3) interfere with a person's rights of religious expression and free speech and expression under the First Amendment of the United States Constitution.

### Policy Implications

For the states that choose to use this study to reexamine their current anti-bullying statutes, the policy implications of this study will require them to assess if intervening at the local school level is appropriate for their state. States vary as to how much direction they impose on local schools, with some states strongly suggesting, some mandating, and some encouraging through incentives and training. Each state will need to determine how best to encourage adoption at the local school level. Each state will also have to determine the level of reporting to the state and what additional metrics they might utilize to determine if the new legislation and policies are having the desired effect of reducing bullying at the local school level. States should be cautious of reporting requirements that have the unintended consequence of encouraging reclassification of incidents by local schools and districts to limit reporting to the state. This has been a problem with the existing statutes that have required local schools to report individual incidents rather than a submitting composite reports. States will also need to determine the extent of adoption at the local school level and what measures they might utilize to increase adoption.

### Limitations of the Exploratory Study

This exploratory study did not allow for a long-term analysis to demonstrate the continuous impact of using the three-part system of Stakeholder Knowledge, Safe-Reporting, and Restorative Practices in a district wide or statewide setting. Therefore, there was not an opportunity to measure and compare pre and post implementation, nor was there the opportunity to conduct an ongoing formative evaluation of the systems in place, or a subsequent summative evaluation to establish an independent review of the impact.

### Recommendations for Further Research

If and when a state has amended the state statute to adopt the recommendations of this exploratory study and determined how best to encourage districts and local schools to adopt the three-part system of Stakeholder Knowledge, Safe-Reporting, and Restorative Practices, a pre and post analysis could be conducted as a longitudinal study to test the impact. That research could include an ongoing formative evaluation and a subsequent independent summative evaluation. That research would be informative as to the overall usefulness of using the three-part system as a strategy to reduce the negative impact of bullying at the local school level and over time should demonstrate if the system improved the learning environment for their students and lessened the long-term negative effects of bullying.

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## APPENDIX A

### EXECUTIVE SUMMARY FOR STATE LEGISLATORS

#### Addressing Research Step Five

The following is suggested copy for a brochure to explain the need to amend the current state statutes to build capacity at the local school level to prevent and correct bullying. Included within the brochure are the comparative matrix and the model statute.

#### Introduction

Every day thousands of teens wake up afraid to go to school. Bullying affects millions of students of all races and classes. Bullying worries everyone, not just the kids on its receiving end. Yet because parents, teachers, and other adults do not always see it, they may not understand how extreme bullying can get, (*TeensHealth, June 2007*).

Bullying has been highly correlated to be one of the three fast tracks to adult crime (Loeber, 1990). A bullying environment has been linked to virtually every one of the horrific school shootings in the United States (Vossekuil, Fein, Reddy, Borum, & Modzeleski, 2002). A relationship exists between bullying and subsequent crime: students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999). Several criminal justice theories exist that help explain bullying behavior, including ecological systems theory, (Bronfenbrenner, 1979) that behavior is influenced by various environments encountered in one lifespan. Social learning theory, (Bandura, 1960) and Akers and Burgess work using social learning theory to explain deviant behavior and demonstrate that bullying is a learned activity. All 50 states have passed anti-bullying legislation but the legislation has not necessarily improved the anti-bullying climate at local schools. This brochure is intended to help states address bullying at the local school level and to provide examples of model legislation to facilitate the improvement.

#### Importance of the Legislative Problem

Over the last ten years all 50 states have passed legislation intended to correct the bullying problems in their schools. Their efforts have encouraged and often mandated that local schools and districts to begin developing bullying policies at the local level. Unfortunately, few states provided sufficient guidance for schools and the statutes did not address elements to make the state statutes effective in reducing and correcting bullying at the local school level. Since most statutes are directed at having schools report incidents to the state, many schools have begun reclassifying incidents so as to not be

required to report (DOE, 2015). The effect of schools reclassifying bullying incidents causes bullying statistics to be unreliable and difficult to use for historical comparisons. It is therefore difficult to determine if bullying is reducing or if only the reported numbers are being reduced.

The more important problem to be addressed is how to reduce bullying and provide corrective restorative measures for victims, offenders and bystanders, (Duncan 2010). Until states amend their legislation to include strategies and procedures for local schools to employ the problem will continue.

### *Youth Bullying in Historical Perspective*

There exists a long-standing misconception that bullying is a part of growing up, or surviving bullying is a rite of passage and that the effects are short term and soon forgotten. That bullies mature and abandon their negative behaviors. Another misconception involves how to deal with a bully; it is sometimes referred to as the ‘Christmas Story’<sup>2</sup> notion, in that the way to stop being bullied is to fight back. In the movie, Ralphie confronts and fights the local bully and the bully shows himself to be a coward. This misconception, like the others mentioned are myths and are more destructive than informative. In addition, many people believe that all bullying is essentially the same type of physical abuse and they miss the long-term health effects to the victims and also to the offenders, (Olweus 1994). They also often overlook the cruelty of social exclusion that is often more common with female bullies which again has lasting health effects, (Boston Children’s Hospital, 2014). Cyberbullying and other technology-based forms of bullying have sometimes been thought to be different from the more traditional forms, but upon further examination cyberbullying has the same underlying motives, (Sacco, et al, 2013). The major difference with cyberbullying is that it can be anonymous, around the clock, and the speed with which others can join into the bullying, (DOE 2010). Traditionally, attempts to deter bullying have involved punishment of the bully, with little attention paid to rehabilitation or counseling for the bully, the victim, or the bystanders, (Duncan 2010).

### *Need for Institutional Knowledge*

Most of the existing state anti-bullying legislation directs schools to develop policies to address bullying and several, require to various degrees, that schools should make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. Schools need to know what happens and what the consequences are, if the behavior is ignored and not corrected as shown in the list provided by ‘Dear Colleague Letter’ Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010. The list provided explains that prospective effects of student-on-student harassment and bullying include:

- Lowered academic achievement and aspirations
- Increased anxiety

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<sup>2</sup>A Christmas Story’, based on semi-fictional anecdotes by Jean Sheppard in his book *In God We Trust: All Others Pay Cash*, was made into a popular movie in 1983.



- Loss of self-esteem and confidence
- Depression and post-traumatic stress
- General deterioration in physical health
- Self-harm and suicidal thinking
- Feelings of alienation in the school environment, such as fear of other children
- Absenteeism from school

The letter also emphasized schools need to know how dangerous it is to do the wrong things; i.e. nothing, zero-tolerance, immediate punishment or other strictly punitive actions.

Zero tolerance policies have fundamentally changed the role of expulsion in the American public school system. Justification for denying educational access after expulsion would be more persuasive under a disciplinary system in which schools expelled only a few older students, for violent offenses, as a last resort (Biegel, 2012). By their very definition, zero tolerance policies involve expelling students for first offenses rather than reserving the most serious disciplinary option for cases of last resort. Thus, under zero tolerance policies, schools expel students, who may have not had other disciplinary problems, (Biegel, 2012).

The problem associated with zero tolerance policies was made abundantly clear to the attendees at the U.S. Department of Education's, Safe and Drug Free Conference in August 2012. There, at the request of federal officials, were the parents of two students who had been suspended from their respective schools under zero tolerance policies. Both students, in spite of having no previous disciplinary problems were suspended without any opportunity to explain their actions, or tell their stories. Tragically, both students committed suicide believing that they had ruined their lives and the lives of their families. The youngest was only 11 years old and had been assured by his parents that he was not in trouble and that they understood that he had acted in self-defense. After the school had failed to deter the bullying he was receiving, even though it had been repeatedly reported, he fought back, was caught, and suspended. In both cases the students involved were caught in a 'mindless trap' of good school intentions gone terribly wrong. Zero tolerance, although politically popular, is fundamentally flawed, dangerous, unfair, and may raise serious due process questions, (Biegel, 2012).

### *Youth Bullying in Special Populations*

A considerable amount of literature exists on bullying of special needs children and bullying of LGBT children but the level of bullying that exists in homeless communities has not been well documented in published literature. Also the terms 'homeless community' is a misnomer, since there are several distinct types of homeless individuals and often share little in common other than their homelessness and are rarely a community. Although there is a void of published research concerning the bullying homeless children might endure, it can be assumed that the level of bullying can be correlated to the extensive bullying research available for all children. In analyzing that research it is possible to extrapolate and assume that homeless children would be at increased vulnerability to bullying by classmates, other children, and adults due to their unstable situation, (Peguero, 2012), (Pain, 2003).

In the media, both print and broadcast, are numerous articles and stories concerning homeless adults and how they are treated in many communities. The term ‘bullying’ is often used or implied in those articles and stories concerning the treatment of the homeless by cities and by businesses that wish to remove the homeless from sight. Even in that coverage there is often little if any information about the plight of homeless families and homeless children.

### The Need to Amend Current State Statutes

When Montana changed its policy to a statute it joined the other 49 states that also have relatively ineffective anti-bullying statutes for correcting bullying at the local school level, (DOE, 2012). The Minnesota, Massachusetts, Georgia, and Colorado statutes are arguably better than most others, but still fall short in affecting bullying at the local school level, (DOE, 2015). Since most if not all of the state anti-bullying laws basically cobbled together existing juvenile statutes into their bullying law, this has had the effect of making incidents that were already reportable under existing statutes reportable under their new bullying statutes. The reorganization of the existing statutes into new bullying statutes did not produce improved results. Many critics and anti-bullying experts, including the Federal government, see the state statutes as little more than window dressing to allow legislators to claim that they have addressed the problem, (DOE, Safe Schools Conference 2012). The incidents that are reportable are at a misdemeanor or felony levels and unfortunately the statutes do little if anything to address the majority of ongoing issues of bullying below the criminal level at local schools and only a few states require any corrective programs based on restorative justice, (Duncan, 2010).

Clearly, states may need to amend their statutes and policies to assist schools in addressing and correcting bullying at much earlier stages. *“Bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential.”* Russlynn Ali, “Dear Colleague Letter” Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010. The Assistant Secretary continued that *“some student misconduct that falls under a school’s anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department’s Office for Civil Rights (OCR)...by limiting its response to a specific application of its anti-bullying disciplinary policy’s schools may fail to properly consider whether the student misconduct also results in discriminatory harassment”*. The letter explains in detail the way in which schools can be in compliance with the law as well as the consequences and prospective effects of student bullying and harassment. The current state statutes have largely been ineffective in reducing bullying at the local level. New amended statutes are needed to contain the requirement for local innovation strategies that will reduce bullying and other harassing behavior, (DOE, 2012).

### Current Programs and Interventions

Increasingly, bullying prevention initiatives have gained momentum in many United States schools. Interventions have largely focused on individual-level strategies, some of which have been found to reduce aggression and other forms of school violence

(CDC, 2008). Structural interventions, such as adapting staffing patterns in schools and increasing monitoring functions, have also been implemented to a lesser degree.

The preceding discussion underscores the need for: (1) effective programs for intervening with bullies at the individual and relationship level; (2) structural strategies that interrupt bullying incidents; and (3) social norm change that reduces the appeal of bullying; (4) reporting systems that can track bullying perceptions and incidence, and thereby support a climate change at each of the aforementioned levels; (5) restorative justice and restorative practice strategies (Braithwaite, 1996); and (6) programs to deal with the harm done to all the participants, offenders, targets, and bystanders. The bystanders can include those that were present and those who learn of the bullying later. They can readily include students, parents, family, staff, faculty, and administrators. They are not a homogeneous group and will have strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to become effective in changing bullying behavior all three groups, offenders, targets, and bystanders must be included in the resolution, (IIRP, 2009).

Experience has shown that school officials can sometimes be reluctant to develop comprehensive anti-bullying strategies until either there is a school tragedy or they are required to adopt anti-bullying plans by state statutes. The importance of having comprehensive, good practice based state statutes to address bullying at the local school level is a critical component of reversing the impact of bullying. States should encourage, and mandate that schools adopt a three-part strategy of stakeholder knowledge, safe-reporting, and restorative justice/restorative practices, (DOE, Safe Schools Conference, 2012).

### *Restorative Practice in Schools*

The International Institute for Restorative Practice (IIRP), reports that “they are seeing improved teacher-student relationships in classrooms with a high level of restorative practices implementation, and that this improvement tends to narrow the ‘racial-discipline gap,’ a concern in schools nationwide”, (IIRP, 2009). Classrooms with a high level of restorative practice implementation had fewer disciplinary referrals for defiance and misconduct compared with classrooms with little or no restorative practices, (Anne Gregory, Rutgers University, (IIRP, 2009). Researchers have also found that restorative practices are not just for discipline; they are also essential to high-quality teaching and learning, (IIRP, 2009). Schools involved in restorative justice/practice have learned that the process builds social capital and a sense of community with students feeling connected to their group and beginning to take responsibility for each other. Students need to feel safe in their learning communities. Restorative justice practices have shown to address the needs of students as well as the overall positive climate of schools, “*My students are now in better shape –both academically and behaviorally— than they’ve ever been*”, Rhonda Richetta, Principal, City Springs Elementary/Middle School Baltimore, Maryland, (IIRP, 2009).

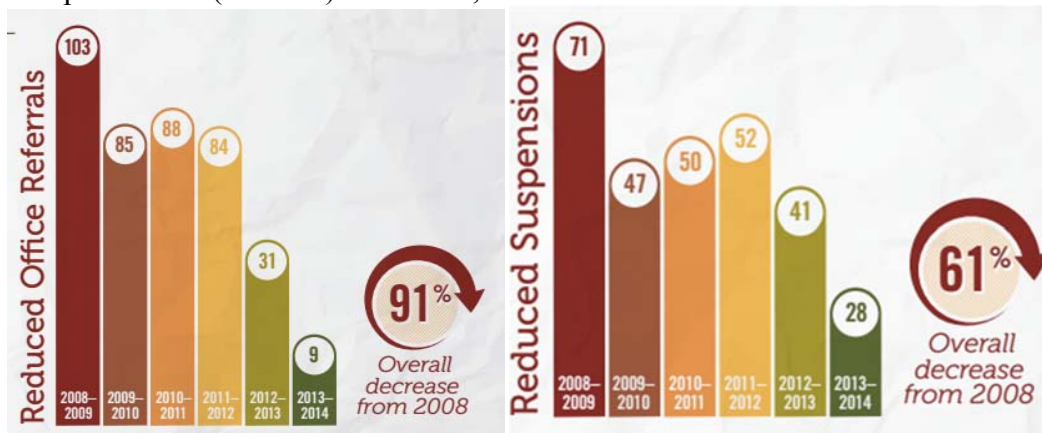
Currently several studies are underway to further validate the usefulness in schools through such groups as Johns Hopkins University and the RAND Corporation studying 16 schools in Maine with additional funding from the National Institutes of Health, the U.S. Department of Justice and the National Institute of Mental Health. Their

studies are exploring effects on graduation rates, social competency, academic achievement, alcohol abuse and bullying, (IIRP 2015).

Additional support for restorative justice in schools has come from the American Federation of Teachers with encouragement for more teachers to adopt restorative discipline practices as well as using restorative practices to foster healthy relationships and promote positive discipline, (AFT, 2014). Other support for restorative practices has come from the Education Week Research Center in their description of social and emotional learning, (edweek.org, 2012). In a written statement to the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights, the American Civil Liberties Union encouraged the Subcommittee to look to restorative practice as a positive way to address the fundamental human rights of American students and to end the school to prison pipeline, (ACLU, 2015). The American Psychological Association Zero Tolerance Task Force argued for addressing zero tolerance policies in schools and recommended restorative practices as a potential solution, (APA, 2014). The NAACP Legal Defense and Educational Fund in a letter to Vice President Biden recommended ways of preserving school safety in the Wake of the Sandy Hook tragedy, and urged the Vice President to look at alternatives for school safety including restorative practices, (NAACP, 2013).

The restorative justice process works well provided the school is committed to making positive change in regard to the school environment, (McCluskey, Lloyd, Kane, Riddell, 2008). Restorative justice is highly successful where good relationships, mutual respect and a sense of belonging are seen as being key to successful teaching and integrates restorative principles and practice into every policy, every lesson, every meeting and every event in the school day, (Hopkins, 2003). A restorative justice approach has been demonstrated to be a success in schools and can readily be customized to meet the needs and resources of different schools, (Morrison, 2002).

School Results of Restorative Practices (IIRP 2015)  
Hampstead Hill (Pre-K-8) Baltimore, MD



(IIRP, 2015)

**Freedom High School, Bethlehem, PA**

**Glenmount School (K-8), Baltimore, MD**



(IIRP, 2015)

Restorative justice, restorative practice shows great promise in helping schools change their social and learning environments in positive ways, (Gregory at al Rutgers University, (IIRP, 2009). The question of how to encourage more school, districts, and states to explore the successes of restorative justice, restorative practices and make them available at the local school level remains a challenge. As more studies are released and encouragement to schools comes from the U.S. Departments of Education, and Justice, and from the major teachers’ unions, scholars, think tanks, and private citizens, perhaps more schools, districts, and states will begin to look to the practice as a new, although ancient, way for communities and schools to dramatically alter their current practices and move to a more reasoned approach through restorative justice and restorative practices.

Despite numerous documented success stories, from local schools throughout the United States, most notably, San Francisco, Philadelphia, Baltimore, Bethlehem, and the State of Colorado, and in spite of the many school personnel trained by the IIRP, many schools have not been willing to change or embrace restorative practices. At the state level there has been a noticeable lack of inclusion of restorative justice in state anti-bullying statutes, (Duncan, 2010). As noted above the exceptions are Colorado, Maine, and Minnesota that has shown that school discipline improved after the state passed restorative justice requirements for local schools. Even though restorative justice has shown to dramatically and positively affect local school environments, interrupted the school to prison pipeline, and helped all students return to positive directions in their lives, many schools, districts, and states have yet to adopt the practice. Often the reasons given for not adopting restorative justice, range from a fear of additional cost, to a fear of another time commitment for an already overworked staff. Since many schools are reluctant to change without either experiencing a bullying tragedy, or having to adjust to a state directive, the best approach may be to encourage states to amend their anti-bullying statutes to include provisions and training for restorative justice at the local school level, (Duncan, 2010).

### *Bullying as a Public Health Issue*

The long-term mental health impact of bullying to victims, offenders and bystanders makes it ripe for a public health approach, (Mercy & O’Carroll, (1998), (Olweus et al). The importance of treating bullying as a public health issue will allow states to consider amending their state statutes to find the root causes of bullying at the local school level. States could develop intervention strategies to correct behavior before the behavior leads to serious health, safety, and criminal issues.

Braithwaite's work along with the work of Wachtel, O'Connell and Wachtel (2010) in restorative practice, show a roadmap for greatly improved approaches to public policy. The continuing negative implications of strictly punishing, labeling, and stigmatizing offenders has had little success, (Duncan 2010). A different public policy may be needed at the local school, state and national levels. Punishment does not equate with accountability. Punishment perpetuates negativity, isolation, resentment, and revenge and does little to restore citizens to re-integrate into society, (Braithwaite, 1989). Punishment does little to nothing for the victims or bystanders and sets the stage for an ongoing perpetuation of the classic drama triangle (Karpman, 1968). The Drama Triangle is a psychological and social model of human interaction, based on the work of Eric Berne, M.D in "*Games People Play; The basic Handbook of Transactional Analysis*" (1964). Typically the drama triangle consists by interchanges the roles of offender, victim, and rescuer, thereby becoming cyclical providing continued drama to all three groups unless interrupted through a restorative process. For example, in bullying incidents if some bystanders intervene and physically or electronically attack the bully then the original bully becomes bullied and the new victim. Then bystanders become the bullies and the original victim becomes the new bystander. If the original victim, now the new bystander, were to attempt to intervene with the bullying of the original offender by the original bystanders then the cycle is again reversed. If not interrupted or treated, the drama triangle can simply continue as a sick, damaging and expanding game.

The public policy change of treating bullying as a public health issue, rather than a criminal issue, shows great promise in positively impacting the lives and re-integration of offender, targets, and bystanders to healthy roles in society. This approach coupled with early restorative practice (Wachtel, O'Connell and Wachtel 2010) at the first instances of bullying, may interrupt the continuing learned behavior rewards of bullying and change the offender's behavior to a more positive direction.

#### *A Three-Part System for Treating Bullying as a Public Health Issue at the Local School Level*

There are three distinct roles in every bullying incident, the offender, the victim, and the bystanders. The bystanders can include those that were present and those that learn of the bullying later. They can readily include students, parents, family, staff, faculty, and administrators. They are not a homogeneous group and often have a constellation of strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to become effective in changing bullying behavior all three groups, targets, offenders, and bystanders, must be included and become part of the resolution (Braithwaite, 1996). Long-term, well-trained and active bystanders can be the most important group for continual improvement of the school environment. Through education of the school community, and thereby potential future bystanders, a school can begin to change the social norm from an appeal of bullying to individuals, to a new social norm whereby bullying behavior is seen in a negative context by all including offenders.

It is important that states encourage schools adopt a three-part strategy; consisting of stakeholder knowledge, safe-reporting, and restorative practices to fully address bullying at the local school level.

**Stakeholder Knowledge:** The stakeholder knowledge requirements vary greatly between states with only a few states providing information to students, parents, faculty, staff, board, and other interested stakeholders. Schools should insure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. They need to know what potentially happens and what the consequences are if the behavior is ignored and not corrected. They also need to know how dangerous it is to do the wrong things, i.e. zero-tolerance, immediate punishment or other punitive actions. In addition, they need to understand that all bullying incidents have three components, the offender, the target and the bystanders and successful intervention requires attention be given to all three groups.

**Safe-Reporting:** Schools need a safe and secure reporting system for students, parents and staff to safely report incidents. The system needs to be safe in the eyes of the reporter and not just the school administration, if it is to be fully utilized by those needing to report. “Just come and tell us” is not a safe system, neither is the “anonymous box”, since it is easily perceived by victims and bystanders as another way that they can be discovered and further victimized by the offenders. Additionally, since parents and school personnel often misunderstand each other, simply telling the school has proven to be ineffective since many times the school misunderstands what they are being told and the parent misbelieves that either the school heard them or chose to do nothing. There is a famous case from South Hadley Massachusetts where a 15-year-old recent Irish immigrant, Phoebe Prince, committed suicide after weeks of cruel bullying by her classmates. In the court case the mother explained how six weeks before Phoebe’s tragic death she told the school. The school personnel testified that they only learned about bullying two-days before the tragedy and not from the mother. In reading the transcripts and in discussions with several parties that were involved in the case, it is clear that both the mother and the school personnel were all telling the truth. The mother told the school how unhappy Phoebe was with the new school and did not specifically say that Phoebe was being bullied. Since often people do not really hear each other, the school personnel did not ask if Phoebe was being bullied, and incorrectly assumed that she was just going through a new student adjustment period, and since there was no safe-reporting system, the communication was incomplete. Had there been a safe-reporting system the mother could have used the system, or the school personnel could have asked her to input into the system. The South Hadley, Massachusetts’s school would have known the extent of the negative behavior that was occurring and the mother would have known that she had formally told them.

A second famous case involves the child molestation problem at Penn State University where a graduate assistant from the football program attempted to report the incident. The language used to describe what had occurred used the term “horsing around” which may have been interpreted by those that received the verbal reports as normal locker room banter. Since there was no formal safe-reporting system the verbal reporting was misinterpreted and no corrective action was taken until several years later when the incident exploded on the national press and resulted in major penalties for Penn State, its president, athletic director, hall of fame coach, and the original offender who is now in prison. If Penn State had a formal safe-reporting system available, to the graduate assistant at the time of the incident, a more complete investigation would have taken place. Penn State would have formal records to show their due diligence. The safe-

reporting process would have allowed for the speedy restoration of the incident with help for the child, prosecution for the offender, and protection for the graduate assistant, coach, athletic director, and president. Since those involved would have had the facts they would, most likely, not have covered up for the offender. Without a formal safe-reporting system, each person in authority interpreted the information they were given in their own way, minus the facts, that were either confusing or non-existent. Each then made a serious mistake in judgment as distorted information moved up the chain of command.

***Restorative Practices:*** School personnel need to be trained in restorative practices in order to correctively address all three groups, to enable and restore all parties, target, offender, and the constellation of bystanders, to a stable a position that deals with the harm done and the obligations to rectify that harm. The process should help all three groups move in a positive direction to set goals, objectives, and progressive steps to begin to achieve their goals and objectives. The restorative practice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop a shared environment of trust, respect, and dignity.

It is important that states encourage schools to adopt a three-part strategy to address bullying. *First*, they should make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. It also includes the dangers and consequences of bullying, what happens if the behavior is ignored and also the consequences of doing the wrong things, i.e. zero tolerance, suspension, and other only punitive actions. An adoption and implementation of restorative practices at the local school level would go a long way to improving each school's response. *Second*, they need a safe and secure school-based reporting system for students, parents and staff to safely report incidents. *Third*, school personnel need to be trained in restorative practices in order to correctively address all three groups and first restore all parties to a stable a position that deals with the harm done and the obligations to rectify that harm. They need to help all three groups, offenders, victims and bystanders, move in a positive direction and to set goals, objectives, and necessary progressive steps to begin to achieve the goals and objectives. The restorative practice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop an environment of trust, respect, and dignity.

### **Proposed Model Language for Use in Amending Existing State Statutes**

#### **Definition of Bullying**

The information provided to states, as part of this exploratory study, builds from the definition of bullying as defined by the U.S. of Education (DOE) and established researchers.

Bullying and cyberbullying are defined as unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The negative behavior may be electronic or in person. It can occur on or off campus and since it will ultimately be introduced into the learning environment schools should address the behavior under restorative practices.



In order to be considered bullying, the behavior must be aggressive and include:

- An Imbalance of Power: Kids who bully use their power—such as physical strength, access to embarrassing information, or popularity—to control or harm others. Power imbalances can change over time and in different situations, even if they involve the same people.
- Repetition: Bullying behaviors happen more than once or have the potential to happen more than once.”

Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally, and excluding someone from a group on purpose and includes both personal actions and electronic actions that are often referred to as cyberbullying.

#### Stakeholder Knowledge

Schools must provide all stakeholders, students, parents, teachers, staff and others information on the seriousness of bullying, including the long-term effects of bullying on the target, the offender and the bystanders. The school should provide its bullying policy, and state the need to address bullying incidents in a positive restorative manner.

#### Safe Reporting System

Each local school should provide a safe-reporting system for students, parents, teachers, staff and others to report bullying or suspected bullying to a trained counselor that can investigate, document, and recommend restorative practice for resolution. The safe-reporting system must be safe in the “eyes” of the reporter to insure that the system does not deter clear and honest reporting.

#### Restorative Justice--Restorative Practices

School personnel need to be trained and experienced in school based restorative practices as defined by the U.S. Department of Education and the International Institute for Restorative Practices.

#### Protections for Special Populations

Anti-bullying policies, procedures, reporting, and restorative practices must clearly address the additional needs of the special populations of students including LGBT, disabled, and homeless students. Special attention should be made to assure the safe-reporting system selected addresses the needs of all students including special populations. Restorative practice facilitators should be trained in working with special populations. This training should include and understanding of emotional, spiritual (transpersonal), and cultural intelligence.

## MODEL SCHOOL STUDENT BULLYING STATUTE

*The following model statute language borrows a good deal of language from the State of Minnesota Statute passed in the spring of 2015, but has been updated and adapted to include stakeholder knowledge, safe-reporting and restorative practices.*

### Scope and Application

- (a) This section applies to bullying by a student against another student enrolled in a public school and which occurs:
  - (1) on the school premises, at the school functions or activities, on school transportation, or away from school if the incident causes subsequent disruption at school;
  - (2) by use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
  - (3) by use of electronic technology and communications off the school premises to the extent such use substantially and materially disrupts student learning or the school environment.
- (b) All nonpublic schools and all home schools are encouraged to adopt policies and procedures consistent with this statute for the purpose of protecting all students from the effects of bullying.
- (c) A school-aged child who voluntarily participates in a public school activity, such as policy provisions applicable to the public school students participating in the activity.

### Definitions.

- (a) For purposes of this section, the following terms have the meanings given them.
- (b) "Student" means a student enrolled in a school.
- (c) "Bullying," means intimidating, threatening, abusive, or harming conduct that is objectively offensive and:
  - (1) there is an actual or perceived imbalance of power between the student engaging in prohibited conduct and the target of the behavior and the conduct is repeated or forms a pattern; or
  - (2) materially and substantially interferes with a student's educational opportunities or performance or ability to participate in school functions or activities or receive school benefits, services, or privileges.
- (d) "Cyberbullying" means bullying using technology or other electronic communication, including but not limited to a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network Internet Web site or forum, transmitted through a computer, cell phone, or other electronic device.
- (e) Intimidating, threatening, abusive, or harming conduct may involve, but is not limited to, conduct that causes physical harm to a student or a student's property or causes a student to be in reasonable fear of harm to person or property; under (*Insert State Name*) common law, violates a student's reasonable expectation of privacy, defames a student, or constitutes intentional infliction of emotional

distress against a student; is directed at any student or students, including those based on a person's actual or perceived race, ethnicity, color, creed, religion, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, including gender identity and expression, academic status related to student performance, disability, or status with regard to public assistance, or age. However, prohibited conduct need not be based on any particular characteristic defined in this paragraph.

- (f) "Prohibited conduct" means bullying or cyberbullying as defined under this subdivision or retaliation for asserting, alleging, reporting, or providing information about such conduct or knowingly making a false report about bullying.
- (g) "Remedial response" means restorative practice measures to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student who is the target of the prohibited conduct, and the bystanders who are aware of the negative behavior. The bystanders may have a constellation of interest, from support of the target, support of the offender, support of justice, or an interest in perpetuating drama. All bystanders should be addressed under the restorative practice model.
- (h) "Safe-reporting" means a system or procedure for incidents of bullying to be reported to the school in a manner that the 'reporter' considers safe. The reporter should be assured they have notified the school. The school should, as soon as possible, notify the reporter that they have received the report and begin to intervene under restorative practices procedures.

### **Local district and school policy**

- (a) Districts and schools, in consultation with students, parents, and community organizations, to the extent practicable, shall adopt, implement, and, on a cycle consistent with other district policies, review, and revise where appropriate, a written policy to prevent and prohibit student bullying consistent with this statute.
- (b) Each local district and school policy must establish research-based, developmentally appropriate practices that include preventive and remedial measures and effective restorative discipline for deterring policy violations; apply throughout the school or district; and foster active student, parent, and community participation.

The policy shall:

- (1) define the roles and responsibilities of students, school personnel, and volunteers under the policy;
- (2) emphasize remedial responses under accepted restorative practices ;
- (3) be distributed to all parents, staff, faculty and students and be conspicuously posted in the administrative offices of the school and school district in summary form;
- (4) be given to each school employee, volunteer, and independent contractor, if a contractor regularly interacts with students, at the time of employment with the district or school;
- (5) be included in the student handbook on school policies; and

(6) be available to all parents and other school community members in an electronic format in the languages appearing on the district or school Web site, consistent with the district policies and practices.

(c) Consistent with its applicable policies and practices, each district must discuss its policy with students, school personnel, and volunteers and provide appropriate training for all school personnel to prevent, identify, and respond to prohibited conduct. Districts and schools must establish a training cycle, not to exceed a period of three school years, for school personnel under this paragraph. Newly employed school personnel must receive the training within the first year of their employment with the district or school. A district or school administrator may accelerate the training cycle or provide additional training based on a particular need or circumstance.

(d) Each district and school must submit an electronic copy of its prohibited conduct policy to the commissioner.

#### **4. Local policy components.**

(a) Each district and school policy implemented under this section must, at a minimum:

(1) designate a staff member as the primary contact person in the school building to receive reports of prohibited conduct, ensure the policy and its procedures including restorative practices, consequences, and sanctions are fairly and fully implemented, and serve as the primary contact on policy and procedural matters implicating both the district or school and the department;

(2) require school employees who witness prohibited conduct or possess reliable information that would lead a reasonable person to suspect that a student is a target of prohibited conduct to make reasonable efforts to address and immediately report the prohibited conduct, through the safe-reporting system;

(3) provide a procedure to begin to investigate reports of prohibited conduct within three school days of the report, and make the primary contact person responsible for the investigation and any resulting record and for keeping and regulating access to any record;

(4) indicate how a school will respond to an identified incident of prohibited conduct, including immediately intervening to protect the target of the prohibited conduct.

(5) A district or school official will notify the parent of the reported target of the prohibited conduct and the parent of the actor engaged in the prohibited conduct; providing other remedial restorative practice responses to the prohibited conduct; and ensuring that remedial responses are tailored to the particular incident and nature of the conduct and the student's developmental age and behavioral history;

(6) prohibit reprisals or retaliation against any person who asserts, alleges, or reports prohibited conduct or provides information about such conduct and establish appropriate restorative practice consequences for a person who engages in reprisal or retaliation;

- (7) Establish a safe-reporting system to allow both identified reporting and anonymous reporting.
  - (8) provide information about available community resources to the target, actor, and other affected individuals, as appropriate;
  - (9) where appropriate for a child with a disability, or for homeless students provide additional protections to prevent or respond to prohibited conduct, and to allow the child's individualized education program or section 504 plan to address the skills and proficiencies the child needs to respond to or not engage in prohibited conduct;
  - (10) use new employee training materials, the school publication on school rules, procedures, and standards of conduct, and the student handbook on school policies to publicize the policy;
  - (11) require ongoing professional development, to build the skills of all school personnel who regularly interact with students, including but not limited to educators, administrators, school counselors, social workers, psychologists, other school mental health professionals, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, extracurricular activities advisors, and paraprofessionals to identify, prevent, and appropriately address prohibited conduct;
  - (12) allow the alleged actor in an investigation of prohibited conduct to present a defense and through restorative practices be reintegrated into the school community.
  - (13) inform affected students and their parents of their rights under state and federal data practices laws to obtain access to data related to the incident and their right to contest the accuracy or completeness of the data. Inform them of their rights and protections under restorative practices.
- (b) Professional development under a local policy includes, but is not limited to, information about:
- (1) developmentally appropriate strategies both to prevent and to immediately and effectively intervene to stop prohibited conduct;
  - (2) the complex dynamics affecting an actor, target, and bystanders to prohibited conduct;
  - (3) research on prohibited conduct, including specific categories of students at risk for prohibited conduct in school;
  - (4) the incidence and nature of cyberbullying; and
  - (5) Internet safety and cyberbullying.
  - (6) Ongoing training in restorative practices.

### **Safe and supportive schools programming.**

- (a) Districts and schools are encouraged to provide developmentally appropriate programmatic instruction to help students identify, prevent, and reduce prohibited conduct; value diversity in school and society; develop and improve students' knowledge and skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting prohibited conduct; and make effective prevention and intervention

programs available to students. Districts and schools must establish strategies for creating a positive school climate and use evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct.

(b) Districts and schools are encouraged to:

- (1) engage all students in creating a safe and supportive school environment;
- (2) partner with parents and other community members to develop and implement prevention, restorative practice, and intervention programs;
- (3) engage all students and adults in integrating education, intervention, and other restorative practice responses into the school environment;
- (4) train student bystanders to intervene in and report incidents of prohibited conduct to the school's primary contact person, through the school's safe-reporting system;
- (5) teach students to advocate for themselves and others;
- (6) prevent inappropriate referrals to special education of students who may engage in prohibited conduct; and
- (7) foster student collaborations that foster a safe and supportive school climate.

#### **State model policy.**

(a) The commissioner of education, in consultation with the commissioner of human rights, shall develop and maintain a state model policy. A district or school that does not adopt and implement a local policy must implement and may supplement the provisions of the state model policy. The commissioner must assist districts and schools to implement the state policy. The state model policy must:

- (1) define prohibited conduct, consistent with this section;
- (2) apply the prohibited conduct policy components in this section;
- (3) for a child with a disability, whenever an evaluation by an individualized education program team or a section 504 team indicates that the child's disability affects the child's social skills development or the child is vulnerable to prohibited conduct because of the child's disability, the child's individualized education program or section 504 plan may address the skills and proficiencies the child needs to not engage in and respond to such conduct; and provide a similar positive strategy for homeless children: and
- (4) encourage violence prevention and character development education programs;
- (5) provide guidance on restorative practice programs;
- (6) provide guidance on safe-reporting systems.

(b) The commissioner of education shall develop and post departmental procedures for:

- (1) periodically reviewing district and school programs and policies for compliance with this section;

- (2) investigating, reporting, and responding to noncompliance with this section, which may include an annual review of plans to improve and provide a safe and supportive school climate; and
- (3) allowing students, parents, and educators to file a complaint about noncompliance with the commissioner.

**7.Relation to existing law.**

This section does not:

- (1) establish any private right of action;
- (2) limit rights currently available to an individual under other civil or criminal law; or
- (3) interfere with a person's rights of religious expression and free speech and expression under the First Amendment of the United States Constitution.

\* \* \* \* \*

**What follows is a Matrix of Existing State Anti-bullying Statutes as of January, 2016.**

State	Law	Cyber-bullying	Electronic Harassment	Criminal Sanction	School Sanction	School Policy Knowledge	Off-Campus Behavior	Restorative Justice or Practices	Stakeholder Knowledge	Safe School Reporting System
Alabama	Yes	No	Yes	No	No	Yes	No	No	No	No
Alaska	Yes	No	No	Yes	Yes	Yes	No	No	No	No
Arizona	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Arkansas	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
California	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No
Colorado	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	No
Connecticut	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Delaware	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Florida	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Georgia	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	No	Anonymous
Hawaii	Yes	Yes	Yes	Proposed	Yes	Yes	No	No	No	No
Idaho	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Illinois	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	No
Indiana	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Iowa	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Kansas	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Kentucky	Yes	Proposed	Yes	Yes	Yes	Yes	No	No	No	No
Louisiana	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Maine	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No
Maryland	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	No
Massachusetts	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Anonymous
Michigan	Yes	Yes	Yes	Proposed	No	Yes	No	No	No	No
Minnesota	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes
Mississippi	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No
Missouri	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
Montana	Yes	No	Yes	Yes	No	No	No	No	No	No
Nebraska	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	No	No
Nevada	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	No
New Hampshire	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	No
New Jersey	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Anonymous
New Mexico	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
New York	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
North Carolina	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Anonymous
North Dakota	Yes	No	Yes	Yes	Yes	Yes	No	No	No	Anonymous
Ohio	Yes	NO	Yes	No	Yes	Yes	No	No	No	No
Oklahoma	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Oregon	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Anonymous
Pennsylvania	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Rhode Island	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Anonymous
South Carolina	Yes	No	Yes	No	Yes	Yes	No	No	No	Anonymous
South Dakota	Yes	No	Yes	No	Yes	Yes	Yes	No	No	No
Tennessee	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Anonymous
Texas	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Utah	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Vermont	Yes	No	Yes	No	Yes	Yes	Yes	No	No	No
Virginia	Yes	Yes	Yes	No	Yes	Yes	No	No	No	No
Washington	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No
West Virginia	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Wisconsin	Yes	No	No	Yes	Yes	Yes	No	No	No	No
Wyoming	Yes	No	Yes	No	Yes	Yes	No	No	No	Anonymous
<b>State Totals</b>	<b>50</b>	<b>23</b>	<b>48</b>	<b>18</b>	<b>45</b>	<b>49</b>	<b>14</b>	<b>3</b>	<b>9</b>	<b>13</b>



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## APPENDIX B

### SUMMARY OF STATE BULLYING STATUTES

#### Summary of State Statutes

##### **Alabama**

The Alabama Student Harassment Prevention Act - HB 0216  
AL\_law2009HB0216.pdf.

Schools must develop policies to help with harassment, include electronic forms of bullying; “punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.”

Concentrates on harassment as its definition of bullying; does not separately define bullying.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

##### **Alaska**

House Bill 482 (2006): Sec. 14.33.200. Harassment, intimidation, and bullying policy

(a) By July 1, 2007, each school district shall adopt a policy that prohibits the harassment, intimidation, or bullying of any student. The policy must also include provisions for an appropriate punishment schedule up to and including expulsion and reporting of criminal activity to local law enforcement authorities.

05-09-06: Passed the Legislature, to be transmitted to the Governor for signature.

Various statutes: [http://www.olweus.org/public/laws\\_alaska.page](http://www.olweus.org/public/laws_alaska.page)

Does not have a separate cyberbullying statute, but ALASKA STAT. § 11.61.120 which is an anti-harassment statute defines harassment as including, by electronic means, which threatens the physical well-being of another person.  
(<http://www.ncsl.org/default.aspx?tabid=20753>)

Criminal harassment statute (AS 11.61.120. Harassment in the Second Degree) includes electronic forms: “A person commits the crime of harassment in the second degree if, with intent to harass or annoy another person, that person...makes an obscene electronic communication, or electronic communication that threatens physical injury or sexual contact; or...publishes or distributes electronic or printed photographs, pictures, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act. Harassment in the second degree is a class B misdemeanor. (<http://www.touchngo.com/lglcntr/akstats/Statutes/Title11/Chapter61/Section120.htm>)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Arizona**

H.B. 2415 – (signed by Governor on April 19, 2011) Includes harassment, bullying, and intimidating with the use of electronic technology  
<http://www.azleg.gov/legtext/50leg/1r/bills/hb2415h.pdf>

H.B. 2368 (2005): requires school district governing boards to adopt and enforce procedures that prohibit the harassment, bullying and intimidation of pupils on school grounds, school property, school buses, school bus stops and at school sponsored events and activities.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Arkansas**

“Bullying means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act...

July 2011: cyberbullying crime law took effect:  
<http://www.arkleg.state.ar.us/assembly/2011/2011R/Acts/Act905.pdf>.  
Cyberbullying is a Class B misdemeanor.

Reference to off-campus behaviors: Policies must prohibit bullying: “(B) (i) By an electronic act that results in the substantial disruption of the orderly operation of the

school or educational environment.” “(ii) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school, and has a high likelihood of succeeding in that purpose.” (Ark. Code Ann. §6-18-514—  
<http://www.arkdisabilityrights.org/doc/arkcode/aca6-18-514.pdf>). H. B. 1072, 2007 Code §6-18-514(a) Anti-bullying Policies; now Act 115  
<http://www.arkleg.state.ar.us/assembly/2007/R/Acts/Act115.pdf>;  
<http://www.arkleg.state.ar.us/assembly/ArkansasCode/6/6-18-514.htm>

Policies must state the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **California**

AB 256, Chapter 700 (October 10, 2013). Clarifies role of school in intervening in bullying cases that originate away from school: “‘Electronic act’ means the creation and transmission originated on or off the schoolsite. . .”  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB256](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB256)

AB 9 “Seth’s Law” (2011) requires school policy and investigation processes (named after 13 year old Seth Walsh who committed suicide after being harassed about sexual orientation and identity) (<http://e-lobbyist.com/gaits/text/354065>) AB 1156 (2011) expanded the definition of bullying and connected it to academic performance. Notes that bullying causes a substantial disruption and detrimental effect on students. Encourages training for school officials. Creates provisions to remove victim from the “unhealthy setting.”

AB 746, signed into law July, 2011. Language of the law includes student behaviors on social networking web sites: “Under existing law, bullying, including bullying committed by means of an electronic act, as defined, is a ground on which suspension or expulsion may be based. This bill would specify that an electronic act for purposes of the act includes a post on a social network Internet Web site.” [http://www.leginfo.ca.gov/pub/1112/bill/asm/ab\\_0701-0750/ab\\_746\\_bill\\_20110708\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/1112/bill/asm/ab_0701-0750/ab_746_bill_20110708_chaptered.pdf)

SB 719 (Bullying Prevention for School Safety and Crime Reduction Act of 2003); Chapter 828. 2001 Cal. Stats., A.B. 79, Chap. 646 Requires the Department of Education to develop model policies on the prevention of bullying and on conflict resolution, makes the model policies available to school districts and authorizes school districts to adopt

one or both policies for incorporation into the school safety plan. PDF file:

[http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab\\_0051](http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_0051)

0100/ab\_79\_bill\_20011010\_chaptered.pdf HTML file:

[http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab\\_0051-](http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_0051-)

0100/ab\_79\_bill\_20011010\_chaptered.html

A. B. 86, 2008 Code §32261 (g) Lieu. Pupil safety. Gives school officials grounds to suspend a pupil or recommend a pupil for expulsion for bullying, including, but not limited to, bullying by electronic act.

Stakeholder Knowledge: Only for school personnel required in the current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Colorado**

HB 15-1072 (signed into law April 2015, took effect July 1, 2015). “18-9-111. Harassment. A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she: DIRECTLY OR INDIRECTLY initiates communication with a person OR DIRECTS LANGUAGE TOWARD ANOTHER PERSON, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, or computer system, OR OTHER INTERACTIVE ELECTRONIC MEDIUM in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system, OR OTHER INTERACTIVE ELECTRONIC MEDIUM that is obscene.” Class 3 misdemeanor (\$50 fine, up to 6 months in jail). Class 1 misdemeanor when done because of one’s actual or perceived race, color, religion, ancestry, or national origin (6-18 months in jail).

[http://www.leg.state.co.us/clics/clics2015a/csl.nsf/fsbillcont2/AD65D9B969CF1E1887257D9000782361/\\$FILE/1072\\_01.pdf](http://www.leg.state.co.us/clics/clics2015a/csl.nsf/fsbillcont2/AD65D9B969CF1E1887257D9000782361/$FILE/1072_01.pdf)

HB 11-1254 (signed into law May 2011): “‘Bullying’ means any written or verbal expression, or physical or electronic act or gesture...”

[http://www.leg.state.co.us/CLICS/CLICS2011A/csl.nsf/fsbillcont3/](http://www.leg.state.co.us/CLICS/CLICS2011A/csl.nsf/fsbillcont3/C41FA88143FD6AE687257801006047CF?Open&file=1254_enr.pdf)

C41FA88143FD6AE687257801006047CF?Open&file=1254\_enr.pdf SB 01-080 policy:

[http://www.bullypolice.org/co\\_02.pdf](http://www.bullypolice.org/co_02.pdf)

“Colorado has no official anti bullying law, but defines bullying under harassment. Colorado State Lawmakers chose a "Legislative declaration" and creation of Bullying Policy.

School Districts are required by law to adopt a written conduct and discipline code relating to the discipline, conduct, safety and welfare of all students enrolled in the public

schools of the District. Section 22-32-109.1(2)(a)(I), C.R.S. (2000); “Safe School Plan.” Must include “a specific policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs.

Section 22-32-109.1(2)(a)(I) through (X), C.R.S. (2002).”

Criminal sanction: See pg. 32-33 of the above link

Defines that a policy must be made in schools about bullying and it is up to the school to decide the punishment. Does not include electronic forms of punishment.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute, but Colorado has adopted restorative practices for most juvenile offenses and therefore bullying incidents that rise to the level of misdemeanor or felony should by definition be directed toward restorative practices.

## **Connecticut**

Signed by governor on 7-13-2011; “An Act Concerning the Strengthening of School Bullying Laws”, or S.B. 1138).

"Cyberbullying" means any act of bullying through the use of the Internet, interactive and digital technologies, cellular mobile telephone or other mobile electronic devices or any electronic communications..." School policies must “include provisions addressing bullying outside of the school setting if such bullying (A) creates a hostile environment at school for the victim, (B) infringes on the rights of the victim at school, or (C) substantially disrupts the education process or the orderly operation of a school..."

<http://www.cga.ct.gov/2011/TOB/S/2011SB-01138-R00-SB.htm>

H.B. 5826 (2008): <http://www.cga.ct.gov/2008/ACT/PA/2008PA-00160-R00HB-05826-PA.htm>

2002 Connecticut Public Act 2-119, SHB 5425; Statutes § 10-222d; defines a policy that Schools must adhere to for the severity of bullying but does not clearly define punishments nor explain thoroughly what bullying means.

<http://www.cga.ct.gov/2005/pub/Chap170.htm#Sec10-222d.htm>

Stakeholder Knowledge: Statute requires state department of education to prepare a list of evidence-based models which schools can use for implementing strategies to reduce bullying and establish safe school climates.

Safe-Reporting System: Provides for the acceptance of anonymous reports in an attempt to reduce fear of retaliation.

Restorative Practices: Not included in statute

## **Delaware**

HB NO. 7: An Act to amend Title 14 of the Delaware code to establish the School Bullying Prevention Act. <http://www.aacap.org/galleries/LegislativeAction/DE%20-%20anti-bullying%20bill.pdf> 14 Delaware Code 4112(D) includes bullying that is "...intentional written, electronic, verbal or physical act  
[http://www.doe.k12.de.us/infosuites/students\\_family/climate/files/Bully%20Prevention%20Law%20Outline.pdf](http://www.doe.k12.de.us/infosuites/students_family/climate/files/Bully%20Prevention%20Law%20Outline.pdf)

Section 1. Amend Title 14 of the Delaware Code by adding thereto a new § 4123A to read as follows:

"§ 4123A. School Bullying Prevention and Criminal Youth Gang Detection Training.

Section 2. Amend Chapter 41, Title 14 of the Delaware Code by adding thereto a new § 4112D, to read as follows:"§ 4112D. School Bullying Prevention. Nothing mentioned other than under (h) identify consequences must be met for bullying actions; up to the school to decide punishment.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Florida**

HB 609, signed by governor in May 2013, takes effect July 1, 2013. Added "cyberbullying" to bill and includes explicit language allowing schools to discipline students for their off-campus harassment that "substantially interferes with or limits the victim's ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school."

[http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0609er.docx&DocumentType=Bill&BillNumber=0609&Session=2013)

[FileName=\\_h0609er.docx&DocumentType=Bill&BillNumber=0609&Session=2013](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0609er.docx&DocumentType=Bill&BillNumber=0609&Session=2013)

Related to HB 626, "Imagine Shetteria Elliot Act" passed

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=49783&>

Full law: <http://laws.flrules.org/2013/87>

H.B. 699 s. 1006.147: School Safety "Jeffrey Johnson Stand Up for All Students Act":

Consequences must be made clear by the school district;

<http://www.myfloridahouse.com/Sections/Documents/loaddoc.aspx?>



FileName=\_h0669\_.xml&DocumentType=Bill&BillNumber=0669&Session=2008

“A procedure for including incidents of bullying or harassment in the school’s report of data concerning school safety and discipline required under s. 1006.09(6). The report must include each incident of bullying or harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each reported incident of bullying or harassment that does not meet the criteria of a prohibited act under this section with recommendations regarding such incidents. The Department of Education shall aggregate information contained in the reports.”

Stakeholder Knowledge: Requires each school district to adopt a policy consistent with the state anti-bullying policy

Safe-Reporting System: Provides for the acceptance of anonymous reports in an attempt to reduce fear of retaliation.

Restorative Practices: Not included in statute

## **Georgia**

SB 250 (2010): [http://www.legis.state.ga.us/legis/2009\\_10/pdf/sb250.pdf](http://www.legis.state.ga.us/legis/2009_10/pdf/sb250.pdf): Students found bullying third time in school year are sent to alternative school, requires that policies against bullying be posted in all middle and high schools, requires that bullying policies be included in student and parent handbooks. O.C.G.A. 20-2-751.4: “...by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system...” 1999 Georgia Laws, H.B. 84, Chap. 282 (O.C.G.A. § 20-2-751.4 and O.C.G.A. § 20-2-751.5.) Requires the implementation of a character education program at all grade levels that is to include methods of discouraging bullying and violent acts against fellow students. Adds razor blade to the definition of weapon.

Proposed: “The End to Cyberbullying Act” – includes off campus and cyberbullying <http://www.legis.ga.gov/Legislation/20112012/110632.pdf>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute—but provides for a system of anonymous reporting

Restorative Practices: Not included in statute

## **Hawaii**

H.B. 688 (Signed July 11, 2011):  
[http://www.capitol.hawaii.gov/session2011/Bills/HB688\\_.HTM](http://www.capitol.hawaii.gov/session2011/Bills/HB688_.HTM). Includes cyberbullying.

SB2094.DOC: [http://www.capitol.hawaii.gov/session2010/bills/SB2094\\_.HTM](http://www.capitol.hawaii.gov/session2010/bills/SB2094_.HTM). If any child of school age engages in bullying or cyberbullying, the child, and the father, mother, or legal guardian, shall be fined not more than \$100 for each separate offense.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Idaho**

H.B. 750, “Jared's Law”: Student who personally violates any provision of this section shall be guilty of a misdemeanor; possible suspension or denial of school attendance;  
<http://www3.state.id.us/oasis/2006/H0750.html>

“As used in this section, ‘harassment, intimidation or bullying’ means any intentional gesture, or any intentional written, verbal, or physical act or threat by a student....

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Illinois**

H.B. 4207 (signed by governor, Aug 1, 2014; took effect Jan 1, 2015) (Public Act 098-0801). “No student shall be subjected to bullying: ... “Bullying means any severe or pervasive physical or verbal act or conduct... (4) through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by a school district or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This item (4) applies only in cases in which a school administrator or teacher receives a report that bullying through this means has occurred and does not require a district or school to staff or monitor any nonschool-related activity, function, or program.”  
<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=098-0801>

“Bullying” (includes “cyber-bullying,” and [added with PA 098-0801]) means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

- (1) placing the student or students in reasonable fear of harm to the student's or students' person or property;
- (2) causing a substantially detrimental effect on the student's or students' physical or mental health;
- (3) substantially interfering with the student's or students' academic performance;
- or
- (4) substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.”  
(<http://www.ilga.gov/legislation/publicacts/98/PDF/098-0669.pdf>)

June 26, 2014, H.B. 5707 Every school in the state, including private and charter schools, need to have an anti-bullying policy. Policy must include information about how bullying should be reported to schools, how it is to be investigated, and that bullying incidents must be reported to the parents of those involved. Investigations must be completed within 10 days of report of incident. Encourages “restorative measures.” Bullying incident data must be reported on school website.

January 1, 2012, H.B. 3281 “The board may suspend or by regulation authorize the superintendent of the district or the principal, assistant principal, or dean of students of any school to suspend a student for a period not to exceed 10 school days or may expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case by case basis, if (i) that student has been determined to have made an explicit threat on an Internet website against a school employee, a student, or any school-related personnel, (ii) the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and (iii) the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. The provisions of this subsection (d-5) apply in all school districts, including special charter districts and districts organized under Article 34 of this Code.”

2011 proposal references cyberbullying:

<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=84&GA=97&DocTypeId=HB&DocNum=1466&GAID=11&LegID=58226&SpecSess=0&Session=0>

S.B. 3266 (2010) (105 ILCS 5/27-13.3, 5/27-23.7, 5/10-20.14);

[http://www.ilga.gov/legislation/ilcs/ilcs4.asp?](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt.+27&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%27-13.3%2C%27-23.7%2C%2F10-20.14)

[DocName=010500050HArt.+27&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%27-13.3%2C%27-23.7%2C%2F10-20.14](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt.+27&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%27-13.3%2C%27-23.7%2C%2F10-20.14)

2F&ChapterID=17&ChapterName=SCHOOLS&SectionID=49363&SeqStart=145600000&SeqEnd=151900000&ActName=School+Code.

“105 ILCS 135/1-2 (2008) defines harassment through electronic communications. The definition includes "making any obscene comment, request, suggestion or proposal with an intent to offend," and "threatening injury to the person or to the property of the person to whom the electronic communication is directed or to any of his family or household members." Violation of the provisions of the statute will result in a class B misdemeanor.” [http://www.olweus.org/public/laws\\_illinois.page](http://www.olweus.org/public/laws_illinois.page)

H.B. 6391: Beginning with the 2010-2011 school year, a school district must include in the age-appropriate curriculum topics devices, including, but not limited to, the risks and consequences of dissemination and transmission of sexually explicit images and video. The age-appropriate unit of instruction may be incorporated into the current courses of study regularly taught in the district's schools, as determined by the school board. Nothing about the actual penalty other than it is up to the school.

Stakeholder Knowledge: Requires all schools to have anti-bullying policy

Safe-Reporting System: Requires policy to state how incidents should be reported, but does not deal with ‘safe-reporting’

Restorative Practices: Encourages but does not require restorative measures

## **Indiana**

HB 1423, signed by governor on May 11, 2013 (Public Law 285) “‘bullying’ means overt, unwanted, repeated acts or gestures, including verbal or written communications or images transmitted in any manner (including digitally or electronically), physical acts committed, aggression, or any other behaviors, that are committed by a student or group of students against another student with the intent to harass, ridicule, humiliate, intimidate, or harm the other targeted student and create for the targeted student an objectively hostile school environment.” <https://docs.google.com/viewer?url=http://static.openstates.org/documents/in/IND00057868&chrome=true>

HB 1276: Amends the definition of “bullying” to include communications transmitted from an electronic communications device or through a social networking web site. [http://www.indiana-asbo.org/pdf/2010-2%20\\_2\\_.pdf](http://www.indiana-asbo.org/pdf/2010-2%20_2_.pdf): page 49

“By July 1 of each year, each school corporation shall submit a report to the department detailing the following information for the current school year for each school in the school corporation and for the entire school corporation: ... (8) The number of reported bullying incidents involving a student of the school corporation by category.”

Senate Enrolled Act No. 285:

<http://www.in.gov/legislative/bills/2005/PDF/SE/SE0285.1.pdf>

IC 20-30-5.5; IC 20-33-8-0.2; IC 20-33-8-13.5; IC 5-2-10.1-2; IC 5-2-10.1-11.12

See also: <http://www.in.gov/legislative/ic/code/title20/ar33/ch8.html>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Iowa**

S.F. 61, 2007 Code §280.28 Harassment and Bullying Prohibited;

[http://coolice.legis.iowa.gov/Cool-ICE/default.asp?](http://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=280.28;)

[category=billinfo&service=IowaCode&input=280.28;](http://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&input=280.28;)

b. "Harassment" and "bullying" shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

- (1) Places the student in reasonable fear of harm to the student's person or property.
- (2) Has a substantially detrimental effect on the student's physical or mental health.
- (3) Has the effect of substantially interfering with a student's academic performance.
- (4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

“On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy.” Criminal harassment statute (708.7) includes electronic forms: “A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following: (1) Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.”

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

### **Kansas**

H.B 2222, signed by governor on June 28, 2013, clarifies that bullying by a staff member is incorporated into K.S.A. 2012 Supp. 72-8256

([http://kansasstatutes.lesterama.org/Chapter\\_72/Article\\_82/72-8256.html](http://kansasstatutes.lesterama.org/Chapter_72/Article_82/72-8256.html)) which requires school district policies on bullying. "Loren's Law" is named after Loren Wendelburg, who was abused by a teacher when he was in fifth grade.

([http://www.kslegislature.org/li/b2013\\_14/committees/misc/ctte\\_h\\_ed\\_1\\_20130212\\_03\\_other.pdf](http://www.kslegislature.org/li/b2013_14/committees/misc/ctte_h_ed_1_20130212_03_other.pdf);

[http://www.kslegislature.org/li/b2013\\_14/committees/misc/ctte\\_h\\_ed\\_1\\_20130212\\_03\\_other.pdf](http://www.kslegislature.org/li/b2013_14/committees/misc/ctte_h_ed_1_20130212_03_other.pdf));

H.B 2758, 2008 Statutes Annotated §72-8256: defines cyberbullying; up to schools to decide punishment; <http://www.kslegislature.org/bills/2008/2758.pdf>

H.B. 2310: defines bullying

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

### **Kentucky**

Defines harassment as overall term for bullying behavior. "A person is guilty of harassment when, with intent to intimidate, harass, annoy or alarm another person....." KRS 525.070

Primarily defines behavior normally HB 370 (introduced Feb 7, 2012) includes cyberbullying:<http://www.lrc.ky.gov/record/11rs/hb370.htm>

Criminal statute: 525.080 (Harassing communications): Chapter 125, H.B. 91; "Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication." Punishment is a Class B misdemeanor. <http://www.lrc.ky.gov/Statrev/ACTS2008/0125.pdf>; Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Louisiana**

“For purposes of this Subsection , the terms ‘harassment’, ‘intimidation’, and ‘bullying’ shall mean any intentional gesture or written , verbal, or physical act that;...(b) Is so severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student.” LSA-R.S. 17:416.13.b(2)

H.B. 1259, Act 989

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=723230>:

“Cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen... whoever commits the crime of cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.”

H.B. 364, Act 230;

[http://www.legis.state.la.us/leg\\_docs/01RS/CVT1/OUT/0000IV8L.PDF](http://www.legis.state.la.us/leg_docs/01RS/CVT1/OUT/0000IV8L.PDF)

H.B. 1458; School board may charge fee to attend conflict resolution class/es, not to exceed \$100<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=10RS&billid=HB1458>;  
Provides relative to cyberbullying and student codes of conduct adopted by local school boards, not passed for all Schools before or by August, 1, 2010.

Reference to off-campus behaviors: “Cyberbullying (for purposes of writing each policy) means: harassment, intimidation, or bullying of a student on school property by another student using a computer, mobile phone, or other interactive or digital technology OR harassment, intimidation, or bullying of a student while off school property by another student using any such means when the action or actions are intended to have an effect on the student when the student is on school property.” (La. Rev. Stat. Ann. §§ 14:40.7, 17:416.13—<http://www.legis.state.la.us/lss/lss.asp?doc=81029>)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Maine**

§6554. Prohibition on bullying in public schools: “‘Bullying’ includes, but is not limited to, a written, oral or electronic or a physical act or gesture or any combination thereof directed at a student or students... ‘Bullying’ includes cyberbullying. [2011, c. 659, §3

(NEW).] ‘Cyberbullying’ means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant.”

(<http://www.mainelegislature.org/Legis/Statutes/20-A/title20-Asec6554.html>) “An Act to Prohibit Cyberbullying:”

[http://www.mainelegislature.org/legis/bills/bills\\_124th/billpdfs/SP035501.pdf](http://www.mainelegislature.org/legis/bills/bills_124th/billpdfs/SP035501.pdf)

P.L. 2005, Ch. 307: <http://www.mainelegislature.org/ros/LOM/LOM122nd/8Pub301-350/Pub301-350-06.htm>

Statute Title 20-A 1001.15H (2005): School officials must “establish procedures and policies to address bullying, harassment, and sexual harassment”

(<http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec1001.html>)

SP035501: Current law requires each school board to adopt a policy that addresses injurious hazing. This bill defines "cyberbullying" as injurious hazing by any verbal, textual or graphic communication of any kind effected, created or transmitted by the use of any electronic device, including but not limited to a computer, telephone, cellular telephone, text messaging device and personal digital assistant. Punishment is up to the School Board.

Stakeholder Knowledge: State provides a model policy – based on Bandura’s Social Learning Theory 1977, also sometimes called “observational learning theory”

Safe-Reporting System: Not included in statute

Restorative Practices: Based on restorative practices and provides a list of possible interventions involving targets, offenders and parents.

## **Maryland**

H.B. 199, 2008 Code §7-424, 7-424.1 Bullying, Harassment and Intimidation; “‘Bullying, harassment, or intimidation’ means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication...” MD Code, Education, 7-424(a)(2)

<http://mlis.state.md.us/2008rs/bills/hb/hb0199e.pdf>; Up to the schools to establish policy for punishment. Misuse of Interactive Computer Service (Grace’s Law). Passed legislature 4/2013. Named after Grace McComas, a high school student who committed suicide in 2012 on Easter after being cyberbullied by a neighbor. “This bill prohibits a person from using an “interactive computer service” to maliciously engage in a course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury with the intent (1) to kill, injure, harass, or cause serious emotional distress to the minor or (2) to place the minor in reasonable fear of



death or serious bodily injury. Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$500 maximum fine.”  
[http://mgaleg.maryland.gov/2013RS/fnotes/bil\\_0002/sb1052.pdf](http://mgaleg.maryland.gov/2013RS/fnotes/bil_0002/sb1052.pdf)

Stakeholder Knowledge: Required as part of the State Anti-bullying Policy

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Massachusetts**

CHAPTER 92 AN ACT RELATIVE TO BULLYING IN SCHOOLS. (see Senate, No. 2404) Approved by the Governor, May 3, 2010; Includes cyberbullying and addresses those behaviors that “materially and substantially disrupts the education process or the orderly operation of the school.” Includes behaviors that occur: “at a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school.”

<http://www.malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter92>

S.B. 261 (S2323); <http://www.mass.gov/legis/bills/senate/186/st02pdf/st02283.pdf>; Each school district, commonwealth charter school and non-public school shall provide to all school staff annual written notice of the bullying prevention and intervention plan. The faculty and staff at each school shall be trained annually on the bullying prevention and intervention plan applicable to the school. Relevant sections of the bullying prevention and intervention plan shall be included in a district or school employee handbook. Define clearly what cyber bullying is and how severe it can be on schools. (includes private schools)

Stakeholder Knowledge: Requirement for annual training for all staff and distribution of school anti-bullying policy and prevention plan.

Safe-Reporting System: Not included in statute except for allowance for anonymous reporting but does not specify a requirement for safe-reporting.

Restorative Practices: Not included in statute

## Michigan

Act 451 of 1976 (MCL 380.1 - 380.1852) by adding sec. 1310b: “Matt’s Safe School Law” or “Act 451” <http://legislature.mi.gov/doc.aspx?mcl-380-1310b>

“‘Bullying’ means any written, verbal, or physical act, or any electronic communication, that is intended or that a reasonable person would know is likely to harm 1 or more pupils either directly or indirectly...”

House Bill 6468 (2010): Crimes; other; cyberbullying; prohibit, and provide penalties. Amends 1931 PA 328 (MCL 750.1- 750.568) by adding sec. 411w. (<http://www.legislature.mi.gov/documents/2009-2010/billintroduced/House/htm/2010-HIB-6468.htm>) (this law has not passed)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## Minnesota

“The commissioner shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of subdivision 2, and may encourage violence prevention and character development education programs, consistent with section 120B.232, subdivision 1, to prevent and reduce policy violations =. M.S.A. 122A.03.1

“Safe and Supportive Minnesota Schools Act” (July 1, 2014). “‘Cyberbullying’ means bullying using technology or other electronic communication, including, but not limited to, a transfer of a sign, signal, writing, image, sound, or data, including a post on a social network Internet Web site or forum, transmitted through a computer, cell phone, or other electronic device.” Also includes off-campus behaviors:

“Student bullying policy; scope and application. (a) This section applies to bullying by a student against another student enrolled in a public school and which occurs:

- (1) on the school premises, at the school functions or activities, or on the school transportation;
  - (2) by use of electronic technology and communications on the school premises, during the school functions or activities, on the school transportation, or on the school computers, networks, forums, and mailing lists; or
  - (3) by use of electronic technology and communications off the school premises
- to the extent such use substantially and materially disrupts student learning or the school environment.”

[https://www.revisor.mn.gov/bills/text.php-session=ls88&number=HF826&session\\_number=0&session\\_year=2013&version=list](https://www.revisor.mn.gov/bills/text.php-session=ls88&number=HF826&session_number=0&session_year=2013&version=list)

S.B. 646, 2007 Statutes §121A.0695; Includes electronic forms be incorporated into harassment prevention policies;

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S0646.0.html&session=ls85>

S.F. No. 971;

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S0971.2.html&session=ls86>

Stakeholder Knowledge: Model state policy distributed to all school boards

Safe-Reporting System: Not included in statute except for allowance for anonymous reporting but does not specify a requirement for safe-reporting.

Restorative Practices: State Policy suggests a list of procedures that are consistent with Restorative Practice.

## **Mississippi**

House Bill 552 makes impersonating someone for the purposes of harming, intimidating, threatening, or defrauding another person (online or off) a misdemeanor (<http://e-lobbyist.com/gaits/text/213626>). Signed by the governor on March 11, 2011.

S.B.2015; passed July 2010; <http://billstatus.ls.state.ms.us/documents/2010/pdf/SB/2001-2099/SB2015SG.pdf>: "...bullying or harassing behavior" is any pattern of gestures or written, electronic or verbal communications, or any physical act or any threatening communication, or any act reasonably perceived as being motivated by any actual or perceived differentiating characteristic, that takes place on school property, at any school-sponsored function, or on a school bus..."

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: S.B. 2390 (2001); "2001 Miss. Laws, S.B. 2390 - Directs the State Board of Education to develop a list of recommended conflict resolution and peer mediation programs that address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation. Requires the board to make the list available to local school administrative units and school buildings by the beginning of the 2002-2003 school year."

## **Missouri**

Missouri Revised Statutes, Chapter 160 (160.775) -  
<http://www.moga.mo.gov/statutes/C100-199/1600000775.HTM> -

“‘Bullying’ means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts.”

S.B. 818; <http://www.senate.mo.gov/08info/pdf-bill/tat/SB818.pdf>; “Currently, harassment is a Class A misdemeanor. Under this act, it is a Class A misdemeanor unless

- 1) committed by a person twenty-one years of age or older against a person seventeen years of age or younger; or
- 2) the person has previously committed the crime of harassment. In such cases, harassment is a class D felony.”

[http://www.senate.mo.gov/08info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=147](http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=147)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Montana**

“Bully-Free Montana Act” - HB 0284, signed by governor April 21, 2015. Defines bullying. Does nothing else. No requirement for school policy.  
<http://leg.mt.gov/bills/2015/billpdf/HB0284.pdf>

State has a criminal statute prohibiting harassment via electronic means: “a person commits the offense of violating privacy in communications if the person knowingly or purposely: (a) with the purpose to terrify, intimidate, threaten, harass, annoy, or offend, communicates with a person by electronic communication and uses obscene, lewd, or profane language, suggests a lewd or lascivious act, or threatens to inflict injury or physical harm to the person or property of the person. The use of obscene, lewd, or profane language or the making of a threat or lewd or lascivious suggestions is prima facie evidence of an intent to terrify, intimidate, threaten, harass, annoy, or offend.”  
<http://data.opi.mt.gov/bills/mca/45/8/45-8-213.htm>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## Nebraska

“For the purposes of this section, bullying means any ongoing pattern of physical, verbal or electronic abuse....” Neb. Rev. St. 79-2,137(2)

Proposed law (January 2011): Cyber-bullying as defined in section 79-2,137 shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, if such conduct causes or is reasonably projected to cause a substantial or material disruption of the school environment or threatens the safety and security of students or school personnel, regardless of whether such conduct occurs or is initiated on or off of school grounds. <http://nebraskalegislature.gov/FloorDocs/102/PDF/Intro/LB123.pdf>

L.B. 205, 2008: R.R.S. Nebraska 121A.069579-2,137; Grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## Nevada

“Bullying” means a willful act....N.R.S. 388.122

“Harassment” means a willful act....N.R.S. 388.125

“Intimidation” means a willful act....N.R.S. 338.129

S.B. 163 (chapter 188); “Cyber-bullying” means bullying through the use of electronic communication; “Electronic communication” means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication. Section 7 of this bill requires each school district to adopt the policy for inclusion in its policy on the provision of a safe and respectful learning environment; [http://www.leg.state.nv.us/Session/75th2009/Bills/SB/SB163\\_EN.pdf](http://www.leg.state.nv.us/Session/75th2009/Bills/SB/SB163_EN.pdf); penalty of misdemeanor. <http://www.leg.state.nv.us/NRS/NRS-388.html#NRS388Sec123>

Stakeholder Knowledge: State Policy includes stakeholder knowledge through training and communication.

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **New Hampshire**

Took effect July 1, 2010

HB 1523 (2010); Update which revises the Pupil Safety and Violence Prevention Act.

“The sole purpose of this chapter is to protect all children from bullying and cyberbullying.” RSA 193-F:2 through RSA 193-F:5 are repealed and reenacted, and 193-F: 6 through 193-F:10 added. Takes effect beginning July 1, 2010.

<http://www.gencourt.state.nh.us/legislation/2010/hb1523.html>

The school board of each school district shall adopt a written policy prohibiting bullying, harassment, intimidation, and cyberbullying. A school district shall involve, to the greatest extent practicable, pupils, parents, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of developing the policy. To the extent possible, the school district policy should be integrated with the school’s curriculum, discipline policies, behavior programs, and other violence prevention efforts.

2000 N.H. Laws, S.B. 360; HB 1523; Creates the Pupil Safety and Violence Prevention Act. Requires local school boards to adopt a pupil safety and violence prevention policy that addresses bullying and provides technical assistance. Requires school employees to report any information regarding bullying behavior to the school principal and provides immunity to any school employee who makes such a report from any cause of action arising from a failure to remedy the reported incident.

Stakeholder Knowledge: State Policy includes stakeholder knowledge through training and communication.

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **New Jersey**

September 1, 2011; P.L.2010, CHAPTER 122; “Anti-Bullying Bill of Rights Act.”

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents ...that takes place on school property, at any school-sponsored function [or] on a school bus, or off school grounds that substantially disrupts or interferes with the orderly operation of the school or the rights of other students.

“Two times each school year, between September 1 and January 1 and between January 1 and June 30, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence and, vandalism, and harassment, intimidation, or bullying which occurred during the previous [school year] [semester] reporting period. The information shall also be reported once during each [semester of the school year] reporting period to the Department of Education.”

[http://www.njleg.state.nj.us/2010/Bills/AL10/122\\_.PDF](http://www.njleg.state.nj.us/2010/Bills/AL10/122_.PDF)

S.B. 993, 2007: New Jersey Statutes §18A:37-14; Nothing said about the punishment other than it's up to the School District and the “electronic Communication” is added to the policy of Harassment in Schools. Examples could range from expulsion to detention;

[http://www.njleg.state.nj.us/2006/Bills/PL07/129\\_.HTM](http://www.njleg.state.nj.us/2006/Bills/PL07/129_.HTM);

<http://www.njleg.state.nj.us/2006/>

[Bills/A4000/3803\\_R1.PDF](http://www.njleg.state.nj.us/2006/Bills/A4000/3803_R1.PDF)

Stakeholder Knowledge: State provides a model policy and has created an extensive anti-bullying website for schools, students and parents.

Safe-Reporting System: Not included in statute except for allowance for anonymous reporting but does not specify a requirement for safe-reporting.

Restorative Practices: Not included in statute

## **New Mexico**

NMAC 6.12.7; Statutory regulation which has the force of law;

<http://www.nmcp.state.nm.us/nmac/parts/title06/06.012.0007.htm>

Requires school sanctions for bullying, no criminal sanctions. Includes electronic harassment and requires a school policy on bullying.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **New York**

SENATE BILL - S 1987-B (A 3661-C): “Dignity for All Students Act” to afford all students in public schools an environment free of harassment and discrimination based on actual or perceived race, national origin, ethnic group, religion, disability, sexual orientation, gender or sex; passed by the NY State Senate on June 22, 2010, signed by the governor on

September 8, 2010. “‘Harassment’ shall mean the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.” Requires “instruction in civility, citizenship and character education.” Scheduled to take effect July 1, 2012.

Takes effect July 1, 2013: “The legislature also recognizes that most cyberbullying originates off-campus, but nonetheless affects the school environment and disrupts the educational process, impeding the ability of students to learn and too often causing devastating effects on students' health and well-being.” Includes behavior that “occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment...”<http://open.nysenate.gov/legislation/bill/S7740-2011>

“Law to Encourage the Acceptance of All Differences (LEAD)” - (Proposed April 29, 2011—still active as of June 21, 2012). <http://open.nysenate.gov/legislation/bill/S4921-2011>; argues: “it is imperative that any legislation aimed at protecting students from bullying includes a prohibition of acts of cyberbullying when such acts create a hostile environment for the student at school or materially and substantially disrupt the educational process or the orderly operation of a school.” The proposed law does not include any specific language to allow school intervention in behaviors that occur away from school.

Commissioner’s Regulation 100.2 (l) and Education Law 2801 and Education Law 2801-a: Requires each board of education to adopt and enforce a code of conduct, which includes disciplinary measures to be taken in incidents involving the use of physical force or harassment. Requires school safety plans to contain strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence.

H.B. A04028 (S 7158) – (Proposed in 2009 but never enacted): Increases penalty for some forms of hazing from a misdemeanor to a felony. Adds provisions to education law, which would prohibit “bullying and cyber-bullying on school property, including a school function.” Establishes a class B misdemeanor of failure to report hazing and requires instruction to discourage bullying and cyber-bullying in schools and polices for schools to be enacted. “‘Cyber-bullying’ means a course of conduct or repeated acts of abusive behavior by communicating through electronic means, with a person anonymously or otherwise over a period of time committing such acts as, but not limited



to, taunting, insulting, humiliating, harassing, menacing, sending hate mail or embarrassing photographs.” (<http://m.nysenate.gov/legislation/bill/A4028-2009>)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **North Carolina**

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

- (1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
- (2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Senate Bill 707 (effective December 1, 2012) amends 14-458.1 and adds as a punishable offense “Cyber-bullying of school employee by student.”

<http://www.ncleg.net/Sessions/2011/Bills/Senate/PDF/S707v6.pdf>

Unlawful for any person to use a computer or computer network to “Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke, any third party to stalk or harass a minor.”

§ 115C-407.15. Bullying and harassing behavior.

§ 14-458.1. Cyber-bullying; (computer-related crime). Outlines specific types of cyberbullying and applies to behaviors directed toward minors or a minor’s parents.

“Any person who violates this section shall be guilty of cyber-bullying, which offense shall be punishable as a Class 1 misdemeanor if the defendant is 18 years of age or older at the time the offense is committed. If the defendant is under the age of 18 at the time the offense is committed, the offense shall be punishable as a Class 2 misdemeanor”

[ftp://ftp.legislature.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_14/Article\\_60.PDF](ftp://ftp.legislature.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_14/Article_60.PDF)

§ 14-458.2. Cyber-bullying of a school employee by student; penalty.

Unlawful for student to create a fake profile or web site, to post or encourage others to post personal, private, or sexual information, to post a real or doctored image of a school employee.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

## **North Dakota**

House Bill 1465 defines bullying and requires school districts to have bullying policies by July 1, 2012. <http://www.legis.nd.gov/assembly/62-2011/documents/11-8212-02000.pdf> “Bullying” means: a. Conduct that occurs in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event; b. Conduct that is received by a student while the student is in a public school, on school district premises, in a district owned or leased schoolbus or school vehicle, or at any public school or school district sanctioned or sponsored activity or event. “Conduct” includes the use of technology or other electronic media. Code 12.1.17-07 (2009) makes harassment via phone, in writing or via electronic communication a Class A misdemeanor.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

## **Ohio**

H.B. 116 (Jessica Logan Act) - effective November 4, 2012. ““Electronic act”” means an act committed through the use of a cellular telephone, computer, pager, personal communication device, or other electronic communication device.” “A requirement that the custodial parent or guardian of any student involved in a prohibited incident be notified...”

Text of bill: [http://www.legislature.state.oh.us/BillText129/129\\_HB\\_116\\_EN\\_N.pdf](http://www.legislature.state.oh.us/BillText129/129_HB_116_EN_N.pdf)

Summary/analysis: <http://www.lsc.state.oh.us/analyses129/12-hb116-129.pdf>

H.B. 276; [http://www.legislature.state.oh.us/bills.cfm?ID=126\\_HB\\_0276](http://www.legislature.state.oh.us/bills.cfm?ID=126_HB_0276)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Oklahoma**

H.B. 1661, signed by the governor on June 10, 2013. <http://openstates.org/ok/bills/2013-2014/HB1661/documents/OKD00017374/> Interestingly, schools no longer need a policy that “prohibits” bullying but rather need one that “addresses” it.

S.B.1941, 2008: 70 Oklahoma Statutes §24-100.3; Adopts a School Bullying Prevention Act that orders School Districts to adopt a policy for Harassment and bullying that included electronic forms.; <http://sde.state.ok.us/Schools/SafeHealthy/pdf/SB1941.pdf>

H.B. 2215/ S.B. 992 enact the Bully Prevention Act, define bullying; amend 70 O.S. 2001, Section 24-100

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Oregon**

Senate Bill 1555 (July 1, 2012): “Each school district shall adopt a policy prohibiting harassment, intimidation or bullying and prohibiting cyberbullying.” “(B) Require a school employee to report an act of harassment, intimidation or bullying or an act of cyberbullying...”

“School districts must incorporate into existing training programs for students and school employees information related to:

- (a) The prevention of, and the appropriate response to, acts of harassment, intimidation and bullying and acts of cyberbullying[.]”

<https://docs.google.com/viewer?url=http://www.leg.state.or.us/12reg/measpdf/sb1500.dir/sb1555.en.pdf>

Chapter 647 Oregon Laws 2007 339.351. As used in ORS 339.351 to 339.364[.]:

- (1) “Cyberbullying” means the use of any electronic communication device to harass, intimidate or bully.
- (2) “Harassment, intimidation or bullying” means any act that substantially interferes with a student’s educational benefits, opportunities or performance, that takes place on or immediately adjacent to school grounds, at any school-

sponsored activity, on school-provided transportation or at any official school bus stop, and that has the effect of:

- [(1)] (a) Physically harming a student or damaging a student's property;
- [(2)] (b) Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student's property; or
- [(3)] (c) Creating a hostile educational environment.

339.353. (1) The Legislative Assembly finds that:

(a) A safe and civil environment is necessary for students to learn and achieve high academic standards.

(b) Harassment, intimidation or bullying and cyberbullying, like other disruptive or violent behavior, [is] are conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment.

<http://www.leg.state.or.us/07orlaws/sess0600.dir/0647.htm>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

## **Pennsylvania**

H.B. 1067, 2008: 24 Pennsylvania Statutes §1303.1-A; requires school systems to develop policies prohibiting bullying, including through electronic means. Also defines bullying as harassment with electronic means;

<http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2007&sessInd=0&billBody=H&billTyp=B&billNbr=1067&pn=4199>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Rhode Island**

S. 2012, 2008: General Laws §16-21-26; school districts adopt policies to determine how to deal with this bullying; repeat offenders of the policy under Rhode Island general law will go to family court. <http://www.rilin.state.ri.us/BillText08/SenateText08/S2012B.pdf>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

### **South Carolina**

H.B. 3573, 2006: South Carolina Code §59-63-120, §59-63-140; Extends bullying to electronic means of communication. Developed Safe School Climate Act, which leaves it up to School Districts to decide the actions to take;  
[http://www.scstatehouse.gov/sess116\\_2005-2006/bills/3573.htm](http://www.scstatehouse.gov/sess116_2005-2006/bills/3573.htm)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

### **South Dakota**

Bullying law signed by the Governor on March 22, 2012. “Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive ...” “Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by a school district for conduct determined to meet the definition of bullying in section 2 of this Act.”  
(<http://legis.state.sd.us/sessions/2012/Bill.aspx?File=SB130ENR.htm>)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

### **Tennessee**

Tenn. Code Ann. § 49-6-1014 (2012)  
49-6-1014. Legislative findings -- Safety and civility.  
The general assembly finds and declares that:

- (1) A safe and civil environment is necessary for students to learn and achieve high academic standards;

(2) Harassment, intimidation, bullying or cyber-bullying, like other disruptive or violent behavior, is conduct that disrupts a student's ability to learn and a school's ability to educate its students in a safe environment;

(3) Students learn by example. School administrators, faculty, staff and volunteers who demonstrate appropriate behavior, treating others with civility and respect and refusing to tolerate harassment, intimidation, bullying or cyberbullying, encourage others to do so as well; and

(4) The use of telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and web sites by students in a manner that is safe and secure is essential to a safe and civil learning environment and is necessary for students to successfully use technology.

Tenn. Code Ann. § 49-6-1015 (2012) (<http://www.state.tn.us/tccy/tnchild/49/49-6-1015.htm>) 49-6-1015. Definitions for §§ 49-6-1014 -- 49-6-1019.

TN Code § 49-6-4502 (2014)

(a) As used in § 49-6-1014, this section and §§ 49-6-1016 -- 49-6-1019:

(1) "Cyber-bullying" means bullying undertaken through the use of electronic devices;

(2) "Electronic devices" include, but are not limited to, telephones, cellular phones or other wireless telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and web sites;

(3) "Harassment, intimidation or bullying" means any act that substantially interferes with a student's educational benefits, opportunities or performance; and:

(A) If the act takes place on school grounds, at any school-sponsored activity, on school-provided equipment or transportation or at any official school bus stop, the act has the effect of:

(i) Physically harming a student or damaging a student's property;

(ii) Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student's property;

(iii) Causing emotional distress to a student or students; or

(iv) Creating a hostile educational environment; or

(B) If the act takes place off school property or outside of a school-sponsored activity, it is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

<http://law.justia.com/codes/tennessee/2014/title-49/chapter-6/part-45/section-49-6-4502> S.B.113; A misdemeanor (up to 1 year in prison and a \$2,500 fine) for making threats made online as well as certain instances of cyberharassment.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Provision for anonymous reporting and protection of those filing a report.

Restorative Practices: Not included in statute

## **Texas**

H.B. 1942

<http://www.legis.state.tx.us/tlodocs/82R/billtext/pdf/HB01942F.pdf#navpanes=0> Act applies beginning with the 2012-2013 school year. Schools must have a policy. "...'bullying' means...engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district." The law does not contain any language about behaviors that occur away from school or about substantial disruption to the learning environment. H.B. 283; Tex. Educ. Code Ann 25.0342, 37.217, 37.001, 37.083; <http://www.statutes.legis.state.tx.us/Docs/ED/pdf/ED.37.pdf>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Utah**

HB325: Requires local school boards and local charter boards to adopt a policy, on or before September 1, 2009, for reporting and responding to bullying, hazing, or retaliation; <http://le.utah.gov/~code/TITLE53A/htm/53A11a010200.htm>; <http://le.utah.gov/~code/TITLE53A/htm/53A11a030100.htm>

SB 304 – signed March 22, 2001 (<http://le.utah.gov/~2011/bills/sbillenr/sb0304.htm>): (3) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication."

"State Board of Education Policy R277-613-1 (2009) defines Cyber Bullying as "the use of email, instant messaging, chat rooms, pagers, cell phones or other forms of information technology to deliberately harass, threaten, or intimidate someone for the

purpose of placing a school employee or student in fear of physical harm to the school employee or student or harm to property of the school employee or student. The policy requires each school district to implement a policy prohibiting bullying and hazing consistent with Code 53A-11a-301 (2008).”

[http://www.olweus.org/public/laws\\_utah.page](http://www.olweus.org/public/laws_utah.page)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Vermont**

16 V.S.A. § 11 Subsection 26(A) defines “harassment” as “...an incident or incidents of verbal, written, visual, or physical conduct, including any incident conducted by electronic means, based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.”

Subsection 32 defines “bullying” as (32) “...any overt act or combination of acts, including an act conducted by electronic means, directed against a student by another student or group of students and which:

(A) is repeated over time;

(B) is intended to ridicule, humiliate, or intimidate the student; and

(C) (i) occurs during the school day on school property, on a school bus, or at a school-sponsored activity, or before or after the school day on a school bus or at a school-sponsored activity; or

(ii) does not occur during the school day on school property, on a school bus, or at a school-sponsored activity and can be shown to pose a clear and substantial interference with another student's right to access educational programs.”

(<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=001&Section=00011>)

Statute § 1162 explicitly allows for the suspension or expulsion of students for their bullying behaviors even when not on school property: “...where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.”

<http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=025&Section=01162>



2004 Vermont Act 117; 16 V.S.A. § 11(a)(32); An Act was enabled in memory of Ryan Patrick Halligan who was severely bullied electronically. The penalty is to have schools develop a plan to notify parents of bullying along with the victim and expulsion may be a consequence. The law passed is called the Vermont Bully's Prevention Law; <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=001&Section=00011>; <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=16&Chapter=009&Section=00565>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Virginia**

H.B. 1871, signed by governor on July 1, 2013. “‘Bullying’ means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. ‘Bullying’ includes cyber bullying. ‘Bullying’ does not include ordinary teasing, horseplay, argument, or peer conflict.” <http://lis.virginia.gov/cgi-bin/legp604.exe?131+ful+CHAP0575>

H.B.1624; Virginia must design a model policy for means of harassment and others means of bullying including standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>

§ 18.2-152.7:1.

Harassment by computer; penalty. If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, he shall be guilty of a Class 1 misdemeanor.

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Washington**

RCS 28A.300.285 (2010): <http://apps.leg.wa.gov/RCW/default.aspx?cite=28A.300.285>.  
“By August 1, 2011, each school district shall adopt or amend if necessary a policy and procedure...” “‘Harassment, intimidation, or bullying’ means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act...” Implicitly includes off campus behaviors because it includes behaviors that have: “...the effect of substantially disrupting the orderly operation of the school.”

Cyberstalking (RCW 9.61.260): “A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party: (a) Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act; (b) Anonymously or repeatedly whether or not conversation occurs; or (c) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.” (<http://apps.leg.wa.gov/rcw/default.aspx?cite=9.61.260>)

Stakeholder Knowledge: “The Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site.” S.B. 5288, 2007: Revised Code of Washington §28A.300.285; Adds cyber bullying to the Harassment and bullying Act that Schools must have a policy for; terms of penalty are determined by the School;

<http://apps.leg.wa.gov/documents/billdocs/200910/Pdf/Bills/Session%20Law%202010/2801-S.SL.pdf> AN ACT Relating to including cyberbullying in school district harassment prevention policies.

Stakeholder Knowledge: State Policy requires training and communication to stakeholders

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **West Virginia**

As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat..."

<http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=18&art=2C#02C>

2001 West Virginia Acts, H.B. 3023, Chap. 103 (W.Va. Code Ann.18-2C-3);

[http://www.legis.state.wv.us/Bill\\_Text\\_HTML/2001\\_SESSIONS/RS/Bills/hb3023%20enr.htm](http://www.legis.state.wv.us/Bill_Text_HTML/2001_SESSIONS/RS/Bills/hb3023%20enr.htm)

“Synopsis - 2001 West Virginia Acts, H.B. 3023, Chap. 103 Requires county school boards to develop and adopt a policy prohibiting harassment, intimidation or bullying on school property or at school-sponsored events. Requires state board of education to develop a model policy to assist county boards. Requires policy to include definition, statement prohibiting harassment, intimidation or bullying, reporting procedures, notification of parents, procedures for response and investigation, process for documentation of incidents, strategy for protecting victims from further harassment or bullying after a report is made and a disciplinary procedure for students found guilty.”

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Wisconsin**

2009 Wisconsin Act 309 (SENATE BILL 154)

(<https://docs.legis.wisconsin.gov/2009/related/acts/309>).

School districts need to adopt bullying policies by August 15, 2010. Department of Public Instruction (DPI) is directed to create a model policy that schools may or may not adopt. Law does not include electronic forms of bullying nor does it refer to off-campus bullying. The DPI model policy does refer to cyberbullying. Unlawful use of computerized communication systems; Class B misdemeanor; a fine up to \$1,000, or imprisonment for up to 90 days, or both for sending electronic threats or using lewd or profane language in electronic communication.

(<http://www.legis.state.wi.us/statutes/Stat0947.pdf>)

Wisconsin also has a criminal defamation statute: “(1) Whoever with intent to defame communicates any defamatory matter to a 3rd person without the consent of the person defamed is guilty of a Class A misdemeanor. (2) Defamatory matter is anything which exposes the other to hatred, contempt, ridicule, degradation or disgrace in society or injury in the other's business or occupation.”

<https://docs.legis.wisconsin.gov/statutes/statutes/942/01>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **Wyoming**

H.B.0223 Safe School Climate Act; Orders the Safe School Climate Act that all School Districts must have a policy in regard to the bullying (including electronically) and the punishments are the discretion of the Schools;  
<http://www.BullyPolice.org/WYHB0223.pdf>

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## **District of Columbia**

D.C. Act 19-384—“Youth Bullying Prevention Act of 2012” - signed by D.C. Mayor on June 22, 2012. “‘Bullying’ means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal...” ... “Can be reasonably predicted to... (II) Cause a substantial detrimental effect on the youth’s physical or mental health...” (IV) Substantially interfere with the youth’s academic performance or attendance...” Schools need to have a bullying prevention policy within 365 days of the effective date of the act. The policy is to be enforced when the bullying happens on school property, while using school-owned property, and “Through electronic communication to the extent it is directed at a youth and it substantially interferes with the youth’s ability to participate in or benefit from the services, activities, or privileges provided by the agency, educational institution, or grantee.” (<http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?noticeid=2692737>)

Stakeholder Knowledge: No stated requirements in current statute

Safe-Reporting System: Not included in statute

Restorative Practices: Not included in statute

## APPENDIX C

### BEHAVIORAL TRANSITION AS AN EXTENSION OF RESTORATIVE JUSTICE

If school personnel are trained in restorative justice, they will have a significantly better chance of reducing negative behavior and dramatically improving the school's behavioral climate. They can also make a major contribution to the futures of all students involved in serious harassment and bullying if they become familiar with the Behavioral Transition concept, (World Restorative Justice Conference, 2014). For example; many times after a successful restorative justice intervention or after a successful mediation the principal facilitator believes even though the issue has been resolved, and everyone is relieved the process is over, there is still something missing for one or more of the participants. Even though the dispute or conflict has been successfully resolved through mediation and restorative justice, often the participants feel stuck in place, and struggle with what to do next. Sometimes it seems like everyone is saying to themselves, "I'm glad that's over, but what is next?" They have the answer to that question in the back of their mind but they cannot retrieve it, and often if they could retrieve it they might not give themselves permission to use it. This is where the concept of Behavioral Transition can be extremely useful.

As previously stated there are three parties to all bullying, harassment, disputes, and conflicts. The three parties can be roughly labeled as 1) the offender, 2) the target, and 3) the bystanders, and as discussed earlier, all three groups need to be addressed if the process is to be successful.

#### Offenders:

Offenders often get labeled with their offense and their outward identity and self-identity becomes lost in the label. Sociologists and Criminologists refer to this either as 'Social Reaction Theory' or 'Labeling Theory'. Often, offenders continue to act out in accordance with the label that has been assigned to them. Howard Becker, in *Outsiders*:

*Studies in the Sociology of Deviance* (1963) developed the theory during a turbulent time in the 1960s. His theory is sometimes referred to as ‘social reaction theory’ and pulls stems from the earlier work of Cooley and Mead (1902) and the labeling work of Tannenbaum (1938), and Lemert (1951).

While ‘Labeling Theory’ is an important influence, there are other factors contributing equally to offenders continuing to behave as ‘labeled’. One factor is if the offender has never been part of a restorative justice conference, the offender may never have been able to see the target as a real person. The offender therefore, has no empathy for the target and has a difficult time accepting personal responsibility. The restorative justice process should have helped to correct that, at least in the most recent situation, but often more is going on. Most offenders, whether they are violent, are bullies, promote social exclusion, commit harassment, are lying, or practicing other negative behaviors, have the roots of their behavior in a problem that manifests itself in the offense committed. The offense is almost always a symptom of a deeper problem. Therefore, when we simply punish the offender, or conduct a restorative justice conference around the offense, we often correct that particular symptom but do little or nothing to address the underlying problem. That problem is almost always some form of reaction to one or more of the offender’s states of being:

### **States of Being for Each Individual**

1. Mental State of Being (measure of stability, intelligence, competency)
2. Emotional State of Being (emotional orientation, emotional control)
3. Physical State of Being (health, mobility, fitness)
4. Transpersonal State of Being (How we see others and how we perceive they see us (Emotional Intelligence)
5. Values State of Being (One’s concept of morality)
6. Ethical State of Being (Personal ethics, Spiritual Intelligence)
7. Historical and Inherited State of Being (ranges from a sense of entitlement to one of being repressed and discriminated against, can include levels of wealth, inherited traits, or leaned inherited prejudices and hatred)

The amount of positive control one has with each of the 7 states is a measure of positive stability. When one does not have positive control or stability over one or more of the 7 states of being, there is a tendency to compensate for the lack of control, typically with negative thoughts, actions, and deeds. Control is then established through conscious or

unconscious rationalization as justification for negative behavior. This is the trap that most offenders are caught within and they will continue to ‘medicate’ themselves with the same negative behavior as a means of personal control.

It follows logically, that if we only treat the symptom, then the underlying problem will continue to manifest itself in other related symptoms. It is often easier to see this phenomenon in adolescents that have been acting as bullies. Often if only the bullying behavior is corrected, without a restorative process, the problem will manifest itself in other areas, such as lying, petty theft, alcohol, or drug experimentation. The new behavior is actually the underlying problem manifesting itself in a different symptom and treating that symptom will usually result in a new symptom until the real problem is addressed.

If the bully is punished, without a restorative process, the bully may actually feel rewarded by receiving what he or she was looking for, i.e. attention, status, and recognition.

If ‘Labeling Theory’ is combined with the ‘Behavioral Transition Symptom Concept’ it is easy to spot a condition that affects most offenders. It is what can be described as ‘Being Stuck in The What’. Most offenders are ‘stuck in the what’ and they are trapped in the ‘what’. It is how people refer to them, i.e. “He is a bully or she is a liar, that’s ‘what’ they are”. The label traps them and they are equally trapped in the ‘what’ because their underlying problem continues to guide them into bad decisions as they try to medicate for their underlying problem. If that underlying problem remains untreated, then usually additional labels will be added to the original label as more symptoms manifest into other offenses until the offender might become another number in the criminal justice system with the number silkscreened on his or her back.

Understanding this phenomenon is what allows for the ‘behavioral transition’. It starts with addressing the ‘what’ and changing the ‘what’ to a ‘why’. Why does the offender make these bad choices? The best way to find out is in working with the offender to help him or her talk about what they think is the ‘why’. There are two choices, either have the offender spend the next year or two in analysis to get to the underlying problem; or use a combination of two complementary concepts and begin to move forward immediately. The first concept is from criminologist J. Price Foster, PhD,

who has theorized that we all go through life wanting to ‘like ourselves’, a bit more each day. We are attracted to people and situations that help us ‘like ourselves’. His concept explains everything from gang attraction to Rotary Club membership. It explains why we select spouses, and often why what many think is the spark going out in a marriage, is really a point when the two people involved have stopped helping the other to like themselves.

Often if they can re-learn how to help the other like themselves more, the spark will return. The second concept is from Dr. William Glasser, an American psychiatrist who died in 2013. Glasser developed Reality Therapy, sometimes called Choice Theory (the problem with that label is that Choice Theory is also a criminal justice theory label that promotes that if punishment is severe enough people will choose not to commit a crime in order to avoid the punishment, (Classical Theory of Crime, Beccaria, 1764 and Deterrence Theory, Bentham, 1789). Therefore, this exploratory study refers to Glasser’s work as Reality Therapy, its’ original name. Under Glasser’s theory a person can identify a new reality they wish to achieve. Rather than spending two or more years lying on a couch in a therapist office, they can begin to identify the right choices going forward and plan to begin taking small steps in the right direction. Each small step allows the person to, as Foster would say, ‘like themselves’ a little bit more, and the reward for doing the right thing is that feeling of ‘liking oneself’ which gives the energy for the next correct choice. This process is an immediate way to begin to move to a new and improved reality, henceforth the name, Reality Therapy.

Behavioral Transition uses both concepts and allows the trained facilitator to work with an offender to help them establish a direction and develop a ‘Transformative Prescription’ and immediately begin taking small steps in a positive direction. The facilitator should discuss the trap of the ‘What’ and how to begin to move from the ‘What’ to the ‘Why’. The offender can begin to understand how to stop treating the unhealthy problem with negative actions and begin to ameliorate it with positive action, all the time liking their new self and their actions more. When an offender, either child or adult, begins this journey and follows their own Transformative Prescription, it empowers them to change their attitude and their life.



Targets:

As previously discussed in helping the offender move from the 'What' to the 'Why' work is needed to work with the target to move from the 'Why' to the 'What'. Targets get stuck in the 'Why' the same way that offenders get stuck in the 'What'. Being stuck in the 'why' begins a downward spiral that can ultimately lead to victim syndrome, depression, and all of the associated negative health consequences. There are only two ways that targets' can make themselves into victims. The first is the why trap and the second sometimes occurs when targets enter the criminal justice system. For example, 'victim' is a legal term and if a target has been the recipient of an illegal act by an offender the target will be 'labeled' victim. Now under Labeling Theory, as mentioned above, the target is likely to adopt that label. In fact, if a target goes to court they will soon learn that everything is focused on the offender, since the state by definition has assumed the role of victim. The target will learn from the charge, i.e. The State or Commonwealth of --- Versus the Offender's Name, to the focus of all the testimony, which is being directed toward the offender. The target is often ignored, with one exception, if the target is called to testify. At this point the target will probably not be allowed to tell their story, but will answer questions and often becomes victimized again, since it is in both the prosecutors, and the defense attorneys interest to verbally re-victimize the target. The attorneys' roles are to act in the best interest of their clients, not the target. The prosecutor is representing the state. The defense attorney is representing the offender. It is often in the best interest of their clients, the state or the accused, that the participating attorneys will re-victimize the target. Each attorney tells the story they wish to tell; not necessarily the target's story, but the one the attorneys wish to tell in order to best represent their clients and to plead their case. They will do that in different ways, but the end effect is the same. The prosecutor will try to evoke sympathy from the jury by making the target relive the horrible things that have happened to them, no matter how painful it is to talk about in public. If the target cries and get emotionally distressed, it is even better, since the jury might feel more empathy for the target.

In some cases, when the prosecutor is finished re-victimizing the target, the defense attorney might want the jury to understand the target is not the good person portrayed by the prosecutor, but the nearest thing to 'pond scum'. Although they will not

say it out loud, the implication will be that even though their client is innocent, and had nothing to do with what happened to the target, the target might just have been asking for it. This is one reason that many women are hesitant to press charges in assault cases. Restorative justice treats the target as the focal point in restorative justice conferences. The target can decide if and how to participate. If a target, or the target's surrogate, chooses to participate the story becomes a critical part of the restorative process and their feelings, fears, and needs become central to the process. The process is designed to do 'no further harm' to the target and the target becomes an active participant in the restorative process and reintegration plan for the offender.

There is another way that 'Targets' become 'Victims' with or without the criminal justice system. It occurs when a 'Target' bullies herself or himself into becoming a 'Victim' by getting stuck in the 'Why' and going round and round asking "why me, why am I always the one, what could I have done differently, did I bring this on myself" and on and on and on. There are no answers to these questions, only a whirling around and around without any direction except slipping down deeper into depression. In training facilitators to work with targets to move from the 'Why' to the 'What', (remember offenders move from the 'what' to the 'why') facilitators should learn to suggest to targets, that if targets want to see how being stuck in the 'why' works, they should go to the bathroom and flush the toilet, and watch the water going round, and round, and then right down the drain. They should ask the target to think, as the water is swirling, it is saying "why, why, why, why, why". Then remind the target what they are seeing is exactly what they are doing and given enough time and agony they will go right 'down the drain' asking 'Why' just like the water.

Understanding the why is an important step in the restorative justice process and trained facilitators can often present questions during the session that will help the target understand the why. Behavioral transition can take this a step further, in a private session with the target after the original restorative justice session has concluded, to further help the target deal with any lingering why thoughts.

The facilitator should also explain that they are not saying, "Get over it" or "just forgive and forget". What has happened to the target is an affront to humanity, and that they did not bring it upon themselves. They were in the wrong place at the wrong time

and henceforth a 'Target' that was part of another person's life-problem drama. Being a 'Target' is no different than if walking through a shopping mall a chandelier fell from the ceiling and knocked them down. If that happened should the target spend a lifetime asking if that chandelier was just waiting for them to walk underneath so it could attack? Was it because the target was wearing the wrong clothes? Was the target asking for it? Of course not, it was an accident that happened when the target was in the wrong place at the wrong time. Of course not all bullying and all crime is merely an accident, but understanding the concept of target is important for the target to not assume the continuing role of victim. If they did have some complacency in the cause of the offense, they need to address it, take some responsibility, and begin, through reality therapy, taking small steps in their behavior to amend their actions going forward.

Once the target can understand that they are in fact a target and not a victim, they can with help, utilize Reality Therapy and Behavioral Transition, to begin taking small steps toward the renewed goals they have identified. At this point targets begin to understand what happened to them was an incident, a 'What', and that there are no real answers to the 'Why' only huge amounts of negative energy that has been holding them back. Changing the 'Why' to a 'What' will allow them to proceed with their Transformative Prescription and their life, by converting the previous negative energy to positive energy empowering their small forward steps.

#### Bystanders and Supporters:

Bystanders and supporters are critical to the success of the process just as in restorative justice where it is important for bystanders to be part of the story and the solution, their active involvement and subsequent role in the behavioral transition process is essential. Unless bystanders and supporters are helping the offender or the victim move forward they will help keep them trapped in place. It is therefore equally important to work with the various bystander members to help them understand the process and their role within the healing process. Bystanders need to learn the difference between giving support versus enabling. They need to understand the Reality Therapy process and how they can give small bits of encouragement to the offender or the target to take the next small step. Sometimes words like "maybe you can just finish this small piece

and then decide what you want to do next”, can be helpful. Each time a person takes that next small step they will feel a sense of accomplishment and ‘like themselves’ for it. Each time a person feels that sense of accomplishment no matter how small, it provides the energy for the next step.

When this researcher was a teenager he worked for his father, who was a builder and cabinetmaker. As he was learning the trade, his father taught him an important lesson that serves as a good example for people involved in Reality Therapy. All a carpenter really needs to know, at any moment, is where to put the next nail. They do not need to be worrying, or fretting about future steps, since they can read the blueprints and look at the sketches to understand the big picture. They will never accomplish the big picture goal on the blueprints until they put the next nail in its proper place. Then they can decide where the next nail should go. All things in their proper sequence, in their proper time, and soon, the big picture will become reality. It is a lesson and an example that can be passed on when working with all three groups, the offenders, the targets and the bystanders. It is a concrete example of Glasser’s Reality Therapy and J. Price Foster’s ‘liking oneself’ concept in action.

## APPENDIX D

### A PROMISING MODEL FOR PROTECTING HOMELESS STUDENTS

#### Anecdotal Findings in Jefferson County

In the summer of 2014, several interviews with local experts in Louisville who deal daily with homeless children were conducted with:

Jefferson County Public Schools, Office of the Homeless Education Program,  
Hotel Louisville leadership staff, Wayside Christian Mission  
Home of the Innocents  
The Healing Place  
Louisville Collation for the Homeless  
Metro United Way  
Lincoln Heritage Council, Boy Scouts of America

During the interviews a series of questions were woven into the conversation. The questions were open ended, giving the respondents the ability to expound on the subject.

The questions were as follows:

1. Do you feel that homeless children are more likely to be bullied?
2. Do you feel that homeless children are more likely to be bullies?
3. Do you believe that homeless children are more likely to be both bullies, and the targets of bullies?
4. Do you believe that there should be additional protections, and programs for homeless children, to help them, to not be bullies, nor to be bullied?
5. If additional protections were available would your agency endorse them?

To a person, the local experts agreed that homeless children are often both the target and the bully and that they need special accommodations, and protections. Each person interviewed stated that there needs to be special protections that are for homeless children, disabled children, English as a second language children, and LBGT children. A recent report examines the anti-bullying policies of all 13,181 school districts across

the country and demonstrates that few districts or schools have specific policies to protect ‘special populations from bullying (GLSEN, 2015). Additionally, the fifty state anti-bullying statutes examined in this exploratory study show that the statutes are largely void of any reference to the needs of these same special populations.

#### Protecting Special Populations, Especially Homeless Students

All children within special populations need system-wide protections and accommodations to insure that they receive the help they need to be successful in school. For many special populations, i.e. disabled, learning disabled, English as second language, and transgender students, some accommodations have been introduced by schools. Such accommodations have included a range of provisions designed for each special population. For example: individual education plans, Section 504 accommodations, bi-lingual classes, designed bathrooms or individual private stalls in bathrooms. Some accommodations for homeless children are in place including keeping the child in one school, (JCPS, 2014). The Jefferson County Schools Homeless Coordinator gave an example of how homeless children can be bullied by a teacher ignorant of the child’s homelessness. In one case a teacher demanded a student take her book home with her to complete a homework assignment. The student said that she could not and the teacher took the refusal as an act of defiance and punished the student. The punishment escalated to a threatened suspension, but ended when the Homeless Coordinator learned of the dispute and interceded. The student once again had to leave being ‘doubled up’ with relatives and was returning to a shelter with her mother. The last time she was living at the shelter all of her books were stolen and she was punished at school for loosing them. Her refusal to take her book home was not an act of defiance, but a need to not have another book stolen. This story of the child not wanting to bring her book to a homeless shelter illustrates one of many needed accommodations that could be made readily available to homeless children and thereby allow them to successfully learn in school on a ‘level playing field’ with other children. Homeless children need an individual accommodation plan to encourage their success, (JCPS, 2014). The accommodation plan could be either a 504 Plan, or under a new process created and modeled after the 504 Legislation.

504 Plans are named for section 504 of the Rehabilitation Act of the Individuals with Disabilities Act of 1990. Section 504 is unique in that it was designed for students that need an accommodation or accommodations to successfully keep pace in a regular classroom. 504 students are not disabled in the traditional sense, but need simple accommodations to be successful. For example, a student with a hearing disorder might benefit from sitting in the front of a classroom. A student with a small motor skill deficiency might need to show his or her teacher that they have written down the homework assignment correctly. A student with Type A diabetes might need to have food or a glucose tablet with them. Each 504 student is given an individualized HIPAA<sup>3</sup> protected accommodation plan. Section 504 falls under the direction of the Office of Civil Rights and therefore schools are careful to follow the regulations governing the creation and execution of the plans. Only teachers and administrators directly working with the student are able to view the plan and plans are designed in conjunction with parents and professionals to make sure the student will receive relevant accommodations, (KSBA, 2010).

If homeless children were to receive 504 Plans or a separate plan based on the 504 guidelines, accommodations could be made and each teacher and administrator that works with that child would be obligated to follow the accommodation plan. Since only the faculty directly involved with the child would know that the child is homeless, any shame or stigma can be avoided and possibly reduced. At the same time the child would have the special protections and accommodations they might need to be successful. Accommodations include staying at one school with transportation provided if the child is moved to a different shelter. Perhaps special provisions for food, showers and laundry might be in order. Special attention to behavioral problems, especially bullying and harassment can be made available, and overall sensitivity to the child's needs should be addressed in a confidential and productive manner. If these protections are provided for homeless children and if schools measure the success of the accommodations and amend them as necessary, schools will go a long way toward improving the resiliency, normalcy,

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<sup>3</sup> The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, was enacted on August 21, 1996.

and academic success of their homeless students. It is not enough to feel empathy for homeless children; it requires compassionate action and intervention through modest and achievable accommodations for their success.

Again, these students like all other students would benefit from the three-part strategy of stakeholder knowledge, safe-reporting, and restorative practices. The safe-reporting requirement is especially important in providing protection for all students and parents, and provides additional protections for special populations to report abuse in a safe and protected manner. Restorative practice is also a good model for helping homeless students deal with their special circumstance, especially if it included their parents, guardians, teachers, and other relevant stakeholders.

In Hungary they are having good success in using restorative practices with young people being displaced, either by homelessness, or when being removed from their home. Before the child is placed in a shelter or foster care, a restorative practice conference is held with all of the relevant stakeholders in the child's life. The participants can include parents, guardians, religious leaders, state social workers, teachers, relatives, coaches and others that have a direct involvement with the child. The facilitator begins the conference by making sure that all present are understand that the only reason they are together is to discuss what is in the best interest of the child and to collectively design a plan for the child's future. This process has been described as an important version of "it takes a village to raise a child" (IIRP 2015). The initial success of the process in Hungary is being expanded to involve most youth cases and similar projects are beginning to be developed by Restorative Justice Europe in other parts of Europe.

The concept has real merit and it is my hope that we might introduce the process in Louisville in court ordered divorce mediations to see if the use of the Hungarian model can improve the current process.



## CURRICULUM VITAE

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Education: The University of Louisville, Interdisciplinary Ph.D. May 2016

Dissertation, *AN EXPLORATORY STUDY OF EXISTING STATE ANTI-BULLYING STATUTES: How States Can Address Bullying at the Local School Level; Suggested Model Language for State Statute Amendments*

The Wharton School of Business, University of Pennsylvania - Broadcast Executive Management Program 1981, also lectured on Utilization of Perceptual Research 1982-1987

The University of Rhode Island  
Kingstown, RI - Master of Marine Affairs Program - 1970-1973

Syracuse University,  
Syracuse, New York  
Creative Writing, Zoology, Cinematography, BA 1969

Providence Country Day School, East Providence, Rhode Island

Experience and Skills: Research, writing, for anti-bullying and anti-harassment, Behavioral Transition/Transformative Practice, Restorative Justice, eLearning product development, government relations, international business leadership, and management in not-for profit, and for profit organizations, long range, and strategic planning, development and

fundraising, communications and public relations, television production and distribution.

Present Positions:

- 2011-Present                    Senior Fellow  
4Civility Institute, Inc.  
Louisville, KY  
4Civility Institute is a not-for profit institute promoting research, publishing, training, and prevention tools for in anti-bullying, harassment, and violence prevention for schools, universities, businesses, organizations, and governmental agencies.
- 1998-Present                    Chief Executive Office  
Connected Learning Network, Inc. (CLN)  
Louisville, KY.  
CLN is an international online learning company serving K-12 schools, colleges and universities, organizations, and businesses. (A partial list of clients is attached)
- 2001-Present                    Manager, Healthcare Pathways, LLC.  
Louisville, KY.  
Healthcare Pathways provides eLearning coursework to the Healthcare industry.

Former Positions:

- 2003-2005                    Vice President Online Initiatives  
The Sullivan University System  
Louisville, Kentucky
- 1996-1998                    Partner,  
Curtin, Hoke, and Baer, (Became CLN)  
Louisville, Kentucky
- 1983-1996                    President and Chief Executive Officer,  
Fifteen Telecommunications, Inc., Channel 15  
WKPC-TV (PBS) Louisville, Kentucky
- 1981-1983                    General Manager/Executive Director  
KYVE-TV (PBS) Yakima, Washington
- 1977-1981                    Deputy Director, Director of Marketing and Administration.  
WSBE-TV (PBS- Rhode Island's state network)

1972-1977                      Owner, Independent Producer  
Media Design--Boston, Ma.  
Clients included State of Massachusetts, State of Rhode  
Island Departments of Education, Public Works and  
Corrections

1971-1972                      Partner  
Aero-Marine Surveys  
New London, CT  
Environmental survey firm

1966-1971                      Research Diver, Marine Cinematographer,  
University of Rhode Island.  
Graduate School of Oceanography  
Kingston, Rhode Island

Awards:                         Whitney M. Young, Jr. Service Award, Boy Scouts of  
America, 2007

21st Century Award by America's Public Television  
Stations, 1996

Volunteer of the Year, United Way of Kentucky, 1996

Silver Beaver Award, Boy Scouts of America, 1995

Arthur Allen Leadership Award, Metro United Way, 1993

Eclipse Award, Thoroughbred Racing Association  
Outstanding Television Program of 1992

Paul Harris Fellowship—City of Readers, 1991  
Rotary International

Eclipse Award, Thoroughbred Racing Association  
Outstanding Television Program of 1990

Allen Society Community Service Award for Outstanding  
Service.  
Metro United Way, 1990

Emmy Nomination, Outstanding Entertainment Program,  
1984  
"Dean of Thin Air".

Emmy Award, Outstanding Documentary Program of 1978, "Wake of '38."

Eagle Scout Award, Narragansett Council, Boy Scouts of America, 1961

Elected Positions:

United States Distance Learning Association  
National Advisory Board  
2000-2007

Southern Educational Communications Association (Now, National Education Telecommunications Association)  
Chairman, 1992-93

Public Broadcasting Service  
Interconnection Committee - (Representing 65 Southern TV stations) 1987-1996

America's Public Television Stations  
Industry Issues Advisory Group 1990-1996

Kentucky Broadcasters Association  
Board of Directors - 1987-1992

Pacific Mountain Public Television Network  
Board of Governors 1982  
Secretary Treasurer 1982

Washington Public Television Educational Network  
Secretary /Treasurer 1981  
Vice-Chairman, Television Council 1982

Television Production:

Extensive national, and local television, and film production experience, including 5 international co-productions, and over 200 national, and local programs and series.

Community Involvement:

Boy Scouts of America, Lincoln Heritage Council, Executive Board, served as Council Commissioner, Council Operations Director, Exploring Chairman, 1983-Present

Encore Louisville, Charter Member, Steering Committee 2013-present

Goodwill Industries of Kentucky - Board of Directors  
1994-2010, Chairman Board of Directors 2006-2008

Louisville Public Media, (Formerly Louisville Public Radio  
Partnership) WFPL-FM, WUOL-FM and WFPK-FM,  
Board of Directors, 2007- present

Presbyterian Community Center  
Board of Directors, 2005-2010

Trinity High School Foundation, Board of Directors, 2000-  
present

Rotary Club of Louisville, 1984-present

Assumption High School, Varsity Head Coach, Ice Hockey  
2000-2010

Trinity High School, Varsity Head Coach Ice Hockey,  
2000- 2004  
(Two State Championships)

American Red Cross - Executive Committee, Board of  
Directors, 1983-1989

Metro United Way - Executive Committee/Board of Directors;  
Chairman, Marketing and Communications Committee;  
Chairman, Centennial Committee; Chairman, Issues Advisory  
Committee, 1984-2005

United Way of Kentucky - Chairman, Board of Directors,  
1997-1999

Archdiocese of Louisville - Communications Advisory  
Board, 1987-1996

Center for Educational Leadership, Inc. - Leadership  
Education Advisory Board, 1988-1995

Chamber of Commerce (Louisville Area) - Member, Board  
of Directors, 1989-1995

Louisville Advisory Council for Vocational Education -  
1984-1994

Louisville Housing Partnership Inc. - Development  
Committee, Support Services Committee, 1991-1994

Jefferson County Committee for the Kentucky Bicentennial  
Celebration - Chairman, 1991-1992

National Council of Christians and Jews, Many People -  
One Community Project - Chairman, Media and Public  
Relations Committee, 1989-1992

Bingham Fellows - Charter Class, Developed a plan for  
affordable housing for Louisville, 1990-1991

Dream Factory - Advisory Board, 1985-1990

Kentucky Derby Festival - Board of Directors, 1984-1990

Fund for the Arts - Community Arts Council, 1983-1987

Leadership Kentucky Alumni, Class of 1987

Leadership Louisville Alumni, Class of 1985

Partial List of Current, and Former Connected Learning Network Clients

American Red Cross, Louisville Chapter  
Care  
Catholic Relief Services  
Cleveland Clinic Health System  
Consortium for Worker Education—45 New York Labor Unions  
European Commission—8 International Projects  
Galen College of Nursing  
Habitat for Humanity  
Iowa Department for the Blind  
IntraLearn Corporation  
Jefferson County Public Schools  
LINGOS  
LifeChampion International, Inc.  
Mather LifeWays Caregiving Programs  
McConnell Technology & Training Center  
Mercy Learning Online  
National Center for Family Literacy  
National Research Association  
National Surface Treatment Center  
Online Learning Alliance  
PETCO  
Professional Healthcare Institute of America

Picker Institute International Symposium  
Paulist National Catholic Evangelization Association  
Saint Catherine's College  
Salt & Light Enterprises, LLC  
Save the Children  
Society for American Baseball Research (SABR)  
Steck-Vaughn  
Tuffs University  
United States Distance Learning Association  
University of California, Berkeley  
University of California, Fullerton  
University of Louisville  
University of Massachusetts Online  
Vanguard Health Systems  
World Autism Society