

[First Reprint]

**SENATE, No. 1790**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator JOSEPH PENNACCHIO**

**District 26 (Essex, Morris and Passaic)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

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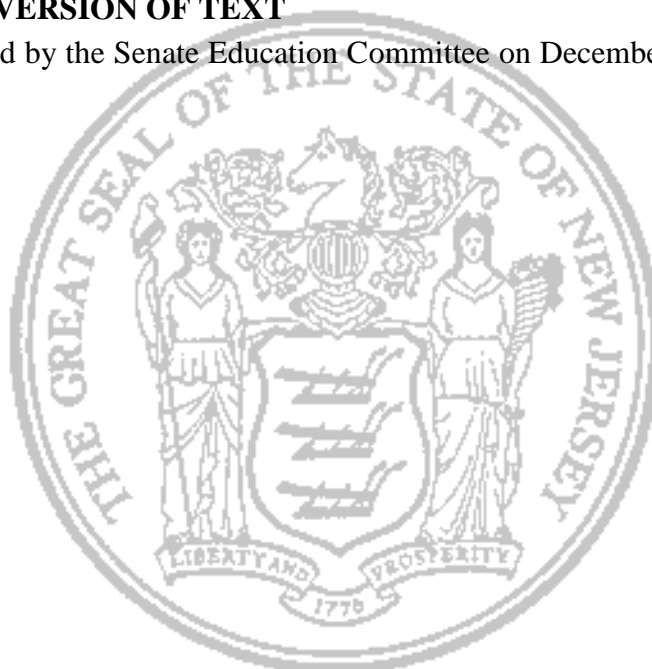
**Senator Turner**

**SYNOPSIS**

Revises provisions required in school district's anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.

**CURRENT VERSION OF TEXT**

As reported by the Senate Education Committee on December 7, 2020, with amendments.



**(Sponsorship Updated As Of: 3/19/2020)**

1 AN ACT concerning bullying, <sup>1</sup>**[designated as Mallory’s Law,]**<sup>1</sup>  
2 revising various parts of the statutory law, and supplementing Title  
3 2A and Title 18A of the New Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to  
9 read as follows:

10 1. a. A person commits the crime of cyber-harassment if, while  
11 making a communication in an online capacity via any electronic  
12 device or through a social networking site and with the purpose to  
13 harass another, the person:

14 (1) threatens to inflict injury or physical harm to any person or  
15 the property of any person;

16 (2) knowingly sends, posts, comments, requests, suggests, or  
17 proposes any lewd, indecent, or obscene material to or about a  
18 person with the intent to emotionally harm a reasonable person or  
19 place a reasonable person in fear of physical or emotional harm to  
20 his person; or

21 (3) threatens to commit any crime against the person or the  
22 person's property.

23 b. Cyber-harassment is a crime of the fourth degree, unless the  
24 person is 21 years of age or older at the time of the offense and  
25 impersonates a minor for the purpose of cyber-harassing a minor, in  
26 which case it is a crime of the third degree.

27 c. If a minor under the age of 16 is adjudicated delinquent for  
28 cyber-harassment, the court may order as a condition of the  
29 sentence that the minor, accompanied by a parent or guardian,  
30 complete, in a satisfactory manner, one or both of the following:

31 (1) a class or training program intended to reduce the tendency  
32 toward cyber-harassment behavior; or

33 (2) a class or training program intended to bring awareness to  
34 the dangers associated with cyber-harassment.

35 d. A parent or guardian who fails to comply with a condition  
36 imposed by the court pursuant to subsection c. of this section is a  
37 disorderly person and shall be fined not more than **[\$25]** \$100 for a  
38 first offense and not more than **[\$100]** \$500 for each subsequent  
39 offense.

40 e. In addition to any other disposition or condition imposed  
41 pursuant to this section, a parent or guardian having legal custody  
42 of a minor who demonstrates willful or wanton disregard in the  
43 exercise of the supervision and control of the conduct of a minor  
44 adjudicated delinquent of cyber-harassment pursuant to this section

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SED committee amendments adopted December 7, 2020.

1 may be liable in a civil action pursuant to section 4 of  
2 P.L. ,c. (C. ) (pending before the Legislature as this bill).  
3 (cf: P.L.2013, c.272, s.1)

4

5 2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to  
6 read as follows:

7 1. Any school employee observing or having direct knowledge  
8 from a participant or victim of an act of violence shall, in  
9 accordance with standards established by the commissioner, file a  
10 report describing the incident to the school principal in a manner  
11 prescribed by the commissioner, and copy of same shall be  
12 forwarded to the district superintendent.

13 The principal shall notify the district superintendent of schools  
14 of the action taken regarding the incident. Two times each school  
15 year, between September 1 and January 1 and between January 1  
16 and June 30, at a public hearing, the superintendent of schools shall  
17 report to the board of education all acts of violence, vandalism, and  
18 harassment, intimidation, or bullying which occurred during the  
19 previous reporting period. The report shall include the number of  
20 reports of harassment, intimidation, or bullying, the status of all  
21 investigations, the nature of the bullying based on one of the  
22 protected categories identified in section 2 of P.L.2002, c.83  
23 (C.18A:37-14), the names of the investigators, the type and nature  
24 of any discipline imposed on any student engaged in harassment,  
25 intimidation, or bullying, and any other measures imposed, training  
26 conducted, or programs implemented, to reduce harassment,  
27 intimidation, or bullying. The information shall also be reported  
28 once during each reporting period to the Department of Education.  
29 The report must include data broken down by the enumerated  
30 categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14),  
31 and data broken down by each school in the district, in addition to  
32 district-wide data. It shall be a violation to improperly release any  
33 confidential information not authorized by federal or State law for  
34 public release.

35 The report shall be used to grade each school for the purpose of  
36 assessing its effort to implement policies and programs consistent  
37 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The  
38 district shall receive a grade determined by averaging the grades of  
39 all the schools in the district. The commissioner shall promulgate  
40 guidelines for a program to grade schools for the purposes of this  
41 section.

42 The grade received by a school and the district shall be posted on  
43 the homepage of the school's website. The grade for the district and  
44 each school of the district shall be posted on the homepage of the  
45 district's website. A link to the report shall be available on the  
46 district's website. The information shall be posted on the websites  
47 within 10 days of the receipt of a grade by the school and district.

1 If a school district's policy permits a preliminary determination  
2 to be made on whether a reported incident or complaint is a report  
3 outside the scope of the definition of harassment, intimidation, or  
4 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the  
5 superintendent shall also provide annually to the board of education  
6 information on the number of times a preliminary determination  
7 was made that an incident or complaint was outside the scope of  
8 that definition for the purposes of the State's monitoring of the  
9 school district.

10 Verification of the reports on violence, vandalism, and  
11 harassment, intimidation, or bullying shall be part of the State's  
12 monitoring of the school district, and the State Board of Education  
13 shall adopt regulations that impose a penalty on a school employee  
14 who knowingly falsifies the report. A board of education shall  
15 provide ongoing staff training, in cooperation with the Department  
16 of Education, in fulfilling the reporting requirements pursuant to  
17 this section. The majority representative of the school employees  
18 shall have access monthly to the number and disposition of all  
19 reported acts of school violence, vandalism, and harassment,  
20 intimidation, or bullying.

21 (cf: P.L.2010, c.122, s.7)

22  
23 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read  
24 as follows:

25 3. a. Each school district shall adopt a policy prohibiting  
26 harassment, intimidation or bullying on school property, at a school-  
27 sponsored function or on a school bus. The school district shall adopt  
28 the policy through a process that includes representation of parents or  
29 guardians, school employees, volunteers, students, administrators, and  
30 community representatives.

31 b. A school district shall have local control over the content of the  
32 policy, except that the policy shall contain, at a minimum, the  
33 following components:

34 (1) a statement prohibiting harassment, intimidation or bullying of  
35 a student;

36 (2) a definition of harassment, intimidation or bullying no less  
37 inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-  
38 14);

39 (3) a description of the type of behavior expected from each  
40 student;

41 (4) consequences and appropriate remedial action for a person  
42 who commits an act of harassment, intimidation or bullying. The  
43 consequences for a student who commits an act of harassment,  
44 intimidation, or bullying may include: for the first act of harassment,  
45 intimidation, or bullying committed by a student, a copy of the results  
46 of the investigation shall be placed in the student's record and the  
47 student may be subject to remedial actions, including the provision of  
48 counseling or behavioral intervention services, or discipline, or both,

1 as determined by the principal in consultation with appropriate school  
2 staff; for the second act, a copy of the results of the investigation shall  
3 be placed in the student's record and the student may be subject to  
4 remedial actions, including the provision of counseling or behavioral  
5 intervention services, or discipline, or both, as determined by the  
6 principal, in consultation with appropriate school staff; and for the  
7 third and each subsequent act, a copy of the results of the investigation  
8 shall be placed in the student's record, and the principal, in  
9 consultation with appropriate school staff, shall develop an individual  
10 student intervention plan which shall be approved by the  
11 superintendent of schools or the superintendent's designee, and may  
12 include remedial actions including counseling or behavioral  
13 intervention services, or progressive discipline, or both, and may  
14 require the student, accompanied by a parent or guardian, to complete  
15 in a satisfactory manner a class or training program to reduce  
16 harassment, intimidation or bullying behavior.

17 The superintendent of schools or the superintendent's designee and  
18 the principal shall consult law enforcement, as appropriate, pursuant to  
19 the provisions of the Uniform State Memorandum of Agreement  
20 Between Education and Law Enforcement Officials, if the student's  
21 behavior may constitute a possible violation of the New Jersey Code  
22 of Criminal Justice;

23 (5) a procedure for reporting an act of harassment, intimidation or  
24 bullying, including a provision that permits a person to report an act of  
25 harassment, intimidation or bullying anonymously; however, this shall  
26 not be construed to permit formal disciplinary action solely on the  
27 basis of an anonymous report.

28 All acts of harassment, intimidation, or bullying shall be reported  
29 verbally to the school principal on the same day when the school  
30 employee or contracted service provider witnessed or received reliable  
31 information regarding any such incident. The principal shall inform  
32 the parents or guardians of all students involved in the alleged  
33 incident, and may discuss, as appropriate, the availability of  
34 counseling and other intervention services. The principal shall keep a  
35 written record of the date, time, and manner of notification to the  
36 parents or guardians. All acts of harassment, intimidation, or bullying  
37 shall be reported in writing to the school principal within two school  
38 days of when the school employee or contracted service provider  
39 witnessed or received reliable information that a student had been  
40 subject to harassment, intimidation, or bullying. The written report  
41 shall be on a numbered form developed by the Department of  
42 Education. A copy of the form shall be submitted <sup>1</sup>**[immediately]**  
43 promptly<sup>1</sup> by the principal to the superintendent of schools <sup>1</sup>**[and to**  
44 the board of education no later than the date of the board of education  
45 meeting next following the submission of the copy of the form to the  
46 superintendent of schools]<sup>1</sup>. The form shall be completed even if a  
47 preliminary determination is made under the school district's policy  
48 that the reported incident or complaint is a report outside the scope of

1 the definition of harassment, intimidation, or bullying pursuant to  
2 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at  
3 the school but shall not be included in any student record, unless the  
4 incident results in disciplinary action or is otherwise required to be  
5 contained in a student's record under State or federal law. <sup>1</sup>【The  
6 superintendent and the members of the board of education shall review  
7 the copy of the form and shall each provide a signed statement to the  
8 principal attesting to the fact that they have reviewed the copy of the  
9 form. The signed statement shall be kept on file at the school with the  
10 original written report】 A redacted copy of the form that removes all  
11 student identification information shall be confidentially shared with  
12 the board of education after the conclusion of the investigation, if a  
13 hearing is requested by a parent or guardian pursuant to subparagraph  
14 (d) of paragraph (6) of this subsection<sup>1</sup>.

15 The school district shall provide a means for a parent or guardian  
16 to complete an online numbered form developed by the Department of  
17 Education to confidentially report an incident of harassment,  
18 intimidation, or bullying.

19 The principal shall report to the <sup>1</sup>【board of education】  
20 superintendent<sup>1</sup> if a preliminary determination is made under the  
21 school district's policy that the reported incident or complaint is a  
22 report outside the scope of the definition of harassment, intimidation,  
23 or bullying, and the <sup>1</sup>【board】 superintendent<sup>1</sup> may require the  
24 principal to conduct an investigation of the incident, if the <sup>1</sup>【board】  
25 superintendent<sup>1</sup> determines that an investigation is necessary <sup>1</sup>because  
26 the incident is within the scope of the definition of harassment,  
27 intimidation, or bullying. The superintendent shall notify the principal  
28 of this determination in writing<sup>1</sup>;

29 (6) a procedure for prompt investigation of reports of violations  
30 and complaints, which procedure shall at a minimum provide that:

31 (a) the investigation shall be initiated by the principal or the  
32 principal's designee within one school day of the report of the incident  
33 and shall be conducted by a school anti-bullying specialist. The  
34 principal may appoint additional personnel who are not school anti-  
35 bullying specialists to assist in the investigation. The investigation  
36 shall be completed as soon as possible, but not later than 10 school  
37 days from the date of the written report of the incident of harassment,  
38 intimidation, or bullying <sup>1</sup>or from the date of the written notification  
39 from the superintendent to the principal to initiate an investigation  
40 pursuant to paragraph (5) of this subsection<sup>1</sup>. In the event that there is  
41 information relative to the investigation that is anticipated but not yet  
42 received by the end of the 10-day period, the school anti-bullying  
43 specialist may amend the original report of the results of the  
44 investigation to reflect the information;

45 (b) the results of the investigation shall be reported to the  
46 superintendent of schools within two school days of the completion of  
47 the investigation, and in accordance with regulations promulgated by

1 the State Board of Education pursuant to the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the  
3 superintendent may decide to provide intervention services, establish  
4 training programs to reduce harassment, intimidation, or bullying and  
5 enhance school climate, impose discipline, order counseling as a result  
6 of the findings of the investigation, or take or recommend other  
7 appropriate action <sup>1</sup>including seeking further information<sup>1</sup>;

8 (c) the results of each investigation shall be reported to the board  
9 of education no later than the date of the board of education meeting  
10 next following the completion of the investigation, along with  
11 information on any services provided, training established, discipline  
12 imposed, or other action taken or recommended by the superintendent;

13 (d) parents or guardians of the students who are parties to the  
14 investigation shall be entitled to receive information about the  
15 investigation, in accordance with federal and State law and regulation,  
16 including the nature of the investigation, whether the district found  
17 evidence of harassment, intimidation, or bullying, or whether  
18 discipline was imposed or services provided to address the incident of  
19 harassment, intimidation, or bullying. This information shall be  
20 provided in writing within 5 school days after the results of the  
21 investigation are reported to the board. A parent or guardian may  
22 request a hearing before the board after receiving the information, and  
23 the hearing shall be held within 10 days of the request. The board  
24 shall meet in executive session for the hearing to protect the  
25 confidentiality of the students. At the hearing the board may hear  
26 from the school anti-bullying specialist about the incident,  
27 recommendations for discipline or services, and any programs  
28 instituted to reduce such incidents;

29 (e) at the next board of education meeting following its receipt of  
30 the report <sup>1</sup>pursuant to subparagraph (c) of paragraph (6) of this  
31 subsection<sup>1</sup>, the board shall issue a decision, in writing, to affirm,  
32 reject, or modify the superintendent's decision. <sup>1</sup>【In addition, the  
33 board may require the investigation to be reopened.】<sup>1</sup> The board's  
34 decision may be appealed to the Commissioner of Education, in  
35 accordance with the procedures set forth in law and regulation, no later  
36 than 90 days after the issuance of the board's decision; and

37 (f) a parent, student, guardian, or organization may file a  
38 complaint with the Division on Civil Rights within 180 days of the  
39 occurrence of any incident of harassment, intimidation, or bullying  
40 based on membership in a protected group as enumerated in the "Law  
41 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

42 (7) the range of ways in which a school will respond once an  
43 incident of harassment, intimidation or bullying is identified, which  
44 shall be defined by the principal in conjunction with the school anti-  
45 bullying specialist, but shall include an appropriate combination of  
46 services that are available within the district such as counseling,  
47 support services, intervention services, and other programs, as defined

1 by the commissioner. In the event that the necessary programs and  
2 services are not available within the district, the district may apply to  
3 the Department of Education for a grant from the "Bullying Prevention  
4 Fund" established pursuant to section 25 of P.L.2010, c.122  
5 (C.18A:37-28) to support the provision of out-of-district programs and  
6 services;

7 (8) a statement that prohibits reprisal or retaliation against any  
8 person who reports an act of harassment, intimidation or bullying and  
9 the consequence and appropriate remedial action for a person who  
10 engages in reprisal or retaliation;

11 (9) consequences and appropriate remedial action for a person  
12 found to have falsely accused another as a means of retaliation or as a  
13 means of harassment, intimidation or bullying;

14 (10) a statement of how the policy is to be publicized, including  
15 notice that the policy applies to participation in school-sponsored  
16 functions;

17 (11) a requirement that a link to the policy be prominently posted  
18 on the home page of the school district's website and distributed  
19 annually to parents and guardians who have children enrolled in a  
20 school in the school district; <sup>1</sup>**[and]**<sup>1</sup>

21 (12) a requirement that the name, school phone number, school  
22 address and school email address of the district anti-bullying  
23 coordinator be listed on the home page of the school district's website  
24 and that on the home page of each school's website the name, school  
25 phone number, school address and school email address of the school  
26 anti-bullying specialist and the district anti-bullying coordinator be  
27 listed. The information concerning the district anti-bullying  
28 coordinator and the school anti-bullying specialists shall also be  
29 maintained on the department's website <sup>1</sup>; and

30 (13) a requirement that the school district and each school in the  
31 district with a website post on its homepage the current version of the  
32 document, Guidance for Parents on the Anti-Bullying Bill of Rights  
33 Act, developed by the Department of Education. The School Climate  
34 State Coordinator shall ensure that this document is updated as needed  
35 and then promptly disseminated to all school districts<sup>1</sup>.

36 c. A school district shall adopt a policy and transmit a copy of its  
37 policy to the appropriate executive county superintendent of schools  
38 by September 1, 2003. A school district shall annually conduct a re-  
39 evaluation, reassessment, and review of its policy, making any  
40 necessary revisions and additions. The board shall include input from  
41 the school anti-bullying specialists in conducting its re-evaluation,  
42 reassessment, and review. The district shall transmit a copy of the  
43 revised policy to the appropriate executive county superintendent of  
44 schools within 30 school days of the revision. The first revised policy  
45 following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.)  
46 shall be transmitted to the executive county superintendent of schools  
47 by September 1, 2011.



1 d. (1) To assist school districts in developing policies for the  
2 prevention of harassment, intimidation, or bullying, the Commissioner  
3 of Education shall develop a model policy applicable to grades  
4 kindergarten through 12. This model policy shall be issued no later  
5 than December 1, 2002.

6 (2) The commissioner shall adopt amendments to the model policy  
7 which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.)  
8 no later than 90 days after the effective date of that act and shall  
9 subsequently update the model policy as the commissioner deems  
10 necessary.

11 e. Notice of the school district's policy shall appear in any  
12 publication of the school district that sets forth the comprehensive  
13 rules, procedures and standards of conduct for schools within the  
14 school district, and in any student handbook.

15 f. Nothing in this section shall prohibit a school district from  
16 adopting a policy that includes components that are more stringent  
17 than the components set forth in this section.

18 (cf: P.L.2012, c.1, s.1)

19  
20 4. (New section) Notwithstanding any other provision of law  
21 to the contrary, a parent or guardian having legal custody of a minor  
22 who demonstrates willful or wanton disregard in the exercise of the  
23 supervision and control of the conduct of a minor adjudicated  
24 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,  
25 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,  
26 may be liable in a civil action.

27  
28 5. (New section) There is hereby established within the  
29 Department of Education a School Climate State Coordinator to  
30 serve as a resource to parents, students, and educators. The duties  
31 and responsibilities of the State coordinator shall include:

32 a. Identifying and disseminating research and resources,  
33 including professional development resources, to promote best  
34 practices in student social-emotional learning and the development  
35 of a positive, supportive school climate in New Jersey schools;

36 b. Providing information regarding the provisions and  
37 procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002,  
38 c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto,  
39 relevant provisions of the "Law Against Discrimination," P.L.1945,  
40 c.169 (C.10:5-1 et seq.), and other State and federal laws addressing  
41 harassment, intimidation, and bullying;

42 c. Reviewing and reporting data collected on harassment,  
43 intimidation and bullying pursuant to section 1 of P.L.1982, c.163  
44 (C.18A:17-46) to identify and report to the Department of  
45 Education any patterns of harassment, intimidation, or bullying in  
46 public schools. The department shall review the information  
47 provided by the State coordinator to develop guidance and

1 strategies for public schools, parents, school staff, and other  
2 agencies, as appropriate;

3 d. Assisting the Department of Education in creating public  
4 information programs that educate parents, educators, and the  
5 public concerning the duties of the State coordinator, the issue of  
6 harassment, intimidation, and bullying, and the resources available  
7 to address and prevent harassment, intimidation, and bullying;

8 e. Working collaboratively with law enforcement, the  
9 Department of Education, the Division on Civil Rights in the  
10 Department of Law and Public Safety, and the Department of  
11 Health to develop a training program on the impact of harassment,  
12 intimidation, and bullying on students and schools, that will be  
13 available for school districts to use in local anti-bullying programs  
14 and intervention plans;

15 f. Working collaboratively with law enforcement, including  
16 organizations representing school resource officers, to develop  
17 resources and training for law enforcement concerning the impact  
18 of harassment, intimidation, and bullying on students and schools,  
19 and the appropriate role of law enforcement in such matters  
20 pursuant to the Uniform Memorandum of Agreement Between  
21 Education and Law Enforcement Officials; and

22 g. Annually providing to the Commissioner of Education, the  
23 State Board of Education, and pursuant to section 2 of P.L.1991,  
24 c.164 (C.52:14-19.1) the Legislature, a report summarizing the  
25 activities of the State coordinator, and any specific  
26 recommendations concerning school climate best practices and  
27 procedures.

28

29 6. (New section) The School Climate State Coordinator shall  
30 consider communications received in the course of his duties,  
31 including personally identifiable information regarding students,  
32 parents, and others from whom information is acquired, as  
33 confidential and shall not disclose this information, in accordance  
34 with State and federal law.

35

36 7. (New section) The Department of Education shall post in a  
37 prominent location on the homepage of its Internet website the  
38 contact information for the School Climate State Coordinator. Each  
39 school district shall post this information on its website at the same  
40 location it makes its policy on harassment, intimidation, and  
41 bullying available.

42

43 8. (New section) The School Climate State Coordinator is  
44 authorized to call upon any department, office, division, or agency  
45 of the State to supply the State coordinator with data and any other  
46 information or assistance available to the department, office,  
47 division, or agency as the State coordinator deems necessary to  
48 discharge the duties under P.L. , c. (C. ) (pending before the

1 Legislature as this bill). Each department, office, division, or  
2 agency, to the extent not inconsistent with law, shall cooperate fully  
3 with the State coordinator within the limits of its statutory  
4 authority, and provide such assistance on as timely a basis as is  
5 necessary to enable the State coordinator to accomplish his duties  
6 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
7 act). The State coordinator may consult with experts or other  
8 knowledgeable individuals in the public or private sector on any  
9 aspect of the State coordinator's mission.

10

11 <sup>1</sup>9. (New section). The Legislature shall appropriate such

12 monies as necessary to fund the position of School Climate State

13 Coordinator established pursuant to section 5 of P.L. , c.

14 (C. ) (pending before the Legislature as this bill), and the

15 “Bullying Prevention Fund” established pursuant to section 25 of

16 P.L. 2010, c.122 (C.18A:37-28), and such other monies as

17 necessary to implement the provisions of this act.<sup>1</sup>

18

19 <sup>1</sup>**[9.]** 10.<sup>1</sup> Sections 1 and 4 of this act shall take effect

20 immediately and the remainder of this act shall take effect on July 1

21 of the first full school year <sup>1</sup>**[next]**<sup>1</sup> following the date of

22 enactment <sup>1</sup>, or 180 days following the date of enactment,

23 whichever is later<sup>1</sup>.