



State Representative Dave Greenspan

Sponsor Testimony

House Bill 360

Chair Brenner, Vice Chair Slaby and Ranking Member Fedor, and members of the House Education and Career Readiness Committee, I stand before you today as the sponsor of House Bill 360 – “The Ohio Anti-Bullying and Anti-Hazing Act”. This bill was drafted to provide a standard general protocol for addressing acts of bullying and hazing while continuing to respect the concept of local control.

We have all seen and heard of horrific acts of bullying and hazing throughout our state and nation. Unfortunately, whether through an increase in reporting of these acts or the simple fact that these situations are becoming more prevalent – this issue needs to be addressed. I am not bringing this issue forward because is it topical or in the headlines but because my family has experienced two incidences of bullying in the past few years. Simply, I do not want others to experience what we have.

The conception of this bill began shortly after I was sworn-in to office this past January. As part of our review we not only looked at the current Ohio law but LSC conducted a nationwide research project and identified bullying and hazing laws from other states. As a result of that analysis, several “best practices” approaches from other states have been incorporated into this bill. I will point them out to you as we discuss House Bill 360.

This bill provides a practical, measured, firm but fair and a compassionate approach to address this issue.

I will now provide the members of this committee with an overview of the highlights of this bill in its primary areas of focus.

Bullying Defined – slide 2:

Allow us to begin by defining bullying



Bullying Definition

Lines 504-518

2) "Harassment, intimidation, or bullying" means ~~either any~~ of the following:

(a) Any intentional written, verbal, electronic, or physical act that a student has exhibited toward another particular student or an administrator, employee, faculty member, teacher, consultant, or volunteer of the district more than once and the behavior both:

(i) Causes mental or physical harm to the other student or the administrator, employee, faculty member, teacher, consultant, or volunteer of the district;

(ii) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student or the administrator, employee, faculty member, teacher, consultant, or volunteer of the district.

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As you can see – we have expanded the current definition of those who may be a victim of bullying to include “an administrator, employee, faculty member, teacher, consultant, or volunteer”. This was done purposely, not because I believe that these individuals may be physically harmed –they may, but I believe that because the act of “electronic” or cyber bullying is included in the ORC definition of “harassment, intimidation or bullying (lines 506-507) – it is plausible that if a student receives a poor grade, is cut from an athletic team or any other incident occurs in which an act of cyber bullying may occur from a student to an adult that their actions are recognized as inappropriate and dealt with accordingly.

Due Process - Investigation- slide 3:

If heard several concerns regarding due process should an allegation of bullying be made. So, we have added a section to the ORC that provides clarity for due process.



Due Process - Investigation

Lines 671-686

(1) Upon receiving a report or being notified of a potential incident of harassment, intimidation, or bullying at school or on school grounds, the principal or other administrator, shall conduct an investigation to determine if harassment, intimidation, or bullying has occurred.

(2) No pupil shall be suspended or expelled under this section unless, prior to the pupil's suspension or expulsion, the superintendent does both of the following:

- (a) Gives the pupil and the pupil's parent, guardian, or custodian written notice of the intention to suspend or expel the pupil;
- (b) Provides the pupil and the pupil's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or the superintendent's designee to challenge the reasons for the intended suspension or expulsion or otherwise to explain the pupil's actions.

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As you can see, we have attempted to ensure that a mere accusation does not result in an automatic discipline.

Appeal - slide 4:

Additionally, if a student and or his/her parent or guardian do not believe that the districts' decision was justified - we have added an appeal protocol.



Appeal

Lines 719-730

In accordance with the policy adopted by the board of education under this section, the notice provided under this division shall specify the manner and date by which the pupil or the pupil's parent, guardian, or custodian shall notify the board of the pupil's, parent's, guardian's, or custodian's intent to appeal the expulsion or suspension to the board or its designee.

A pupil or the pupil's parent, guardian, or custodian may appeal the pupil's suspension or expulsion by a superintendent or suspension by a superintendent, principal, assistant principal, or other administrator to the board of education or to its designee.

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Discipline – slide 5

After the investigation is complete and assuming that an appeal has been requested, should the accusations be found to be true – then the district shall impose the following disciplinary protocol.



Discipline

Lines 616-632

The board of education of each city, exempted village, or local school district shall adopt a resolution establishing a policy under section 3313.661 of the Revised Code that requires the superintendent of schools to do the following for a pupil who commits an offense of harassment, intimidation, or bullying:

- (1) For the first offense, suspend that pupil with an in-school suspension for up to ten days . A district may impose an out-of-school suspension if it determines it is more appropriate.
- (2) For the second offense within the same calendar year, suspend that pupil with an in-school suspension for up to thirty days. A district may impose an out-of-school suspension if it determines it is more appropriate.
- (3) For the third offense within the same calendar year, suspend or expel that pupil for up to one hundred eighty-two days.

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It is important to note that the district has the final decision-making authority, flexibility and “local control” to determine the duration of suspension for each offence. It is important that we provide as much flexibility as possible in the bill to maintain local control while providing a standard protocol to address bullying.

Discipline Provisions – slide 6

The discipline provision addressed in this bill, as outlined in lines 640-665, presented on this slide and the following slides demonstrate a “firm yet fair” approach to addressing and changing the behavior of the bully by providing an appropriate punishment along with corrective measures.

This slide focuses on the punishment provision in the bill, in addition to the suspension – in so far as it requires that the bully participates in a community service plan that is designed and developed by the local school district – thus continuing with the belief in local control.



Discipline – Provisions

Lines 640-648

If a pupil is suspended or expelled for an offense of harassment, intimidation, or bullying under this section, the board of education shall develop a **community service plan**. The plan shall include specific goals and timelines under which the pupil must perform community service during the term of the pupil's suspension or expulsion. The board shall determine the duration of the community service performed under the plan . The community service plan may continue beyond the date upon which a pupil returns to school.

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Discipline Provisions - continued - slide 7

The additional provisions outlined in this slide demonstrate the bill's fundamental belief that it is the intent to not only provide a form of discipline, as in community service, but to focus on ensuring that the student maintains his/her academic pursuits and complete all standardized assessments. Additionally they are encouraged to participate in a counselling program. Finally, during the period of suspension, the student is prohibiting from participating in any extracurricular activities.



Discipline – Provisions - *Continued*

Lines 649-665

During the period of a pupil's suspension or expulsion under this section, the district shall do all of the following:

- (1) Permit the pupil to complete all missed schoolwork. For this purpose, the district may offer tutoring and academic support to the student.
- (2) Permit the pupil to take any required state assessment. For this purpose, the pupil shall be permitted to take the assessment in the student's regular school setting.
- (3) Provide counseling for the suspended or expelled pupil, so long as the parent, guardian, or custodian of the pupil gives permission for the pupil to undergo such counseling. If the district does not offer counseling, the district shall coordinate with community organizations that can provide counseling and help identify counseling resources.
- (4) Prohibit the pupil from participating in any extracurricular activity, as defined in section 3313.537 of the Revised Code.

Transitioning Back – slide 8

In an effort to provide flexibility to the district, there will be the realization that some of the discipline provisions provided in this bill may take longer to reach full compliance. Examples include the community service and the counseling provisions. Should the district believe that the student is making sufficient progress towards completion of the requirements, the student will be allowed back to school.



Transitioning Back

Lines 669-675

As a condition of returning to school, a pupil who is suspended or expelled under this section shall complete all missed schoolwork, as determined by the superintendent. If the pupil does not complete this requirement, the pupil may be permitted to return to school provided the superintendent determines that the pupil has made sufficient progress towards completing the requirement.

Victim Services – slide 9

This bill addresses the challenges faced by the victim and demonstrates “compassion” and a path for them to receive the assistance they may need to move forward. As is suggested for the bully, this bill provides the same counseling provision for the victim. This is unique, and sets a nationwide precedent.

A slide titled "Victim Services" with the Ohio House of Representatives logo in the top right corner. The text on the slide reads: "Lines 666-668" followed by the underlined text: "The district also shall offer counseling services to the victim of the offense. However, the victim is not required to participate in the counseling.". A red footer bar at the bottom contains the text "House Bill 360 – Ohio Anti-Bullying and Hazing Act" on the left and the number "9" on the right.

Victim Services

Lines 666-668

The district also shall offer counseling services to the victim of the offense. However, the victim is not required to participate in the counseling.

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Whistleblower – slide 10

To ensure that retaliation will not be tolerated – House Bill 360 provides that a district shall adopt a procedure against anyone who retaliates against anyone who reports an act of bullying.



Whistleblower

Lines 564-567

A disciplinary procedure for any student guilty of retaliation against a student, administrator, employee, faculty member, teacher, consultant, or volunteer of the district who reports an incident of harassment, intimidation, or bullying;

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Other Noteworthy Provisions – slide 11

The bill also provides a few noteworthy provisions as it relates to bullying. The first one is that of the posting of the district's policy. Currently, the ORC requires that the district shall post its policy in a central location. House Bill 360 requires the policy to be posted on the districts website – assuming they have a website. Secondly, and this is surprising to me is that currently there is no duty to notify either the parents or guardian of any student involved in bullying. This issue is addressed in this bill.



Other Noteworthy Provisions

Policy Posting
Lines 453-455

A copy of the policy shall be posted on the district's web site, if the district has one, and in a central location in the school and shall be made available to pupils upon request.

Notification
Lines 547-550

For each prohibited incident, the district shall maintain a record verifying that the custodial parent or guardian was notified of the incident.

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Reports of a Non-Student – slide 12

It was brought to my attention by two separate organizations, and based on a family experience of my own, that acts of harassment and intimidation maybe initiated by non-students upon students – by an administrator, employee, faculty member, teacher, consultant, or volunteer. In these instances, this bill requires, just as in a student bully situation, that an investigation shall be conducted by the district and the district shall, based on the outcome of the investigation and based on who the perpetrator is – determine an appropriate course of action.



Reports of a Non-Student

Lines 1106-1111

The superintendent of a school district, or the superintendent's designee, shall investigate any report of harassment, intimidation, or bullying by an administrator, employee, faculty member, teacher, consultant, or volunteer of a school district against a student and shall determine the proper course of action.

Higher Education – slide 13

This provision simply requires higher education institutions to adopt a prescribed form policy as it relates to harassment, intimidation, bullying or hazing.



Higher Education

Lines 1141-1146

Each state institution of higher education shall adopt a policy, including rules, regarding harassment, intimidation, or bullying and hazing. The policy shall include penalties for harassment, intimidation, or bullying and hazing, including sanctions, fines, the withholding of a diploma or transcript, probation, suspension, and expulsion.

Hazing Defined - slide 14

The amendment to the current ORC provision is in direct response to the change that is occurring in the atmosphere around membership requirements or demands to gain access to an organization.

Basically, hazing relates to acts of gaining access to or initiation into an organization. What is happening today is that many organizations are modifying their “pledge”, “associates”, or any other name used to define a status of pending membership to purposely avoid allegations of hazing. This amendment expands the time in which an act of hazing may be levied from gaining accesses to or any act to affirm, continue, or reinstate membership in or affiliation with any student or other organization.

Hazing Definition



Lines 12-18

As used in this section, "hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization or any act to affirm, continue, or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.

Hazing Penalties - slide 15

This bill increases the penalties for those who are found guilty or plead guilty to an act of hazing. Current law for an act of hazing is the it is an M2 – which carries a sentence of 60 days in jail and a \$250 fine. Under this bill that is increased to an M4 – 6 months in jail and a \$750 fine. However, if the act creates a substantial risk of causing the death of any person, hazing is a felony of the third degree – 9 months to upwards of 5 years in prison.



Hazing Penalties

Lines 26-29

Whoever violates this section is guilty of hazing, a misdemeanor of the ~~fourth~~ second degree. If the hazing creates a substantial risk of causing the death of any person, hazing is a felony of the third degree.

Recklessly Permit Hazing – slide 15

This is an important provision to expand the eligible individuals that can be charged with hazing. In some instances, those who commit hazing are not eligible to be charged with hazing because they are not included in current law. As an example, often, alumnus of an organization interfere with membership activities to the detriment of the organization by injecting prohibited activities or events. By expanding those eligible to be charged with hazing – it is my intent that this will deter hazing.



Recklessly Permit Hazing

Lines 21-25

No administrator, employee, ~~or~~ faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or ~~of~~ any other educational institution, public or private, shall recklessly permit the hazing of any person.

Closing:

Members of the House Education and Career Readiness Committee – you have just seen a demonstration that House Bill 360 is a bill that is a responsible piece of legislation that seeks to address very important issues in our state – intimidation, harassment, bully and hazing. This bill is simultaneously firm but fair where it needs to be and compassionate to those in need. Additionally, I have taken significant strides so as to not impose any “un-funded” mandates or guidelines that will create unnecessary hardships to those to whom we are asking our partners to implement.

I want to thank the committee for its time today; I am available to answer any questions about this very important bill – the “Ohio Anti-Bullying and Anti-Hazing Act”.