

ASSEMBLY BILL NO. 380—ASSEMBLYMEN WHEELER, ELLISON, TITUS, HAFEN; HANSEN, HARDY, KRAMER, KRASNER, LEAVITT, ROBERTS AND TOLLES

MARCH 21, 2019

JOINT SPONSORS: SENATORS HAMMOND; HANSEN, PICKARD AND SETTELMEYER

Referred to Committee on Education

SUMMARY—Revises provisions governing safety in K-12 public schools. (BDR 31-41)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to education; making a child who is a reported victim of bullying or cyber-bullying in a public school immediately eligible for an education savings account; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits certain persons from engaging in bullying or cyber-bullying on the premises of a public school, at an activity sponsored by a public school or on a school bus. (NRS 388.135) Existing law requires: (1) any staff member of a public school who witnesses bullying or cyber-bullying to report the bullying or cyber-bullying to the principal or his or her designee; and (2) the principal or designee to investigate the bullying or cyber-bullying. If bullying or cyber-bullying is found to have occurred, the parent or guardian of the pupil who was the victim of the bullying or cyber-bullying is authorized to request the board of trustees of the school district in which the pupil is enrolled to assign the pupil to a different school in the district. (NRS 388.1351) **Section 4** of this bill makes a pupil who is a reported victim of bullying or cyber-bullying immediately eligible for the establishment of an education savings account.

Senate Bill No. 302 (S.B. 302) of the 78th Session of the Nevada Legislature established the education savings account program, pursuant to which grants of money are made to certain parents on behalf of their children to defray the cost of instruction outside the public school system. (Chapter 332, Statutes of Nevada 2015, p. 1824; NRS 353B.700-353B.930) Following a legal challenge of S.B. 302, the Nevada Supreme Court held in *Schwartz v. Lopez*, 132 Nev. Adv. Op. 73, 382



19 P.3d 886 (2016), that the legislation was valid under Section 2 of Article 11 of the
20 Nevada Constitution, which requires a uniform system of common schools, and
21 under Section 10 of Article 11 of the Nevada Constitution, which prohibits the use
22 of public money for a sectarian purpose. However, the Nevada Supreme Court
23 found that the Legislature did not make an appropriation for the support of the
24 education savings accounts program and held that the use of any money
25 appropriated for K-12 public education for the education savings accounts program
26 would violate Sections 2 and 6 of Article 11 of the Nevada Constitution. The Court
27 enjoined the enforcement of section 16 of S.B. 302, which amended NRS 387.124
28 to require that all money deposited in education savings accounts be subtracted
29 from each school district's quarterly apportionments from the State Distributive
30 School Account. In response to the *Schwartz* decision, **section 3** of this bill
31 removes the provisions which were enjoined by the Nevada Supreme Court in
32 *Schwartz*.

33 Existing law sets forth provisions governing the eligibility requirements to
34 establish an educational savings account on behalf of a child. (NRS 353B.850)
35 Existing law requires the State Treasurer to adopt regulations necessary to carry out
36 the education savings account program. (NRS 353B.820) **Section 2** of this bill
37 deems a pupil who is a reported victim of bullying or cyber-bullying to have
38 satisfied the eligibility requirements for the establishment of an education savings
39 account as of the date of the report. **Section 1** of this bill prohibits the imposition in
40 regulation of any additional eligibility requirements for the establishment of an
41 education savings account on a pupil who is a reported victim of bullying or
42 cyber-bullying.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 353B.820 is hereby amended to read as
2 follows:

3 353B.820 ~~[The]~~

4 **1. Except as otherwise provided in subsection 2, the** State
5 Treasurer shall adopt any regulations necessary or convenient to
6 carry out the provisions of NRS 353B.700 to 353B.930, inclusive.

7 **2. Any regulations adopted pursuant to subsection 1 must not**
8 **impose any additional eligibility requirements for the**
9 **establishment of an education savings account for a child who is a**
10 **reported victim of an alleged violation of NRS 388.135.**

11 **Sec. 2.** NRS 353B.850 is hereby amended to read as follows:

12 353B.850 1. Except as otherwise provided in ~~[subsection]~~
13 **subsections 10 [I] and 11,** the parent of any child required by NRS
14 392.040 to attend a public school who has been enrolled in a public
15 school in this State during the period immediately preceding the
16 establishment of an education savings account pursuant to this
17 section for not less than 100 school days without interruption may
18 establish an education savings account for the child by entering into
19 a written agreement with the State Treasurer, in a manner and on a
20 form provided by the State Treasurer. The agreement must provide
21 that:



1 (a) The child will receive instruction in this State from a
2 participating entity for the school year for which the agreement
3 applies;

4 (b) The child will receive a grant, in the form of money
5 deposited pursuant to NRS 353B.860 in the education savings
6 account established for the child pursuant to subsection 2;

7 (c) The money in the education savings account established for
8 the child must be expended only as authorized by NRS 353B.870;
9 and

10 (d) The State Treasurer will freeze money in the education
11 savings account during any break in the school year, including any
12 break between school years.

13 2. If an agreement is entered into pursuant to subsection 1, an
14 education savings account must be established by the parent on
15 behalf of the child. The account must be maintained with a financial
16 management firm qualified by the State Treasurer pursuant to
17 NRS 353B.880.

18 3. The failure to enter into an agreement pursuant to subsection
19 1 for any school year for which a child is required by NRS 392.040
20 to attend a public school does not preclude the parent of the child
21 from entering into an agreement for a subsequent school year.

22 4. An agreement entered into pursuant to subsection 1 is valid
23 for 1 school year but may be terminated early. If the agreement is
24 terminated early, the child may not receive instruction from a public
25 school in this State until the end of the period for which the last
26 deposit was made into the education savings account pursuant to
27 NRS 353B.860, except to the extent the pupil was allowed to
28 receive instruction from a public school under the agreement.

29 5. An agreement terminates automatically if the child no longer
30 resides in this State. In such a case, any money remaining in the
31 education savings account of the child reverts to the State General
32 Fund.

33 6. An agreement may be renewed for any school year for
34 which the child is required by NRS 392.040 to attend a public
35 school. The failure to renew an agreement for any school year does
36 not preclude the parent of the child from renewing the agreement for
37 any subsequent school year.

38 7. A parent may enter into a separate agreement pursuant to
39 subsection 1 for each child of the parent. Not more than one
40 education savings account may be established for a child.

41 8. Except as otherwise provided in subsection 10, the State
42 Treasurer shall enter into or renew an agreement pursuant to this
43 section with any parent of a child required by NRS 392.040 to
44 attend a public school who applies to the State Treasurer in the
45 manner provided by the State Treasurer. The State Treasurer shall



1 make the application available on the Internet website of the State
2 Treasurer.

3 9. Upon entering into or renewing an agreement pursuant to
4 this section, the State Treasurer shall provide to the parent who
5 enters into or renews the agreement a written explanation of the
6 authorized uses, pursuant to NRS 353B.870, of the money in an
7 education savings account and the responsibilities of the parent and
8 the State Treasurer pursuant to the agreement and NRS 353B.700 to
9 353B.930, inclusive.

10 10. A parent may not establish an education savings account
11 for a child who will be homeschooled, who will receive instruction
12 outside this State or who will remain enrolled full-time in a public
13 school, regardless of whether such a child receives instruction from
14 a participating entity. A parent may establish an education savings
15 account for a child who receives a portion of his or her instruction
16 from a public school and a portion of his or her instruction from a
17 participating entity.

18 *11. A child who is the reported victim of bullying or cyber-*
19 *bullying pursuant to NRS 388.1351 shall be deemed to have*
20 *satisfied the requirements for eligibility for the establishment of an*
21 *education savings account set forth in this section as of the date of*
22 *the report.*

23 **Sec. 3.** NRS 387.124 is hereby amended to read as follows:

24 387.124 Except as otherwise provided in this section and NRS
25 387.1241, 387.1242 and 387.528:

26 1. On or before August 1, November 1, February 1 and May 1
27 of each year, the Superintendent of Public Instruction shall
28 apportion the State Distributive School Account in the State General
29 Fund among the several county school districts, charter schools and
30 university schools for profoundly gifted pupils in amounts
31 approximating one-fourth of their respective yearly apportionments
32 less any amount set aside as a reserve. Except as otherwise provided
33 in NRS 387.1244, the apportionment to a school district, computed
34 on a yearly basis, equals the difference between the basic support
35 and the local funds available pursuant to NRS 387.163, minus all
36 the funds attributable to pupils who reside in the county but attend a
37 charter school, all the funds attributable to pupils who reside in the
38 county and are enrolled full-time or part-time in a program of
39 distance education provided by another school district or a charter
40 school ~~and~~ *and* all the funds attributable to pupils who are enrolled in
41 a university school for profoundly gifted pupils located in the
42 county . ~~and all the funds deposited in education savings accounts~~
43 ~~established on behalf of children who reside in the county pursuant~~
44 ~~to NRS 353B.700 to 353B.930, inclusive.~~ No apportionment may



1 be made to a school district if the amount of the local funds exceeds
2 the amount of basic support.

3 2. Except as otherwise provided in NRS 387.1244, in addition
4 to the apportionments made pursuant to this section, if a pupil is
5 enrolled part-time in a program of distance education and part-time
6 in a:

7 (a) Public school other than a charter school, an apportionment
8 must be made to the school district in which the pupil resides. The
9 school district in which the pupil resides shall allocate a percentage
10 of the apportionment to the school district or charter school that
11 provides the program of distance education in the amount set forth
12 in the agreement entered into pursuant to NRS 388.854.

13 (b) Charter school, an apportionment must be made to the
14 charter school in which the pupil is enrolled. The charter school in
15 which the pupil is enrolled shall allocate a percentage of the
16 apportionment to the school district or charter school that provides
17 the program of distance education in the amount set forth in the
18 agreement entered into pursuant to NRS 388.858.

19 3. The Superintendent of Public Instruction shall apportion, on
20 or before August 1 of each year, the money designated as the
21 "Nutrition State Match" pursuant to NRS 387.105 to those school
22 districts that participate in the National School Lunch Program, 42
23 U.S.C. §§ 1751 et seq. The apportionment to a school district must
24 be directly related to the district's reimbursements for the Program
25 as compared with the total amount of reimbursements for all school
26 districts in this State that participate in the Program.

27 4. If the State Controller finds that such an action is needed to
28 maintain the balance in the State General Fund at a level sufficient
29 to pay the other appropriations from it, the State Controller may pay
30 out the apportionments monthly, each approximately one-twelfth of
31 the yearly apportionment less any amount set aside as a reserve. If
32 such action is needed, the State Controller shall submit a report to
33 the Office of Finance and the Fiscal Analysis Division of the
34 Legislative Counsel Bureau documenting reasons for the action.

35 **Sec. 4.** NRS 388.1351 is hereby amended to read as follows:

36 388.1351 1. Except as otherwise provided in NRS
37 388.13535, a teacher, administrator, coach or other staff member
38 who witnesses a violation of NRS 388.135 or receives information
39 that a violation of NRS 388.135 has occurred shall report the
40 violation to the administrator or his or her designee as soon as
41 practicable, but not later than a time during the same day on which
42 the teacher, administrator, coach or other staff member witnessed
43 the violation or received information regarding the occurrence of a
44 violation.



1 2. Except as otherwise provided in this subsection, upon
2 receiving a report required by subsection 1, the administrator or
3 designee shall immediately take any necessary action to stop the
4 bullying or cyber-bullying and ensure the safety and well-being of
5 the reported victim or victims of the bullying or cyber-bullying and
6 shall begin an investigation into the report. If the administrator or
7 designee does not have access to the reported victim of the alleged
8 violation of NRS 388.135, the administrator or designee may wait
9 until the next school day when he or she has such access to take the
10 action required by this subsection.

11 3. The investigation conducted pursuant to subsection 2 must
12 include, without limitation:

13 (a) Except as otherwise provided in subsection 4, notification
14 provided by telephone, electronic mail or other electronic means or
15 provided in person, of the parents or guardians of all pupils directly
16 involved in the reported bullying or cyber-bullying, as applicable,
17 either as a reported aggressor or a reported victim of the bullying or
18 cyber-bullying. The notification must be provided:

19 (1) If the bullying or cyber-bullying is reported before the
20 end of school hours on a school day, before the school's
21 administrative office closes on the day on which the bullying or
22 cyber-bullying is reported; or

23 (2) If the bullying or cyber-bullying was reported on a day
24 that is not a school day, or after school hours on a school day, before
25 the school's administrative office closes on the school day following
26 the day on which the bullying or cyber-bullying is reported.

27 (b) Interviews with all pupils whose parents or guardians must
28 be notified pursuant to paragraph (a) and with all such parents and
29 guardians.

30 4. If the contact information for the parent or guardian of a
31 pupil in the records of the school is not correct, a good faith
32 effort to notify the parent or guardian shall be deemed sufficient to
33 meet the requirement for notification pursuant to paragraph (a) of
34 subsection 3.

35 5. Except as otherwise provided in this subsection, an
36 investigation required by this section must be completed not later
37 than 2 school days after the administrator or designee receives a
38 report required by subsection 1. If extenuating circumstances
39 prevent the administrator or designee from completing the
40 investigation required by this section within 2 school days after
41 making a good faith effort, 1 additional school day may be used to
42 complete the investigation.

43 6. An administrator or designee who conducts an investigation
44 required by this section shall complete a written report of the
45 findings and conclusions of the investigation. If a violation is found



1 to have occurred, the report must include recommendations
2 concerning the imposition of disciplinary action or other measures
3 to be imposed as a result of the violation, in accordance with the
4 policy governing disciplinary action adopted by the governing body.
5 Subject to the provisions of the Family Educational Rights and
6 Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations
7 adopted pursuant thereto, the report must be made available, not
8 later than 24 hours after the completion of the written report, to all
9 parents or guardians who must be notified pursuant to paragraph (a)
10 of subsection 3 as part of the investigation.

11 7. If a violation is found not to have occurred, information
12 concerning the incident must not be included in the record of the
13 reported aggressor.

14 8. Not later than 10 school days after receiving a report
15 required by subsection 1, the administrator or designee shall meet
16 with each reported victim of the bullying or cyber-bullying to
17 inquire about the well-being of the reported victim and to ensure
18 that the reported bullying or cyber-bullying, as applicable, is not
19 continuing.

20 9. To the extent that information is available, the administrator
21 or his or her designee shall provide a list of any resources that may
22 be available in the community to assist a pupil to each parent or
23 guardian of a pupil to whom notice was provided pursuant to this
24 section as soon as practicable. Such a list may include, without
25 limitation, resources available at no charge or at a reduced cost and
26 may be provided in person or by electronic or regular mail. If such a
27 list is provided, the administrator, his or her designee, or any
28 employee of the school or the school district is not responsible for
29 providing such resources to the pupil or ensuring the pupil receives
30 such resources.

31 10. The parent or guardian of a pupil involved in the reported
32 violation of NRS 388.135 may appeal a disciplinary decision of the
33 administrator or his or her designee, made against the pupil as a
34 result of the violation, in accordance with the policy governing
35 disciplinary action adopted by the governing body. Not later than 30
36 days after receiving a response provided in accordance with such a
37 policy, the parent or guardian may submit a complaint to the
38 Department. The Department shall consider and respond to the
39 complaint pursuant to procedures and standards prescribed in
40 regulations adopted by the Department.

41 11. *A pupil who is reported to be the victim of bullying or*
42 *cyber-bullying pursuant to this section is immediately eligible for*
43 *the establishment of an education savings account pursuant to*
44 *NRS 353B.850.*



1 **12.** If a violation of NRS 388.135 is found to have occurred,
2 the parent or guardian of a pupil who is a victim of bullying or
3 cyber-bullying may request that the board of trustees of the school
4 district in which the pupil is enrolled to assign the pupil to a
5 different school in the school district. Upon receiving such a
6 request, the board of trustees shall, in consultation with the parent or
7 guardian of the pupil, assign the pupil to a different school.

8 ~~12.~~ **13.** A principal or his or her designee shall submit a
9 monthly report to the direct supervisor of the principal that includes
10 for the school the number of:

11 (a) Reports received pursuant to subsection 1;

12 (b) Times in which a violation of NRS 388.135 is found to have
13 occurred; and

14 (c) Times in which no violation of NRS 388.135 is found to
15 have occurred.

16 ~~13.~~ **14.** A direct supervisor who receives a monthly report
17 pursuant to subsection 12 shall, each calendar quarter, submit a
18 report to the Office for a Safe and Respectful Learning Environment
19 that includes, for the schools for which the direct supervisor has
20 received a monthly report in the calendar quarter, the:

21 (a) Total number of reports received pursuant to subsection 1;

22 (b) Number of times in which a violation of NRS 388.135 is
23 found to have occurred; and

24 (c) Number of times in which no violation of NRS 388.135 is
25 found to have occurred.

26 ~~14.~~ **15.** School hours and school days are determined for the
27 purposes of this section by the schedule established by the
28 governing body for the school.

29 **Sec. 5.** This act becomes effective upon passage and approval.

