

2013 SENATE EDUCATION

SB 2263

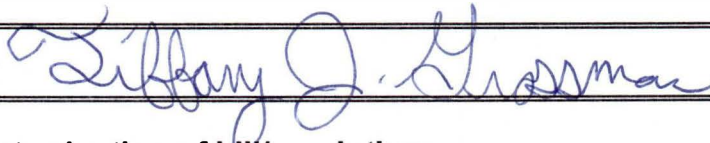
2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SB 2263
1-30-13
17958

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to criminal acts occurring at school district events or activities

Minutes:

You may make reference to "attached testimony."

Chairman Flakoll opened the hearing on SB 2263

Senator Marcellais District 9: I am here today in support of SB 2263. (Written Testimony #1 attached)

Senator Heckaman District 23: I am a co-sponsor on SB 2263. The issue needs to get out and have some discussion. Those incidents do take place from time to time. I have witnessed adults being removed from a high school sporting activity and high school students should be able to be removed as well.

Chairman Flakoll: How does it play out with due process?

Senator Heckaman: We may need to look at amendments but getting it in the open is important. In the past as an athletic director I put some sanctions on students. There have been removals for participants, team members, etc. On page 3 with the adults I witnessed those have not been allowed back for the remainder of the year.

Chairman Flakoll: How would other communities "A" handle it if the activity happened with community "B" or "C" or others? Does the prohibition extend to the other communities?

Senator Heckaman: For my incident they were not allowed to local activities. As far as other schools they need to sanction their own students. If I am a visiting team and am unruly or disrespectful something should happen. I sat by a high school superintendent who complained about how disrespectful her school was and refused to sit on her school's side. Policies are hard to develop to cover everything.

Vice Chairman Schaible: Could the schools put these into their policies?

Senator Heckaman: Yes they could and I think some are working on it through their athletic programs.

Vice Chairman Schaible: If they already have policies or statements like this in policy and your supervisors aren't following them what good does it do anyway?

Senator Heckaman: That is a local issue up to their school board. If the staff is not following there should be procedures to handle that.

Senator Luick: I am under the impression that this is already covered. Isn't it? Our districts are looking at this or have it in policy already but I could be mistaken.

Senator Heckaman: That is possible. Senator Marcellais is pointing to an issue where the police were involved and the students were disgraced in public. While that is a local issue, it needs to be on the table.

Senator Poolman: My question relates to section 3 with the new language relating to defamation and harassment. Why was that added now and why is that not in the first part of the bullying piece in the 62nd Legislative Assembly? I like that language and the bullying definition focuses on how boys bully not girls.

Senator Heckaman: This was considered in the 62nd Legislative Assembly and in order to get this bill though it was removed from both versions of the bill from the house and senate.

Farrah Reopelle, Turtle Mountain Band of Chippewa Indian Reservation: I wish to testify in support of SB 2263. (Written testimony #2 attached) (15:20)

Vice Chairman Schaible: After this situation was over did the Minot School district relay any other follow up or comments to you?

Farrah Reopelle, Turtle Mountain Band of Chippewa Indian Reservation: No.

Chairman Flakoll: How do you deal with the situation where it is he-said she-said in case both or one individually may have violated the rule or good order?

Farrah Reopelle: It depends on the situation. I am asking for a policy to handle that.

Senator Heckaman: Do you have knowledge of how the search was conducted?

Farrah Reopelle: Just the team from Belcourt was searched right there on the gym floor.

Senator Poolman: Did anyone go to the North Dakota High School Activities Association?

Farrah Reopelle: Shane Martin from the NDHSAA was looking into it and they read a clause.

Senator Poolman: Do you feel it is effective to just read a statement at the beginning of the game?

Farrah Reopelle: No.

Alyssa Martin, Director of Policy Services from the North Dakota School Boards Association: We wish to testify in opposition of SB 2263 because of liability issues. (Written testimony #3 attached) (24:02)

Senator Heckaman: Do you have documentation that the schools follow the policy?

Alyssa Martin, ND School Boards Association: I do not have a signed record but DPI has a database of the school district's bullying policies. A majority have adopted the policy.

Vice Chairman Schaible: Can you explain the ramifications of not getting the signatures and not getting the forms signed?

Alyssa Martin, ND School Boards Association: Under current statues they have protection. If they don't sign it, the schools are not compliant and it would jeopardize our liability protection. You can't participate until the forms are signed.

Chairman Flakoll: Seeing no more testimony will Val come to the podium please. Is everyone in compliance of the adoption of the bullying language last session?

Valery Fischer, Director of School Health for DPI: All but four districts have not adopted policies and have not complied. The law gives us no authority to impose sanctions beyond what we have done. We have attempted to work with them and give them technical assistance, time, and resources but there are still four who have yet to submit a policy. Three of the four are K-8.

Chairman Flakoll: We often times get asked for money for their schools. We could wean them off of our money if they choose to not comply and we can take away the funding. If they choose to not comply their students wouldn't be eligible for some state programs. There was a lot of effort put in by individuals working and the expectation was that people would follow it.

Valery Fischer, Director of School Health for DPI: Our goal was by the first day of school after we missed the original July deadline was to have every school have a policy.

Chairman Flakoll Close hearing on SB 2263

2013 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

SB 2263
2-4-13
JOB FAILED TO RECORD

☐ Conference Committee

Committee Clerk Signature

Tiffany J. Grossman

Explanation or reason for introduction of bill/resolution:

Relating to criminal acts occurring at school district events or activities; and to amend and reenact sections 15.1-19-17 and 15.1-19-18 of the North Dakota Century Code, relating to bullying.

Minutes:

You may make reference to "attached testimony."

*NOTE: This job failed to record on the Winscribe Program and it also failed to record on the SD card so there is no recording or job number available

Chairman Flakoll opened hearing on SB 2263

Senator Heckaman: In the situation that caused this bill there were improper procedures. This bill wouldn't solve that but we do need to put it on the table and discuss it.

Vice Chairman Schaible: I would be opposed to this bill. It is a good idea but the schools should be handling this.

Senator Luick: Ditto to Vice Chairman Schaible

Senator Poolman: I would move a Do Not pass

Senator Luick: Second

A roll call was taken for a Do Not Pass on SB 2263: 5 yeas, 1 neas, 0 absent

Vice Chairman Schaible Will carry the bill

2263

Date: 2-4-13
Roll Call Vote #: 12013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO.

Senate Education Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not PassMotion Made By PoolmanSeconded By Luick

Senators	Yes	No	Senator	Yes	No
Chairman Tim Flakoll	✓		Senator Joan Heckaman	✓	
Vice Chairman Donald Schaible	✓		Senator Richard Marcellais		✓
Senator Larry Luick	✓				
Senator Nicole Poolman	✓				

Total (Yes) 5 No 1Absent 0Floor Assignment Schaible

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2263: Education Committee (Sen. Flakoll, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2263 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2263

#1

Testimony
SB 2263 - relating to criminal acts occurring at school
district events or activities
Education Committee
Senator Flakoll, Chairman
January 30, 2013

For the record my name is Richard Marcellais, Senator
from District 9, Rolette County

The reason for this bill is that on September 15, 2012 an
incident happened at one of the Northwest schools where
some young native ladies were part of a volleyball team
were accused of stealing an iPod that was allegedly
missing. As a result, witnesses said, the young ladies, who
are minors, were singled out, verbally assaulted, subject to
racial comments and searched by police without warrant or
parent consent. The alleged missing iPod was never found.

As a result of this incident one of the parents from another
team became unruly and disorderly over the incident. The
police were called and the incident was investigated. The
North Dakota High School Activities Association and the
Eastern Dakota Conference as implemented a Creed to be
read before each sporting event. (see attached)

Therefore I am here today in support Senate Bill 2263.

Thank You Chairman Flakoll & Education Committee.
I will try an answer any questions you may have.

EDC Sportsmanship Creed

“The North Dakota High School Activities Association and the Eastern Dakota Conference encourage and promote good sportsmanship by student-athletes, coaches and spectators. We ask that you cheer for your team and be respectful of the opponent. As High School student-athletes, we commit to fair play, responsibility and respect. We invite you to support our effort.”

#2

TESTIMONY

SB 2263 - relating to criminal acts occurring at school district events or activities;
and to amend and reenact sections relating to bullying.

JANUARY 30, 2013

My name is Farrah Reopelle and I am from the Turtle Mountain Band of Chippewa Indian Reservation where I currently live and raise my daughter Rylan. As of 2009, we moved back into state from Anchorage, Alaska. Rylan is 13 years old and played Volleyball at Turtle Mountain Community Middle School this year.

On Saturday, September 15th, 2012, my daughter had a volleyball tournament at Minot Central High School. I went to go watch my daughter's games that day, excited, as she was finally taking a liking to this sport. Unfortunately, there was a theft of an iPod at the tournament and if I'd known the ordeal that was to follow, I'd have pulled my daughter out of the games and brought her home. Unfortunately, my daughter was approached from a parent who was regarding to her in racial slurs, harassment, and just plain bullying. There was an officer called, the tournament director was well aware of the issue, but nothing was really handled properly to take care of the issue at hand.

Here's why I think it is important that there should be a bill in action for policies/procedures on criminal acts at school events. At no time should a child be subject to treatment of slander, racial slurs, threats, physical harm, harassment or BULLYING of any sort on school property from anyone, especially from a parent of another athlete. This behavior is unacceptable and should not be tolerated. It is so important for these minors to know that they will still be protected on school related functions regardless if their parents can attend or not. After all, they are under the care of the schools, are they not? I know first-hand how my daughter felt after this incident occurred, and I remember being asked by the officer what were my plans at that moment. Rylan was horrified and I could not bring her back into that school and subject her to being around an unruly parent as the situation was not being handled properly.

I'm asking for your support of SB 2263.

Thank you Chairman Marcellais & Education Committee

#3

Senate Bill 2263

North Dakota School Boards Association Testimony

Chairman Flakoll and members of the Senate Education Committee, the North Dakota School Boards Association testifies in opposition to Senate Bill 2263. While we understand that the bill was written with the intent to provide further protections for North Dakota students, we have identified potential issues with some of the bill's key components. Below is a summary of our primary concerns with the bill.

First, we see potential legal issues with the language on page 3 lines 5-6 and 9-11, which deals with removal and banning from school property individuals who engage in bullying. None of this language addresses providing students or teachers with due process rights, which are required by law prior removing students from schools and are required prior to discharging teachers. Our current policy on bullying, which is utilized by the majority of schools in North Dakota, lists both expulsion and termination performed in accordance with law as possible responses to bullying violations. Such current policy language assures that both students and staff are afforded their appropriate due process protections.

We are additionally concerned about the mandate on page 3 lines 26-27 that requires all parents and students to acknowledge through signature that they have received the bullying policy. This would put a tremendous strain on schools in terms of time and resources to collect such signatures and would jeopardize our liability protection under law if such signatures were not collected. Our schools are currently doing an excellent job of placing the bullying policy in their handbooks and websites, which ensures dissemination of the policy throughout the school and community wide.

Finally, we are concerned about the language on page 4, lines 6-14. Under current law, we are already required to contact law enforcement if we believe bullying is a crime. This new language would require our school personnel to acquire knowledge of behavior that constitutes specific criminal conduct for purposes of reporting it. More specifically, under the proposed amendments school personnel must learn what constitutes "assault, coercion, defamation, harassment, stalking, or terrorizing, or . . . any other criminal act" under law. Learning the specifics of criminal code is, in our view, outside the scope of our responsibilities as educators, and we believe that law already contains sufficient mechanisms for referring bullying incidents to law enforcement.

We recommend a do not pass on this bill.