

LOCAL LAW NO. “F” FOR 2014

A LOCAL LAW PROHIBITING CYBER-BULLYING IN ALBANY COUNTY

Introduced: 7/14/14

By Messrs. Clenahan, Bullock, Joyce, Ms. Kinsch, Mr. Mayo, Ms. McLean Lane, Messrs. O'Brien, Commisso, Ethier and Reilly:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that bullying is a long-standing problem among minors in Albany County and throughout the nation and with the advent of technology, bullying has transformed from a predominantly school-based issue to a broader societal problem.

This Legislature further finds and determines that cyber-bullying, which consists of non-physical bullying behaviors transmitted by electronic means, is a newer form of harassment.

This Legislature finds that cyber-bullying is rampant: according to the Bureau of Justice Statistics, U.S. Department of Health and Human Services Cyberbullying Research Center, 52% of students reported being cyber-bullied (2014).

This Legislature determines that cyber-bullying follows its victims everywhere they go and can occur at any time of the day or night, as it is perpetrated online and/or through text and picture messages on cellular phones and handheld devices.

This Legislature also finds that perpetrators of cyber-bullying are often more extreme in the threats and taunts they inflict on their victims, as they do not actually see their victim's emotional reaction to the abuse and believe they are anonymous.

This Legislature further finds that victims of cyber-bullying suffer very real and serious harm as a result of these incidents, often showing signs of depression, anxiety, social isolation, nervousness when interacting with technology, low self-esteem, and declining school performance.

This Legislature also determines that, in some cases, victims attempt to or commit suicide in part because of the cyber-bullying they have endured.

This Legislature finds that Albany County has a compelling interest in protecting its minors from such reprehensible behavior and should do everything in its power to do so.

Therefore, the purpose of this law is to stop the cyber-bullying of minors in the County of Albany.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

"CYBER-BULLYING" shall mean any act of communicating or causing a communication to be sent by electronic means, including posting statements on the internet or through a computer or email network, with the intent to inflict emotional harm on a minor; (1) sexually explicit photographs; (2) private or personal sexual information; or (3) false sexual information with no legitimate public, personal or private purpose.

"MINOR" shall mean any natural person or individual under the age of eighteen (18).

"PERSON" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association, or other entity or business organization of any kind.

Section 3. Prohibitions.

No person shall engage in cyber-bullying against any minor in the County of Albany.

Section 4. Penalties.

Any person who knowingly violates the provisions of this local law shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to one year imprisonment.

Section 5. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 6. Reverse Preemption

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this local law or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. State Environmental Quality Review Act compliance.

This County Legislature determines that the foregoing action constitutes a "Type II action" as said term is defined in the State Environmental Quality Review Act ("SEQRA"), and that no further action with respect to same is required under SEQRA.

Section 9. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

Referred to Law Committee. 7/14/14