

School Violence Prevention Act SB 526 Would Create Special Status for Sexual Orientation and Cross-Dressing

Senate Bill 526 directs local school boards to adopt policies to prohibit bullying or harassing behavior for students or school employees in North Carolina public schools. The bill defines bullying or harassing behavior as: (A) acts reasonably perceived as **being motivated by any actual or perceived differentiating characteristic**, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, **gender identity**, physical appearance, **sexual orientation**, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics. (§ 115C-407.5(a)) The bill purports to limit this enumeration of classifications by stating: Nothing in this act shall be construed to create any classification, protected class, suspect category, or preference beyond those existing in present statute or case law. (§ 115C-407.8(f)).

Please vote against Senate Bill 526. Senate Bill 526 should be opposed for the following reasons:

- **Senate Bill 526 creates special classes for victims based on their sexual orientation and their gender identity.** State law does not currently recognize special protections for persons based on their sexual orientation • or their gender identity. The bills attempt to limit the creation of special rights is not effective, since the definition of bullying specifically sets up protected classes of victims.
- **By including protections for victims based on their sexual orientation, the bill grants legal sanction and protection to illegal sexual behaviors.** Sexual orientation is not a defined term in the bill. There are 26 different types of sexual orientations, ranging from bestiality to heterosexuality to pedophilia. Many of these behaviors are illegal, yet the bill does not differentiate between these sexual orientations. Outlawing bullying motivated by illegal behaviors of the victim, tends to give those illegal behaviors legal sanction or approval.
- **North Carolina already has an anti-bullying policy.** The State Board of Education enacted a statewide anti-bullying policy in July, 2004 requiring all school districts in the State to adopt an anti-bullying and harassment policy. The State Board considered but rejected the enumeration of a list of motivations/characteristics of victims, including sexual orientation and gender identity or expression. The Board said it should be clear that there should not be any bullying, harassment, and discrimination of any kind to any child in any school environment. •
- **Listing motivations or characteristics of victims is unnecessary in order to prevent bullying.** Teachers and administrators have authority to prevent bullying and should prevent bullying no matter what the reason or who the victim. Former State Board of Education Chairman Howard Lee stated July 17, 2008 that there is no reason to list in an anti-bullying law reasons, including sexual orientation, that a person might be bullied. Bullying is bullying, said Lee. I don't care who it's against and under what circumstances. •
- **All students deserve to be protected from bullying, not just certain groups of students.** An environment that is free from bullying and harassment affords students the opportunity to maximize their ability to learn and their educational performance. Policies against bullying and harassing behavior should **apply equally to all students** regardless of actual or perceived personal characteristics.
- **This bill could eventually weaken our marriage laws.** Courts in North Carolina might look to this bill as evidence of a legislative intent to grant special rights to homosexuals, requiring them to extend the right to marry to homosexuals as a matter of equal protection. Courts in California, Iowa, and Connecticut found that legislative recognition of rights for homosexuals in other areas of the law required them to strike down the Defense of Marriage Acts in their states and grant the marriage rights to homosexuals.
- **The bill requires that classroom teachers must determine mental state of the bully.** Defining bullying as behavior that is perceived as being **motivated by** any actual or perceived differentiating characteristic introduces a subjective standard based on what the teacher perceives as the motivation for the bullying, instead of focusing on the acts themselves that constitute bullying.
- **The bill takes the emphasis off the bully and his bad behavior and places it on the victim.** Classroom teachers will be in the difficult position of having to distinguish whether the anti-bullying policy has been violated based on the victim, rather than the bully's bad behavior, thus making the policy hard to enforce. It also draws greater attention to the distinguishing characteristic of the victim, thereby producing greater trauma and stigmatism for that student.
- **The legislation is primarily intended to create special rights for homosexuals, not to prevent bullying.** Homosexual activists had the opportunity to enact this anti-bullying law last session without the enumerated categories of motivations/characteristics of victims included. They chose instead to send it back to committee and then to let it die, proving that the bill was primarily a way for activist groups to involve the schools in a bit of social engineering and sensitivity training.