

# Cyber-Bullying Law Introduced In Ontario

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Ontario introduced a new legislation Tuesday to add cyber-bullying to the list of offences for which a student can be suspended or expelled from school.

Premier Dalton McGuinty said "bullying is bullying..whether you do it online by way of the latest technology or you're doing it in person or over the old fashioned telephone, it still causes pain and suffering."

Changes to the province's Safe Schools Act were introduced to stop students from posting comments, pictures or videos attacking another student or teacher on popular online sites such as YouTube.

This is the first time either physical or online bullying will be formally prohibited in provincial schools.

"It's unacceptable, and I'm proud of the fact our safe schools act will in fact broaden the ambit of offences and take into account bullying and cyber-bullying," said McGuinty.

Education Minister Kathleen Wynne noted one recent incident where students at a suburban Toronto high school posted derogatory comments about the vice-principal on the popular website Facebook.com, and felt their right to free speech was being trampled when they were suspended.

"Bullying is not currently listed as an infraction, and it's about time that we recognized the seriousness of these behaviours," she said.

"We'll be providing training to vice-principals and principals on how to apply discipline in a non-discriminatory manner, including considerations for anti-racism, cross-cultural differences and accommodating students with disabilities."

"We must ensure that there are strong consequences for inappropriate behaviour, as well as provide programs so students can earn their way back into the classroom and complete their education."

Wynne added that the government will provide \$31 million next year to help troubled students who are expelled or suspended get a chance to return to school.

Wynne also announced the zero-tolerance provisions in the Safe Schools Act will be eliminated and replaced with what she calls "a stronger and more rational approach to discipline."

Liz Sandals, Wynne's Parliamentary Assistant who carried out the review of the Safe Schools Act, said principals will be given new authority to deal with Internet-based bullying that often does not take place on school property.

Stu Auty, president of the Canadian Safe Schools Network, said Monday that many teens don't realize how mean and brutal their actions are when they post something negative on-line about another student or teacher.

"There has got to be some education in this respect so kids can't go through their life and do damaging things without having some understanding of what that means. It's really quite profound."

Auty said schoolyard bullying has always been a problem, but it is nothing compared with the widespread use and abuse of the Internet to target or mock other students and teachers.

Opposition Leader John Tory agrees with the idea of having specific measures to combat cyber-bullying.

"It really requires a lot of education and counseling of those people as to why it's hurtful," said Tory.

"If there are ways the Safe Schools Act can address bullying and make sure that there are sanctions in place for those who repeatedly bully — and programs to support those people so they don't end up getting expelled, I would be quite happy to see that happen."

NDP Leader Howard Hampton said schools need better financial resources to deal with bullying and other behavioural problems among students.

"You want to wipe out bullying in the school yard? You need to have better supervision in the lunchroom," he warned.

## **Safe School Act**

### **What's in the law now?**

The province's Safe School Act, called Bill 81, was passed in the year 2000.

Here's a look at some of its provisions.

When can a student be expelled?

A lot depends on what they did. There are provisions for both temporary and permanent expulsions, centering on the nature of the infraction.

What constitutes an offence that could take things to a mandatory expulsion?

Here's the list:

- Physical assault
- Threats of serious physical injury
- Extortion
- Sexual harassment
- Racial harassment
- Distribution of hate material
- Hate motivated violence
- Inappropriate use of electronic communications/media
- Possession or misuse of any harmful substances
- Fighting
- Bullying, intimidating, threatening
- Cyberbullying
- Possession of an explosive substance

The Toronto District School Board added a few discretionary infractions of its own to the list. They include:

- Persistent truancy
- Persistent opposition to authority
- Habitual neglect of duty
- Willful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises
- Use of profane or improper language
- Conduct injurious to the moral tone of the school or to the physical or mental well-being of others
- Use of tobacco
- Theft
- Aid/incite harmful behaviour

The decisions can be appealed but under the rules, a student under a full expulsion can't attend any school in Ontario or be involved in any school related activities under the situation is resolved.

Principals can also set a return date in some cases.

Mandatory expulsions last a minimum of 21 days.

# Ontario's Anti-Bullying Legislation Is Now In Effect

09 October 2012

Effective September 1, 2012, Ontario became the third province in Canada to implement anti-bullying legislation. After intense debate in the Ontario legislature and discussion among the public, the Accepting Schools Act, 2012 was passed on June 5, 2012 and received Royal Assent on June 19, 2012. These most recent amendments to the Education Act will shape how principals, supervisory officers, and teachers identify, prevent, investigate and respond to bullying behaviour in Ontario schools.

The Accepting Schools Act, 2012, was developed in response to the growing concern about bullying behaviours, and several tragic suicides of bullied students. A recent study of the Public Health Agency of Canada<sup>1</sup> reveals that nearly 20% of students report being bullied, while 40% of students report being both victims and bullies. The study's authors concluded that young people involved in bullying tend to have elevated levels of emotional and behavioural problems. Ontario's legislation is intended to identify and prevent bullying, and provide resources and support for educators and students as they deal with bullying incidents.

## IMPORTANT NEW DEFINITIONS

Underpinning the new responsibilities and programs in the Education Act relative to bullying is a definition of the term "bullying". Subsection 1(1) Education Act now defines "bullying" as follows:

"bullying" means aggressive and typically repeated behaviour by a pupil where,

(a) the behaviour is intended by the pupil to have the effect of, or the pupil ought to know that the behaviour would be likely to have the effect of,

(i) causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual's reputation or harm to the individual's property, or

(ii) creating a negative environment at a school for another individual, and

(b) the behaviour occurs in a context where there is a real or perceived power imbalance between the pupil and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, ethnic origin, sexual orientation, family circumstances, gender, gender identity, gender expression, race, disability or the receipt of special education.

The Accepting Schools Act, 2012, is intended to address the complexity of bullying among students and refers specifically to the context of bullying behaviour in schools. Bullying behaviour is, for the first time in Ontario, defined as including psychological, social or academic harm and harm to an individual's reputation. The definition refers broadly to bullying dynamics such as a power imbalance based on size, age, intelligence, peer group power, economic status, social status, family circumstances, gender expression and the receipt of special education, among others. These terms are not defined in the new legislation.

Moving the new definition of bullying from Ministry policy into the Education Act will give it enhanced legal authority. In this regard, it is hoped that there will be a greater awareness among all stakeholders, including students, teachers, school administration and parents as to what constitutes bullying and confirming that such behaviour is not acceptable in Ontario schools.

This definition of bullying pertains to repeated and aggressive behaviour "by a pupil". The previous definition in PPM 144 applied where bullying behaviour was initiated by any member of the school community. In this regard, the new definition only applies to bullying behaviour that is initiated by a student.

The definition of bullying also refers to "typically repeated behaviour". In using this term, it is apparent that one serious and egregious incident could constitute bullying.

Recognizing that bullying in modern society can take many forms, including the use of technology such as the internet and social media, the Education Act now includes a specific reference to electronic and cyber-bullying concepts. The definition of bullying in the Education Act includes "the use of any physical, verbal, electronic, written or other means". Further, the concept of "cyber-bullying" is expressly included in the new definition of bullying:

... bullying by electronic means (commonly known as cyber-bullying), including,

- (a) creating a web page or a blog in which the creator assumes the identity of another person;
- (b) impersonating another person as the author of content or messages posted on the internet; and
- (c) communicating material electronically to more than one individual or posting material on a website that may be accessed by one or more individuals.

Further, Ontario's student code of conduct will now include as one of its purposes "to prevent bullying in schools."

These extensive definitions signal the types of behaviours that are unacceptable in Ontario schools, and provide guidance and support to teachers, principals and supervisory officers as they carry out their responsibilities under the Education Act.

## **SIGNIFICANT NEW RESPONSIBILITIES FOR SCHOOL BOARDS**

### **Policies**

One of the powers of the Minister of Education under section 8 of the Education Act requires boards to develop and implement an "ethnocultural equity and anti-racism" policy. That requirement is now replaced by an "equity and inclusive education" policy.

This broad policy requirement is fleshed out by an amendment to school board responsibilities under subsection 169.1(1) of the Education Act. Effective September 1, 2012, school boards are required to address specific "equity and inclusiveness" goals as set out in two new paragraphs of subsection 169.1(1):

169.1(1)(a.1) promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

169.1(1)(a.2) promote the prevention of bullying;

School boards have a general duty to monitor and evaluate the effectiveness of policies, including the new equity and inclusiveness policy. To that end, school boards are required by subsection 169(2.1) to undertake "school climate surveys" to collect information from its pupils and staff, and parents and guardians of students at least once every two years.

The Minister of Education is now required to establish policies and guidelines on student discipline that address specific bullying and equity matters. For example, the policies must identify inappropriate student behaviour including bullying, gender-based violence and incidents based on homophobia, transphobia or biphobia. The Minister's policies must also provide a disciplinary framework that provides for appropriate and progressive consequences, support and resources for affected students, prevention strategies, and opportunities for members of the school community to increase understanding and awareness of inappropriate behaviour.

The Minister must also establish policies with respect to bullying prevention and intervention, including such matters as training, resources to students who have been bullied or have engaged in bullying, strategies to support witnesses of bullying, reporting procedures that minimize possibility of reprisal, and the use of timely and appropriate disciplinary measures.

Further, the Minister will develop a "model bullying prevention and intervention plan".

In turn, school boards must establish, implement and post the following:

- policies and guidelines with respect to student discipline that are consistent with the Minister's discipline and bullying policies, and
- a bullying prevention and intervention plan, after having solicited the views of the school community and the public.

## **Professional Development**

Intervention and support is considered essential to dealing with bullying in schools. In this regard, the Education Act now contains specific duties of school boards under section 170 to provide professional development programs "to educate teachers and other staff of the board about bullying prevention and strategies for promoting positive school climates."

## **Programs for Students**

School boards now have a duty under section 170 of the Education Act to provide programs, interventions or other supports for students affected by bullying, whether having been bullied, engaged in bullying, or witnessing bullying behaviour.

## **DISCIPLINARY RESPONSES TO BULLYING**

While public debate around the Accepting Schools Act, 2012 may have focused on equity and inclusiveness and the prevention of bullying, a significant portion of the amendments to the Education Act relate to a principal's authority to discipline students arising from incidents of bullying.

### **Duty to Report and Investigate Bullying**

There are now several aspects to the duty to report and investigate bullying, all of which can be found under Part XII of the Education Act. Any school board employee who becomes aware that a student may have engaged in bullying, or the presence of a student previously suspended for bullying creates an unacceptable risk to the safety of others, is required to report the matter to the principal. Upon receiving such a report, a principal has a duty to investigate the matter.

After the principal investigates a matter, he or she is then required to communicate the results of the investigation back to the teacher or other school employee unless the principal is of the opinion that it would not be appropriate. In the course of communicating the results of the investigation, a principal must disclose only such personal information as is reasonably necessary. The requirement to communicate the results of an investigation places discretion in the principal's hands, and the details disclosed will necessarily depend on the facts of each matter.

### **Suspensions and Expulsions**

Amendments to subsections 306(1) and 310(1) of the Education Act now include bullying as one of the activities affecting school climate that can lead to suspension. "Bullying" is listed under subsection 306(1) as an activity leading to possible suspension. It should be noted that two new paragraphs on bullying have been added under subsection 310(1) as activities requiring suspension and possible expulsion:

#### **7.1**

- i. the pupil has previously been suspended for engaging in bullying, and
- ii. the pupil's continuing presence in the school creates an unacceptable risk to the safety of another person.

7.2 Any activity listed in subsection 306 (1) that is motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, or any other similar factor.

Persistent or ongoing bullying is now included among the serious activities requiring a suspension, and possible expulsion. In effect, repeat offenders and students whose suspension-worthy behaviour involving bullying has persisted will now face an elevated level of discipline. In addition, the "catch-all" provision in paragraph 7.2 gives the principal additional tools needed to suspend a student in a situation where inappropriate behaviour was motivated by hateful intentions.

### **Principal's Notice to Parents and Guardians**

Section 303.3 of the Education Act deals extensively with a principal's interaction with parents and guardians in bullying matters. Where a principal believes that a student has been harmed as a result of bullying, the parent or guardian of the victim must be notified by the principal as soon as reasonably possible. With the passage of the Accepting Schools Act, 2012, principals are also required to notify the parent or guardian of the student believed to have engaged in the bullying activity that caused the harm.

There are exceptions to this notice requirement as follows:

- where students are 18 years or older, or 16 and 17 year old students who have withdrawn from parental control; and
- where the principal is of the opinion that notice would put the student at risk of harm from a parent or guardian, such that the notification would not be in the student's best interests.

The Accepting Schools Act, 2012 has changed the content of the notice a principal must provide to a parent or guardian relative to bullying incidents.

The Education Act previously required telling a parent of the nature of the activity causing harm, the nature of the harm and the steps taken to protect a student's safety, including the nature of disciplinary activities taken in response. As of September 1, 2012, a principal must also tell a parent or guardian the supports that will be provided for the student in response to the harm caused by bullying.

Similar to the amendments regarding communication to the school board employee who reports a bullying matter, the principal's notice to a parent or guardian does not require disclosure of every detail. A principal must not disclose the name or other identifying information about a student who engaged in the bullying activity, except as necessary to identify the bullying activity, the harm caused, steps taken and supports provided in response. For example, a principal might disclose the activity of a particular student against another, but not provide his or her address or parent contact information.

Rounding out the process for giving notice to parents of an incident of bullying, the Education Act requires a principal to invite the parent or guardian of a student who has been harmed by bullying to "have a discussion" about the supports that will be provided. In this regard, the Education Act provides that a parent has a right to provide comments.

## **STUDENT ORGANIZATIONS**

An aspect of the Accepting Schools Act, 2012, that received extensive debate and media attention is the amendment respecting student organizations. Under subsection 303.1 of the Education Act, school boards are required to support students who want to establish and lead activities and organizations that promote a safe and inclusive learning environment, acceptance and respect.

This includes activities and organizations that promote gender equity, anti-racism, acceptance and understanding of people with disabilities, awareness, understanding and respect for people of "all sexual orientations and gender identities." For clarity, the Education Act now requires a principal to permit a student to use the name "gay-straight alliance", or another name, in establishing a student organization.

## **SUMMARY**

The amendments to the Education Act arising from the Accepting Schools Act, 2012, will change the way principals, supervisory officers, teachers and students approach and deal with bullying and cyber-bullying. They provide administrators with the legislative framework to establish policies to promote positive behaviour, and to identify and address inappropriate student behaviour. The particular issue of equity and inclusiveness continues to be at the forefront of the dialogue on bullying in Ontario schools. The new legislation is meant to create policies and practices that allow every student to feel accepted and supported.

As school boards develop and implement policies to address bullying, we will have a better understanding of the resources and supports for students that best address different bullying situations. Further developments on bullying and equity and inclusiveness in Ontario schools are expected in the coming school year, including expanded mental health services, professional development around bullying prevention, new programs to support students and revised Ministry policies.

**Cyberbullying** is the use of the Internet and related technologies to harm other people, in a deliberate, repeated, and hostile manner.

**Cyberbullying** is defined in legal glossaries as

actions that use information and communication technologies to support deliberate, repeated, and hostile behavior by an individual or group, that is intended to harm another or others.

use of communication technologies for the intention of harming another person

use of internet service and mobile technologies such as web pages and discussion groups as well as instant messaging or SMS text messaging with the intention of harming another person.

Examples of what constitutes cyberbullying include communications that seek to intimidate, control, manipulate, put down, falsely discredit, or humiliate the recipient. The actions are deliberate, repeated, and hostile behavior intended to harm another.

Cyberbullying has been defined by The National Crime Prevention Council: "When the Internet, cell phones or other devices are used to send or post text or images intended to hurt or embarrass another person."

Cyberbullying can be as simple as continuing to send e-mails or text messages harassing someone who has said they want no further contact with the sender. It may also include public actions such as repeated threats, sexual remarks, pejorative labels (i.e., hate speech) or defamatory false accusations), ganging up on a victim by making the person the subject of ridicule in online forums, hacking into or vandalizing sites about a person, and posting false statements as fact aimed at discrediting or humiliating a targeted person. Cyberbullying could be limited to posting rumors about a person on the internet with the intention of bringing about hatred in others' minds or convincing others to dislike or participate in online denigration of a target. It may go to the extent of personally identifying victims of crime and publishing materials severely defaming or humiliating them.

Cyberbullies may disclose victims' personal data (e.g. real name, home address, or workplace/schools) at websites or forums or may use impersonation, creating fake accounts, comments or sites posing as their target for the purpose of publishing material in their name that defames, discredits or ridicules them. This can leave the cyberbully anonymous which can make it difficult for the offender to be caught or punished for their behavior. Though, not all cyberbullies use anonymity. Text or instant messages and emails between friends can also be cyberbullying if what is said or displayed is hurtful to the participants.

Some cyberbullies may also send threatening and harassing emails, instant messages or texts to the victims. Others post rumors or gossip and instigate others to dislike and gang up on the target.

The National Crime Prevention Association lists tactics often used by teen cyberbullies.

- Pretend they are other people online to trick others
- Spread lies and rumors about victims
- Trick people into revealing personal information
- Send or forward mean text messages
- Post pictures of victims without their consent

Advocate views

- The current laws have failed to prevent the number of the victims from increasing at an escalating rate.
- Freedom of speech comes with responsibility.
- Because information and rumors can travel in a matter of seconds in the Internet, cyber-bullying and cyber defamation could take a significant toll on each victim without such strict regulations by authorities.

Opposing views

- There are already ways to regulate the cyberspace with the current laws.
- It is potentially possible for the law to be exploited by authorities in an attempt to crack down on people who express opposite views.
- Such law might cause a harmful effect on freedom of speech.
- "Defamation" is too ambiguous to be defined by a third party, other than the victims.

## ***Forms of Cyberbullying***

- Insulting: Posting or spreading false information about a person that will cause harm to that person or that person's reputation.
- Targeting: Singling someone out and inviting others to attack or make fun of her or him.
- Identity theft: Pretending to be someone else to make it look like that other person said things he or she doesn't believe or that aren't true about him or her.
- Uploading: Sharing images of a person, particularly in an embarrassing situation, without her or his permission, or sharing emails without the writer's permission.
- Excluding: Pressuring others to exclude someone from a community (either online or offline).
- Harassment: Repeatedly sending someone nasty, mean and insulting messages.

## ***How the Law Addresses Cyberbullying***

Cyberbullying can be addressed under civil law or criminal law, based on the situation.

**Civil law:** This is the branch of law that deals with property rights, personal dignity and freedom from injury. Under civil law, there are three approaches to cyberbullying:

- A cyberbully may be engaged in defamation. This is when the bully causes harm to someone's reputation by spreading false information about that person. In general, defamation that appears temporarily (as unrecorded speech or in a live broadcast) is called slander, and defamation that appears permanently (in a book or on a Web site) is called libel.
- To be libellous a statement must: do harm to someone's reputation, have a clear and obvious target, and be seen by people other than the person making the statement and the target.
- In libel cases, the target can lay a suit against the person making the statement. If the suit is successful, the person making the statement will have to pay damages (money) to the target.
- A person accused of libel may defend himself or herself by saying that the statement was true, that it was a fair comment (a genuine criticism, not a personal attack), or that he or she innocently reproduced the statement without knowing what it was.
- A perpetrator may be creating an unsafe environment by making the target feel that she or he cannot go to school without facing violence, teasing or exclusion. Schools and workplaces are required to provide a safe environment for their students or employees, and must take any appropriate action to do so. A school, therefore, might punish a student for online behaviour that is making it hard for other students to learn in a safe environment. In Ontario, the Safe Schools Act has been changed to specifically include online behaviour: students can now be suspended or expelled for cyberbullying, even if it is done outside the school.
- A school or workplace that does not do everything it can to provide a safe environment can be sued by the target(s). Even if a statement is not libellous, spreading it around might still create an unsafe environment.
- Finally, a person is responsible for any consequences that he or she might reasonably have guessed would happen. Therefore, a perpetrator who suggests that a depressed student should kill herself would be liable if the student actually did kill herself, as long as the perpetrator had reason to believe it was a likely result.



**Criminal law:** This branch of law determines which actions are crimes against the state. In criminal law, there are two approaches to cyberbullying:

- Harassment is a crime under the Criminal Code. Harassment is when something a person says or does makes someone fear for his or her safety, or for the safety of others. Even if the perpetrator did not intend to frighten someone, she or he can be charged with harassment if the target feels threatened. Criminal harassment is punishable by up to 10 years in prison.
- Defamatory libel is a crime under the Criminal Code. It is most often treated as a crime if the libellous statement is directed against a person in authority and could seriously harm his or her reputation. Defamatory libel is punishable by up to five years in prison.

Section 2 of the Canadian Charter of Rights and Freedoms guarantees freedom of expression. However, this right is guaranteed “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” and, in the case of cyberbullying, must be weighed against Section 7. The latter section guarantees “the right to life, liberty and security of the person.” In general, Section 2 of the Charter has not been accepted as a defence in civil or criminal bullying cases.

# Strict anti-bullying laws could actually make matters worse

The notion that bullying can be legislated away is fanciful at best

Schoolyard bullies have been around for as long as there've been school yards. Could a new law finally make them go away?

Ontario recently introduced legislation to rid schools of bullies. The bill mandates student groups to encourage tolerance, imposes reporting requirements and sets suspensions and expulsions for students caught bullying. Quebec has a similar law pending. Alberta is also contemplating legislative changes regarding bullying.

All this activity stems from genuine concern about the impact of bullying; several recent teenaged suicides have been blamed on physical or online bullying by peers. Such cases are undeniably heartbreaking and enraging. Given the depth of public response to these tragedies, and the zero-tolerance approach to crime favoured by many politicians, we'll likely see more anti-bullying laws.

And yet there's good reason to doubt a strict law-and-order approach will make this eternal torment go away. It could make it worse. It's proper to want to eliminate bullying from schools, but the solution cannot be found in any legislature.

A decade-long anti-bullying crusade in the United States is instructive. Following the 1999 Columbine High School massacre, an event blamed partly on the bullying of the two shooters, 48 states enacted strict anti-bully laws. Each mandates tough investigating, reporting and punishment procedures.

Despite such an aggressive approach, however, the problem has not disappeared. The U.S. Department of Justice warns the entire school system is suffering a "bullying pandemic." Last March, President Barack Obama held an anti-bullying conference at the White House. An entire industry of anti-bullying consultants and charities has flowered. But after 13 years of attention and legislation, everyone seems to agree it's getting worse. Something has gone very wrong.

New York-based school psychologist Israel Kalman is a gadfly to the current anti-bullying movement and its focus on a legalistic approach. "Anti-bullying laws can't possibly work," he warns in an interview. "Teaching that every incident of bullying is intolerable and requiring schools to investigate each alleged act simply increases the hostility and escalates the bullying," he observes. "Let's face it, children aren't angels."

An Educational Psychology study reveals a clear inverse relationship between tough anti-bullying procedures and non-physical bullying. "Schools with the most detailed and comprehensive anti-bullying policies had a higher incidence of relational bullying and victimization behaviour," the authors reported. New laws may reduce obvious physical abuse at schools, but this in turn leads to a greater prevalence of covert, non-physical aggression, as witnessed by the sudden growth in cyberbullying.

Another problem lies in vague definitions. Quebec's new bill states "bullying means any direct or indirect behaviour, comment, act or gesture, including through the use of social media, intended to injure, hurt, oppress, intimidate or ostracize." Combining criminal assault, eye-rolling and rumour-spreading into one catch-all offence is hopelessly overbroad. Obviously any action that causes physical harm must be dealt with quickly and seriously. But existing laws cover this now. Plus, nearly every school already has a code of conduct mandating respectful student behaviour, and schools have the means to investigate and punish those who break it.

The proposed Ontario law further defines bullying as a "real or perceived power imbalance." But power imbalances—in life, at work or school—are a fact of nature and can never be legislated away. This sort of sweeping categorization simply encourages over-reporting of bullying, often with unintended results. For example, a 2006 Texas survey found half of all elementary teachers should be considered bullies.

Finally, most bullies report being bullied themselves; establishing who is a victim and who deserves to be punished may be murkier than any law contemplates.

Given current laws already prohibit physical abuse, Kalman recommends tackling name-calling and other non-physical bullying with techniques borrowed from child psychology rather than law enforcement. He teaches kids to solve bully problems by themselves instead of relying on adult interventions. Such an educational approach seems a more appropriate use of school resources. As for cyberbullying, he notes this typically occurs outside school and should be considered the domain of parents, who have a responsibility to equip their children with necessary coping skills before allowing them unlimited access to the Internet.

No one can minimize the trauma that might cause a teen to take his or her own life. And almost everyone who's attended school has a tale of their own playground nemesis. But any effort to reduce bullying must be grounded in reality and common sense, rather than the fanciful notion that it will go away if we just pass a new law.

# House of Commons urged to enact new cyberbullying law before its summer break

[KIM MACKRAEL](#)

OTTAWA — The Globe and Mail

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New legislation targeting the distribution of intimate photos without permission should be pushed through the House of Commons before it breaks for the summer, Nova Scotia's Justice Minister says.

Ross Landry said he received universal support at Wednesday's meeting of federal, provincial and territorial justice ministers for his proposal to make it a criminal offence to share sexually explicit images of another person without that person's consent. The ministers' summit was initially aimed at discussing Ottawa's proposal to create a victims' bill of rights but also addressed concerns about cyberbullying and the possibility of new legislation.

The meeting came one day after Prime Minister Stephen Harper met with the family of Rehtaeh Parsons, a 17-year-old from Nova Scotia who died this month, three days after she attempted suicide. Ms. Parsons's family alleges that she was sexually assaulted when she was 15 and that photos of the incident were later shared with her classmates and friends, causing her distress.

On Wednesday, justice ministers asked a federal, provincial and territorial working group on cybercrime to speed up its review of Canada's laws on distributing explicit photos. The group was first tasked with the review in October, after the death of Amanda Todd, a Port Coquitlam teen who endured persistent bullying related to a sexually explicit photo of herself that was posted online.

"Today, when I met with my counterparts, I recommended that we expedite the review of our laws by June and I was pleased to receive unanimous support," federal Justice Minister Rob Nicholson said in an e-mailed statement. "I look forward to receiving this report."

NDP Leader Thomas Mulcair said on Wednesday that the Criminal Code may need to be updated at times to address new realities and that the party would work with the government to deal with the issue before the House goes on break this summer.

Mr. Harper said on Wednesday that he agrees that laws may need to be changed, adding that police may also need new investigative tools to keep pace with rapid technological changes. "We absolutely must speak out against the notion that some people have that anything goes on the Internet. Something that is a crime is a crime if it happens on the Internet as well," Mr. Harper said in the House of Commons.

Speaking with reporters after his meeting with Mr. Harper on Tuesday, Ms. Parsons's father said he believes reforms are needed to address the problem of intimate photos being shared online. The Parsons family also met with Mr. Mulcair and the Canadian Association of Chiefs of Police on Wednesday.

Dan MacRury, Nova Scotia's representative on the cybercrime working group, said the province is proposing legislation that would include sentences that are similar to the penalties for distributing child pornography. Under current federal law, a summary conviction of distribution of child pornography results in a minimum six-month jail term.

The province is also suggesting that intimate photos be defined as images that depict genitalia, the anal region or breasts, and that the legislation would apply only to those who make or distribute the material – electronically or otherwise – without permission and for sexual or malicious reasons.

Saskatchewan Justice Minister Gordon Wyant said provincial and territorial ministers agreed unanimously that reforms are needed, but said he was not prepared to comment on the specific details of any new legislation.

"We'll wait for the recommendation of the working group, but I think we're all in agreement that the potential penalties for any Criminal Code offences need to be commensurate with the potential harm that can come from this, and we've seen some of the harm that can come from this distribution of these images."

A spokesman for Ontario's Minister of Justice said the province has been concerned with non-consensual distribution of intimate photos for several years, and began asking the federal government to amend the Criminal Code in 2011.