

## LOCAL LAW NO. "F" FOR 2010

### A LOCAL LAW PROHIBITING CYBER-BULLYING IN ALBANY COUNTY

Introduced: 7/12/10

By Messrs. Scavo, Morse, McCoy, Beston, Bullock, Clay, Clenahan, Commisso, Ms. Connolly, Messrs. Cotrofeld, Dawson, Gordon, Houghtaling, Joyce, Infante, Ms. Maffia-Tobler, Messrs. Mayo, Nichols, Rahm and Ward:

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 school-aged children 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 the newest form of harassment.

This Legislature finds that cyber-bullying is rampant: forty two percent (42%) of children in the fourth through eighth grade surveyed in a recent poll reported being bullied online.

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 or commit suicide in part because of the cyber-bullying they've endured.

This Legislature further determines that several states have enacted laws criminalizing cyber-bullying but, to date, the New York State Legislature has failed to address this problem.

This Legislature finds that Albany County should do everything in its power to protect its residents from such reprehensible behavior.

Therefore, the purpose of this law is to ban the cyber-bullying 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 engaging in a course of conduct or repeatedly committing acts of abusive behavior over a period of time by communicating or causing a communication to be sent by mechanical or electronic means, posting statements on the internet or through a computer network, acts of abusive behavior shall include, but not be limited to, taunting; threatening; intimidating; insulting; tormenting; humiliating; disseminating embarrassing or sexually explicit photographs; disseminating private, personal, false or sexual information; or sending hate mail.

"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 or person 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. Effective Date.

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

*Referred to Law Committee. 7/12/10*

*Favorable Recommendation - Law Committee. 9/27/10*

*Referred to Law Committee. 10/12/10*