

Bill No. SB 1384

Barcode 345156

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Haridopolos) recommended  
the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 1006.147, Florida Statutes, is  
created to read:

1006.147 Bullying and harassment prohibited.--

(1) This section may be cited as the "Jeffrey Johnston  
Stand Up for All Students Act."

(2) Bullying or harassment of any student or school  
employee is prohibited:

(a) During any education program or activity conducted  
by a public K-12 educational institution;

(b) During any school-related or school-sponsored  
program or activity or on a school bus of a public K-12  
educational institution; or

(c) Through the use of data or computer software that  
is accessed through a computer, computer system, or computer

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1 network of a public K-12 educational institution.

2 (3) For purposes of this section:

3 (a) "Bullying" means systematically and chronically  
4 inflicting physical hurt or psychological distress on one or  
5 more students and may involve:

6 1. Teasing;

7 2. Social exclusion;

8 3. Threat;

9 4. Intimidation;

10 5. Stalking;

11 6. Physical violence;

12 7. Theft;

13 8. Sexual, religious, or racial harassment;

14 9. Public humiliation; or

15 10. Destruction of property.

16 (b) "Harassment" means any threatening, insulting, or  
17 dehumanizing gesture, use of data or computer software, or  
18 written, verbal, or physical conduct directed against a  
19 student or school employee that:

20 1. Places a student or school employee in reasonable  
21 fear of harm to his or her person or damage to his or her  
22 property;

23 2. Has the effect of substantially interfering with a  
24 student's educational performance, opportunities, or benefits;  
25 or

26 3. Has the effect of substantially disrupting the  
27 orderly operation of a school.

28 (c) Definitions in s. 815.03 relating to computer  
29 crimes and s. 784.048 relating to stalking are applicable to  
30 this section.

31 (d) The terms "bullying" and "harassment" include:

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1           1. Retaliation against a student or school employee by  
 2 another student or school employee for asserting or alleging  
 3 an act of bullying or harassment. A report of an act of  
 4 bullying or harassment which is not made in good faith is  
 5 considered retaliation.

6           2. Perpetuation of conduct listed in paragraph (a) or  
 7 paragraph (b) by an individual or group with intent to demean,  
 8 dehumanize, embarrass, or cause physical harm to a student or  
 9 school employee by:

10           a. Incitement or coercion;

11           b. Accessing or knowingly causing or providing access  
 12 to data or computer software through a computer, computer  
 13 system, or computer network within the scope of the district  
 14 school system; or

15           c. Acting in a manner that has an effect substantially  
 16 similar to the effect of bullying or harassment.

17           (4) By September 1, 2006, each school district shall  
 18 adopt a policy prohibiting bullying and harassment on school  
 19 property, at a school-related or school-sponsored program or  
 20 activity, on a school bus, or through the use of data or  
 21 computer software that is accessed through a computer,  
 22 computer system, or computer network within the scope of the  
 23 district school system. The school district bullying and  
 24 harassment policy shall afford all students the same  
 25 protection regardless of their status under the law. The  
 26 school district may establish separate discrimination policies  
 27 that include categories of students. The school district shall  
 28 involve students, parents, teachers, administrators, school  
 29 staff, school volunteers, community representatives, and local  
 30 law enforcement agencies in the process of adopting the  
 31 policy. The school district policy must be implemented in a

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1 manner that is ongoing throughout the school year and  
2 integrated with a school's curriculum, a school's discipline  
3 policies, and other violence prevention efforts. The school  
4 district policy must contain, at a minimum, the following  
5 components:

6       (a) A statement prohibiting bullying and harassment.

7       (b) A definition of bullying and a definition of  
8 harassment.

9       (c) A description of the type of behavior expected  
10 from each student and school employee.

11       (d) The consequences for a person who commits an act  
12 of bullying or harassment.

13       (e) The consequences for a person who is found to have  
14 wrongfully and intentionally accused another of an act of  
15 bullying or harassment.

16       (f) A procedure for reporting an act of bullying or  
17 harassment, including provisions that permit a person to  
18 anonymously report such an act. However, this paragraph does  
19 not permit formal disciplinary action to be based solely on an  
20 anonymous report.

21       (g) A procedure for the prompt investigation of a  
22 report of bullying or harassment and the persons responsible  
23 for the investigation. The investigation of a reported act of  
24 bullying or harassment is deemed to be a school-related  
25 activity and begins with a report of such an act.

26       (h) A process to investigate whether a reported act of  
27 bullying or harassment is within the scope of the district  
28 school system and, if not, a process for referral of such an  
29 act to the appropriate jurisdiction.

30       (i) A procedure for providing immediate notification  
31 to the parents of a victim of bullying or harassment of all

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1 local agencies where criminal charges may be pursued against  
2 the perpetrator.

3 (j) A procedure to refer victims and perpetrators of  
4 bullying or harassment for counseling.

5 (k) A procedure for including incidents of bullying or  
6 harassment in the school's report of safety and discipline  
7 data required under s. 1006.09(6). The report must include  
8 each incident of bullying or harassment and the resulting  
9 consequences, including discipline and referrals. The report  
10 must include in a separate section each reported incident of  
11 bullying or harassment that does not meet the criteria of a  
12 prohibited act under this section with recommendations  
13 regarding such incidents. The Department of Education shall  
14 aggregate information contained in the reports.

15 (l) A procedure for providing instruction to students,  
16 parents, teachers, school administrators, counseling staff,  
17 and school volunteers on identifying, preventing, and  
18 responding to bullying or harassment.

19 (m) A procedure for regularly reporting to a victim's  
20 parents the actions taken to protect the victim.

21 (n) A procedure for publicizing the policy, which must  
22 include its publication in the code of student conduct  
23 required under s. 1006.07(2) and in all employee handbooks.

24 (5) To assist school districts in developing policies  
25 for the prevention of bullying and harassment, the Department  
26 of Education shall develop model policies, which must be  
27 provided to school districts no later than July 1, 2006.

28 (6) A school employee, school volunteer, student, or  
29 parent who promptly reports in good faith an act of bullying  
30 or harassment to the appropriate school official designated in  
31 the school district's policy and who makes this report in

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1 compliance with the procedures set forth in the policy is  
2 immune from a cause of action for damages arising out of the  
3 reporting itself or any failure to remedy the reported  
4 incident.

5 (7)(a) The physical location or time of access of a  
6 computer-related incident cannot be raised as a defense in any  
7 disciplinary action or prosecution initiated under this  
8 section.

9 (b) This section does not apply to any person who uses  
10 data or computer software that is accessed through a computer,  
11 computer system, or computer network when acting within the  
12 scope of his or her lawful employment or investigating a  
13 violation of this section in accordance with school district  
14 policy.

15 (8) Distribution of safe schools funds to a school  
16 district provided in the 2007-2008 General Appropriations Act  
17 is contingent upon Department of Education approval of the  
18 school district's bullying and harassment policy. Distribution  
19 of safe schools funds provided to a school district in fiscal  
20 year 2008-2009 and thereafter shall be contingent upon the  
21 school district's compliance with all reporting procedures  
22 contained in this section.

23 (9) On or before January 1 of each year, the  
24 Commissioner of Education shall report to the Governor, the  
25 President of the Senate, and the Speaker of the House of  
26 Representatives on the implementation of this section. The  
27 report shall include data collected pursuant to paragraph  
28 (4)(k).

29 (10) Nothing in this section shall be construed to  
30 abridge the rights of students or school employees that are  
31 protected by the First Amendment to the Constitution of the

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1 United States.

2 Section 2. This act shall take effect upon becoming a  
3 law.

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete everything before the enacting clause

9

10 and insert:

11 A bill to be entitled

12 An act relating to school safety; creating s.  
13 1006.147, F.S.; providing a short title;  
14 prohibiting bullying and harassment during  
15 education programs and activities, on school  
16 buses, or through use of data or computer  
17 software accessed through computer systems of  
18 certain educational institutions; providing  
19 definitions; requiring each school district to  
20 adopt a policy prohibiting such bullying and  
21 harassment; providing minimum requirements for  
22 the contents of the policy; requiring the  
23 Department of Education to develop model  
24 policies; providing immunity; providing  
25 restrictions with respect to defense of an  
26 action and application of the section;  
27 requiring department approval of a school  
28 district's policy and school district  
29 compliance with reporting procedures as  
30 prerequisites to receipt of safe schools funds;  
31 requiring a report on implementation; providing

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1 for construction of the act; providing an  
2 effective date.  
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