

Bill No. SB 1384

Barcode 924622

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 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 not establish categories of students
 25 but shall afford all students the same protection regardless
 26 of their status under the law. The school district may
 27 establish separate discrimination policies that include
 28 categories of students. The school district shall involve
 29 students, parents, teachers, administrators, school staff,
 30 school volunteers, community representatives, and local law
 31 enforcement agencies in the process of adopting the policy.

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