

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 School Safety
SPONSOR(S): Bogdanoff and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee		Beagle	Mizereck
2) Juvenile Justice Committee			
3) Education Appropriations Committee			
4) Education Council			
5) _____			

SUMMARY ANALYSIS

Current Florida law requires school districts to develop student safety and discipline policies. Within the requirements prescribed by law, school districts have considerable discretion as to the contents of these policies. There is no statewide mandate that school districts adopt policies that explicitly prohibit bullying and harassment.

House bill 535 prohibits bullying and harassment of students in Florida schools, and requires school districts to adopt policies for enforcing this prohibition. The bill defines bullying and harassment, and sets forth specific minimum requirements for school district policies.

The bill has a minimal fiscal impact. See FISCAL COMMENTS.

The bill takes effect on upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill requires local school districts to adopt policies prohibiting bullying and harassment.

Promote Personal Responsibility-- The bill requires local school districts to establish punishments and interventions for dealing with perpetrators of bullying or harassment.

Safeguard Individual Liberty-- The bill reduces the likelihood that bullying and harassment will interfere with student's learning and social development.

Empower Families-- The bill requires school authorities to report all actions taken against a perpetrator of bullying and harassment to the victim's parents.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Student Discipline and School Safety

Florida law requires district school boards to establish student safety and discipline policies governing student conduct on school grounds, at school sponsored activities, and on school buses.¹ Subject to certain requirements, school districts retain considerable flexibility in formulating student discipline policies. Policies must address several issues including:

- A code of student conduct that clearly explains the rights and responsibilities of students regarding respect for persons and property.
- Prohibition against student possession of a firearm or weapon on school grounds or at school sponsored activities and notice to students that violation of this provision may result in expulsion and referral to a criminal or juvenile justice facility.
- Notice that student acts of prohibited behavior at school, on a school bus, at a school bus stop, sexual harassment, and violence against any school district employee are subject to disciplinary action.
- Policies for assigning a violent or disruptive student to an alternative program.
- Consistent policies and procedures for dealing with prohibited acts, including imposition of criminal penalties.

Additionally, Florida law² and State Board of Education Rule (SBE)³ require district school boards to adopt a zero tolerance policy for violent crime, victimization, and substance abuse. District school boards must ensure that students found to have committed certain offenses receive the most severe penalties available under district school board policy.⁴ Likewise, district school boards are authorized to attach more severe consequences to disciplinary violations motivated by hostility towards a victim's gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.⁵ School officials are required to protect students who are victimized by violent crime, including notifying a victim's parents that an incident has occurred and of the victim's right to press charges, transferring the

1 Section 1006.07, F.S.

2 Section 1006.13, F.S.

3 State Board of Education Rule 6A-1.0404.

4 Id.

5 Id.

perpetrator to another school in the district, and banning the perpetrator from riding the same school bus as the victim.⁶

Florida law assigns specific duties relating to the enforcement of student discipline to certain school district personnel. These duties include:

- District school superintendents are required to recommend student safety and discipline policies to the district school board.⁷
- School principals must collaborate with teachers to establish and enforce classroom rules for student conduct and procedures for disciplinary referrals.⁸
- School principals must comply with certain requirements for reporting incidents of student misconduct.⁹ The School Environmental Safety Incident Reporting System (SESIR)¹⁰ requires schools to report serious safety incidents involving students that occur on school grounds, on school transportation, or off-campus at school-sponsored events. School-level data is compiled at the district-level and reported to the Department of Education (DOE).
- School bus drivers are responsible for maintaining order and security on district buses.¹¹

Bullying and Harassment

The U.S. Department of Education (U.S. DOE) reports that 7% of students aged 12-18 reported being bullied at school in 2003.¹² State anti-bullying legislation has gained in prevalence since a rash of highly publicized school shootings in the late 1990s.¹³ Currently, several states have enacted anti-bullying legislation. These states include Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, Minnesota, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington and West Virginia.¹⁴

Current Florida law does not require school districts to implement a district-wide anti-bullying and harassment policy. According to the DOE, 33 Florida school districts have implemented bullying prevention programs.¹⁵

- Aggression Replacement Training (ART) – Hernando;
- Aggressors, Victims, Bystanders - Brevard, Collier, Columbia, DeSoto, Dixie, Escambia, FAU Lab School, Flagler, Glades, Lafayette, Levy, Manatee, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Lucie, Union, and Volusia;
- Bullying Prevention (Olweus) - FAU Lab School, Orange, Pasco, Pinellas, Sarasota, Seminole, and Sumter;
- Bully-Proofing Your School – Brevard and Volusia;
- Bullying Safe – Lee;
- Foundations: Creating Safe and Civil Schools – Clay and Duval;
- PATHS – Okaloosa;
- PeaceBuilders – Franklin and Gulf;

6 Section 1006.13(1)(b), (5), F.S.

7 Section 1006.08, F.S.

8 Section 1006.09, F.S.

9 Section 1001.54(3), F.S. and s. 1006.09(6), F.S.

10 Florida Department of Education, *The School Environmental Safety Incident Reporting System (SESIR) District and Statewide Reports*, available at <http://www.firm.edu/doe/besss/sesir.htm>.

11 Section 1006.10, F.S.

12 The U.S. Department of Education, National Center for Education Statistics, *Indicators of School Crime and Safety: 2005*, NCES 2006-001, November 2005, available at <http://nces.ed.gov/programs/crimeindicators/Indicators.asp?PubPageNumber=12>.

13 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, available at <http://www.ecs.org/clearinghouse/60/41/6041.htm>.

14 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, available at <http://www.ecs.org/clearinghouse/60/41/6041.htm> and Education Commission of the States, *Recent State Policies and Activities Update: Student Discipline: Bullying Statutes*, available at <http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&RestrictToCategory=Safety/Student+Discipline--Bullying/Conflict+Resolution>.

15 Florida Department of Education, *Bullying Programs in Florida Districts* available at http://www.firm.edu/doe/besss/bull_fl.html.

- Positive Action – Charlotte and Leon;
- Project ACHIEVE – Charlotte;
- Safe Schools Ambassadors – Seminole;
- Success in Stages: Build Respect, Stop Bullying – Union; and
- TRUST - Miami-Dade.

Safe Schools Funding

Safe schools funding is a component of the Florida Education Finance Program¹⁶ and is allocated by the legislature as proviso language in the General Appropriations Act.¹⁷ The Legislature appropriated \$75,350,000 in safe schools funds for the 2005-2006 school year. Safe schools funds are allocated as follows:

- A basic amount of \$50,000 is distributed to each Florida school district or lab school.
- Two-thirds of the remaining balance is allocated based on the latest official Florida Crime Index as provided by the Florida Department of Law Enforcement.
- One-third is allocated based on each district's share of the state's total unweighted student enrollment.

School districts may use safe schools funds to implement after school programs, conflict resolution strategies, alternative school programs for adjudicated youth, and other improvements to make the school a safe place to learn. School districts have flexibility to determine how much of its total allocation to use for each authorized Safe Schools activity.

Effect of Proposed Changes:

Prohibition of Bullying and Harassment

House bill 535 prohibits bullying and harassment on school grounds, at school sponsored functions, on school buses, and school district controlled computer equipment and networks. The bill defines "bullying" to include teasing, social exclusion, threats, intimidation, physical violence, theft, sexual or racial harassment, public humiliation, or destruction of property. "Harassment" is defined to include threatening, insulting, or dehumanizing gestures, use of a computer, and written, verbal, or physical conduct targeted at a student or school employee that:

- Causes the student or school employee to reasonably fear harm to person or property;
- Substantially interferes with the student's educational performance; or
- Substantially disrupts the orderly operation of the school.

Also falling within the bill's scope are certain acts of retaliation against individuals who report an act of bullying or harassment, acts that incite or coerce others to perpetrate an act of bullying or harassment, accessing or causing others to access another student's computer data or software for bullying and harassment purposes via school operated computers, and other acts having the effect of bullying and harassment.

Bullying and Harassment Policies

The bill requires each school district to adopt a policy prohibiting bullying and harassment. The policies must apply evenly to all students and explicitly prohibits a school district from creating special classifications of protected students based on student characteristics. Each school district must involve a variety of stakeholders in devising its bullying and harassment policy. The bill further requires each school district to integrate its bullying and harassment policy into the district's year round school curriculum, discipline policies, and violence prevention efforts. Moreover, the bill provides conditions for immunity from suit for specified individuals who report an incident of bullying or harassment. The bill

¹⁶ Section 1011.62(5)(b)3., F.S.

¹⁷ Line Item 73 of the Conference Committee Report on SB 2600, Enrolled Chapter 2005-70, Laws of Florida.

bars perpetrators who access a computer to bully or harass from raising the location or time of access of the computer as a defense.

Additionally, school district bullying and harassment policies must contain the following components:

- A definition of bullying and harassment and statement that such conduct is prohibited;
- Clearly stated consequences for committing or falsely accusing another of bullying or harassment;
- A procedure for reporting a proscribed act;
- A procedure for investigating whether a reported incident of bullying and harassment is within the scope of the school district's policy. Acts determined to be outside the scope of the school district's policy are to be referred to the appropriate authorities;
- A procedure for referring a victim or perpetrator of bullying or harassment to counseling;
- A procedure including incidents of bullying and harassment in its SESIR;
- A procedure for training students, parents, school volunteers and school staff effective tactics for identifying and addressing incidents of bullying and harassment; and
- A procedure for reporting all measures taken against a perpetrator of bullying and harassment to a victim's parents.

The bill requires the DOE to adopt model bullying and harassment policies to assist school districts. The bill also requires each school district to publish its policy in the district's code of student conduct and all employee handbooks. The bill further requires the Commissioner to report to the education committees of the Legislature as to the progress made by districts in implementing the bill's provisions.

The bill makes disbursements of safe schools funding to school districts contingent upon the district's adopting a bullying and harassment policy for the 2007-2008 school year. To receive disbursements of safe schools funding in subsequent school years, school districts must comply with all reporting requirements set forth in the bill. A school district's failure to comply with either of these requirements will result in a withholding of safe schools funding.

C. SECTION DIRECTORY:

Section 1: Creates section 1006.147, F.S., prohibiting bullying and harassment in Florida schools; requiring each school district to adopt a policy for preventing and addressing incidents of bullying and harassment.

Section 2: Provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

School districts that fail to adopt a bullying and harassment policy by the 2007-2008 school year may have their safe schools funding withheld. Subsequent disbursements of safe schools funds may be withheld to school districts that fail to comply with any reporting provisions contained in the bill.

School districts may incur costs in developing bullying and harassment policies, and in providing the required training to students, parents, school volunteers, and school employees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The requirement that school districts report all actions taken against a perpetrator of bullying or harassment to a victim's parents may exceed the scope of current federal and Florida laws governing the privacy of student records. The federal Family Educational Rights and Privacy Act (FERPA)¹⁸ and Section 1002.22, F.S. prohibit educational institutions from disclosing certain student educational records without parental consent. FERPA defines student records as those records maintained by an educational institution directly relating to a student.¹⁹ Florida law expands upon this definition to include all material incorporated into a student's cumulative record folder as well as verified reports of serious or recurrent behavior patterns exhibited by the student.²⁰ Issuing reports to victim's parents that contain student-specific disciplinary information is not among the exceptions to the requirement that school districts obtain parental consent prior to disclosing student record information as provided by FERPA and s. 1002.22, F.S.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

18 The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99. This federal statute applies to educational institutions that receive federal funds.

19 20 U.S.C. § 1232g(a)(4)(A).

20 Section 1002.22(2)(c).