

1                                   A bill to be entitled  
 2           An act relating to school safety; creating s. 1006.147,  
 3           F.S.; providing legislative intent; prohibiting bullying  
 4           and harassment during education programs and activities,  
 5           on school buses, or through use of data or computer  
 6           software accessed through computer systems of certain  
 7           educational institutions; providing definitions; requiring  
 8           each school district to adopt a policy prohibiting such  
 9           bullying and harassment; providing minimum requirements  
 10          for the contents of the policy; requiring the Department  
 11          of Education to develop model policies; providing  
 12          immunity; providing restrictions with respect to defense  
 13          of an action and application of the section; requiring  
 14          department approval of a school district's policy and  
 15          school district compliance with reporting procedures as  
 16          prerequisites to receipt of safe schools funds; requiring  
 17          a report on implementation; providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

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

23           1006.147   Bullying and harassment prohibited.--  
 24           (1)   It is the intent of the Legislature that school  
 25           districts take every reasonable precaution to protect students  
 26           and school employees from the irreparable physiological,  
 27           physical, emotional, mental, and social harm of bullying and  
 28           harassment. It is the further intent of the Legislature that

29 nothing in this section be construed to abridge the rights of  
 30 students or school employees that are protected by the First  
 31 Amendment to the Constitution of the United States.

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

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

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

39 (c) Through the use of data or computer software that is  
 40 accessed through a computer, computer system, or computer  
 41 network of a public K-12 educational institution.

42 (3) For purposes of this section:

43 (a) "Bullying" means substantial:

- 44 1. Teasing;
- 45 2. Social exclusion;
- 46 3. Threat;
- 47 4. Intimidation;
- 48 5. Physical violence;
- 49 6. Theft;
- 50 7. Sexual or racial harassment;
- 51 8. Public humiliation; or
- 52 9. Destruction of property.

53 (b) "Harassment" means any threatening, insulting, or  
 54 dehumanizing gesture, use of data or computer software, or  
 55 written, verbal, or physical conduct directed against a student  
 56 or school employee that:

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

59 2. Has the effect of substantially interfering with a  
60 student's educational performance, opportunities, or benefits;  
61 or

62 3. Has the effect of substantially disrupting the orderly  
63 operation of a school.

64 (c) Definitions in s. 815.03, which are applicable to  
65 chapter 815, the Florida Computer Crimes Act, are applicable to  
66 this section.

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

68 1. Retaliation against a student or school employee by  
69 another student or school employee for asserting or alleging an  
70 act of bullying or harassment. Reporting an act of bullying or  
71 harassment that is not made in good faith is considered  
72 retaliation.

73 2. Perpetuation of conduct listed in paragraph (a) or  
74 paragraph (b), by an individual or group, with intent to demean,  
75 dehumanize, embarrass, or cause physical harm to a student or  
76 school employee, by:

77 a. Incitement or coercion;

78 b. Accessing or knowingly causing or providing access to  
79 data or computer software through a computer, computer system,  
80 or computer network within the scope of the district school  
81 system; or

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

84        (4) By September 1, 2006, each school district shall adopt  
85 a policy prohibiting bullying and harassment on school property,  
86 at a school-related or school-sponsored program or activity, on  
87 a school bus, or through the use of data or computer software  
88 that is accessed through a computer, computer system, or  
89 computer network within the scope of the district school system.

90 The school district policy shall not establish categories of  
91 students but shall afford all students the same protection  
92 regardless of their status under law. The school district shall  
93 involve students, parents, teachers, administrators, school  
94 staff, school volunteers, community representatives, and local  
95 law enforcement agencies in the process of adopting the policy.  
96 The school district policy must be implemented in a manner that  
97 is ongoing throughout the school year and integrated with a  
98 school's curriculum, a school's discipline policies, and other  
99 violence prevention efforts. The school district policy must  
100 contain, at a minimum, the following components:

101        (a) A statement prohibiting bullying and harassment.

102        (b) A definition of bullying and harassment.

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

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

107        (e) The consequences for a person found to have wrongfully  
108 and intentionally accused another of an act of bullying or  
109 harassment.

110        (f) A procedure for reporting an act of bullying or  
111 harassment, including provisions that permit a person to

112 anonymously report such an act. However, this paragraph does not  
113 permit formal disciplinary action to be based solely on an  
114 anonymous report.

115 (g) A procedure for the prompt investigation of a report  
116 of bullying or harassment and the persons responsible for the  
117 investigation. The investigation of a reported act of bullying  
118 or harassment is deemed to be a school-related activity and  
119 begins with a report of such an act.

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

124 (i) A procedure to refer victims and perpetrators of  
125 bullying or harassment for counseling.

126 (j) A procedure for including incidents of bullying or  
127 harassment in the school's report of safety and discipline data  
128 required under s. 1006.09(6). The report must include each  
129 incident of bullying and harassment and the resulting  
130 consequences, including discipline and referrals. The report  
131 must include in a separate section each reported incident of  
132 bullying or harassment that does not meet the criteria of a  
133 prohibited act under this section with recommendations regarding  
134 such incidents. The Department of Education shall aggregate  
135 information contained in the reports and submit an annual report  
136 to the President of the Senate and the Speaker of the House of  
137 Representatives by January 1.

138 (k) A procedure for providing instruction to students,  
139 parents, teachers, school administrators, counseling staff, and

140 school volunteers on identifying, preventing, and responding to  
141 bullying or harassment.

142 (1) To the extent permitted under the federal Family  
143 Educational Rights and Privacy Act of 1974, as amended, a  
144 procedure for monthly reporting to a victim's parents all  
145 actions instituted against a perpetrator of bullying or  
146 harassment and the action taken to prevent any further acts of  
147 bullying or harassment.

148 (m) A procedure for publicizing the policy which must  
149 include its publication in the code of student conduct required  
150 under s. 1006.07(2) and in all employee handbooks.

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

155 (6) A school employee, school volunteer, student, or  
156 parent who promptly reports in good faith an act of bullying or  
157 harassment to the appropriate school official designated in the  
158 school district's policy and who makes this report in compliance  
159 with the procedures set forth in the policy is immune from a  
160 cause of action for damages arising out of the reporting itself  
161 or any failure to remedy the reported incident.

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

165 (b) This section does not apply to any person who uses  
166 data or computer software that is accessed through a computer,  
167 computer system, or computer network when acting within the

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168 scope of his or her lawful employment or investigating a  
169 violation of this section in accordance with school district  
170 policy.

171 (8) Distribution of safe schools funds to a school  
172 district provided in the 2007-2008 General Appropriations Act is  
173 contingent upon Department of Education approval of the school  
174 district's bullying and harassment policy. Distribution of safe  
175 schools funds provided to each school district in fiscal year  
176 2008-2009 and thereafter shall be contingent upon school  
177 district compliance with all reporting procedures contained in  
178 this section.

179 (9) On or before January of each year, the Commissioner of  
180 Education shall report to the Senate and House of  
181 Representatives committees on education on the implementation of  
182 this section. The report shall include pertinent data such as  
183 incidences of bullying and harassment identified by the school  
184 districts.

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