

HB 535

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CHAMBER ACTION

1 The PreK-12 Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

22
23 Be It Enacted by the Legislature of the State of Florida:

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

1006.147 Bullying and harassment prohibited.--

(1) 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 network of a public K-12 educational institution.

(2) For purposes of this section:

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

- 1. Teasing;
- 2. Social exclusion;
- 3. Threat;
- 4. Intimidation;
- 5. Stalking;
- 6. Physical violence;
- 7. Theft;
- 8. Sexual or racial harassment;
- 9. Public humiliation; or
- 10. Destruction of property.

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

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

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

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

63 (c) Definitions in s. 815.03 relating to computer crimes
64 and s. 784.048 relating to stalking are applicable to this
65 section.

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

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

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

76 a. Incitement or coercion;

77 b. Accessing or knowingly causing or providing access to
78 data or computer software through a computer, computer system,

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79 | or computer network within the scope of the district school
80 | system; or

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

83 | (3) By September 1, 2006, each school district shall adopt
84 | a policy prohibiting bullying and harassment on school property,
85 | at a school-related or school-sponsored program or activity, on
86 | a school bus, or through the use of data or computer software
87 | that is accessed through a computer, computer system, or
88 | computer network within the scope of the district school system.
89 | The school district policy shall not establish categories of
90 | students but shall afford all students the same protection
91 | regardless of their status under law. The school district shall
92 | involve students, parents, teachers, administrators, school
93 | staff, school volunteers, community representatives, and local
94 | law enforcement agencies in the process of adopting the policy.
95 | The school district policy must be implemented in a manner that
96 | is ongoing throughout the school year and integrated with a
97 | school's curriculum, a school's discipline policies, and other
98 | violence prevention efforts. The school district policy must
99 | contain, at a minimum, the following components:

100 | (a) A statement prohibiting bullying and harassment.

101 | (b) A definition of bullying and a definition of
102 | 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.

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107 (e) The consequences for a person who is found to have
108 wrongfully and intentionally accused another of an act of
109 bullying or 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 for providing immediate notification to
125 the parents of a victim of bullying or harassment of all local
126 agencies where criminal charges may be pursued against the
127 perpetrator.

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

130 (k) A procedure for including incidents of bullying or
131 harassment in the school's report of safety and discipline data
132 required under s. 1006.09(6). The report must include each
133 incident of bullying or harassment and the resulting
134 consequences, including discipline and referrals. The report

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135 must include in a separate section each reported incident of
136 bullying or harassment that does not meet the criteria of a
137 prohibited act under this section with recommendations regarding
138 such incidents. The Department of Education shall aggregate
139 information contained in the reports and submit an annual report
140 to the President of the Senate and the Speaker of the House of
141 Representatives by January 1.

142 (l) A procedure for providing instruction to students,
143 parents, teachers, school administrators, counseling staff, and
144 school volunteers on identifying, preventing, and responding to
145 bullying or harassment.

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

148 (n) 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 (4) 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
154 to school districts no later than July 1, 2006.

155 (5) 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.

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162 (6) (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
168 scope of his or her lawful employment or investigating a
169 violation of this section in accordance with school district
170 policy.

171 (7) 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 a school district in fiscal year 2008-
176 2009 and thereafter shall be contingent upon the school
177 district's compliance with all reporting procedures contained in
178 this section.

179 (8) 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 (9) Nothing in this section shall be construed to abridge
186 the rights of students or school employees that are protected by
187 the First Amendment to the Constitution of the United States.

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