

CHAMBER ACTION

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

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

Page 1 of 8

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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 network of a public K-12 educational institution.

(3) 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;

HB 535 CS

2006
CS

52 9. Public humiliation; or

53 10. Destruction of property.

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

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

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

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

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

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

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

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

78 a. Incitement or coercion;

HB 535 CS

2006
CS

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

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

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

91 The school district bullying and harassment policy shall not
92 establish categories of students but shall afford all students
93 the same protection regardless of their status under the law.

94 The school district may establish separate discrimination
95 policies that include categories of students. The school
96 district shall involve students, parents, teachers,
97 administrators, school staff, school volunteers, community
98 representatives, and local law enforcement agencies in the
99 process of adopting the policy. The school district policy must
100 be implemented in a manner that is ongoing throughout the school
101 year and integrated with a school's curriculum, a school's
102 discipline policies, and other violence prevention efforts. The
103 school district policy must contain, at a minimum, the following
104 components:

105 (a) A statement prohibiting bullying and harassment.

106 (b) A definition of bullying and a definition of
107 harassment.

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

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

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

115 (f) A procedure for reporting an act of bullying or
116 harassment, including provisions that permit a person to
117 anonymously report such an act. However, this paragraph does not
118 permit formal disciplinary action to be based solely on an
119 anonymous report.

120 (g) A procedure for the prompt investigation of a report
121 of bullying or harassment and the persons responsible for the
122 investigation. The investigation of a reported act of bullying
123 or harassment is deemed to be a school-related activity and
124 begins with a report of such an act.

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

129 (i) A procedure for providing immediate notification to
130 the parents of a victim of bullying or harassment of all local
131 agencies where criminal charges may be pursued against the
132 perpetrator.

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

135 (k) A procedure for including incidents of bullying or
136 harassment in the school's report of safety and discipline data
137 required under s. 1006.09(6). The report must include each
138 incident of bullying or harassment and the resulting
139 consequences, including discipline and referrals. The report
140 must include in a separate section each reported incident of
141 bullying or harassment that does not meet the criteria of a
142 prohibited act under this section with recommendations regarding
143 such incidents. The Department of Education shall aggregate
144 information contained in the reports.

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

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

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

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

158 (6) A school employee, school volunteer, student, or
159 parent who promptly reports in good faith an act of bullying or
160 harassment to the appropriate school official designated in the

HB 535 CS

2006
CS

161 school district's policy and who makes this report in compliance
162 with the procedures set forth in the policy is immune from a
163 cause of action for damages arising out of the reporting itself
164 or any failure to remedy the reported incident.

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

168 (b) This section does not apply to any person who uses
169 data or computer software that is accessed through a computer,
170 computer system, or computer network when acting within the
171 scope of his or her lawful employment or investigating a
172 violation of this section in accordance with school district
173 policy.

174 (8) Distribution of safe schools funds to a school
175 district provided in the 2007-2008 General Appropriations Act is
176 contingent upon Department of Education approval of the school
177 district's bullying and harassment policy. Distribution of safe
178 schools funds provided to a school district in fiscal year 2008-
179 2009 and thereafter shall be contingent upon the school
180 district's compliance with all reporting procedures contained in
181 this section.

182 (9) On or before January 1 of each year, the Commissioner
183 of Education shall report to the Governor, the President of the
184 Senate, and the Speaker of the House of Representatives on the
185 implementation of this section. The report shall include data
186 collected pursuant to paragraph (4) (k).

HB 535 CS

2006
CS

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

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