

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: SB 114

INTRODUCER: Senators Baker, Bennett, and Bullard

SUBJECT: School Safety/Bullying and Harassment

DATE: February 14, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	Favorable
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>EA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prohibits acts of bullying and harassment of any public K-12 student or employee and requires school districts to take specific measures that may help to protect students and school employees from the physical and psychological harm of bullying and harassment.

The bill includes definitions of bullying and harassment and requires school districts to adopt a bullying and harassment policy. The adopted policy must afford all students the same protection regardless of their status under the law. A school district may, however, establish separate antidiscrimination policies that include categories of students.

The school district's receipt of safe schools funds under the 2008-2009 General Appropriations Act is contingent upon the Department of Education's approval of the school district's policy on bullying and harassment.

This bill creates section 1006.147, Florida Statutes.

II. Present Situation:

Research

Current research studies indicate that bullying includes a wide variety of behavior.¹ All bullying behavior, however, involves a person or a group repeatedly trying to harm someone who is perceived to be weaker or more vulnerable. Bullying behavior can involve direct attacks, such as hitting, threatening or intimidating, maliciously teasing or taunting, name-calling, making sexual

¹ <http://www.safeyouth.org/scripts/teens/bullying.asp>

remarks, and stealing or damaging belongings; or more subtle, indirect attacks such as spreading rumors or encouraging others to reject or exclude someone.²

An article in the Journal of the American Medical Association states that almost 30 percent of teens in the United States (over 5.7 million) are estimated to be involved in bullying as either a bully, a target of bullying, or both.³ In a recent national survey of students in grades 6 to 10, 13 percent reported bullying others, 11 percent reported being the target of bullies, and another 6 percent said they bullied others and were bullied themselves. Limited available data suggest that bullying is much more common among younger teens than older teens. As teens grow older, they are less likely to bully others and to be the targets of bullies.⁴

Bullying is often a warning sign that children and teens are heading for trouble and are at risk for serious violence.⁵ Teens (particularly boys) who bully are more likely to engage in other anti-social/delinquent behavior (e.g., vandalism, shoplifting, truancy, and drug use) into adulthood. They are four times more likely than non-bullies to be convicted of crimes by age 24, with 60 percent of bullies having at least one criminal conviction.⁶

Current Provisions in Law

Section 1006.13, F.S., requires each district school board to adopt a Code of Student Conduct and a policy of zero tolerance for crime and victimization.⁷ Additionally, a State Board of Education rule provides that school boards may assign more severe consequences than normally authorized for Code of Student Conduct infractions when the offender appears motivated by hostility toward the victim's real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.⁸

Department of Education Incident Monitoring⁹

The Department of Education currently collects data on 22 different types of incidents of crime and violence through the School Environmental Safety Incident Reporting System (SESIR). The SESIR system collects and reports data on incidents that take place on a school campus, on school transportation, or at a school-sponsored event and was expanded this year to include an incident indicator for bullying/harassment.¹⁰

Current School District Policies

The Department of Education website on Safe and Drug Free Schools reports that 45 Florida school districts currently have anti-bullying policies in place and employ prevention programs, 36 of which the department deems are proven programs and seven of which the department has designated as promising.¹¹

² *Ibid.*

³ Nansel, et al, Journal of American Medicine, 285(16), 2094-2100

⁴ *Ibid.*

⁵ Aggression and Violence Throughout Their Lifetime, D. Olweus, 1992

⁶ *Ibid.*

⁷ s. 1006.07 (2), F.S.

⁸ 6A-1.0404, F.A.C.

⁹ www.firm.edu/doe/besss/sesir.htm

¹⁰ The School Environmental and Safety Incident Report (SESIR) - www.firm.edu/doe/databaseworkshop/presentations.htm

¹¹ http://www.firm.edu/doe/bess/bull_fl.html

III. Effect of Proposed Changes:

Prohibitions and Definitions

The bill would require a new section of law to be entitled the “Jeffrey Johnston Stand Up for All Students Act.” Jeffrey Johnston committed suicide in 2005 at age 15 after being victimized by a classmate’s taunts, which were posted and remained on the Internet for more than a year.

Each school district would be required to adopt by December 1, 2007, a policy to prohibit bullying and harassment during school related and school sponsored activities or through the use of computer access that is networked as a part of a public K-12 educational institution. Adopted policies must provide all students the same protection regardless of their status under law.

The bill defines both bullying and harassment and includes identifiable acts, including retaliation against a student or employee who reports alleged bullying or harassment. In order to avoid ambiguity and to allow for accurate data collection and reporting within the SESIR system, it may be beneficial to use the term bullying/harassment as a defined type of harassment. Nothing under the bill would be construed to abridge the rights of students or employees protected by the First Amendment of the U.S. Constitution.

Policies and Timelines

The bill requires school districts to develop and adopt policies to prohibit bullying and harassment no later than December 1, 2007, and identifies components required to be included within the policy, such as consequences for bullying and procedures for reporting bullying.

School districts would be required to provide all students with the same protections against harassment and bullying regardless of their status under law. This provision in the bill may require further clarification, if the intent is to supersede Rule 6A-1.0404, FAC, which specifically provides that school boards may assign more severe consequences than normally authorized when violations by the offender appear motivated by hostility toward the victim’s real or perceived gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability. Provisions in the bill allow for school districts to establish and include separate categories of students as separate adopted policies.

The Department of Education would be required to develop model policies no later than October 1, 2007, for school district use in developing policies. Because school districts must adopt their anti-bullying policies by December 1, 2007, this may not provide enough time for school districts to thoroughly examine the model policies, involve the local community, and develop their proposed plans.

Penalties and Funding

The bill provides that safe schools funding be contingent upon the department’s approval of a district’s bullying policy beginning with the 2008-2009 school year and compliance with all requirements outlined in the bill beginning with the 2009-2010 school year. The bill does not

include timelines for district submission and approval of plans. Because safe schools funds are used for multiple safety and security initiatives, the Department of Education has expressed concerns relative to the withholding of safe school funds for an entire fiscal year and instead suggests the possibility of quarterly payments and withholding of funds when compliance is not met.¹²

The Commissioner of Education is required to report on the implementation of the bill annually by January 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The 2006 Legislature appropriated \$75,350,000 for Safe Schools. Each district was guaranteed \$50,000 and the remaining funds were distributed based on a combination of the Florida Crime Index provided by the Florida Department of Law Enforcement and the district share of student enrollment. Withholding of district funds for non-compliance of provisions outlined in the bill may adversely affect other district safety and security initiatives currently in place.

According to the Department of Education, it would need approval for one FTE (\$71,487) dedicated to fulfill the developing, monitoring, training, and reporting

¹² Florida Department of Education Bill Analysis, January 19, 2007

requirements of the bill. The department has modified the SESIR reporting system to include bullying within the past year and provided technical assistance to school districts through an annual database management workshop.

VI. Technical Deficiencies:

Subsection (4) of the bill refers to a school district's option to establish separate discrimination policies. This should be amended to read antidiscrimination in order to maintain consistency with the intent of the bill.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
