

A bill to be entitled

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

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

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

29 a public K-12 educational institution;
 30 (b) During any school-related or school-sponsored program
 31 or activity or on a school bus of a public K-12 educational
 32 institution; or
 33 (c) Through the use of data or computer software that is
 34 accessed through a computer, computer system, or computer
 35 network of a public K-12 educational institution.
 36 (3) For purposes of this section:
 37 (a) "Bullying" means systematically and chronically
 38 inflicting physical hurt or psychological distress on one or
 39 more students and may involve:
 40 1. Teasing;
 41 2. Social exclusion;
 42 3. Threat;
 43 4. Intimidation;
 44 5. Stalking;
 45 6. Physical violence;
 46 7. Theft;
 47 8. Sexual, religious, or racial harassment;
 48 9. Public humiliation; or
 49 10. Destruction of property.
 50 (b) "Harassment" means any threatening, insulting, or
 51 dehumanizing gesture, use of data or computer software, or
 52 written, verbal, or physical conduct directed against a student
 53 or school employee that:
 54 1. Places a student or school employee in reasonable fear
 55 of harm to his or her person or damage to his or her property;
 56 2. Has the effect of substantially interfering with a

57 student's educational performance, opportunities, or benefits;
 58 or

59 3. Has the effect of substantially disrupting the orderly
 60 operation of a school.

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

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

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

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

74 a. Incitement or coercion;

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

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

81 (4) By December 1, 2007, each school district shall adopt
 82 a policy prohibiting bullying and harassment on school property,
 83 at a school-related or school-sponsored program or activity, on
 84 a school bus, or through the use of data or computer software

85 that is accessed through a computer, computer system, or
86 computer network within the scope of the district school system.
87 The school district bullying and harassment policy shall afford
88 all students the same protection regardless of their status
89 under the law. The school district may establish separate
90 discrimination policies that include categories of students. The
91 school district shall involve students, parents, teachers,
92 administrators, school staff, school volunteers, community
93 representatives, and local law enforcement agencies in the
94 process of adopting the policy. The school district policy must
95 be implemented in a manner that is ongoing throughout the school
96 year and integrated with a school's curriculum, a school's
97 discipline policies, and other violence prevention efforts. The
98 school district policy must contain, at a minimum, the following
99 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.

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

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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
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.

140 (l) A procedure for providing instruction to students,

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141 parents, teachers, school administrators, counseling staff, and
142 school volunteers on identifying, preventing, and responding to
143 bullying or harassment.

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

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

149 (5) To assist school districts in developing policies
150 prohibiting bullying and harassment, the Department of Education
151 shall develop model policies, which must be provided to school
152 districts no later than October 1, 2007.

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

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

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

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169 (8) Distribution of safe schools funds to a school
170 district provided in the 2008-2009 General Appropriations Act is
171 contingent upon Department of Education approval of the school
172 district's bullying and harassment policy. Distribution of safe
173 schools funds provided to a school district in fiscal year 2009-
174 2010 and thereafter shall be contingent upon the school
175 district's compliance with all reporting procedures contained in
176 this section.

177 (9) On or before January 1 of each year, the Commissioner
178 of Education shall report to the Governor, the President of the
179 Senate, and the Speaker of the House of Representatives on the
180 implementation of this section. The report shall include data
181 collected pursuant to paragraph (4) (k).

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

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