

1                                   A bill to be entitled  
 2           An act relating to school safety; creating s. 1006.147,  
 3           F.S.; providing a short title; prohibiting bullying and  
 4           harassment of any student or employee of a public K-12  
 5           educational institution; providing definitions; requiring  
 6           each school district to adopt a policy prohibiting such  
 7           bullying and harassment; providing minimum requirements  
 8           for the contents of the policy; requiring the Department  
 9           of Education to develop a model policy; providing  
 10          immunity; providing restrictions with respect to defense  
 11          of an action and application of the section; requiring  
 12          department approval of a school district's policy and  
 13          school district compliance with reporting procedures as  
 14          prerequisites to receipt of safe schools funds; requiring  
 15          a report on implementation; providing for construction;  
 16          providing for severability; providing an effective date.

17  
 18 Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1.   Section 1006.147, Florida Statutes, is created  
 21 to read:

22           1006.147 Bullying and harassment prohibited.--

23           (1) This section may be cited as the "Jeffrey Johnston  
 24 Stand Up for All Students Act."

25           (2) Bullying or harassment of any student or employee of a  
 26 public K-12 educational institution is prohibited:

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

29 (b) During any school-related or school-sponsored program  
30 or activity or on a school bus of a public K-12 educational  
31 institution; or

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

35 (3) For purposes of this section:

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

39 1. Teasing;

40 2. Social exclusion;

41 3. Threat;

42 4. Intimidation;

43 5. Stalking;

44 6. Physical violence;

45 7. Theft;

46 8. Sexual, religious, or racial harassment;

47 9. Public humiliation; or

48 10. Destruction of property.

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

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

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

57 or

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

60 (c) Definitions in s. 815.03 and the definition in s.  
61 784.048(1)(d) relating to stalking are applicable to this  
62 section.

63 (d) The definitions of "bullying" and "harassment"  
64 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, 2008, each school district shall adopt  
82 a policy prohibiting bullying and harassment of any student or  
83 employee of a public K-12 educational institution. Each school  
84 district's policy shall be in substantial conformity with the

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

99 (a) A statement prohibiting bullying and harassment.

100 (b) A definition of bullying and a definition of  
101 harassment that include the definitions listed in this section.

102 (c) A description of the type of behavior expected from  
103 each student and employee of a public K-12 educational  
104 institution.

105 (d) The consequences for a student or employee of a public  
106 K-12 educational institution who commits an act of bullying or  
107 harassment.

108 (e) The consequences for a student or employee of a public  
109 K-12 educational institution who is found to have wrongfully and  
110 intentionally accused another of an act of bullying or  
111 harassment.

112 (f) A procedure for reporting an act of bullying or

113 harassment, including provisions that permit a person to  
114 anonymously report such an act. However, this paragraph does not  
115 permit formal disciplinary action to be based solely on an  
116 anonymous report.

117 (g) A procedure for the prompt investigation of a report  
118 of bullying or harassment and the persons responsible for the  
119 investigation. The investigation of a reported act of bullying  
120 or harassment is deemed to be a school-related activity and  
121 begins with a report of such an act. Incidents that require a  
122 reasonable investigation when reported to appropriate school  
123 authorities shall include alleged incidents of bullying or  
124 harassment allegedly committed against a child while the child  
125 is en route to school aboard a school bus or at a school bus  
126 stop.

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

131 (i) A procedure for providing immediate notification to  
132 the parents of a victim of bullying or harassment and the  
133 parents of the perpetrator of an act of bullying or harassment,  
134 as well as notification to all local agencies where criminal  
135 charges may be pursued against the perpetrator.

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

138 (k) A procedure for including incidents of bullying or  
139 harassment in the school's report of data concerning school  
140 safety and discipline required under s. 1006.09(6). The report

141 must include each incident of bullying or harassment and the  
142 resulting consequences, including discipline and referrals. The  
143 report must include in a separate section each reported incident  
144 of bullying or harassment that does not meet the criteria of a  
145 prohibited act under this section with recommendations regarding  
146 such incidents. The Department of Education shall aggregate  
147 information contained in the reports.

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

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

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

157 (5) To assist school districts in developing policies  
158 prohibiting bullying and harassment, the Department of Education  
159 shall develop a model policy that shall be provided to school  
160 districts no later than October 1, 2008.

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

168 (7) (a) The physical location or time of access of a

169 computer-related incident cannot be raised as a defense in any  
170 disciplinary action initiated under this section.

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

177 (8) Distribution of safe schools funds to a school  
178 district provided in the 2009-2010 General Appropriations Act is  
179 contingent upon and payable to the school district upon the  
180 Department of Education's approval of the school district's  
181 bullying and harassment policy. The department's approval of  
182 each school district's bullying and harassment policy shall be  
183 granted upon certification by the department that the school  
184 district's policy has been submitted to the department and is in  
185 substantial conformity with the department's model bullying and  
186 harassment policy as mandated in subsection (5). Distribution of  
187 safe schools funds provided to a school district in fiscal year  
188 2010-2011 and thereafter shall be contingent upon and payable to  
189 the school district upon the school district's compliance with  
190 all reporting procedures contained in this section.

191 (9) On or before January 1 of each year, the Commissioner  
192 of Education shall report to the Governor, the President of the  
193 Senate, and the Speaker of the House of Representatives on the  
194 implementation of this section. The report shall include data  
195 collected pursuant to paragraph (4) (k).

196 (10) Nothing in this section shall be construed to abridge

197 the rights of students or school employees that are protected by  
198 the First Amendment to the Constitution of the United States.

199 Section 2. If any provision of this act or the application  
200 thereof to any person or circumstance is held invalid, the  
201 invalidity shall not affect other provisions or applications of  
202 the act which can be given effect without the invalid provision  
203 or application, and to this end the provisions of this act are  
204 declared severable.

205 Section 3. This act shall take effect upon becoming a law.