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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/8/2008	.	
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1 The Committee on Criminal Justice (King) recommended the  
 2 following **amendment**:

3  
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
 6 and insert:

7  
 8 Section 1. Section 1006.147, Florida Statutes, is created  
 9 to read:

10 1006.147 Bullying and harassment prohibited.--

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

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

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



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17 (b) During any school-related or school-sponsored program  
18 or activity or on a school bus of a public K-12 educational  
19 institution; or

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

23 (3) For purposes of this section:

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

27 1. Teasing;

28 2. Social exclusion;

29 3. Threat;

30 4. Intimidation;

31 5. Stalking;

32 6. Physical violence;

33 7. Theft;

34 8. Sexual, religious, or racial harassment;

35 9. Public humiliation; or

36 10. Destruction of property.

37 (b) "Harassment" means any threatening, insulting, or  
38 dehumanizing gesture, use of data or computer software, or  
39 written, verbal, or physical conduct directed against a student  
40 or school employee that:

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

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

45 3. Has the effect of substantially disrupting the orderly  
46 operation of a school.

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47 (c) The definitions in s. 815.03 and the definition in s.  
48 784.048(1)(d) relating to stalking are applicable to this  
49 section.

50 (d) The definitions of "bullying" and "harassment" include:

51 1. Retaliation against a student or school employee by  
52 another student or school employee for asserting or alleging an  
53 act of bullying or harassment. Reporting an act of bullying or  
54 harassment that is not made in good faith is considered  
55 retaliation.

56 2. Perpetuation of conduct listed in paragraph (a) or  
57 paragraph (b) by an individual or group with intent to demean,  
58 dehumanize, embarrass, or cause physical harm to a student or  
59 school employee by:

60 a. Incitement or coercion;

61 b. Accessing or knowingly causing or providing access to  
62 data or computer software through a computer, computer system, or  
63 computer network within the scope of the district school system;  
64 or

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

67 (4) By December 1, 2008, each school district shall adopt a  
68 policy prohibiting bullying and harassment of any student or  
69 employee of a public K-12 educational institution. Each school  
70 district's policy shall be in substantial conformity with the  
71 Department of Education's model policy mandated in subsection  
72 (5). The school district bullying and harassment policy shall  
73 afford all students the same protection regardless of their  
74 status under the law. The school district may establish separate  
75 discrimination policies that include categories of students. The  
76 school district shall involve students, parents, teachers,



77 administrators, school staff, school volunteers, community  
78 representatives, and local law enforcement agencies in the  
79 process of adopting the policy. The school district policy must  
80 be implemented in a manner that is ongoing throughout the school  
81 year and integrated with a school's curriculum, a school's  
82 discipline policies, and other violence-prevention efforts. The  
83 school district policy must contain, at a minimum, the following  
84 components:

85 (a) A statement prohibiting bullying and harassment.

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

88 (c) A description of the type of behavior expected from  
89 each student and employee of a public K-12 educational  
90 institution.

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

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

98 (f) A procedure for reporting an act of bullying or  
99 harassment, including provisions that permit a person to  
100 anonymously report such an act. However, this paragraph does not  
101 permit formal disciplinary action to be based solely on an  
102 anonymous report.

103 (g) A procedure for the prompt investigation of a report of  
104 bullying or harassment and the persons responsible for the  
105 investigation. The investigation of a reported act of bullying or



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106 harassment is deemed to be a school-related activity and begins  
107 with a report of such an act.

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

112 (i) A procedure for providing immediate notification to the  
113 parents of a victim of bullying or harassment and the parents of  
114 the perpetrator of an act of bullying or harassment, as well as  
115 notification to all local agencies where criminal charges may be  
116 pursued against the perpetrator.

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

119 (k) A procedure for including incidents of bullying or  
120 harassment in the school's report of data concerning school  
121 safety and discipline required under s. 1006.09(6). The report  
122 must include each incident of bullying or harassment and the  
123 resulting consequences, including discipline and referrals. The  
124 report must include in a separate section each reported incident  
125 of bullying or harassment that does not meet the criteria of a  
126 prohibited act under this section with recommendations regarding  
127 such incidents. The Department of Education shall aggregate  
128 information contained in the reports.

129 (l) A procedure for providing instruction to students,  
130 parents, teachers, school administrators, counseling staff, and  
131 school volunteers on identifying, preventing, and responding to  
132 bullying or harassment.

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



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

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

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

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

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

157       (8) Distribution of safe schools funds to a school district  
158 provided in the 2009-2010 General Appropriations Act is  
159 contingent upon and payable to the school district upon the  
160 Department of Education's approval of the school district's  
161 bullying and harassment policy. The department's approval of each  
162 school district's bullying and harassment policy shall be granted  
163 upon certification by the department that the school district's  
164 policy has been submitted to the department and is in substantial



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165 conformity with the department's model bullying and harassment  
 166 policy as mandated in subsection (5). Distribution of safe  
 167 schools funds provided to a school district in the 2010 2011  
 168 fiscal year and thereafter is contingent upon and payable to the  
 169 school district upon the school district's compliance with all  
 170 reporting procedures contained in this section.

171 (9) On or before January 1 of each year, the Commissioner  
 172 of Education shall report to the Governor, the President of the  
 173 Senate, and the Speaker of the House of Representatives on the  
 174 implementation of this section. The report shall include data  
 175 collected pursuant to paragraph (4)(k).

176 (10) This section does not abridge the rights of students  
 177 or school employees which are protected by the First Amendment to  
 178 the Constitution of the United States.

179 Section 2. If any provision of this act or the application  
 180 thereof to any person or circumstance is held invalid, the  
 181 invalidity does not affect other provisions or applications of  
 182 the act which can be given effect without the invalid provision  
 183 or application, and to this end the provisions of this act are  
 184 severable.

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

186  
 187 ===== T I T L E A M E N D M E N T =====

188 And the title is amended as follows:

189 Delete everything before the enacting clause  
 190 and insert:

191 A bill to be entitled  
 192 An act relating to school safety; creating s. 1006.147,  
 193 F.S.; providing a short title; prohibiting bullying and  
 194 harassment of any student or employee of a public K-12

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195 | educational institution; providing definitions; requiring  
196 | each school district to adopt a policy prohibiting such  
197 | bullying and harassment; requiring that the policy contain  
198 | certain minimum components; requiring the Department of  
199 | Education to develop a model policy by a certain date;  
200 | providing immunity to certain persons who report an act of  
201 | bullying or harassment in good faith and in compliance  
202 | with the policy; providing limitations on the defense of a  
203 | disciplinary action and applicability; requiring the  
204 | department's approval of a school district's policy and  
205 | compliance with reporting procedures as a prerequisite to  
206 | receiving safe schools funds; requiring the Commissioner  
207 | of Education to report to the Governor on the  
208 | implementation of the act by a certain date; requiring  
209 | that such report contain certain data; providing for  
210 | construction; providing for severability; providing an  
211 | effective date.