

By the Committee on Criminal Justice; and Senators Baker and Dockery

591-06969-08

2008790c1

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; requiring that the policy contain
8 certain minimum components; requiring the Department of
9 Education to develop a model policy by a certain date;
10 providing immunity to certain persons who report an act of
11 bullying or harassment in good faith and in compliance
12 with the policy; providing limitations on the defense of a
13 disciplinary action and applicability; requiring the
14 department's approval of a school district's policy and
15 compliance with reporting procedures as a prerequisite to
16 receiving safe schools funds; requiring the Commissioner
17 of Education to report to the Governor on the
18 implementation of the act by a certain date; requiring
19 that such report contain certain data; providing for
20 construction; providing for severability; providing an
21 effective date.

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

24
25 Section 1. Section 1006.147, Florida Statutes, is created
26 to read:

27 1006.147 Bullying and harassment prohibited.--

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

591-06969-08

2008790c1

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

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

34 (b) During any school-related or school-sponsored program
35 or activity or on a school bus of a public K-12 educational
36 institution; or

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

40 (3) For purposes of this section:

41 (a) "Bullying" means systematically and chronically
42 inflicting physical harm or psychological distress on one or more
43 students and may involve:

44 1. Teasing;

45 2. Social exclusion;

46 3. Threat;

47 4. Intimidation;

48 5. Stalking;

49 6. Physical violence;

50 7. Theft;

51 8. Sexual, religious, or racial harassment;

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

591-06969-08

2008790c1

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; or

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

64 (c) The definitions in s. 815.03 and the definition in s.
65 784.048(1)(d) relating to stalking are applicable to this
66 section.

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

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

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

77 a. Incitement or coercion;

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

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

84 (4) By December 1, 2008, each school district shall adopt a
85 policy prohibiting bullying and harassment of any student or
86 employee of a public K-12 educational institution. Each school
87 district's policy shall be in substantial conformity with the

591-06969-08

2008790c1

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

102 (a) A statement prohibiting bullying and harassment.

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

105 (c) A description of the type of behavior expected from
106 each student and employee of a public K-12 educational
107 institution.

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

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

115 (f) A procedure for reporting an act of bullying or
116 harassment, including provisions that permit a person to

591-06969-08

2008790c1

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 of
121 bullying or harassment and the persons responsible for the
122 investigation. The investigation of a reported act of bullying or
123 harassment is deemed to be a school-related activity and begins
124 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 school
127 system and, if not, a process for referral of such an act to the
128 appropriate jurisdiction.

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

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

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

591-06969-08

2008790c1

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

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

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

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

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

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

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

174 (8) Distribution of safe schools funds to a school district

591-06969-08

2008790c1

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

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

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

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

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