

By Senator Baker

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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 or
4 harassment during education programs or activities, on
5 school buses, or through use of data or computer software
6 accessed through computer systems of certain educational
7 institutions; providing definitions; requiring each school
8 district to adopt a policy prohibiting such bullying and
9 harassment; providing minimum requirements for the
10 contents of the policy; requiring the Department of
11 Education to develop model policies; providing immunity
12 for certain actions; providing restrictions with respect
13 to defenses that may be raised and the application of the
14 act; requiring departmental approval of a school
15 district's policy and its compliance with reporting
16 procedures as prerequisites to receipt of safe schools
17 funds; requiring a report on implementation; providing for
18 construction of the act; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 1006.147, Florida Statutes, is created
23 to read:

24 1006.147 Bullying and harassment prohibited.--

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

27 (2) Bullying or harassment of any student or school
28 employee is prohibited:

29 (a) During any education program or activity conducted by a

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30 public K-12 educational institution;

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

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

37 (3) (a) As used in this section, the term:

38 1. "Bullying" means systematically and chronically
39 inflicting physical hurt or psychological distress on one or more
40 students and may involve:

41 a. Teasing;

42 b. Social exclusion;

43 c. Threat;

44 d. Intimidation;

45 e. Stalking;

46 f. Physical violence;

47 g. Theft;

48 h. Sexual, religious, or racial harassment;

49 i. Public humiliation; or

50 j. Destruction of property.

51 2. "Harassment" means any threatening, insulting, or
52 dehumanizing gesture; use of data or computer software; or
53 written, verbal, or physical conduct directed against a student
54 or school employee which:

55 a. Places the student or school employee in reasonable fear
56 of harm to his or her person or damage to his or her property;

57 b. Has the effect of substantially interfering with the
58 student's educational performance, opportunities, or benefits; or

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

61 (b) The definitions in s. 815.03 relating to computer
62 crimes and s. 784.048 relating to stalking apply to this section.

63 (c) The terms "bullying" and "harassment" include:

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

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

73 a. Incitement or coercion;

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

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

79 (4) By December 1, 2008, each school district shall adopt a
80 policy prohibiting bullying and harassment on school property, at
81 a school-related or school-sponsored program or activity, on a
82 school bus, or through the use of data or computer software that
83 is accessed through a computer, computer system, or computer
84 network within the scope of a district school system. Each school
85 district's policy prohibiting bullying and harassment shall
86 afford all students the same protection regardless of their
87 status under the law. A school district may establish separate

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88 discrimination policies that include categories of students. Each
89 school district shall involve students, parents, teachers,
90 administrators, school staff members, school volunteers,
91 community representatives, and local law enforcement agencies in
92 the process of adopting the policy. Each school district's policy
93 must be implemented in a manner that is ongoing throughout the
94 school year and integrated with the school's curriculum, the
95 school's discipline policies, and other violence-prevention
96 efforts. Each school district's policy must contain, at a
97 minimum:

98 (a) A statement prohibiting bullying and harassment.

99 (b) A definition of bullying and a definition of
100 harassment.

101 (c) A description of the type of behavior expected from
102 each student and school employee.

103 (d) The consequences for a person who commits an act of
104 bullying or harassment.

105 (e) The consequences for a person who is found to have
106 wrongfully and intentionally accused another of an act of
107 bullying or harassment.

108 (f) A procedure for reporting an act of bullying or
109 harassment, including provisions that permit a person to
110 anonymously report such an act. However, this paragraph does not
111 authorize formal disciplinary action solely on the basis of an
112 anonymous report.

113 (g) A procedure for promptly investigating a report of
114 bullying or harassment and designating the persons responsible
115 for the investigation. The investigation of a reported act of
116 bullying or harassment is deemed to be a school-related activity

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117 and begins with a report of such an act.

118 (h) A process for investigating whether a reported act of
119 bullying or harassment is within the jurisdiction of the district
120 school system and, if not, a process for referring such an act to
121 the appropriate jurisdiction.

122 (i) A procedure for providing to the parents of a victim of
123 bullying or harassment immediate notice of all local agencies
124 where criminal charges may be pursued against the perpetrator.

125 (j) A procedure for referring victims and perpetrators of
126 bullying or harassment for counseling.

127 (k) A procedure for including incidents of bullying or
128 harassment in the school's report of data concerning safety and
129 discipline required under s. 1006.09. The report must include
130 each incident of bullying or harassment and the resulting
131 consequences, including discipline and referrals. The report must
132 include in a separate section each reported incident of bullying
133 or harassment which does not meet the criteria of a prohibited
134 act under this section, with recommendations regarding such
135 incidents. The Department of Education shall aggregate
136 information contained in the reports.

137 (l) A procedure for providing instruction to students,
138 parents, teachers, school administrators, counseling staff, and
139 school volunteers on identifying, preventing, and responding to
140 bullying or harassment.

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

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

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146 (5) To assist school districts in developing policies for
147 preventing bullying and harassment, the Department of Education
148 shall develop model policies, which must be provided to school
149 districts by October 1, 2008.

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

157 (7) (a) The physical location or time of access of a
158 computer-related incident may not be raised as a defense in any
159 disciplinary action or prosecution initiated under this section.

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

165 (8) Distribution of safe schools funds to a school district
166 provided in the 2009-2010 General Appropriations Act is
167 contingent upon approval by the Department of Education of the
168 school district's policy for preventing bullying and harassment.
169 Distribution of safe schools funds provided to a school district
170 in the 2010-2011 fiscal year and thereafter is contingent upon
171 the school district's compliance with all reporting procedures
172 contained in this section.

173 (9) On or before January 1 of each year, the Commissioner
174 of Education shall report to the Governor, the President of the

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175 Senate, and the Speaker of the House of Representatives on the
176 implementation of this section. The report must include data
177 collected pursuant to paragraph (4) (k).

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

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