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Proposed Committee Substitute by the Committee on Education

A bill to be entitled

An act relating to bullying in the public school system; providing a short title; amending s. 1006.147, F.S.; prohibiting cyberbullying in schools and during school-related activities; expanding the circumstances under which bullying or harassment of any student or employee of a public K-12 institution is prohibited; revising the definition of the term "bullying" to include emotional pain or discomfort; defining the term "cyberbullying"; revising the definition of the term "harassment"; requiring each school district to incorporate a prohibition on cyberbullying into its policy on bullying and harassment; requiring that such policy mandate that computers without web-filtering software or computers with web-filtering software disabled be used when investigating complaints of cyberbullying; requiring that school district policies prohibiting bullying, cyberbullying, and harassment address how to identify and respond to behavior that leads to such conduct; requiring that the model policy of the Department of Education include a prohibition on cyberbullying by a certain date and that such policy be included in the code of student conduct; updating fiscal years regarding the distribution of safe school funds; providing an effective date.

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



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29           Section 1. SHORT TITLE.—This act may be cited as the  
30 “Imagine Act.”

31           Section 2. Section 1006.147, Florida Statutes, is amended  
32 to read:

33           1006.147 Bullying and harassment prohibited.—

34           (1) This section may be cited as the “Jeffrey Johnston  
35 Stand Up for All Students Act.”

36           (2) Bullying, cyberbullying, or harassment of any student  
37 or employee of a public K-12 educational institution is  
38 prohibited:

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

41           (b) During any school-related or school-sponsored program  
42 or activity or on a school bus of a public K-12 educational  
43 institution; or

44           (c) Through the use of data or computer software that is  
45 accessed through a computer, computer system, or computer  
46 network of a public K-12 educational institution which is  
47 physically located on the property of the educational  
48 institution or at the site of any school-related or school-  
49 sponsored program or activity conducted by the educational  
50 institution.

51           (d) If the bullying, cyberbullying, or harassment creates,  
52 or if it is reasonably foreseeable that it could create,  
53 material and substantial interference with, or disruption of, a  
54 student’s ability to be safe and secure during school or a  
55 school-related or school-sponsored program or activity,  
56 including, but not limited to, field trips, extracurricular  
57 activities, or transit on a school bus of a public K-12



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58 educational institution for a school-related or school-sponsored  
59 program or activity.

60 (3) For purposes of this section:

61 (a) "Bullying" means systematically and chronically  
62 inflicting physical hurt or psychological distress on one or  
63 more students or school employees. Incidents of bullying ~~and~~ may  
64 involve, but are not limited to:

- 65 1. Teasing;
- 66 2. Social exclusion;
- 67 3. Threat;
- 68 4. Intimidation;
- 69 5. Stalking;
- 70 6. Physical violence;
- 71 7. Theft;
- 72 8. Sexual, religious, or racial harassment;
- 73 9. ~~Public~~ Humiliation; ~~or~~
- 74 10. Emotional pain or discomfort; or
- 75 11. ~~10.~~ Destruction of property.

76 (b) "Cyberbullying" means bullying or harassment that is  
77 related to computers, as described in s. 815.03, or that  
78 otherwise occurs through the use of technology or electronic  
79 communications, including, but not limited to, any transfer of  
80 signs, signals, writing, images, sounds, data, or intelligence  
81 of any nature transmitted in whole or in part by a wire, radio,  
82 electromagnetic system, photoelectronic system, or photooptical  
83 system, or other transmission or medium such as electronic mail,  
84 text messaging, instant messaging, social media, Internet  
85 communications, or facsimile communications. Cyberbullying may  
86 involve, but is not limited to:



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87 1. Harassment and cyberstalking, as defined in s. 784.048.

88 2. Creating a web page on which, or a weblog in which, the  
89 creator assumes the identity of another person, or knowingly  
90 impersonates another person, while posting content or sending  
91 messages.

92 3. Electronically sharing or distributing material and  
93 communications to more than one person or posting material on  
94 one or more electronic media that may be accessed by one or more  
95 persons.

96 (c) ~~(b)~~ "Harassment" means any threatening, insulting, or  
97 dehumanizing gesture, use of data or computer software, or  
98 written, verbal, or physical conduct directed against a student  
99 or school employee which ~~that~~:

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

102 2. Has the effect of substantially interfering with a  
103 student's educational performance, opportunities, or benefits;  
104 ~~or~~

105 3. As provided in s. 784.048(1)(a), serves no legitimate  
106 purpose and causes substantial emotional distress to a student  
107 or a school employee; or

108 ~~4.3.~~ Has the effect of materially and substantially  
109 disrupting or interfering with the orderly operation of a school  
110 or the ability of a student to be safe and secure at a school or  
111 at a school-sponsored event.

112 ~~(c) Definitions in s. 815.03 and the definition in s.~~  
113 ~~784.048(1)(d) relating to stalking are applicable to this~~  
114 ~~section.~~

115 (d) The definitions of "bullying," "cyberbullying,"



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116 ~~"bullying"~~ and "harassment" include:

117 1. Retaliation against a student or school employee by  
118 another student or school employee for asserting or alleging an  
119 act of bullying or harassment. Reporting an act of bullying or  
120 harassment that is not made in good faith is considered  
121 retaliation.

122 2. Perpetuation of bullying, cyberbullying, or harassment  
123 ~~conduct listed in paragraph (a) or paragraph (b)~~ by an  
124 individual or group of individuals with intent to demean,  
125 dehumanize, embarrass, or cause physical harm to a student or  
126 school employee by:

127 a. Incitement or coercion;

128 b. Accessing or knowingly causing or providing access to  
129 data or computer software through a computer, computer system,  
130 ~~or~~ computer network, or other computer-related means described  
131 in s. 815.03 within the scope of the district school system; or

132 c. Acting in a manner that has an effect substantially  
133 similar to the effect of bullying, cyberbullying, or harassment.

134 (4) By December 1, 2008, each school district shall adopt a  
135 policy prohibiting bullying and harassment of any student or  
136 employee of a public K-12 educational institution. By December  
137 1, 2013, each school district shall incorporate into such policy  
138 a prohibition on cyberbullying of any student or employee of a  
139 public K-12 educational institution. Each school district's  
140 policy must substantially conform ~~shall be in substantial~~  
141 ~~conformity~~ with the Department of Education's model policy  
142 mandated in subsection (5). The school district bullying,  
143 cyberbullying, and harassment policy must provide ~~shall afford~~  
144 all students the same protection regardless of their status



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145 under the law. The school district may establish separate  
146 discrimination policies that include categories of students. The  
147 school district shall involve students, parents, teachers,  
148 administrators, school staff, school volunteers, community  
149 representatives, and local law enforcement agencies in the  
150 process of adopting the policy. The school district policy must  
151 be implemented in a manner that is ongoing throughout the school  
152 year and integrated with a school's curriculum, a school's  
153 discipline policies, and other violence prevention efforts. The  
154 school district policy must contain, at a minimum, the following  
155 components:

156 (a) A statement prohibiting bullying, cyberbullying, and  
157 harassment.

158 (b) Definitions ~~A definition~~ of bullying, cyberbullying,  
159 and ~~a definition of~~ harassment which ~~that~~ include the  
160 definitions listed in this section.

161 (c) A description of the type of behavior expected from  
162 each student and employee of a public K-12 educational  
163 institution.

164 (d) The consequences for a student or employee of a public  
165 K-12 educational institution who commits an act of bullying,  
166 cyberbullying, or harassment.

167 (e) The consequences for a student or employee of a public  
168 K-12 educational institution who is found to have wrongfully and  
169 intentionally accused another of an act of bullying,  
170 cyberbullying, or harassment.

171 (f) A procedure for reporting an act of bullying,  
172 cyberbullying, or harassment, including provisions that  
173 authorize ~~permit~~ a person to anonymously report such an act.



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174 However, this paragraph does not authorize ~~permit~~ formal  
175 disciplinary action to be based solely on an anonymous report.

176 (g) A procedure for the prompt investigation of a report of  
177 bullying, cyberbullying, or harassment and the persons  
178 responsible for the investigation. The investigation of a  
179 reported act of bullying, cyberbullying, or harassment is deemed  
180 to be a school-related activity and begins with a report of such  
181 an act. Incidents that require a reasonable investigation when  
182 reported to appropriate school authorities must ~~shall~~ include  
183 alleged incidents of bullying, cyberbullying, or harassment  
184 allegedly committed against a child while the child is en route  
185 to school aboard a school bus or at a school bus stop.

186 (h) A process to investigate whether a reported act of  
187 bullying, cyberbullying, or harassment is within the scope of  
188 the district school system and, if not, a process for referral  
189 of such an act to the appropriate jurisdiction. Computers  
190 without web-filtering software, or computers with web-filtering  
191 software that is disabled, shall be used when complaints of  
192 cyberbullying are investigated.

193 (i) A procedure for providing immediate notification to the  
194 parents of a victim of bullying, cyberbullying, or harassment  
195 and the parents of the perpetrator of an act of bullying,  
196 cyberbullying, or harassment, as well as notification to all  
197 local agencies where criminal charges may be pursued against the  
198 perpetrator.

199 (j) A procedure to refer victims and perpetrators of  
200 bullying, cyberbullying, or harassment for counseling.

201 (k) A procedure for including incidents of bullying,  
202 cyberbullying, or harassment in the school's report of data



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203 concerning school safety and discipline required under s.  
204 1006.09(6). The report must include each incident of bullying,  
205 cyberbullying, or harassment and the resulting consequences,  
206 including discipline and referrals. The report must include in a  
207 separate section each reported incident of bullying,  
208 cyberbullying, or harassment that does not meet the criteria of  
209 a prohibited act under this section with recommendations  
210 regarding such incidents. The Department of Education shall  
211 aggregate information contained in the reports.

212 (l) A procedure for providing instruction to students,  
213 parents, teachers, school administrators, counseling staff, and  
214 school volunteers on identifying, preventing, and responding to  
215 bullying, cyberbullying, or harassment, and behavior that leads  
216 to bullying, cyberbullying, or harassment.

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

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

222 (5) To assist school districts in developing policies  
223 prohibiting bullying and harassment, the Department of Education  
224 shall provide develop a model policy ~~that shall be provided~~ to  
225 school districts no later than October 1, 2008. The Department  
226 of Education shall incorporate into such model policy a  
227 prohibition on cyberbullying no later than October 1, 2013. The  
228 department's model policy must include factors that school  
229 officials must consider when responding to an incident of  
230 bullying, cyberbullying, or harassment which occurs off school  
231 grounds or outside a school-sponsored activity or event. The





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232 model policy must be included in the code of student conduct and  
233 must provide clear notice to a student and his or her parent  
234 that the district may discipline a person who violates this  
235 section.

236 (6) A school employee, school volunteer, student, or parent  
237 who promptly reports in good faith an act of bullying,  
238 cyberbullying, or harassment to the appropriate school official  
239 designated in the school district's policy and who makes this  
240 report in compliance with the procedures set forth in the policy  
241 is immune from a cause of action for damages arising out of the  
242 reporting itself or any failure to remedy the reported incident.

243 (7) (a) The physical location or time of an ~~access of a~~  
244 ~~computer-related~~ incident or situation cannot be raised as a  
245 defense in any disciplinary action initiated under this section.

246 (b) This section does not apply to any person who uses data  
247 or computer software that is accessed through a computer,  
248 computer system, or computer network when acting within the  
249 scope of his or her lawful employment or investigating a  
250 violation of this section in accordance with school district  
251 policy. The definitions in s. 815.03 apply to this paragraph.

252 (8) Distribution of safe schools funds to a school district  
253 provided in the 2014-2015 ~~2009-2010~~ General Appropriations Act  
254 is contingent upon and payable to the school district upon the  
255 Department of Education's approval of the school district's  
256 bullying, cyberbullying, and harassment policy. The department's  
257 approval of each school district's bullying, cyberbullying, and  
258 harassment policy shall be granted upon certification by the  
259 department that the school district's policy has been submitted  
260 to the department and is in substantial conformity with the



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261 department's model bullying, cyberbullying, and harassment  
262 policy as mandated in subsection (5). Distribution of safe  
263 schools funds provided to a school district in fiscal year 2014-  
264 2015 ~~2010-2011~~ and thereafter shall be contingent upon and  
265 payable to the school district upon the school district's  
266 compliance with all reporting procedures contained in this  
267 section.

268 (9) On or before January 1 of each year, the Commissioner  
269 of Education shall report to the Governor, the President of the  
270 Senate, and the Speaker of the House of Representatives on the  
271 implementation of this section. The report shall include data  
272 collected pursuant to paragraph (4) (k).

273 (10) ~~Nothing in~~ This section does not ~~shall be construed to~~  
274 abridge the rights of students or school employees which ~~that~~  
275 are protected by the First Amendment to the Constitution of the  
276 United States.

277 Section 3. This act shall take effect July 1, 2013.