

By the Committee on Education; and Senator Bullard

581-02285-13

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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:

Section 1. SHORT TITLE.—This act may be cited as the

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30 "Imagine Shetterria Elliot 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, at the site of any school-related or school-
49 sponsored program or activity conducted by the educational
50 institution, or on a school bus of a public K-12 educational
51 institution; or

52 (d) If the bullying, cyberbullying, or harassment creates,
53 or if it is reasonably foreseeable that it could create,
54 material and substantial interference with or disruption of:

55 1. The operation of a school, an education program or
56 activity conducted by a public K-12 educational institution, or
57 a school-related or school-sponsored program or activity,
58 including, but not limited to, field trips, extracurricular

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activities, or transit on a school bus of a public K-12 educational institution for any of the actions under this subparagraph; or

2. A student's ability to be safe and secure during school, an education program or activity conducted by a public K-12 educational institution, or a school-related or school-sponsored program or activity, including, but not limited to, field trips, extracurricular activities, or transit on a school bus of a public K-12 educational institution for any of the actions under this subparagraph.

(3) For purposes of this section:

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

1. Teasing;
2. Social exclusion;
3. Threat;
4. Intimidation;
5. Stalking;
6. Physical violence;
7. Theft;
8. Sexual, religious, or racial harassment;
9. ~~Public~~ Humiliation; ~~or~~
10. Emotional pain or discomfort; or
11. ~~10.~~ Destruction of property.

(b) "Cyberbullying" means bullying or harassment that is related to computers, as described in s. 815.03, or that otherwise occurs through the use of technology or electronic

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88 communications, including, but not limited to, any transfer of
89 signs, signals, writing, images, sounds, data, or intelligence
90 of any nature transmitted in whole or in part by a wire, radio,
91 electromagnetic system, photoelectronic system, or photooptical
92 system, or other transmission or medium such as electronic mail,
93 text messaging, instant messaging, social media, Internet
94 communications, or facsimile communications. Cyberbullying may
95 involve, but is not limited to:

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

97 2. Creating a web page on which, or a weblog in which, the
98 creator assumes the identity of another person, or knowingly
99 impersonates another person, while posting content or sending
100 messages.

101 3. Electronically sharing or distributing material and
102 communications to more than one person or posting material on
103 one or more electronic media that may be accessed by one or more
104 persons.

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

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

111 2. Has the effect of substantially interfering with a
112 student's educational performance, opportunities, or benefits;
113 ~~or~~

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

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117 ~~4.3.~~ Has the effect of materially and substantially
118 disrupting or interfering with the orderly operation of a school
119 or the ability of a student to be safe and secure at a school or
120 at a school-sponsored event.

121 ~~(c) Definitions in s. 815.03 and the definition in s.~~
122 ~~784.048(1) (d) relating to stalking are applicable to this~~
123 ~~section.~~

124 (d) The definitions of "bullying," "cyberbullying,"
125 "bullying" and "harassment" include:

126 1. Retaliation against a student or school employee by
127 another student or school employee for asserting or alleging an
128 act of bullying, cyberbullying, or harassment. Reporting an act
129 of bullying, cyberbullying, or harassment that is not made in
130 good faith is considered retaliation.

131 2. Perpetuation of bullying, cyberbullying, or harassment
132 ~~conduct listed in paragraph (a) or paragraph (b)~~ by an
133 individual or group of individuals with intent to demean,
134 dehumanize, embarrass, or cause physical harm to a student or
135 school employee by:

136 a. Incitement or coercion;

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

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

143 (4) By December 1, 2008, each school district shall adopt a
144 policy prohibiting bullying and harassment of any student or
145 employee of a public K-12 educational institution. By December

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1, 2013, each school district shall incorporate into such policy a prohibition on cyberbullying of any student or employee of a public K-12 educational institution. Each school district's policy must substantially conform ~~shall be in substantial conformity~~ with the Department of Education's model policy mandated in subsection (5). The school district bullying, cyberbullying, and harassment policy must provide ~~shall afford~~ all students the same protection regardless of their status under the law. The school district may establish separate discrimination policies that include categories of students. The school district shall involve students, parents, teachers, administrators, school staff, school volunteers, community representatives, and local law enforcement agencies in the process of adopting the policy. The school district policy must be implemented in a manner that is ongoing throughout the school year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts. The school district policy must contain, at a minimum, the following components:

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

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

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

(d) The consequences for a student or employee of a public K-12 educational institution who commits an act of bullying,

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175 cyberbullying, or harassment.

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

180 (f) A procedure for reporting an act of bullying,
181 cyberbullying, or harassment, including provisions that
182 authorize ~~permit~~ a person to anonymously report such an act.
183 However, this paragraph does not authorize ~~permit~~ formal
184 disciplinary action to be based solely on an anonymous report.

185 (g) A procedure for the prompt investigation of a report of
186 bullying, cyberbullying, or harassment and the persons
187 responsible for the investigation. The investigation of a
188 reported act of bullying, cyberbullying, or harassment is deemed
189 to be a school-related activity and begins with a report of such
190 an act. Incidents that require a reasonable investigation when
191 reported to appropriate school authorities must ~~shall~~ include
192 alleged incidents of bullying, cyberbullying, or harassment
193 allegedly committed against a child while the child is en route
194 to school aboard a school bus or at a school bus stop.

195 (h) A process to investigate whether a reported act of
196 bullying, cyberbullying, or harassment is within the scope of
197 the district school system and, if not, a process for referral
198 of such an act to the appropriate jurisdiction. Computers
199 without web-filtering software, or computers with web-filtering
200 software that is disabled, shall be used when complaints of
201 cyberbullying are investigated.

202 (i) A procedure for providing immediate notification to the
203 parents of a victim of bullying, cyberbullying, or harassment

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and the parents of the perpetrator of an act of bullying,
cyberbullying, or harassment, as well as notification to all
local agencies where criminal charges may be pursued against the
perpetrator.

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

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

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

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

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

(5) To assist school districts in developing policies
prohibiting bullying and harassment, the Department of Education

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233 shall provide ~~develop~~ a model policy ~~that shall be provided~~ to
234 school districts no later than October 1, 2008. The Department
235 of Education shall incorporate into such model policy a
236 prohibition on cyberbullying no later than October 1, 2013. The
237 department's model policy must include factors that school
238 officials must consider when responding to an incident of
239 bullying, cyberbullying, or harassment which occurs off school
240 grounds or outside a school-sponsored activity or event. The
241 model policy must be included in the code of student conduct and
242 must provide clear notice to a student and his or her parent
243 that the district will discipline a person who violates this
244 section.

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

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

255 (b) This section does not apply to any person who uses data
256 or computer software that is accessed through a computer,
257 computer system, or computer network when acting within the
258 scope of his or her lawful employment or investigating a
259 violation of this section in accordance with school district
260 policy. The definitions in s. 815.03 apply to this section.

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

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provided in the 2014-2015 ~~2009-2010~~ General Appropriations Act is contingent upon and payable to the school district upon the Department of Education's approval of the school district's bullying, cyberbullying, and harassment policy. The department's approval of each school district's bullying, cyberbullying, and harassment policy shall be granted upon certification by the department that the school district's policy has been submitted to the department and is in substantial conformity with the department's model bullying, cyberbullying, and harassment policy as mandated in subsection (5). Distribution of safe schools funds provided to a school district in fiscal year 2014-2015 ~~2010-2011~~ and thereafter shall be contingent upon and payable to the school district upon the school district's compliance with all reporting procedures contained in this section.

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

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

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