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HB 669, Engrossed 1

2008 Legislature

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; providing minimum requirements
 8 for the contents of the policy; requiring the Department
 9 of Education to develop a model policy; providing
 10 immunity; providing restrictions with respect to defense
 11 of an action and application of the section; requiring
 12 department approval of a school district's policy and
 13 school district compliance with reporting procedures as
 14 prerequisites to receipt of safe schools funds; requiring
 15 a report on implementation; providing for construction;
 16 providing for severability; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 1006.147, Florida Statutes, is created
 21 to read:

22 1006.147 Bullying and harassment prohibited.--

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

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

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

ENROLLED

HB 669, Engrossed 1

2008 Legislature

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

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

35 (3) For purposes of this section:

36 (a) "Bullying" means systematically and chronically
 37 inflicting physical hurt or psychological distress on one or
 38 more students and may involve:

- 39 1. Teasing;
- 40 2. Social exclusion;
- 41 3. Threat;
- 42 4. Intimidation;
- 43 5. Stalking;
- 44 6. Physical violence;
- 45 7. Theft;
- 46 8. Sexual, religious, or racial harassment;
- 47 9. Public humiliation; or
- 48 10. Destruction of property.

49 (b) "Harassment" means any threatening, insulting, or
 50 dehumanizing gesture, use of data or computer software, or
 51 written, verbal, or physical conduct directed against a student
 52 or school employee that:

- 53 1. Places a student or school employee in reasonable fear
 54 of harm to his or her person or damage to his or her property;
- 55 2. Has the effect of substantially interfering with a
 56 student's educational performance, opportunities, or benefits;

ENROLLED
 HB 669, Engrossed 1

2008 Legislature

57 or
 58 3. Has the effect of substantially disrupting the orderly
 59 operation of a school.

60 (c) Definitions in s. 815.03 and the definition in s.
 61 784.048(1)(d) relating to stalking are applicable to this
 62 section.

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

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

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

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

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

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

ENROLLED

HB 669, Engrossed 1

2008 Legislature

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

99 (a) A statement prohibiting bullying and harassment.

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

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

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

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

112 (f) A procedure for reporting an act of bullying or

ENROLLED

HB 669, Engrossed 1

2008 Legislature

113 harassment, including provisions that permit a person to
114 anonymously report such an act. However, this paragraph does not
115 permit formal disciplinary action to be based solely on an
116 anonymous report.

117 (g) A procedure for the prompt investigation of a report
118 of bullying or harassment and the persons responsible for the
119 investigation. The investigation of a reported act of bullying
120 or harassment is deemed to be a school-related activity and
121 begins with a report of such an act. Incidents that require a
122 reasonable investigation when reported to appropriate school
123 authorities shall include alleged incidents of bullying or
124 harassment allegedly committed against a child while the child
125 is en route to school aboard a school bus or at a school bus
126 stop.

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

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

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

138 (k) A procedure for including incidents of bullying or
139 harassment in the school's report of data concerning school
140 safety and discipline required under s. 1006.09(6). The report

ENROLLED

HB 669, Engrossed 1

2008 Legislature

141 must include each incident of bullying or harassment and the
142 resulting consequences, including discipline and referrals. The
143 report must include in a separate section each reported incident
144 of bullying or harassment that does not meet the criteria of a
145 prohibited act under this section with recommendations regarding
146 such incidents. The Department of Education shall aggregate
147 information contained in the reports.

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

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

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

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

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

168 (7) (a) The physical location or time of access of a

ENROLLED

HB 669, Engrossed 1

2008 Legislature

169 computer-related incident cannot be raised as a defense in any
 170 disciplinary action initiated under this section.

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

177 (8) Distribution of safe schools funds to a school
 178 district provided in the 2009-2010 General Appropriations Act is
 179 contingent upon and payable to the school district upon the
 180 Department of Education's approval of the school district's
 181 bullying and harassment policy. The department's approval of
 182 each school district's bullying and harassment policy shall be
 183 granted upon certification by the department that the school
 184 district's policy has been submitted to the department and is in
 185 substantial conformity with the department's model bullying and
 186 harassment policy as mandated in subsection (5). Distribution of
 187 safe schools funds provided to a school district in fiscal year
 188 2010-2011 and thereafter shall be contingent upon and payable to
 189 the school district upon the school district's compliance with
 190 all reporting procedures contained in this section.

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

196 (10) Nothing in this section shall be construed to abridge

ENROLLED

HB 669, Engrossed 1

2008 Legislature

197 the rights of students or school employees that are protected by
198 the First Amendment to the Constitution of the United States.

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

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