A bill to be entitled
An act relating to school safety; creating s. 1006.147, F.S.; providing legislative intent; prohibiting bullying and harassment during education programs and activities, on school buses, or through use of data or computer software accessed through computer systems of certain educational institutions; providing definitions; requiring each school district to adopt a policy prohibiting such bullying and harassment; providing minimum requirements for the contents of the policy; requiring the Department of Education to develop model policies; providing immunity; providing restrictions with respect to defense of an action and application of the section; requiring department approval of a school district's policy and school district compliance with reporting procedures as prerequisites to receipt of safe schools funds; requiring a report on implementation; providing an effective date.

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

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

1006.147 Bullying and harassment prohibited.--
(1) It is the intent of the Legislature that school districts take every reasonable precaution to protect students and school employees from the irreparable physiological, physical, emotional, mental, and social harm of bullying and harassment. It is the further intent of the Legislature that
nothing in this section be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

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

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

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

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

(3) For purposes of this section:

(a) "Bullying" means substantial:

1. Teasing;

2. Social exclusion;

3. Threat;

4. Intimidation;

5. Physical violence;

6. Theft;

7. Sexual or racial harassment;

8. Public humiliation; or


(b) "Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct directed against a student or school employee that:
1. Places a student or school employee in reasonable fear of harm to his or her person or damage to his or her property;

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

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

(c) Definitions in s. 815.03, which are applicable to chapter 815, the Florida Computer Crimes Act, are applicable to this section.

(d) The terms "bullying" and "harassment" include:

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

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

   a. Incitement or coercion;

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

   c. Acting in a manner that has an effect substantially similar to the effect of bullying or harassment.
(4) By September 1, 2006, each school district shall adopt a policy prohibiting bullying and harassment on school property, at a school-related or school-sponsored program or activity, on a school bus, or through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of the district school system. The school district policy shall not establish categories of students but shall afford all students the same protection regardless of their status under law. 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 and harassment.
(b) A definition of bullying and harassment.
(c) A description of the type of behavior expected from each student and school employee.
(d) The consequences for a person who commits an act of bullying or harassment.
(e) The consequences for a person found to have wrongfully and intentionally accused another of an act of bullying or harassment.
(f) A procedure for reporting an act of bullying or harassment, including provisions that permit a person to
112 anonymously report such an act. However, this paragraph does not permit formal disciplinary action to be based solely on an anonymous report.

(g) A procedure for the prompt investigation of a report of bullying or harassment and the persons responsible for the investigation. The investigation of a reported act of bullying or harassment is deemed to be a school-related activity and begins with a report of such an act.

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

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

(j) A procedure for including incidents of bullying or harassment in the school's report of safety and discipline data required under s. 1006.09(6). The report must include each incident of bullying and harassment and the resulting consequences, including discipline and referrals. The report must include in a separate section each reported incident of bullying 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 and submit an annual report to the President of the Senate and the Speaker of the House of Representatives by January 1.

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

   (l) To the extent permitted under the federal Family Educational Rights and Privacy Act of 1974, as amended, a procedure for monthly reporting to a victim's parents all actions instituted against a perpetrator of bullying or harassment and the action taken to prevent any further acts of bullying or harassment.

   (m) 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 for the prevention of bullying and harassment, the Department of Education shall develop model policies which must be provided to school districts no later than July 1, 2006.

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

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

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

(8) Distribution of safe schools funds to a school district provided in the 2007-2008 General Appropriations Act is contingent upon Department of Education approval of the school district's bullying and harassment policy. Distribution of safe schools funds provided to each school district in fiscal year 2008-2009 and thereafter shall be contingent upon school district compliance with all reporting procedures contained in this section.

(9) On or before January of each year, the Commissioner of Education shall report to the Senate and House of Representatives committees on education on the implementation of this section. The report shall include pertinent data such as incidences of bullying and harassment identified by the school districts.

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