HB366

190811-5

By Representatives Knight, Warren, Drummond, Forte, Clarke, England, Lawrence, Chestnut, Hollis, McClammy, Beech, McCampbell, Jackson, Grimsley, Boyd, Buskey, Howard, Bracy, Black, Coleman, Givan, Rogers, Moore (M), Hall, Weaver, Wood, Sessions, Standridge, Farley, Ball, Whorton (R), Rich, Wilcox, Williams (JW), Wadsworth, Harbison, Blackshear, Moore (B), Nordgren, Shedd, Faust, Collins, Gaston, Martin, South, Boothe, Brown, Greer, Ledbetter, Shiver, Polizos, Baker, Beckman, McMillan, Jones, Ainsworth, Garrett, Lovvorn, Crawford, Williams (JD), Scott, Tuggle, Johnson (R), Daniels, Morrow, Wingo, Holmes (M) and Drake

RFD: Education Policy

First Read: 01-FEB-18
ENROLLED, An Act,

To amend Sections 16-28B-1, 16-28B-2, 16-28B-3, 16-28B-4, and 16-28B-5, Code of Alabama 1975, relating to the prevention of student bullying; to include student against student bullying, intimidation, violence, and threats of violence off of school property; to redefine harassment as bullying; to specifically include cyberbullying in the definition of bullying; and to change the name of the act to the Jamari Terrell Williams Act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-28B-1, 16-28B-2, 16-28B-3, 16-28B-4, and 16-28B-5 of the Code of Alabama 1975, are amended to read as follows:

"§16-28B-1.

"This chapter shall be known and may be cited as the Student Harassment Prevention Act Jamari Terrell Williams Student Bullying Prevention Act."

"§16-28B-2.

"It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment bullying of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment bullying, intimidation, violence, and threats of violence in the public schools of Alabama, and
between students while not on school property, in grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

"Additionally, it is the intent of the Legislature that the filing of a complaint of harassment bullying be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

§16-28B-3.

"The following terms have the following meanings:

"(1) DEPARTMENT. The State Department of Education.

"(2) HARASSMENT. A continuous pattern of intentional

(1) BULLYING. A continuous pattern of intentional behavior that takes place on or off of school property, on a school bus, or at a school-sponsored function including, but not limited to, cyberbullying or written, electronic, verbal, or physical acts that are reasonably perceived as being motivated by any characteristic of a student, or by the association of a student with an individual who has a particular characteristic, if the characteristic falls into one of the categories of personal characteristics contained in
the model policy adopted by the department or by a local board, and implemented at each school. To constitute harassment bullying, a pattern of behavior may do any of the following:

"a. Place a student in reasonable fear of harm to his or her person or damage to his or her property.

"b. Have the effect of substantially interfering with the educational performance, opportunities, or benefits of a student.

"c. Have the effect of substantially disrupting or interfering with the orderly operation of the school, whether the conduct occurs on or off school property, online, or electronically.

"d. Have the effect of creating a hostile environment in the school, on or off of school property, on a school bus, or at a school-sponsored function.

"e. Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student.

"(2) DEPARTMENT. The State Department of Education.

"(3) HOSTILE ENVIRONMENT. The perception by an affected student or victim that the conduct of another student constitutes a threat of violence or harassment bullying and that the conduct is objectively severe or pervasive enough that a reasonable person, under the circumstances, would agree
that the conduct constitutes harassment, threat of assault, or assault.

"(4) LOCAL BOARD. A city or county board of education.

"(5) SCHOOL. Each public school, grades prekindergarten through 12, the Alabama Institute for Deaf and Blind, the Alabama High School of Mathematics and Science, and the Alabama School of Fine Arts.

"(6) SCHOOL SYSTEM. The schools under the jurisdiction of a local board.

"(7) THREAT. A statement of an intention to inflict pain, injury, damage, or other hostile action to cause fear of harm. The intention may be communicated through an electronic, written, verbal, or physical act to cause fear, mental distress, or interference in the school environment. The intention may be expressly stated or implied and the person communicating the threat has the ability to carry out the threat.

"§16-28B-4.

"(a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on or off of school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.
"(b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment bullying, violence, or threat of violence.

"(c) Any student, or parent or guardian of the student, who is the object of harassment bullying may file a complaint outlining the details of the harassment bullying, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.

A copy of the form shall be prominently posted and accessible on the website of each local board of education and school, shall be available at each school office, and shall be included in the student handbook that is distributed to each student at the beginning of each school year.

"(d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment bullying, violence, or threats of violence.

At the beginning of each school year, each school shall programmatically address the issue of bullying and school violence with faculty and students. The program shall include a discussion of available resources and shall encourage the reporting of incidents of bullying. Each school shall also periodically convene a committee of faculty and
students to review and discuss the issue of bullying and make
recommendations to school administrators regarding school
climate, safety, and bullying. The local superintendent of
education may report any recommendations to the local board
for its consideration.

"§16-28B-5.

"The department shall develop a model policy
prohibiting harassment bullying, violence, and threats of
violence on or off of school property, on a school bus, or at
any school-sponsored function. The model policy, at a minimum,
shall contain all of the following components:

"(1) A statement prohibiting harassment bullying,
violence, and threats of violence.

"(2) Definitions of the terms harassment bullying,
as provided in subdivision (2) of Section 16-28B-3,
intimidation, and threats of violence.

"(3) A description of the behavior expected of each
student.

"(4) A series of graduated consequences for any
student who commits an act of intimidation, harassment
bullying, violence, or threats of violence. Punishment shall
conform with applicable federal and state disability,
antidiscrimination, and education laws and school discipline
policies.
"(5) A procedure for reporting an act of intimidation, threat of suicide, harassment bullying, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.

"(6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.

"(7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment bullying, violence, or threats of violence.

"(8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment bullying, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.

"(9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.

"(10) A procedure for publicizing local board policy through publication in the student handbook, including providing notice that the policy applies to behavior occurring off of school property and to participation in
school-sponsored functions, whether the conduct occurs on or off school property, online, or electronically.

"(11) A clearly defined procedure for students to use in reporting harassment bullying, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of harassment bullying, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment bullying to the principal, or his or her designee.

"(12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.

"(13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment bullying. Based upon experience, a local board of education may add, but not remove, characteristics from the list. The additional
characteristics or perceived characteristics that cause harassment bullying shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board and included in the student handbook."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 08-MAR-18, as amended.

Jeff Woodard
Clerk

Senate 22-MAR-18  Passed

APPROVED 3-08-2018
TIME 5:00 pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State
Act Num....: 2018-472
Bill Num....: H-366

Page 10

Recvd 03/29/18 10:47amSLF
HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 366

YEAS 92  NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. ___

AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees

RE-REFERRED RE-COMMITTED

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 366

YEAS 27  NAYS 0

PATRICK HARRIS, Secretary