

Harassment at School - Part V



Know Your Rights

by Atty. Jay C. Howell

"Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools. . ."

Constitution of the State of Florida, Article IX, §1

This article is the fifth in our continuing series on students being harassed at school. Recently, the Florida legislature has enacted a series of laws designed to protect the student victim from the continued harassment of the individual student who committed a particular crime.

Most of us would be offended to learn that a convicted rapist was allowed to continue to menace his victim. If he showed up at her workplace or in her neighborhood, we would expect the criminal court to at least order that the assailant should have no contact with the victim.

It seems fundamental and consistent with our traditional notions of justice that the

wrongdoer be prevented from harassing or intimidating his victim. However, our notion of fair play is challenged when the victim is a child and so is the perpetrator. This is not as uncommon as you may think. Actually, the incidence of child-on-child crimes is significant, but surprising to most citizens.

Crimes against children often occur in environments which provide an opportunity for continued contact between offender and victim. The crime may have taken place at school, on a school bus, or at a school-sponsored event. The child victim is traumatized by the events and is understandably in fear of the perpetrator. The mere physical presence of the student who committed the crimes unnerves the victim and is a horrible reminder of the assault itself. What do we do if the offender is found guilty in court and the judge is informed that both of the students attend the same school?

In response to incidents that occurred here in Northeast Florida, the state legislature adopted new rules concerning future contact between child perpetrator and child victim. The new laws prohibit students who are found guilty of serious



crimes in court from attending a school or riding on a school bus if the victim of the crime or the victim's brother or sister attends the same school or rides on the same bus. The school district is charged with the responsibility of allowing the perpetrator child to attend another school in the same district.

In sparsely populated communities the option of multiple schools within the district is not always possible. Accordingly, the law allows that if the student perpetrator is unable to attend any other school within his or her district, then the school district itself must take every reasonable precaution to keep the perpetrator student separated from the victim while on school grounds or on school transportation.

The law requires the judge to make a written finding related to the appropriateness of a "no contact" order in favor of the victim or their sibling. A determination is made by the court based on whether the

delinquent child attends or is eligible to attend the same public school as the victim or the victim sibling.

The law also requires each school district to adopt a zero tolerance policy for victimizing students and requires each district to conduct a mandatory self-assessment of its safety and security practices. The school superintendent must then provide recommendations for improving safety and security to the local school board.

This relatively new law took effect October 1, 2001. It is a part of Florida Statutes, Section 232.265, and can be found on the legislature's website at www.leg.state.fl.us.

Also, Florida Statutes, Section 960.001(1)(s), provides that

when the victim of an offense committed by a juvenile is a minor, the State Department of Juvenile Justice shall request information to determine if the victim or their sibling attends the same school. If the offender is tried as an adult, it is The Department of Corrections that requests the information. The appropriate agency is then required to notify the victim's parent or guardian of their right to attend the sentencing and request that the offender attend a different school.

—Jay Howell, a Jacksonville attorney in the law office of Anderson and Howell, has been a State Prosecutor, a US Senate Investigator and the founder of the National Center for Missing and Exploited Children. He represents crime victims in civil claims for damages and advocates for the legal rights of all victims.

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