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DATE: April 21, 1997

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB's 1309, 1143, 847, 697, 1391, and 203

RELATING TO: Student Discipline and School Safety

SPONSOR(S): Committee on Education K-12 and Representatives Andrews, Stafford, Morse, Trovillion, Byrd, Jacobs, and Lynn

STATUTE(S) AFFECTED: *Amends* ss. 39.01, 39.015, 39.085, 228.041, 230.23015, 230.2316, 232.01, 232.09, 232.17, 232.19, 232.195, 232.2452, 232.2462, 232.25, 232.277, 322.05, 322.09, 414.125, and 790.115, F.S.
Creates ss. 230.235, 232.0205, 232.197, and 322.091, F.S.

COMPANION BILL(S): SB's 586, 1384, 1734, 2046, 1684, 1904, and 1968

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12 YEAS 10 NAYS 2
- (2) LAW ENFORCEMENT & PUBLIC SAFETY (W/D)
- (3) CRIMINAL JUSTICE APPROPRIATIONS YEAS 9 NAYS 0
- (4)
- (5)

I. SUMMARY:

The bill revises provisions regarding habitual truancy, including the court procedures and penalties.

The bill requires a child between the ages of 16 and 18 years to file a formal intent to terminate school enrollment with the district school board signed by the child and his or her parent or guardian. In addition, the bill requires students to disclose, at initial registration, all previous school expulsions, arrests resulting in a charge, and juvenile justice actions.

The bill provides procedures for the Department of Highway Safety and Motor Vehicles (DHSMV) to withhold issuance of or suspend the driver's license or learner's driver's license of any minor who fails to satisfy school attendance requirements.

The bill establishes a daily student conduct pledge, and requires school districts to establish and publish policies for the content and regular issuance of report cards, depicting academic performance, conduct, and attendance. School districts are prohibited from permitting schools to exempt students from academic performance requirements as part of a policy designed to improve attendance.

The bill provides that second chance schools may include "residential academies." The bill provides criteria for the establishment, operation, funding, and participation in residential academies.

The bill shifts the purpose of the Alternative Education Institute from serving students in high or maximum risk facilities to serving students who are at risk of dropping out of school and have not been adjudicated for a delinquent act.

The bill requires school districts to conduct a policy of zero tolerance for crime and requires public school officials and employees to report any criminal or delinquent activities on specified property to the appropriate law enforcement agency. The bill requires reporting and notification of student substance abuse.

The bill expands offenses that are punishable as possessing or discharging weapons or firearms on school property and clarifies provisions relating to students who commit assault or battery on school personnel.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

1. Compulsory School Attendance

Children between the ages of 6 and 16 years are required to attend school regularly during the entire school term. (s. 232.01, F.S.) Regular attendance may be achieved by attendance in a public, parochial, or private school or a home education program which meets the requirements of s. 232.02, F.S. Under s. 232.06, F.S., the superintendent may issue a certificate of exemption to a student of compulsory school age for one of the following reasons: physical and mental disability, employment, judicial recommendation, or lack of child care for a student's child.

2. Disclosure at School Registration

Currently when registering in a school district, children are to submit general information such as a birth certificate, immunization records, address, and previous school attended, in order to access other records. There is no requirement to disclose previous expulsions, arrests, or juvenile justice action.

3. Habitual Truancy

The laws regarding habitual truancy are contained in chapters 39, 228, and 232, Florida Statutes. A habitual truant is defined as a student of compulsory school age who accumulates 15 unexcused absences within a period of 90 days, with or without the knowledge or consent of his or her parent or legal guardian, and who does not qualify for an exemption.

Section 232.17, F.S., establishes the position of attendance assistant, and provides qualifications and duties for the position. The duties include the following:

- maintaining records;
- investigating nonenrollment and unexcused absences;
- giving written notice, either in person or by registered mail, to a child's parent or guardian after 3 and before 15 unexcused absences which requires enrollment or attendance within 3 days; and
- performing home visits.

Sections 39.01 and 232.19, F.S., contain additional escalating activities which must be completed in an effort to determine the cause, and attempt to remediate, a child's truant behavior. These activities include:

- one or more meetings, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, after a minimum of 3 and before 15 unexcused absences within 90 days;
- educational counseling to identify and implement curriculum changes;
- educational evaluation; and
- referral to the children-in-need-of-services and family-in-need-of-services provider or the case staffing committee, as determined by the cooperative agreement required in s. 232.19(3), F.S.

Section 39.01, F.S., states that if a child is responsive to these interventions and has completed the necessary requirements to pass the current grade, the child will not be considered habitually truant. Section 232.19, F.S., states that under those circumstances the child must be passed.

a. Driver's Licenses

In 1989 the Florida Legislature passed s. 322.0601, F.S., which denied driving privileges to anyone under the age of 18 who dropped out of school or failed to meet certain attendance and participation requirements. The attendance requirements of the law, popularly known as "Students Drive, Dropouts Don't" were intended to provide educators with an effective means of encouraging students to stay in school and attend regularly. The original legislation and the corresponding State Board of Education Rule were drafted to allow schools local control, and to

include specific requirements for schools and students in the use of conferences, counseling, and individual attendance agreements to bring about changes in student attendance patterns.

A study published by the Department of Education (DOE) in December of 1990 indicates that after eight months of implementation at least 15,000 students had been affected by the law through either retrieval or prevention. The relative value of the deterrent effect of the law, compared to implementation costs had, however, received much debate by those involved in the law's implementation. A DOE study, conducted after two years of implementation, demonstrated that the driver's license requirements had been an effective deterrent to dropping out for students who were 15, 16, and 17 years old and who had driver's licenses, and that the program had shown financial benefits for schools as well. The law was re-enacted with changes in 1993, in an effort to reduce the administrative burden schools were experiencing, while maintaining the law's deterrent value.

To prepare for the scheduled July 1, 1996 repeal of the "Driver's License law", unless specifically reenacted by the Legislature, the Senate Committees on Education and Transportation conducted an interim study in order to develop a Senate staff recommendation for the reenactment or repeal of the law. This study, entitled "A Review of the Effectiveness of Driver's License Suspension in retaining High School Enrollment," identified the following barriers to implementation:

- An excessive amount of paperwork that was not adequately funded,
- The lack of a statewide attendance policy which administrators felt hindered the effectiveness of the program and did not allow comparability across districts;
- Difficulties in tracking student movement and the disposition of student license suspensions from the school level; and
- The ease with which a student could get his or her license reinstated.

Committee staff recommended the reenactment of the law with modifications to streamline the process while preserving the law's effectiveness as a dropout prevention tool; however, no action was taken on a proposed amendment which would have reenacted the law with revisions. The law was repealed July 1, 1996. Requests for the enactment of legislation requiring the suspension of licenses of habitual truants have been received from individual parents, school officials, the Tough Love Parent Support Group, and school board members.

b. Cooperative Agreements and Court Proceedings

The district manager of the Department of Juvenile Justice (DJJ) or a designee, and the superintendent of the local school board are required to develop a cooperative agreement that clearly defines each department's role and responsibility in working with habitual truants. (s. 232.19, F.S.) The agreement requires the participants to address issues relating to delivery, intervention, the role of the case staffing committee, parental involvement, and community action plans. The agreement also delineates a time frame for implementation and identifies a mechanism for reporting results.

A proceeding or prosecution relating to habitual truancy may be commenced by the school superintendent, an attendance assistant, the probation officer of the county, the executive officer of any court of competent jurisdiction, or a duly authorized agent of DOE. (s. 232.19, F.S.)

c. Penalties

Failure to comply with the law regarding habitual truancy results in the following penalties:

- a parent who refuses or fails to have a child who is under his or her control attend school regularly, or who refuses or fails to comply with other requirements relating to habitual truancy, is guilty of a misdemeanor of the second degree;
- a principal or teacher who violates a habitual truancy provision, may have his or her certificate revoked by DOE; and
- an employer who fails to notify the superintendent when he or she ceases to employ a child is guilty of a misdemeanor of the second degree.

d. Notification to Schools of Court Action

Currently courts are not required to notify schools of court action.

4. Learnfare Program

Under the Learnfare Program, cash assistance checks are reduced for parents whose children accumulate a number of unexcused absences from school that is sufficient to jeopardize the student's academic progress. (s. 414.125, F.S.) The law provides for good cause exemptions. The Learnfare program requires each assistance recipient to attend a conference with an appropriate school official during each grading period to assure that the recipient is involved in the child's educational progress and is aware of any existing attendance or academic problems.

5. Report Cards and End-of-the-Year Status

There are no statewide requirements for report cards. Several statutes, however, address student progress, conduct, and high school grading scales.

Section 232.2463, F.S., establishes a high school grading system in which percentage grades are correlated with letter grades. For example, a letter grade of A correlates to a range from 94 through 100%. School districts are authorized to use a weighted grading system for the purposes of class ranking. There is no statewide grading system for elementary and middle schools.

Section 230.23(6), F.S. requires each school board to adopt codes of student conduct for elementary and secondary schools. Each code must include consistent policies and specific grounds for disciplinary action. The codes must address drugs, violence, weapons, sexual harassment, and the rights and responsibilities of students. The law does not require that conduct be graded.

Section 232.245, F.S., requires each school board to establish a comprehensive program for pupil progression based on local goals and objectives which are compatible with the state's plan for education.

Section 232.2452, F.S., encourages each school district to establish no fewer than two district wide report card pick up days to facilitate teacher parent conferences.

6. Daily Student Conduct Pledge

The only pledge specifically mentioned in statute is the pledge of allegiance to the flag, and it is required to be said at the beginning of the day in every elementary and secondary public school in the state. (s. 233.065, F.S.) Upon written request by a parent or guardian, a student may be excused from reciting the pledge.

The Florida Cabinet recently designated March 24th as "Enough is Enough" Day. This is designed to encourage school boards and individual schools to initiate an observance and promote activities which focus on the importance of non-violent solutions and safe schools and the inherent benefits which result when students have the opportunity to learning a non-violent environment. The Cabinet established a pledge for non-violence, similar to the daily conduct pledge proposed in this bill, and suggested activities such as graffiti clean up, conducting a mock trial and moot court, and providing special lessons on crime prevention in every class.

7. Second Chance Schools - Residential Academies

District school boards are authorized and encouraged to establish comprehensive dropout prevention programs to meet the needs of students who are not effectively served by conventional education programs in the public school system. (s. 230.2316, F.S.) Dropout prevention programs include educational alternatives programs, substance abuse programs, disciplinary programs, youth services programs, and second chance schools.

Section 230.23, Florida Statutes, specifies the powers and duties of school boards concerning the control of pupils, and states that "to the extent that funding is available, it is the intent of the

Legislature that all persons of compulsory school age who have not received a high school diploma be placed in an appropriate program which may include, but not be limited to, traditional schools, second chance schools jointly provided by the district school board and the Department of Juvenile Justice, disciplinary schools, and other alternatives to expulsion programs.”

“Second chance schools” are defined by s. 230.2316, F.S., as school district programs provided through cooperative agreements between the DJJ, private providers, state or local law enforcement agencies, or other state agencies for students deemed habitual truants as defined in s. 228.041(28), or for students who have been disruptive or violent or who have committed serious offenses. Prior to assigning a student to a second chance school, a district is encouraged to utilize alternative programs and is required to evaluate each student to ensure that placement in a second chance school is appropriate for that student.

According to the DOE, several districts currently operate dropout prevention programs that have been officially designated as second chance schools pursuant to statute. Several districts are in the process of converting existing programs into second chance schools or submitting plans for the creation of second chance schools.

In order to ensure that each public school program receives its equitable share of funds in relation to its relative cost per student, “weighted FTE’s” are established annually for each program, based on program cost factors. Second chance schools are funded at the weighted full-time equivalent dropout prevention level established annually in the General Appropriations Act, according to s. 236.081, F.S., which is 1.474 for the 1996-97 school year. Programs for at-risk students have established enrollment ceilings (caps) above which a district receives prorated funding for each weighted FTE exceeding the cap.

8. Alternative Education Institute

In 1994, the Alternative Education Institute was created and operates within the DOE. The Institute is authorized to contract with a private provider for alternative education programs in residential school facilities; for the program facilities to be funded with public education capital outlay (PECO) funds; and for the programs to be designed to serve juvenile offenders who have been prosecuted as adults or who have been committed to a high-risk or maximum-risk residential program of DJJ. The Institute has a 13-member board, with 7 members appointed by the Governor, 3 members appointed the Speaker of the House of Representatives; and act as an instrumentality of the state, to hold property, moneys, lands, and income for the benefit of the Institute and the fulfillment of its alternative education mission.

9. Zero Tolerance for Crime and Reports of Suspected Substance or Alcohol Abuse

Each school board is required to adopt a code of student conduct for elementary schools and for secondary schools that delineates rules and regulations for the control and discipline of pupils. (s. 230.23, F.S.) Each district’s code of student conduct must include consistent policies, specific grounds, and procedures to be followed for acts requiring discipline. This includes the possession of electronic telephone pagers; the use or possession of alcohol; the illegal use, sale, or possession of controlled substances; the possession of a firearm or weapon; violence against any school district personnel; violation of school district transportation policies, including disruptive behavior on a school bus or at a school bus stop; and violation of the school district’s sexual harassment policy.

If a student is arrested, the arresting authority is required to immediately notify the district superintendent when a child under the district’s jurisdiction is taken into custody for allegedly committing a delinquent act or violation of law that would have been a felony if committed by an adult or for a crime of violence. This information must then be released to the principal of the child’s school who must, in turn, notify the child’s immediate classroom teachers. The person taking the child into custody is responsible for attempting to notify the child’s parent, guardian, or legal custodian. (ss. 39.037 and 39.045, F.S.)

A principal is granted specific authority by s. 232.26, F.S., to initiate suspension proceedings, upon notification by the law enforcement agency, against any student who is charged with a felony, or with a delinquent act which would be a felony if committed by an adult, if the incident allegedly occurred on property other than public school property, and if the incident is determined, through a hearing conducted according to rules of the State Board, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. If the student is found guilty of a felony or delinquent act which would have been a felony if committed by an adult, the superintendent may recommend to the school board that the student be expelled.

DOE requires schools to report the number of serious safety incidents that occur on school grounds during the school year. These incidents are categorized into 21 types, including: alcohol, arson, battery, disorderly conduct, fighting, robbery, etc. There is no requirement that a principal or school personnel report the activity to the appropriate law enforcement agency. According to the 1995-1996 district report of the School Environmental Safety Incident Reporting System, 264,897 serious safety incidents were committed on school grounds during the 1995-1996 school year; however, only 27,643 were reported to the appropriate law enforcement agency.

Section 232.275, F.S., exempts principals, teachers and members of the instructional staff, and school bus drivers from civil or criminal liability for actions carried out in conformity with state board and school board rules, except in the case of excessive force or cruel or unusual punishment. Section 232.26, F.S., states that school personnel shall not be held legally responsible for suspensions of students made in good faith.

Section 232.256, F.S., requires school boards to post a notice in each public school that a student's locker or other storage area is subject to search upon reasonable suspicion of prohibited or illegal possession of substances or objects.

Section 232.277, F.S., requires any school employee who suspects that a student might be using drugs or alcohol to communicate that suspicion to the principal. The principal is authorized to contact the parent or legal guardian regarding the situation. School officials are not required to report such incidents to law enforcement agencies.

10. Possessing or Discharging Weapons or Firearms on School Property

Section 790.115, F.S., specifies that a person who possesses or exhibits in a careless or threatening manner, any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon on or near a school or school bus, during school hours or activities, commits a third-degree felony. For the purposes of the section, "school" is defined as any preschool, elementary, middle/junior high, or secondary school, vocational school, or public/nonpublic postsecondary school. Under certain conditions, the possession of firearms, however, is permitted. A person may carry a firearm in the following instances: in a case to a pre-approved firearms program, class, or function; in a case to a vocational school having a firearms training range; or in a vehicle pursuant to s. 790.25(5), F.S.

Subsection 790.25(5), F.S., permits a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or otherwise not readily accessible for immediate use.

Section 790.001, F.S., defines "weapon" as any dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife.

Section 230.23, F.S., requires that school boards adopt a code of student conduct for elementary and secondary schools which includes notice that the possession of a firearm, knife, a weapon, or any item which can be used as a weapon by a student is grounds for disciplinary action and may result in criminal prosecution.

Section 230.2316, F.S., specifies that a student must be assigned to a second chance school if the student has committed a serious offense which warrants suspension or expulsion from school, including the possession of weapons or drugs.

11. Students Committing Assault or Battery on Specified Officials or Employees

Expulsion is the removal of a student's right and obligation to attend a public school for a period of time not to exceed the remainder of the term or school year and one additional year of attendance. (s. 228.041(26), F.S.) Expulsions may be imposed with or without continuing educational services.

An assault is an intentional, unlawful threat by word or act to harm another person with the apparent ability to do so. In addition, the person must perform an act which creates a well-founded fear that the threatened action is imminent. (s. 784.011, F.S.) An aggravated assault is an assault using a deadly weapon without the intent to kill, or an assault with an intent to commit a felony. (s. 784.021, F.S.) An assault is classified as a second degree misdemeanor and an aggravated assault is a third degree felony.

A battery occurs when a person actually and intentionally touches or strikes another person against the latter's will. This act must be performed with the intent to cause bodily harm. (s. 784.03, F.S.) A person commits aggravated battery when while committing the battery the person either uses a deadly weapon, or intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement. Aggravated battery is also committed if the victim of a battery is pregnant and the offender knew or should have known of the pregnancy. (s. 784.045, F.S.) A battery classified as a first degree misdemeanor and an aggravated battery is a second degree felony.

The classification of offenses for assault, aggravated assault, battery, and aggravated battery are enhanced if committed on specified officials or employees. (s. 784.081, F.S.) These individuals include officials or employees of the following:

- a school district;
- a private school;
- the Florida School for the Deaf and the Blind;
- a university developmental research school;
- a state university or any other entity of the state system of public education; or
- an employee or protective investigator of the Department of Children and Families.

The offender must know or have reason to know of the victim's occupation. The classification for offenses against these individuals is as follows:

- assault is reclassified from a second degree misdemeanor to a first degree misdemeanor.
- aggravated assault is reclassified from a third degree felony to a second degree felony.
- battery is reclassified from a first degree misdemeanor to a third degree felony.
- aggravated battery is reclassified from a second degree felony to a first degree felony.

If a student commits an assault, aggravated assault, battery, or aggravated battery on a specified official or employee listed above, he or she must be expelled and placed in an alternative school setting for a minimum period of one year. (s. 230.23015, F.S.) The student must be immediately removed from the classroom upon being charged with the offense and placed in an alternative school setting pending disposition of the case.

B. EFFECT OF PROPOSED CHANGES:

1. Compulsory School Attendance

The bill establishes legislative intent language relating to the importance of school attendance and parent and legal guardian responsibility for sending children to school. There is a legislative finding that truancy and poor school performance have a direct link to juvenile delinquency and destructive behavior; and that an efficient and expedient process to enforce school attendance laws must exist if a student refuses to attend school or a parent or guardian refuses to send the student to school.

Under the bill, if a student is continually sick resulting in repeated absence from school, he or she must be under the supervision of a physician in order to receive an excuse from attendance that provides a student's condition justifies absence for more than the number of days permitted by the district school board.

The bill requires school boards to establish attendance policies specifying the number of days of required school attendance and the number of absences and tardinesses after which a statement is required explaining such behavior. Using criteria established by the school board, each school must determine if an absence or tardiness is excused or unexcused.

The bill requires a child between the ages of 16 and 18 years to file a formal declaration of intent to terminate school enrollment with the district school board in order to be exempt from the compulsory school attendance laws. The declaration must acknowledge that terminating school enrollment is likely to reduce the students earning potential, and must be signed by the child and the child's parent or legal guardian.

2. Disclosure at School Registration

The bill requires a student, at the time of initial registration, to fully disclose all previous school expulsions, arrests resulting in a charge, and juvenile justice actions. If the student willfully fails to make the full disclosure, he or she is subject to a fine of up to \$50, based on the student's ability to pay.

3. Habitual Truancy

The bill revises provisions regarding habitual truancy, removing redundant and conflicting language, in order to provide a uniform series of steps that must be completed before a child will be considered a "habitual truant." The bill clarifies that the phrase "90 days," relating habitual truants, means "90 calendar days."

The bill technically revises and conforms the definition of "habitually truant" in s. 39.01, F.S., by removing language relating to the required escalating activities and referencing the same language found in ss. 232.17 and 232.19, F.S. The bill states that a child who is responsive to the interventions regarding habitual truancy and has completed the necessary requirements to pass the current grade, will pass the grade. This conforms to language in s. 232.19, F.S.

The bill authorizes a designated school representative to enforce school attendance policies, rather than an attendance assistant. The bill removes all references to attendance assistants and the requirement to visit the home of each child who is not in attendance at school. (see COMMENTS section) The bill removes the requirement that written notice be provided to a parent either in person or by registered mail, instead requiring notice in person or by return-receipt mail. This reduces the fiscal impact at the district level.

If a child repeats a pattern of nonattendance within one school year, the bill requires the designated school representative to resume the series of escalating activities at the point at which he or she had previously left off, rather than starting over. The maximum number of unexcused absences prior to commencing intervening activities to address truant behavior is reduced from 15 to 6 unexcused absences.

a. Driver's Licenses

The bill requires each public school principal or designee to notify the school board of each minor who accumulates 15 unexcused absences within 90 days. The superintendent *must* report the name, sex, date of birth, and social security number of each minor to the Department of Highway Safety and Motor Vehicles (DHSMV) who fails to meet attendance requirements. A private school representative and parent of a child in a home school education program *may* provide the information to the DHSMV if the students fail to satisfy relevant attendance requirements. This procedure is intended to be performed electronically. According to DOE and DHSMV, the two departments are currently working in cooperation to administer the Automated School Bus Driver's License Record Check System, which enables DOE to obtain a driver's license history record through weekly interaction between DHSMV's database and DOE's MIS system, thus establishing electronic communication.

Once the information is received, the DHSMV may not issue a driver's license or learner's driver's license to, and must suspend any previously issued driver's license or learner's driver's license of, any such minor.

The bill creates s. 322.91, F.S., relating to attendance requirements required for obtaining a driver's or learner's license. The new section establishes eligibility requirements for driving privileges, notification of intent to suspend, and hardship waiver and appeal procedures. In order to be eligible for driving privileges a minor must satisfy one of the following criteria:

- be enrolled in a public school, nonpublic school, or home education program and *satisfy relevant attendance requirements*;
- has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- is enrolled in a study course in preparation for the Test of General Education Development and satisfies relevant attendance requirements;
- is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- has been issued a certificate of exemption according to s. 232.06, F.S.; or
- has received a hardship waiver.

Following notification that a minor fails to comply with attendance requirements, the DHSMV may not issue a driver's or learner's license to, or must suspend the driver's or learner's license of, such minor.

The DHSMV must notify a minor, and the minor's parent or guardian, of the intent to suspend the minor's driving privileges. The DHSMV's data base is capable of automatically generating letters regarding the intent to suspend a license. Following the date of receipt, the minor or parent or guardian of the minor, has 15 calendar days to provide proof of compliance with the above requirements or request a hardship waiver hearing. If the minor does not provide proof of compliance, the DHSMV must suspend the minor's operator's license or learner's driver's license or record the legal name, sex, date of birth, and social security number of minors without licenses, 20 days after the date of notification. If the minor is subsequently denied a hardship waiver, the DHSMV must suspend the driver's or learner's license or record the minors information for noncompliance. The DHSMV may not issue a license to a minor who has a record of noncompliance with above requirements.

The minor, or parent or guardian of a minor, has 15 calendar days to request a hardship waiver hearing before the public school principal, the principal's designee, or the designee of the governing body of a private school, for the purpose of reviewing the pending suspension of driving privileges. The hearing must be conducted within 30 calendar days after the request is received. The school official must waive the requirements of this law for any minor for whom a personal or family hardship requires the minor to have a driver's license. Recommendations of teachers, other school officials, guidance counselors, or academic advisers are considered. Any person denied a hardship waiver may appeal the decision to the district school board or the governing body of the private school. The district school board or the governing body of the private school shall notify the department if the hardship waiver is subsequently granted.

If a district determines that a minor has been in compliance with attendance requirements for 30 days prior to the request for verification of compliance, the district must provide written verification of compliance. Following written verification, the DHSMV must reinstate the minor's driving privilege.

The DHSMV must report quarterly to the school district, the name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this law.

b. Cooperative Agreements and Court Proceedings

The bill includes the district administrator of the Department of Children and Family Services or the district administrator's designee in the group who must develop cooperative interagency agreements relating to truant behavior. The bill adds the requirement to identify and implement measures to resolve and reduce truant behavior to the criteria required in the cooperative agreement.

The bill provides that a duly authorized agent of DJJ may commence a proceeding or prosecution regarding habitual truancy. If a proceeding has been commenced against both a parent or legal guardian and a child regarding habitual truancy, the bill requires the presiding court to make every effort to coordinate sanctions against the child and parent or legal guardian, including ordering community service hours or attending counseling together.

c. Penalties

The bill requires the court to order a parent or legal guardian to send the child to school and permits the court, at its discretion, to require the parent or guardian to participate in an approved parent training class, attend school with the child, perform community service hours at the school, or participate in counseling or other services. If a parent or legal guardian is ordered to attend school with a child, the school must provide programming emphasizing the importance of school attendance.

A parent or legal guardian may not be terminated from employment solely because he or she is attending school with his or her child pursuant to a court order. If an employer terminates the parent or guardian for that sole reason, the employer has committed a second degree misdemeanor, punishable under s. 775.082, F.S., or s. 775.083, F.S.

Under the bill, if a child is found to be habitually truant, the court *may* order the child to pay a civil penalty of \$2 for each day of school missed, perform 25 community service hours at the school, and participate in counseling or other services. Upon a second or subsequent finding of habitual truancy, the court *may* order a civil penalty of \$5 for each school day missed, perform 50 community service hours at the school, and participate in counseling or other services.

d. Notification to Schools of Court Action

The bill requires the office of the clerk of the court to notify the school if the court takes action that directly involves a child's school. This action may include, but is not limited to, ordering a student to attend school, ordering a parent or legal guardian to attend a child's school, or perform community service hours at the school.

4. Learnfare Program

The bill requires the conference between the recipient and a school official to address acceptable student attendance, grades, and behavior, and this must be documented by the school and reported to the Department of Children and Family Services.

5. Report Cards and End-of-the-Year Status

The bill requires school districts to establish and publish policies requiring the content and regular issuance of student report cards for elementary, middle, and high school students. The report cards must clearly depict and grade the following:

- academic progress in each class or course, based on examinations as well as written papers, class participation, and other academic performance criteria;
- student conduct and behavior; and
- student attendance, including absences and tardiness.

A final report card for a school year must contain a statement indicating end-of-the-year status regarding performance or nonperformance at grade level, acceptable or unacceptable behavior and attendance, and promotion or nonpromotion.

The bill prohibits school districts from allowing schools to exempt students from academic performance requirements based on practices or policies designed to encourage student attendance.

6. Daily Conduct Pledge

The bill establishes a daily conduct pledge that each student *may* be required to take. The pledge includes the following language:

- I will respect and obey my parents and my teachers.
- I will not hurt another person with my words or my acts, because it is wrong to hurt others.
- I will tell the truth, because it is wrong to tell a lie.
- I will not steal, because it is wrong to take someone else's property.
- I will respect my body, and not take drugs.
- I will show strength and courage, and not do something wrong, just because others are doing it.
- I pledge to be non-violent and to respect my teachers and fellow classmates.

7. Second Chance Schools - Residential Academies

The bill amends the statutory definition of a second chance school to specify that such a school may be a residential academy, established and operated by a school district or through a joint agreement with a private entity or a state or local public agency. The purpose of a residential academy is to provide a supportive and safe learning and living environment for high-risk students to assist the children in being successful in school and preparing for postsecondary education or training.

Student participation in a residential academy is voluntary and upon the request of the student's parent or guardian. Only those students at risk of dropping out of school or referred to DJJ, and who have not been adjudicated for a delinquency offense, may participate in a residential academy. A case staffing committee, formed by the school board and DJJ, must consider and approve applications for placement. The parent and the sponsoring agency must execute a contract detailing the authority, care, treatment, and education goals. If the academy is not operated by the school district, the school district must approve the contract form.

A parent or legal guardian of a student assigned to an educational alternatives program, a substance abuse program, a disciplinary program, a youth services program, or a second chance school, who willfully violates or fails to substantially comply with the requirements of the assignment will be subject to the penalties under s. 232.19, F.S., relating to court procedures and penalties.

8. Alternative Education Institute

The bill shifts the purpose of the Alternative Education Institute from one of serving juvenile offenders who have been prosecuted as adults or who have been committed to a high or maximum risk residential program to one in which alternative education programs are conducted for students who are at risk of dropping out of school and have not been adjudicated for a delinquent act.

The bill establishes a term limit of 3 years for the board members, however, they may be reappointed to the board. Members appointed to the board must not hold other offices, must select a chair from among its members, and must not receive compensation, with the exception of reimbursement for per diem and travel. The members must comply with the laws regarding the code of ethics for public officers and employees, under chapter 112, F.S. Missing three consecutive meetings without an excuse from the chair results in automatic removal from the board.

Additional requirements of the institute include:

- safeguarding the integrity of PECO funds for programs that fulfill the education mission and alternative education mission of the institute;
- reporting to DOE and DJJ;
- entering into an interagency cooperation and information-sharing agreement with DJJ and DOE to ensure coordination of services to students and cooperative working relationships between the institute and the departments; and
- providing full cooperation to DJJ to ensure that residential alternative education programs operating in institute school facilities cooperate fully with the department's inspector general and quality assurance requirements.

9. Zero Tolerance for Crime and Reports of Suspected Substance or Alcohol Abuse

The bill requires school districts to adopt a policy of zero tolerance for crime. This policy requires public school officials or school board employees who have knowledge or information regarding the commission of a felony, or a delinquent act which would be a felony if committed by an adult, on school property, at a school bus stop, on a school bus, or during a school-sponsored function, by any elementary, middle, or high school student or any other person, to report such activity to the appropriate law enforcement agency.

School boards and local law enforcement agencies must enter into cooperative agreements to specify, in writing, the violent misdemeanors that a public school official or employee must report to a law enforcement agency. The agreement must include offenses that all parties agree should be reported in order to promote a safe and orderly environment.

Based on the magnitude of harm caused by the unlawful use, possession, or sale of any controlled substance, counterfeit controlled substance, alcoholic beverage, or model glue, reports of suspected activity must be forwarded to the appropriate agency. School personnel must timely notify the student's parent or legal guardian regarding the forwarded report.

10. Possessing or Discharging Weapons or Firearms on School Property

The bill specifically prohibits the possession or exhibition of a razor blade, box cutter, or knife with a blade length greater than 4 inches, except as authorized in support of school-sanctioned activities, on or near school property, a school bus, or a school bus stop. The bill provides that school districts may adopt written and published policies that prohibit, for purposes of student and campus parking privileges, the carrying of a firearm in a vehicle pursuant to s. 790.115(2)(a)3. and s. 790.25(5), F.S.

A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of s. 790.115(2)(c)1., F.S., commits a second degree misdemeanor. The bill provides the following exceptions to the law:

- if the firearm was stored or left in a securely locked container, or one which a reasonable person would believe was secure, or was securely locked with a firearm-mounted push button combination lock or a trigger lock;
- if the minor obtains the firearm as a result of an unlawful entry by any person; or
- to members of the specified military units with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

11. Students Committing Assault or Battery on Specified Officials or Employees

The bill provides that students who commit assault or battery on specified officials or employees, in violation of s. 784.081, F.S., must be expelled or placed in an alternative school setting or other youth services or justice program, as appropriate.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill substantially revises provisions relating to habitual truancy and second chance schools, including obligations and penalties.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, employers must permit employees to attend school with their children if a court so orders.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, through civil penalties and fines.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Possibly, but not directly.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

School personnel, family, and appropriate agencies.

- (2) Who makes the decisions?

School personnel, family, and appropriate agencies.

- (3) Are private alternatives permitted?

Not precluded.

- (4) Are families required to participate in a program?

Compulsory school attendance is current law.

- (5) Are families penalized for not participating in a program?

Yes, see (4), above.

- b. Does the bill directly affect the legal rights and obligations between family members?

Yes, if certain conduct is involved that is unacceptable, such as habitual truancy.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Yes.

- (2) service providers?

Yes.

- (3) government employees/agencies?

Yes.

ACADEMIC EXCELLENCE COUNCIL'S ADDITIONAL CONSIDERATIONS:

The bill could be viewed as meeting each of the Academic Excellence Council's 7 considerations, but only if its measures to improve student discipline and attendance and enhance school safety prove effective.

1. Does it improve instruction?

Yes.

2. Does it allow teachers to teach?

Yes.

3. Does it improve student character?

Yes.

4. Does it prepare our students to be a part of the 21st century workforce?

Yes.

5. Does it empower parents to make decisions?

Yes.

6. Does it create educational options?

Yes.

7. Does it create an environment where students can learn?

Yes.

D. SECTION-BY-SECTION RESEARCH:

- Section 1: Amends s. 232.09, F.S., relating to parents responsible for attendance of children; inserting legislative intent language regarding school attendance; revising provisions relating to student attendance responsibility and policy.
- Section 2: Creates s. 232.0205, F.S., relating to disclosure at school registration; requiring students to disclose all previous school expulsions, arrests resulting in a charge, and juvenile justice actions.
- Section 3: Amends s. 232.01, F.S., relating to regular school attendance required between ages of 6 and 16; requiring a formal declaration of intent to terminate school enrollment for students ages 16 to 18 years who wish to drop out of school.
- Section 4: Amends s. 39.01, F.S., relating to definitions of terms regarding juvenile proceedings; correcting cross references; removing language relating to the required activities to determine cause of truancy; and making technical changes.
- Section 5: Amends s. 228.041, F.S., relating to definition of terms regarding public schools; making technical changes to sections defining a habitual truant and a dropout.
- Section 6: Amends s. 232.2462, F.S., relating to attendance requirement for receipt of high school credit; correcting a cross reference and providing a conforming reference.
- Section 7: Amends s. 414.125, F.S., relating to the Learnfare program; requiring the conference between the recipient and a school official to address acceptable student attendance, grades, and behavior, and must be documented by the school and reported to the Department of Children and Family Services.
- Section 8: Amends s. 232.17, F.S., relating to attendance assistants, qualifications, compensation, duties; retitling section enforcement of school attendance; replacing the term "attendance assistant" with the term "designated school representative"; requiring a school representative to complete activities designed to determine the cause and attempt the remediation of truant behavior; removing qualifications and duties of attendance assistants; removing the requirement of a home visit for absent students; and reducing the maximum number of unexcused absences prior to commencing intervening activities to address truant behavior from 15 to 6.
- Section 9: Amends s. 232.19, F.S., relating to court procedures and penalties regarding compulsory school attendance; authorizing the suspension or refusal to issue a driver's license or learner's driver's license to minors who fail to satisfy attendance requirements; replaces the term "attendance assistant" with the term "designated school representative"; making technical changes; revising the departments involved in developing a cooperative agreement regarding habitual truancy and the revising the components of the agreement; permitting additional individuals to bring court proceedings involving habitual truants; requiring courts to make every effort to coordinate sanctions against the child and parent or legal guardian; reducing the maximum number of unexcused absences prior to commencing intervening activities to address truant behavior from 15 to 6; and providing for additional penalties for the parent, employer of a parent, and the child.

- Section 10: Amends s. 232.195, F.S., relating to the continuation of truancy remedial activities upon the transfer of a student; correcting a cross reference.
- Section 11: Creates s. 232.197, F.S., relating to notification to schools of court action; requiring the clerk of the court to provide notice to the school of court action if it directly involves a child's school.
- Section 12: Amends s. 232.2452, F.S., relating to report cards; requiring report cards to clearly depict academic progress, conduct, and attendance; requiring the final report card for a school year to contain performance status at grade level, behavior and attendance, and promotion; and prohibiting school districts from allowing schools to exempt students from academic performance requirements based on practices designed to encourage attendance.
- Section 13: Amends s. 232.25, F.S., relating to pupil subject to control of school; establishing a daily conduct pledge.
- Section 14: Amends s. 322.05, F.S., relating to persons not to be licensed; correcting a cross reference; and prohibiting a person from receiving a license if he or she fails to satisfy criteria set forth in s. 322.091, F.S., relating to attendance requirements.
- Section 15: Amends s. 322.09, F.S., relating to the application for a driver's license or learner's driver's license of minors; prohibiting the DHSMV from issuing a driver's license or restricted license to an applicant under the age of 18 who is not in compliance with s. 322.091, F.S., relating to attendance requirements.
- Section 16: Creates s. 322.091, F.S., relating to attendance requirements; providing eligibility requirements for driving privileges; establishing notification of intent to suspend, suspension, and record of noncompliance; providing for a hardship waiver and appeal; providing for verification of compliance and reinstatement; and providing for reporting and accountability.
- Section 17: Amends s. 39.015, F.S., relating to rules relating to habitual truants; providing DJJ and DOE work together on the development of, and must adopt, rules only as *necessary* for the implementation of several statutes; and correcting a cross reference.
- Section 18: Amends s. 230.2316, F.S., relating to dropout prevention; providing that second chance schools may include residential academies; providing criteria for the establishment, operation, and funding of residential academies; establishing criteria for participation; requiring parents and legal guardians of students assigned to programs funded by the dropout prevention program to comply with the requirements of the assignment and providing penalties.
- Section 19: Amends s. 39.085, F.S., relating to the Alternative Education Institute; revising provisions relating to the Alternative Education Institute to convert its mission and procedures, and clarify its membership and duties.
- Section 20: Creates s. 230.235, F.S., relating to a policy of zero tolerance for crime; requiring school districts to conduct a policy of zero tolerance for crime, including criminal substance abuse violations; requiring public school officials and employees to report any criminal or delinquent activities on specified property to the appropriate law enforcement agency; and requiring cooperative agreements between local law enforcement agencies and school boards.
- Section 21: Amends s. 232.277, F.S., relating to reports of suspected substance or alcohol abuse and exemption from liability; requiring reporting and notification of student substance abuse.

Section 22: Amends s. 790.115, F.S., relating to possessing or discharging weapons or firearms on school property; expanding offenses that are punishable as possessing or discharging weapons or firearms on school property; and providing a qualifier to an exception from such an offense.

Section 23: Amends s. 230.23015, F.S., relating to students violating s. 784.081, F.S., expulsion and placement in alternative school setting; clarifying provisions relating to students who commit assault or battery on school personnel.

Section 24: Provides an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See Fiscal Comments.

2. Direct Private Sector Benefits:

See Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See Fiscal Comments.

D. FISCAL COMMENTS:

Habitual Truancy

Requiring notice to parents of habitually truant students by return-receipt mail rather than registered mail reduces the fiscal impact at the district level.

Private sector costs also include the possible court penalty of \$2 per day for each school day missed and \$5 per day for each school day missed upon a second or subsequent finding of habitual truancy. In addition, although an employer cannot terminate a parent or guardian for attending school pursuant to a court order, the employer may be able to refuse to pay for work missed.

Second Chance Schools - Residential Academies

Educational services provided by residential academies may be funded through the at-risk category of the Florida Education Finance Program (FEFP). All residential care services may be provided through annual appropriations by the Legislature to the DJJ. Funding for the leasing, lease purchase, renovation, or construction of facilities may be provided through legislative appropriation. The fiscal impact of the bill is dependent upon the number of districts opting to establish a residential academy.

Zero Tolerance for Crime Policy

Based on the required reporting provisions in the bill, it is possible that the felonies and violent misdemeanors reported by schools to law enforcement will be referred to DJJ. This may result in an increase in the number of youth referred for detention screening/intakes, as well as the number of youth detained, placed on community control, or committed to DJJ.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Habitual Truancy

DJJ states that eliminating the requirement that an *attendance assistant* perform the duties in s. 232.17, F.S., relating to habitual truants, will enable the schools to more efficiently deal with truant children as many areas do not have attendance assistants or the volume of cases does not allow the assistants to adequately handle the cases.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Education/K-12

On April 10, 1997, PCS/HB's 1309 and others, passed favorably out of the Committee on Education K-12. The committee substitute differs from the proposed committee substitute in the following ways.

The committee substitute requires students to disclose at initial school registration all previous *expulsions* and *arrests resulting in a charge*; and requires an acknowledgment that terminating school enrollment is likely to reduce the student's earning potential within the declaration of intent to terminate school enrollment. The committee substitute clarifies that the phrase "90 days," relating to habitual truants, means "90 calendar days." The maximum number of unexcused absences prior to commencing intervening activities to address truant behavior is reduced from 15 to 6 unexcused absences.

Under the committee substitute, the court *may* order a parent in violation of the habitual truant laws to participate in an approved parent training class, and permits a student in violation of s. 784.081(1), (2), or (3), to be expelled or placed in an alternative school setting or other youth services or justice program, as appropriate.

The committee substitute removes the penalty of withholding welfare benefits from parents who violate habitual truant laws.

Committee on Criminal Justice Appropriations

On April 18, 1997, the Committee on Criminal Justice Appropriations reported CS/HB's 1309 & 1143, 847, 697, 1391 & 203 favorably with one amendment as follows:

The amendment requires each school district to maintain information on each student referred to law enforcement and provide the information to DJJ on December 1, 1997, and at the end of the school year. DJJ is required to produce for the legislature a preliminary report by March 1, 1998, and a final report by January 1, 1999, and each year thereafter which details the number of youth who have been referred to DJJ and the disposition for the previous school year.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Legislative Research Director:

M. Elizabeth Atkins

Lynn Cobb

AS FURTHER REVISED BY THE COMMITTEE ON CRIMINAL JUSTICE
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Mary Cintron

Mary Cintron