

By Senator Klein

28-1334-00

1 A bill to be entitled
2 An act relating to education; amending s.
3 240.261, F.S., and creating s. 240.2612, F.S.;
4 requiring state universities to adopt uniform
5 disciplinary rules for students and student
6 organizations; providing guidelines for
7 penalties; creating s. 240.2614, F.S.;
8 providing for disciplinary hearings; providing
9 procedures; providing due process; providing
10 for appeals; providing for waiver of hearing;
11 providing evidentiary standards; providing for
12 temporary suspension in cases of immediate
13 danger to health or welfare of students, staff,
14 or faculty; creating s. 240.2616, F.S.;
15 requiring universities to adopt rules creating
16 a student judicial system; providing for
17 hearing boards; creating s. 240.2618, F.S.;
18 providing for preliminary orders, appeals,
19 final orders, and judicial review following
20 disciplinary hearings; creating s. 240.2622,
21 F.S.; requiring the Board of Regents to adopt
22 rules providing systemwide model disciplinary
23 rules, penalty guidelines, and procedure for
24 conducting disciplinary hearings; creating s.
25 240.2624, F.S.; providing for registration of
26 student organizations; amending s. 240.319,
27 F.S.; authorizing community college boards of
28 trustees to provide by rule a uniform code of
29 penalties for students and employees who
30 violate college rules, county and municipal
31 ordinances, state laws, laws of the United

1 States, and other states; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 240.261, Florida Statutes, is
7 amended to read:

8 240.261 Disciplinary rules; employees.--

9 (1) Each university may adopt, by rule, a uniform code
10 of appropriate penalties for violations of rules by ~~students~~
11 ~~and~~ employees, to be administered by the president of each
12 university. These ~~Such~~ penalties, unless otherwise provided by
13 law, may include fines, ~~the withholding of diplomas or~~
14 ~~transcripts pending compliance with rules or payment of fines,~~
15 and the imposition of probation, suspension, or dismissal.

16 (2) The university shall adopt rules for the lawful
17 discipline of any ~~student~~, faculty member, or member of the
18 administrative staff who intentionally acts to impair,
19 interfere with, or obstruct the orderly conduct, processes,
20 and functions of a state university. These ~~Said~~ rules may
21 apply to acts conducted on or off campus when relevant to such
22 orderly conduct, processes, and functions.

23 Section 2. Section 240.2612, Florida Statutes, is
24 created to read:

25 240.2612 Disciplinary rules; students and student
26 organizations.--

27 (1) Each state university shall adopt uniform
28 disciplinary rules under ss. 120.54 and 120.536(1) which apply
29 to all students and student organizations and which prescribe
30 standards of conduct, specific offenses of misconduct, and
31 appropriate penalties for each offense committed in violation

1 of the disciplinary rules. These offenses may apply only to
2 acts or omissions conducted in violation of rules adopted by
3 the university enforcing provisions of law; of rules adopted
4 by the Board of Regents enforcing provisions of law; of county
5 and municipal ordinances; or of the laws of this state, the
6 United States, or any other state.

7 (2) The disciplinary rules must include penalty
8 guidelines for each offense committed by a student. These
9 penalty guidelines must specify a meaningful range of
10 designated penalties based on the severity and repetition of
11 specific offenses to distinguish minor violations from those
12 that endanger the health, safety, or welfare of the students,
13 faculty, or administrative staff of the university; to provide
14 reasonable and meaningful notice to students of the likely
15 penalties that may be imposed for proscribed conduct; and to
16 ensure that these penalties are consistently applied by the
17 university. When imposing a penalty, each university hearing
18 officer or board must follow the penalty guidelines adopted by
19 the university. The penalty guidelines must classify each
20 offense as a minor offense, a moderate offense, or a serious
21 offense. When specifying the range of designated penalties for
22 each specific offense, the penalty guidelines must also comply
23 with the following:

24 (a) A minor offense or moderate offense must be
25 punished by issuing a verbal or written reprimand, imposing
26 probation, or imposing a combination of these penalties.

27 (b) A serious offense must be punished by issuing a
28 verbal or written reprimand, imposing probation, suspension,
29 dismissal, or expulsion, or imposing a combination of these
30 penalties.

31

1 (3) In addition to the penalties authorized by this
2 section, the disciplinary rules may prescribe penalties
3 affecting the academic standing of a student for offenses
4 involving academic dishonesty. These penalties may include,
5 but are not limited to, reduction of an assigned grade,
6 assignment of a failing grade, or loss of academic credit. For
7 offenses involving academic dishonesty, including cheating and
8 plagiarism, penalties affecting the academic standing of a
9 student may be imposed in addition to other penalties
10 authorized by this section.

11 (4) Except as otherwise provided by law, the
12 disciplinary rules may not specify as an offense an omission
13 by a student to prevent another person from committing an
14 offense.

15 (5) Each offense committed by a student organization
16 must be punished by issuing a verbal or written reprimand;
17 placing the registration of the student organization on
18 probation; suspending, canceling, or revoking the registration
19 of the student organization; refusing to register the student
20 organization under s. 240.2624; or imposing a combination of
21 these penalties.

22 (6) Except as otherwise provided by law, the
23 disciplinary rules may apply only to acts conducted on campus
24 and acts that are associated with the student's conduct as a
25 student and are connected to the university or to a student
26 organization. The disciplinary rules may also apply to acts
27 conducted off campus if these acts endanger the health,
28 safety, or welfare of the students, faculty, or administrative
29 staff of the university.

30
31

1 (7) The disciplinary rules may allow the university to
2 withhold a student's diploma or transcript pending compliance
3 with the rules.

4 Section 3. Section 240.2614, Florida Statutes, is
5 created to read:

6 240.2614 Disciplinary hearings.--

7 (1) After a university charges a student or a student
8 organization with an offense, the university shall conduct a
9 disciplinary hearing, after reasonable notice to the student
10 or to the student organization of at least 7 days, to make a
11 factual determination of whether the student or the student
12 organization is guilty of having committed the offense and, if
13 the student or the student organization is found guilty, to
14 impose an appropriate penalty. The university must conduct the
15 disciplinary hearing within 30 days after the student or the
16 student organization is charged unless the student or the
17 student organization agrees in writing to a continuance or for
18 good cause shown. The notice must include:

19 (a) A statement of the time, place, and nature of the
20 disciplinary hearing.

21 (b) A list of each offense with which the student or
22 the student organization is charged. In the case of a student,
23 each offense must be accompanied by a notation stating whether
24 it is punishable under s. 240.2612(2) as a minor offense, a
25 moderate offense, or a serious offense.

26 (c) For each offense, a copy of the complaint or other
27 document that resulted in the student or the student
28 organization being charged.

29 (2) Each university shall adopt rules under ss. 120.54
30 and 120.536(1) which provide uniform procedures for filing
31 complaints and conducting disciplinary hearings and which must

1 be consistently administered for both undergraduate and
2 graduate students. Each disciplinary hearing must be conducted
3 and adjudged by a hearing board composed entirely of students
4 established under the student judicial system under s.
5 240.2616 unless the student or the student organization
6 chooses to appear before:
7 (a) A hearing officer who is not a student;
8 (b) A hearing board composed of both students and
9 nonstudents; or
10 (c) A hearing board the membership of which does not
11 include students.
12 (3) Each student and each student organization charged
13 with an offense must have the opportunity to respond to the
14 charge; to present evidence and argument on all issues under
15 consideration; to conduct cross-examination when testimony is
16 taken or documents are made a part of the record; to be
17 provided, at least 72 hours before the disciplinary hearing is
18 conducted, with a list of each witness whose testimony will be
19 taken and a copy of each document that will be made part of
20 the record; to submit rebuttal evidence; and to be represented
21 by counsel or a nonattorney representative at the student's or
22 the student organization's own expense. This subsection does
23 not require the university to provide any person or any
24 student organization with legal representation.
25 (4) A student may not be compelled to give
26 self-incriminating testimony, nor may either a student or a
27 student organization be twice put in jeopardy for the same
28 offense. If an offense committed in violation of the
29 disciplinary rules is a crime, the university is not required
30 to postpone the disciplinary hearing pending the disposition
31 of a criminal proceeding, and any penalty imposed under ss.

1 240.2612-240.262 is in addition to any penalty imposed for the
2 criminal offense.

3 (5) In order to expedite the disciplinary hearing or
4 to allow the student or the student organization to admit
5 guilt and receive an appropriate penalty without an
6 evidentiary hearing, each student and each student
7 organization may:

8 (a) Waive in writing the 7-day notice requirement
9 provided in subsection (1).

10 (b) Waive in writing the right provided in subsection
11 (2) to appear before a hearing board composed entirely of
12 students established under the student judicial system in s.
13 240.2616 and choose to appear before a hearing officer who is
14 not a student, a hearing board composed of both students and
15 nonstudents, or a hearing board the membership of which does
16 not include students.

17 (c) Waive in writing any of the procedural rights
18 provided in subsection (3).

19
20 A student or student organization may not exercise these
21 waivers until 24 hours after the university has explained the
22 effect of these waivers and has provided the student or the
23 student organization with a copy of the explanation in
24 writing. The university may reduce the penalty and, in the
25 case of a student, the range of designated penalties specified
26 in the penalty guidelines adopted under s. 240.2612(2), if the
27 student or the student organization admits guilt or exercises
28 these waivers to expedite the disciplinary hearing.

29 (6) Each university and its hearing officers and
30 boards may swear witnesses and take their testimony under
31 oath, may compel the attendance of any student or any student

1 organization charged with an offense, and must issue subpoenas
2 to its students, faculty, administrative staff, or other
3 employees upon the request of the student or the student
4 organization or upon its own motion.

5 (7) Each university shall accurately and completely
6 preserve the record of each disciplinary hearing and, upon
7 request, must provide a copy of the record to the student at
8 his or her own expense or, in the case of a student
9 organization, to the organization at its own expense or to any
10 officer, director, or member, thereof, at his or her own
11 expense.

12 (8) In each disciplinary hearing, each student and
13 each student organization is presumed innocent of each offense
14 charged. The university has the burden to prove that the
15 student or the student organization committed the offense by
16 evidence that is clear and convincing.

17 (9) In each disciplinary hearing, evidence that is
18 irrelevant, immaterial, or unduly repetitious must be
19 excluded, but all other evidence of a type commonly relied
20 upon by reasonably prudent persons in the conduct of their
21 affairs is admissible, whether or not this evidence would be
22 admissible in a civil or criminal proceeding. Documentary
23 evidence may be received in the form of a copy or excerpt.
24 Upon request, the student or the student organization charged
25 with an offense and the university must have the opportunity
26 to compare the copy with the original, if available. The
27 testimony of each student charged with an offense and each
28 witness shall be taken under oath. Hearsay evidence may be
29 used for the purpose of supplementing or explaining other
30 evidence, but is not sufficient in itself to support a finding

31

1 of fact unless it would be admissible over objection in a
2 civil or criminal proceeding.

3 (10)(a) If the university has reasonable cause to
4 believe that a student poses an immediate danger to the
5 health, safety, or welfare of the students, faculty, or
6 administrative staff of the university, the university may
7 temporarily suspend the student pending the disposition of a
8 disciplinary hearing conducted under this section or a
9 criminal proceeding, as applicable, if at least one of the
10 following apply:

11 1. The university has found in a written order that
12 probable cause exists to charge the student with a serious
13 offense punishable under s. 240.2612(2)(c).

14 2. The student is charged by indictment or information
15 with a felony, regardless of whether the offense was committed
16 on campus or off campus.

17 (b) When a student is suspended under this subsection
18 and is subsequently found not guilty of the offense or the
19 charge is dismissed, the university must immediately readmit
20 the student to the university with a complete refund of all
21 matriculation, tuition, and other fees paid for the affected
22 terms, quarters, semesters, or other similar periods for which
23 the student was enrolled and must remove any record of the
24 suspension or of the affected courses from the transcripts or
25 other permanent records and reports of the student.

26 Section 4. Section 240.2616, Florida Statutes, is
27 created to read:

28 240.2616 Student judicial system.--

29 (1) Each state university shall adopt rules under ss.
30 120.54 and 120.536(1) which create a student judicial system.
31 Under these rules, each university shall establish and

1 organize hearing boards composed entirely of students to
2 conduct and adjudge disciplinary hearings under ss.
3 240.2612-240.262.

4 (2) The membership of each hearing board established
5 at a university that operates a law school must include at
6 least one student enrolled in the law school if the law school
7 is located within 10 miles of the campus, center, or site at
8 which the hearing board is established.

9 Section 5. Section 240.2618, Florida Statutes, is
10 created to read:

11 240.2618 Preliminary orders; appeals; final orders;
12 judicial review.--

13 (1) Within 30 days after each disciplinary hearing,
14 the university hearing officer or board must issue a
15 preliminary order. Each student and each student organization
16 may appeal a preliminary order to the university president or
17 his or her designee. The university may not require a student
18 or a student organization to indicate his or her intention to
19 appeal a preliminary order less than 7 days after the
20 university has provided the student or the student
21 organization with a copy of the preliminary order.

22 (2) The preliminary order is subject to approval by
23 the university president or his or her designee, but the
24 university president or his or her designee may not increase
25 the penalty imposed by the hearing officer or board. If a
26 rehearing is conducted upon appeal of a preliminary order, the
27 hearing officer or board in the subsequent hearing may not
28 impose a penalty greater than the penalty that was imposed at
29 the original hearing. After the preliminary order is approved,
30 the university must issue a final order that constitutes final
31 agency action.

1 (3) Each preliminary order and each final order must
2 be in writing and include findings of fact and conclusions of
3 law separately stated. Each finding of fact must be
4 accompanied by a concise and explicit statement of the
5 underlying facts of record that support the finding.

6 (4) Any adversely affected student or, in the case of
7 a student organization, any adversely affected student
8 organization or any officer, director, or member, thereof, has
9 standing to seek judicial review of any final order under s.
10 120.68.

11 Section 6. Section 240.2622, Florida Statutes, is
12 created to read:

13 240.2622 Model rules.--Before July 1, 2001, the Board
14 of Regents shall adopt rules under ss. 120.54 and 120.536(1)
15 which provide systemwide model disciplinary rules, penalty
16 guidelines, and rules of procedure for conducting disciplinary
17 hearings. Before adopting these systemwide model rules and
18 guidelines, the board must consider the recommendation of the
19 committee created by s. 120.81(1)(g), which must submit its
20 recommendation to the board suggesting systemwide model rules
21 and guidelines before February 1, 2001. Before September 1,
22 2001, each university shall adopt the systemwide model rules
23 and guidelines adopted by the Board of Regents as rules of the
24 university under ss. 120.54 and 120.536(1) in lieu of the
25 rules adopted to implement ss. 240.2612-240.262, except that
26 each university may adopt substantially similar rules and
27 guidelines with modifications. The proposed modifications to
28 the systemwide model rules and guidelines must be approved by
29 the Board of Regents before implementation and must be
30 accompanied by specific findings demonstrating that the
31

1 proposed modifications are necessary to accommodate
2 circumstances unique to the university.

3 Section 7. Section 240.2624, Florida Statutes, is
4 created to read:

5 240.2624 Student organizations; registration.--Each
6 state university shall adopt rules under ss. 120.54 and
7 120.536(1) which provide for the registration of student
8 organizations. Under these rules, each student organization
9 must annually register with the university on forms provided
10 by the university, which must include at least the name,
11 purpose, and bylaws of the organization and the full names,
12 mailing addresses, telephone numbers, and social security
13 numbers of the officers and directors of the organization. A
14 student organization may not operate under the sanction of the
15 university unless it is registered with the university. The
16 university shall issue a certificate or letter to each student
17 organization registered under this section as proof of
18 registration. The university may not charge a fee or service
19 charge for registering a student organization.

20 Section 8. Paragraph (h) of subsection (4) of section
21 240.319, Florida Statutes, is amended to read:

22 240.319 Community college district boards of trustees;
23 duties and powers.--

24 (4) Such rules, procedures, and policies for the
25 boards of trustees include, but are not limited to, the
26 following:

27 (h) Each board of trustees may adopt rules under ss.
28 120.54 and 120.536(1) which provide, by rule, a uniform code
29 of appropriate penalties for violations of its rules by
30 students and employees of rules adopted by the board of
31 trustees enforcing provisions of law; of county and municipal

1 ordinances; or of the laws of this state, the United States,
2 or any other state. These ~~Such~~ penalties, unless otherwise
3 provided by law, may include fines, the withholding of
4 diplomas or transcripts pending compliance with rules or
5 payment of fines, and the imposition of probation, suspension,
6 ~~or~~ dismissal, or expulsion.

7 Section 9. Sections 240.132 and 240.133, Florida
8 Statutes, are repealed.

9 Section 10. This act shall take effect September 1,
10 2000.

11 *****

12 SENATE SUMMARY

13
14 Requires state universities to adopt uniform disciplinary
15 rules for students and student organizations. Provides
16 guidelines for penalties. Provides for disciplinary
17 hearings, procedures, due process, appeals, waiver of
18 hearings, and evidentiary standards. Provides for
19 temporary suspension of a student in case of immediate
20 danger to health or welfare of other students, faculty,
21 or staff. Requires universities to adopt rules creating a
22 student judicial system. Provides for hearing boards.
23 Provides for preliminary orders, appeals, final orders,
24 and judicial review following disciplinary hearings.
25 Requires the Board of Regents to adopt rules providing
26 systemwide model disciplinary rules, penalty guidelines,
27 and procedure for conducting disciplinary hearings.
28 Provides for the registration of student organizations.
29 Authorizes community college boards of trustees to
30 provide by rule a uniform code of penalties for students
31 and employees who violate college rules, county and
municipal ordinances, state laws, of laws of the United
States or other states.