

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on General Education offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Paragraph (d) of subsection (6) of section 230.23, Florida Statute, is amended to read:

230.23 Powers and duties of school board.--The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) CHILD WELFARE.--Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(d) Code of student conduct.--Adopt a code of student conduct for elementary schools and a code of student conduct for secondary schools and distribute the appropriate code to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year. Each code

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1 shall be organized and written in language that is
2 understandable to students and parents and shall be discussed
3 at the beginning of every school year in student classes,
4 school advisory council meetings, and parent and teacher
5 association meetings. Each code shall be based on the rules
6 governing student conduct and discipline adopted by the
7 district school board and shall be made available in the
8 student handbook or similar publication. Each code shall
9 include, but not be limited to:

10 1. Consistent policies and specific grounds for
11 disciplinary action, including in-school suspension,
12 out-of-school suspension, expulsion, and any disciplinary
13 action that may be imposed for the possession or use of
14 alcohol on school property or while attending a school
15 function or for the illegal use, sale, or possession of
16 controlled substances as defined in chapter 893.

17 2. Procedures to be followed for acts requiring
18 discipline, including corporal punishment.

19 3. An explanation of the responsibilities and rights
20 of students with regard to attendance, respect for persons and
21 property, knowledge and observation of rules of conduct, the
22 right to learn, free speech and student publications,
23 assembly, privacy, and participation in school programs and
24 activities.

25 4. Notice that illegal use, possession, or sale of
26 controlled substances, as defined in chapter 893, or
27 possession of electronic telephone pagers, by any student
28 while such student is upon school property or in attendance at
29 a school function is grounds for disciplinary action by the
30 school and may also result in criminal penalties being
31 imposed.

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1 5. Notice that the possession of a firearm, a knife,
2 or a weapon by any student while the student is on school
3 property or in attendance at a school function is grounds for
4 disciplinary action and may also result in criminal
5 prosecution.

6 6. Notice that violence against any school district
7 personnel by a student is grounds for in-school suspension,
8 out-of-school suspension, expulsion, or imposition of other
9 disciplinary action by the school and may also result in
10 criminal penalties being imposed.

11 7. Notice that violation of district school board
12 transportation policies, including disruptive behavior on a
13 school bus or at a school bus stop, by a student is grounds
14 for suspension of the student's privilege of riding on a
15 school bus and may be grounds for disciplinary action by the
16 school and may also result in criminal penalties being
17 imposed.

18 8. Notice that violation of the district school
19 board's sexual harassment policy by a student is grounds for
20 in-school suspension, out-of-school suspension, expulsion, or
21 imposition of other disciplinary action by the school and may
22 also result in criminal penalties being imposed.

23 9. Policies to be followed for the assignment of
24 violent or disruptive students to an alternative educational
25 program.

26 10. Notice that any student who is determined to have
27 brought a firearm or weapon, as defined in chapter 790, to
28 school, to any school function, or onto any school-sponsored
29 transportation will be expelled, with or without continuing
30 educational services, from the student's regular school for a
31 period of not less than 1 full year and referred for criminal

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1 prosecution. District school boards may assign the student to
2 a disciplinary program or second chance school for the purpose
3 of continuing educational services during the period of
4 expulsion. Superintendents may consider the 1-year expulsion
5 requirement on a case-by-case basis and request the district
6 school board to modify the requirement by assigning the
7 student to a disciplinary program or second chance school if
8 it is determined to be in the best interest of the student and
9 the school system.

10 11. Notice that any student who is determined to have
11 made a threat or false report, as defined by ss. 790.162 and
12 790.163, respectively, involving school or school personnel's
13 property, school transportation, or a school-sponsored
14 activity will be expelled, with or without continuing
15 educational services, from the student's regular school for a
16 period of not less than 1 full year and referred for criminal
17 prosecution. District school boards may assign the student to
18 a disciplinary program or second chance school for the purpose
19 of continuing educational services during the period of
20 expulsion. Superintendents of schools may consider the 1-year
21 expulsion requirement on a case-by-case basis and request the
22 district school board to modify the requirement by assigning
23 the student to a disciplinary program or second chance school
24 if it is determined to be in the best interest of the student
25 and the school system.

26 12. Notice that any student who is determined to be an
27 offender, pursuant to s. 232.265 shall be prohibited from
28 attending the same school or riding the same school bus as the
29 victim or a sibling of the victim, pursuant to provisions in
30 s. 232.265.

31 Section 2. Paragraph (c) of subsection (1) of section

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1 232.26, Florida Statutes, is amended to read:

2 232.26 Authority of principal.--

3 (1)(c) The principal or the principal's designee may
4 recommend to the superintendent the expulsion of any student
5 who has committed a serious breach of conduct, including, but
6 not limited to, willful disobedience, open defiance of
7 authority of a member of his or her staff, violence against
8 persons or property, or any other act occurring on or off
9 campus which substantially disrupts, or can be expected to
10 subsequently substantially disrupt, the orderly conduct of the
11 school. A recommendation of expulsion or assignment to a
12 second chance school may also be made for any student found to
13 have intentionally made false accusations that jeopardize the
14 professional reputation, employment, or professional
15 certification of a teacher or other member of the school
16 staff, according to the school district code of student
17 conduct. Any recommendation of expulsion shall include a
18 detailed report by the principal or the principal's designated
19 representative on the alternative measures taken prior to the
20 recommendation of expulsion.

21 Section 3. Section 232.265, Florida Statutes is
22 created to read:

23 232.265 School attendance and transportation of
24 certain offenders.--

25 (1) Notwithstanding any provision of law prohibiting
26 the disclosure of the identity of a minor, whenever any person
27 who is required to attend school under chapter 232, Florida
28 Statutes, is adjudicated guilty of, or adjudicated delinquent
29 of, or pleads guilty or nolo contendere to a felony violation
30 of chapter 782, Florida Statutes, chapter 784, Florida
31 Statutes, chapter 787, Florida Statutes, chapter 794, Florida

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1 Statutes, chapter 796, Florida Statutes, chapter 800, Florida
2 Statutes, chapter 827, Florida Statutes, chapter 847, Florida
3 Statutes, or ss.812.13 - 812.135, Florida Statutes, and,
4 before or at the time of such adjudication or plea, was
5 attending a school attended by the victim or a sibling of the
6 victim of such offense, the Department of Juvenile Justice
7 shall notify the appropriate school district of such
8 adjudication or plea, of the operation of this section, and
9 that such person is prohibited from attending such school
10 whenever the victim or a sibling of the victim is attending
11 such school or riding on a school bus on which the victim or a
12 sibling of the victim is riding.

13 (2) Any person who is required to attend school
14 pursuant to chapter 232, Florida Statutes, and who is
15 adjudicated guilty of, or adjudicated delinquent of, or pleads
16 guilty or nolo contendere to a felony violation of chapter
17 782, Florida Statutes, chapter 784, Florida Statutes, chapter
18 787, Florida Statutes, chapter 794, Florida Statutes, chapter
19 796, Florida Statutes, chapter 800, Florida Statutes, chapter
20 827, Florida Statutes, chapter 847, Florida Statutes, or
21 ss.812.13 - 812.135, Florida Statutes, shall not attend any
22 school attended by a victim or a sibling of a victim of such
23 offense or ride on a school bus on which the victim or a
24 sibling of the victim is riding. Such person shall be
25 permitted by the school district in which such person resides
26 to attend another school within the district, provided such
27 other school is not attended by a victim or sibling of a
28 victim of such violation, or shall be permitted by another
29 school district to attend a school in such district if such
30 person is unable to attend any school in the district in which
31 such person resides due to the operation of this section.

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1 (3) Such person or the parents or legal guardian of
2 such person shall be responsible for arranging and paying for
3 transportation associated with or required by such person's
4 attending another school or that would be required as a
5 consequence of the prohibition against riding on a school bus
6 on which the victim or a sibling of the victim is riding.
7 However, the person or the parents or the legal guardian of
8 such person shall not be charged for existing modes of
9 transportation that can be utilized by the offender at no
10 additional cost to the district.

11 Section 4. Subsection (4) of section 985.228,
12 Florida Statutes, is amended to read:

13 985.228 Adjudicatory hearings; withheld adjudications;
14 orders of adjudication.--

15 (4) If the court finds that the child named in the
16 petition has committed a delinquent act or violation of law,
17 it may, in its discretion, enter an order stating the facts
18 upon which its finding is based but withholding adjudication
19 of delinquency and placing the child in a probation program
20 under the supervision of the department or under the
21 supervision of any other person or agency specifically
22 authorized and appointed by the court. The court may, as a
23 condition of the program, impose as a penalty component
24 restitution in money or in kind, community service, a curfew,
25 urine monitoring, revocation or suspension of the driver's
26 license of the child, or other nonresidential punishment
27 appropriate to the offense, and may impose as a rehabilitative
28 component a requirement of participation in substance abuse
29 treatment, or school or other educational program attendance.
30 If the child is required to attend school pursuant to chapter
31 232 and the court finds that at the time of the offense, the

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1 victim or a sibling of the victim in the case was assigned to
2 attend the same school as the child, the court order shall
3 include a finding pursuant to the proceedings described in s.
4 985.23(1)(d). If the court later finds that the child has not
5 complied with the rules, restrictions, or conditions of the
6 community-based program, the court may, after a hearing to
7 establish the lack of compliance, but without further evidence
8 of the state of delinquency, enter an adjudication of
9 delinquency and shall thereafter have full authority under
10 this chapter to deal with the child as adjudicated.

11 Section 5. Paragraph (d) of subsection (1) of
12 section 985.23, Florida Statute, is amended to read:

13 985.23 Disposition hearings in delinquency
14 cases.--When a child has been found to have committed a
15 delinquent act, the following procedures shall be applicable
16 to the disposition of the case:

17 (1) Before the court determines and announces the
18 disposition to be imposed, it shall:

19 (d) Give all parties present at the hearing an
20 opportunity to comment on the issue of disposition and any
21 proposed rehabilitative plan. Parties to the case shall
22 include the parents, legal custodians, or guardians of the
23 child; the child's counsel; the state attorney;
24 representatives of the department; the victim if any, or his
25 or her representative; representatives of the school system;
26 and the law enforcement officers involved in the case. If the
27 child is required to attend school pursuant to chapter 232 and
28 the court finds that at the time of the offense, the victim,
29 or a sibling of the victim, in the case was assigned to attend
30 the same school as the child, the court shall, on it's own
31 motion or upon the request of any party, or any parent or

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1 legal guardian of the victim, determine whether the child's
2 presence at said school would be substantially disruptive to
3 the orderly conduct of the school.

4
5 It is the intent of the Legislature that the criteria set
6 forth in subsection (2) are general guidelines to be followed
7 at the discretion of the court and not mandatory requirements
8 of procedure. It is not the intent of the Legislature to
9 provide for the appeal of the disposition made pursuant to
10 this section.

11 Section 6. Paragraph (a) of subsection (1) of
12 section 985.231, Florida Statutes, is amended to read:

13 985.231 Powers of disposition in delinquency cases.--

14 (1)(a) The court that has jurisdiction of an
15 adjudicated delinquent child may, by an order stating the
16 facts upon which a determination of a sanction and
17 rehabilitative program was made at the disposition hearing:

18 1. Place the child in a probation program or a
19 postcommitment probation program under the supervision of an
20 authorized agent of the Department of Juvenile Justice or of
21 any other person or agency specifically authorized and
22 appointed by the court, whether in the child's own home, in
23 the home of a relative of the child, or in some other suitable
24 place under such reasonable conditions as the court may
25 direct. A probation program for an adjudicated delinquent
26 child must include a penalty component such as restitution in
27 money or in kind, community service, a curfew, revocation or
28 suspension of the driver's license of the child, or other
29 nonresidential punishment appropriate to the offense and must
30 also include a rehabilitative program component such as a
31 requirement of participation in substance abuse treatment or

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1 in school or other educational program. If the child is
2 required to attend school pursuant to chapter 232 and the
3 court finds that at the time of the offense, the victim, or a
4 sibling of the victim, in the case was assigned to attend the
5 same school as the child, the court placement order shall
6 include a finding pursuant to the proceedings described in s.
7 985.23 (1)(d). Upon the recommendation of the department at
8 the time of disposition, or subsequent to disposition pursuant
9 to the filing of a petition alleging a violation of the
10 child's conditions of postcommitment probation or conditional
11 release supervision, the court may order the child to submit
12 to random testing for the purpose of detecting and monitoring
13 the use of alcohol or controlled substances.

14 a. A restrictiveness level classification scale for
15 levels of supervision shall be provided by the department,
16 taking into account the child's needs and risks relative to
17 probation supervision requirements to reasonably ensure the
18 public safety. Probation programs for children shall be
19 supervised by the department or by any other person or agency
20 specifically authorized by the court. These programs must
21 include, but are not limited to, structured or restricted
22 activities as described in this subparagraph, and shall be
23 designed to encourage the child toward acceptable and
24 functional social behavior. If supervision or a program of
25 community service is ordered by the court, the duration of
26 such supervision or program must be consistent with any
27 treatment and rehabilitation needs identified for the child
28 and may not exceed the term for which sentence could be
29 imposed if the child were committed for the offense, except
30 that the duration of such supervision or program for an
31 offense that is a misdemeanor of the second degree, or is

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1 equivalent to a misdemeanor of the second degree, may be for a
2 period not to exceed 6 months. When restitution is ordered by
3 the court, the amount of restitution may not exceed an amount
4 the child and the parent or guardian could reasonably be
5 expected to pay or make. A child who participates in any work
6 program under this part is considered an employee of the state
7 for purposes of liability, unless otherwise provided by law.

8 b. The court may conduct judicial review hearings for
9 a child placed on probation for the purpose of fostering
10 accountability to the judge and compliance with other
11 requirements, such as restitution and community service. The
12 court may allow early termination of probation for a child who
13 has substantially complied with the terms and conditions of
14 probation.

15 c. If the conditions of the probation program or the
16 postcommitment probation program are violated, the department
17 or the state attorney may bring the child before the court on
18 a petition alleging a violation of the program. Any child who
19 violates the conditions of probation or postcommitment
20 probation must be brought before the court if sanctions are
21 sought. A child taken into custody under s. 985.207 for
22 violating the conditions of probation or postcommitment
23 probation shall be held in a consequence unit if such a unit
24 is available. The child shall be afforded a hearing within 24
25 hours after being taken into custody to determine the
26 existence of probable cause that the child violated the
27 conditions of probation or postcommitment probation. A
28 consequence unit is a secure facility specifically designated
29 by the department for children who are taken into custody
30 under s. 985.207 for violating probation or postcommitment
31 probation, or who have been found by the court to have

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1 violated the conditions of probation or postcommitment
2 probation. If the violation involves a new charge of
3 delinquency, the child may be detained under s. 985.215 in a
4 facility other than a consequence unit. If the child is not
5 eligible for detention for the new charge of delinquency, the
6 child may be held in the consequence unit pending a hearing
7 and is subject to the time limitations specified in s.
8 985.215. If the child denies violating the conditions of
9 probation or postcommitment probation, the court shall appoint
10 counsel to represent the child at the child's request. Upon
11 the child's admission, or if the court finds after a hearing
12 that the child has violated the conditions of probation or
13 postcommitment probation, the court shall enter an order
14 revoking, modifying, or continuing probation or postcommitment
15 probation. In each such case, the court shall enter a new
16 disposition order and, in addition to the sanctions set forth
17 in this paragraph, may impose any sanction the court could
18 have imposed at the original disposition hearing. If the child
19 is found to have violated the conditions of probation or
20 postcommitment probation, the court may:

21 (I) Place the child in a consequence unit in that
22 judicial circuit, if available, for up to 5 days for a first
23 violation, and up to 15 days for a second or subsequent
24 violation.

25 (II) Place the child on home detention with electronic
26 monitoring. However, this sanction may be used only if a
27 residential consequence unit is not available.

28 (III) Modify or continue the child's probation program
29 or postcommitment probation program.

30 (IV) Revoke probation or postcommitment probation and
31 commit the child to the department.

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1 d. Notwithstanding s. 743.07 and paragraph (d), and
2 except as provided in s. 985.31, the term of any order placing
3 a child in a probation program must be until the child's 19th
4 birthday unless he or she is released by the court, on the
5 motion of an interested party or on its own motion.

6 2. Commit the child to a licensed child-caring agency
7 willing to receive the child, but the court may not commit the
8 child to a jail or to a facility used primarily as a detention
9 center or facility or shelter.

10 3. Commit the child to the Department of Juvenile
11 Justice at a ~~restrictiveness~~ residential commitment level
12 defined in s. 985.03. Such commitment must be for the purpose
13 of exercising active control over the child, including, but
14 not limited to, custody, care, training, urine monitoring, and
15 treatment of the child and release of the child into the
16 community in a postcommitment nonresidential conditional
17 release program. If the child may be required to attend
18 school pursuant to chapter 232 following residential
19 commitment and the court finds that at the time of the
20 offense, the victim or a sibling of the victim, in the case
21 was assigned to attend the same school as the child, the
22 commitment order shall include a finding pursuant to the
23 proceedings described in s. 985.23(1)(d). If the child is not
24 successful in the conditional release program, the department
25 may use the transfer procedure under s. 985.404.

26 Notwithstanding s. 743.07 and paragraph (d), and except as
27 provided in s. 985.31, the term of the commitment must be
28 until the child is discharged by the department or until he or
29 she reaches the age of 21.

30 4. Revoke or suspend the driver's license of the
31 child.

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1 5. Require the child and, if the court finds it
2 appropriate, the child's parent or guardian together with the
3 child, to render community service in a public service
4 program.

5 6. As part of the probation program to be implemented
6 by the Department of Juvenile Justice, or, in the case of a
7 committed child, as part of the community-based sanctions
8 ordered by the court at the disposition hearing or before the
9 child's release from commitment, order the child to make
10 restitution in money, through a promissory note cosigned by
11 the child's parent or guardian, or in kind for any damage or
12 loss caused by the child's offense in a reasonable amount or
13 manner to be determined by the court. The clerk of the circuit
14 court shall be the receiving and dispensing agent. In such
15 case, the court shall order the child or the child's parent or
16 guardian to pay to the office of the clerk of the circuit
17 court an amount not to exceed the actual cost incurred by the
18 clerk as a result of receiving and dispensing restitution
19 payments. The clerk shall notify the court if restitution is
20 not made, and the court shall take any further action that is
21 necessary against the child or the child's parent or guardian.
22 A finding by the court, after a hearing, that the parent or
23 guardian has made diligent and good faith efforts to prevent
24 the child from engaging in delinquent acts absolves the parent
25 or guardian of liability for restitution under this
26 subparagraph.

27 7. Order the child and, if the court finds it
28 appropriate, the child's parent or guardian together with the
29 child, to participate in a community work project, either as
30 an alternative to monetary restitution or as part of the
31 rehabilitative or probation program.

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1 8. Commit the child to the Department of Juvenile
2 Justice for placement in a program or facility for serious or
3 habitual juvenile offenders in accordance with s. 985.31. Any
4 commitment of a child to a program or facility for serious or
5 habitual juvenile offenders must be for an indeterminate
6 period of time, but the time may not exceed the maximum term
7 of imprisonment that an adult may serve for the same offense.
8 The court may retain jurisdiction over such child until the
9 child reaches the age of 21, specifically for the purpose of
10 the child completing the program.

11 9. In addition to the sanctions imposed on the child,
12 order the parent or guardian of the child to perform community
13 service if the court finds that the parent or guardian did not
14 make a diligent and good faith effort to prevent the child
15 from engaging in delinquent acts. The court may also order the
16 parent or guardian to make restitution in money or in kind for
17 any damage or loss caused by the child's offense. The court
18 shall determine a reasonable amount or manner of restitution,
19 and payment shall be made to the clerk of the circuit court as
20 provided in subparagraph 6.

21 10. Subject to specific appropriation, commit the
22 juvenile sexual offender to the Department of Juvenile Justice
23 for placement in a program or facility for juvenile sexual
24 offenders in accordance with s. 985.308. Any commitment of a
25 juvenile sexual offender to a program or facility for juvenile
26 sexual offenders must be for an indeterminate period of time,
27 but the time may not exceed the maximum term of imprisonment
28 that an adult may serve for the same offense. The court may
29 retain jurisdiction over a juvenile sexual offender until the
30 juvenile sexual offender reaches the age of 21, specifically
31 for the purpose of completing the program.

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1 Section 7. This act shall take effect July 1, 2001.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, lines 2 through 11,
7 remove from the title of the bill: All of said lines

8

9 and insert in lieu thereof:

10 An act relating to school attendance by violent
11 offenders; amending s. 230.23, F.S.; adding an
12 element to code of student conduct; amending s.
13 232.26, F.S.; revising conditions under which
14 principal may recommend expulsion; creating s.
15 232.265, F.S.; requiring Department of Juvenile
16 Justice to provide certain notice to a school
17 district under certain circumstances;
18 prohibiting certain persons from attending
19 certain schools or riding on certain school
20 buses under certain circumstances; providing
21 for attending alternate schools; requiring
22 responsibility for certain transportation in
23 attending alternate schools; amending s.
24 985.228, F.S.; requiring court to include
25 finding for certain proceedings; amending s.
26 985.23, F.S.; requiring court to make certain
27 determinations; amending s. 985.231, F.S.;
28 requiring court placement to include finding of
29 certain proceedings; providing an effective
30 date.

31