

By the Council for Lifelong Learning and Committee on Juvenile Justice and Representatives Kravitz, Barreiro, Davis, Wiles, Baxley, Needelman, Bean, Hogan, Negron, Kottkamp, Detert, Richardson, Gannon, Pickens, Fields, Byrd, Alexander, (Additional Sponsors on Last Printed Page)

1                                   A bill to be entitled  
2           An act relating to school attendance by violent  
3           offenders; amending s. 230.235, F.S.; requiring  
4           schools to adopt a policy of zero tolerance for  
5           victimization of students; requiring each  
6           school district to enter into an agreement with  
7           the Department of Juvenile Justice for the  
8           purpose of protecting victims; amending s.  
9           231.0851, F.S.; requiring principals to take  
10          certain actions when a student has been a  
11          victim of a violent crime perpetrated by  
12          another student; providing ineligibility for  
13          certain performance pay policy incentives under  
14          certain circumstances; creating s. 232.265,  
15          F.S.; requiring the Department of Juvenile  
16          Justice to provide certain notice to school  
17          districts 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; assigning  
22          responsibility for certain transportation under  
23          certain circumstances; amending s. 960.001,  
24          F.S.; providing an additional guideline for  
25          attendance of a victim at the same school as a  
26          juvenile defendant; amending s. 985.228, F.S.;  
27          requiring certain court orders to include  
28          certain findings; amending s. 985.23, F.S.;  
29          requiring a court to determine the  
30          appropriateness of a no contact order under  
31          certain circumstances; amending ss. 985.231 and

1           985.233, F.S.; requiring a court placement  
2           order or a commitment order to include certain  
3           findings; providing an effective date.  
4

5 Be It Enacted by the Legislature of the State of Florida:

6  
7           Section 1. Section 230.235, Florida Statutes, is  
8 amended to read:

9           230.235 Policy of zero tolerance for crime and  
10 victimization--

11           (1) Each school district shall, pursuant to this  
12 section, adopt a policy of zero tolerance for:

13           (a) Crime and substance abuse ~~pursuant to this~~  
14 ~~section~~. Such a policy shall include the reporting of  
15 delinquent acts and crimes occurring whenever and wherever  
16 students are under the jurisdiction of the school district.

17           (b) Victimization of students. Such a policy shall  
18 include taking all steps necessary to protect the victim of  
19 any violent crime from any further victimization.

20           (2) The policy shall require students found to have  
21 committed one of the following offenses to be expelled, with  
22 or without continuing educational services, from the student's  
23 regular school for a period of not less than 1 full year, and  
24 to be referred for criminal prosecution:

25           (a) Bringing a firearm or weapon, as defined in  
26 chapter 790, to school, to any school function, or onto any  
27 school-sponsored transportation.

28           (b) Making a threat or false report, as defined by ss.  
29 790.162 and 790.163, respectively, involving school or school  
30 personnel's property, school transportation, or a  
31 school-sponsored activity.

1  
2 District school boards may assign the student to a  
3 disciplinary program or second chance school for the purpose  
4 of continuing educational services during the period of  
5 expulsion. Superintendents may consider the 1-year expulsion  
6 requirement on a case-by-case basis and request the district  
7 school board to modify the requirement by assigning the  
8 student to a disciplinary program or second chance school if  
9 it is determined to be in the best interest of the student and  
10 the school system. If a student committing any of the offenses  
11 in this subsection is a student with a disability, the school  
12 district shall comply with procedures pursuant to s. 232.251  
13 and any applicable state board rule.

14 (3) Each school district shall enter into an agreement  
15 with the county sheriff's office or local police department  
16 specifying guidelines for ensuring that felonies and violent  
17 misdemeanors, whether committed by a student or adult, and  
18 delinquent acts that would be felonies or violent misdemeanors  
19 if committed by an adult, are reported to law enforcement. The  
20 cooperative agreement, adopted pursuant to s. 230.23161(14)  
21 with the Department of Juvenile Justice, shall specify  
22 guidelines for ensuring that all no contact orders entered by  
23 the court are reported and enforced and that all steps  
24 necessary are taken to protect the victim of any such crime.

25 Such agreements shall include the role of school resource  
26 officers, if applicable, in handling reported incidents,  
27 special circumstances in which school officials may handle  
28 incidents without filing a report to law enforcement, and a  
29 procedure for ensuring that school personnel properly report  
30 appropriate delinquent acts and crimes. The school principal  
31 shall be responsible for ensuring that all school personnel

1 are properly informed as to their responsibilities regarding  
2 crime reporting, that appropriate delinquent acts and crimes  
3 are properly reported, and that actions taken in cases with  
4 special circumstances are properly taken and documented.

5 Section 2. Section 231.0851, Florida Statutes, is  
6 amended to read:

7 231.0851 Reports of school safety and discipline.--

8 (1) Each principal must ensure that standardized forms  
9 prescribed by rule of the State Board of Education are used to  
10 report data concerning school safety and discipline to the  
11 Department of Education. The principal must develop a plan to  
12 verify the accuracy of reported incidents.

13 (2) When a student has been the victim of a violent  
14 crime perpetrated by another student who attends the same  
15 school, the principal shall make full and effective use of the  
16 provisions of ss. 232.26(2) and 232.265. A principal who fails  
17 to comply with this subsection shall be ineligible for any  
18 portion of the performance pay policy incentive under s.  
19 230.23(5)(c). However, if any party responsible for  
20 notification fails to properly notify the school, the  
21 principal shall be eligible for the incentive.

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

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

26 (1) Notwithstanding any provision of law prohibiting  
27 the disclosure of the identity of a minor, whenever any person  
28 who is attending public school is adjudicated guilty of or  
29 delinquent for, or is found to have committed, regardless of  
30 whether adjudication is withheld, or pleads guilty or nolo  
31 contendere to, a felony violation of:

1           (a) Chapter 782, relating to homicide;  
2           (b) Chapter 784, relating to assault, battery, and  
3 culpable negligence;  
4           (c) Chapter 787, relating to kidnapping, false  
5 imprisonment, luring or enticing a child, and custody  
6 offenses;  
7           (d) Chapter 794, relating to sexual battery;  
8           (e) Chapter 800, relating to lewdness and indecent  
9 exposure;  
10          (f) Chapter 827, relating to abuse of children;  
11          (g) Section 812.13, relating to robbery;  
12          (h) Section 812.131, relating to robbery by sudden  
13 snatching;  
14          (i) Section 812.133, relating to carjacking; or  
15          (j) Section 812.135, relating to home-invasion  
16 robbery,  
17  
18 and, before or at the time of such adjudication, withholding  
19 of adjudication, or plea, the offender was attending a school  
20 attended by the victim or a sibling of the victim of the  
21 offense, the Department of Juvenile Justice shall notify the  
22 appropriate school district of the adjudication or plea and  
23 the operation of this section and whether the offender is  
24 prohibited from attending that school or riding on a school  
25 bus whenever the victim or a sibling of the victim is  
26 attending the same school or riding on the same school bus,  
27 except as provided pursuant to a written disposition order  
28 under s. 985.23(1)(d). Upon receipt of such notice, the  
29 school district shall take appropriate action to effectuate  
30 the provisions of subsection (2).  
31

1       (2) Any offender described in subsection (1), who is  
2 not exempted as provided in subsection (1), shall not attend  
3 any school attended by the victim or a sibling of the victim  
4 of the offense or ride on a school bus on which the victim or  
5 a sibling of the victim is riding. The offender shall be  
6 permitted by the school district in which the offender resides  
7 to attend another school within the district, provided the  
8 other school is not attended by the victim or sibling of the  
9 victim of the offense or may be permitted by another school  
10 district to attend a school in that district if the offender  
11 is unable to attend any school in the district in which the  
12 offender resides due to the operation of this section.

13       (3) If the offender is unable to attend any other  
14 school in the district in which the offender resides and is  
15 prohibited from attending school in another school district,  
16 the school district in which the offender resides shall take  
17 every reasonable precaution to keep the offender separated  
18 from the victim while on school grounds or on school  
19 transportation. The steps to be taken by a school district to  
20 keep the offender separated from the victim shall include, but  
21 not be limited to, in-school suspension of the offender and  
22 the scheduling of classes, lunch, or other school activities  
23 of the victim and the offender so as not to coincide.

24       (4) The offender, or the parents or legal guardian of  
25 the offender if the offender is a juvenile, shall be  
26 responsible for arranging and paying for transportation  
27 associated with or required by the offender's attending  
28 another school or that would be required as a consequence of  
29 the prohibition against riding on a school bus on which the  
30 victim or a sibling of the victim is riding. However, the  
31 offender or the parents or the legal guardian of the offender

1 shall not be charged for existing modes of transportation that  
2 can be used by the offender at no additional cost to the  
3 district.

4 Section 4. Paragraph (s) is added to subsection (1) of  
5 section 960.001, Florida Statutes, to read:

6 960.001 Guidelines for fair treatment of victims and  
7 witnesses in the criminal justice and juvenile justice  
8 systems.--

9 (1) The Department of Legal Affairs, the state  
10 attorneys, the Department of Corrections, the Department of  
11 Juvenile Justice, the Parole Commission, the State Courts  
12 Administrator and circuit court administrators, the Department  
13 of Law Enforcement, and every sheriff's department, police  
14 department, or other law enforcement agency as defined in s.  
15 943.10(4) shall develop and implement guidelines for the use  
16 of their respective agencies, which guidelines are consistent  
17 with the purposes of this act and s. 16(b), Art. I of the  
18 State Constitution and are designed to implement the  
19 provisions of s. 16(b), Art. I of the State Constitution and  
20 to achieve the following objectives:

21 (s) Attendance of victim at same school as  
22 defendant.--When the victim of an offense committed by a  
23 juvenile is a minor, the Department of Juvenile Justice shall  
24 request information to determine if the victim, or any sibling  
25 of the victim, attends or is eligible to attend the same  
26 school as the offender. However, if the offender is subject to  
27 the jurisdiction of the criminal circuit court, the Department  
28 of Corrections shall make such request. If the victim or any  
29 sibling of the victim attends or is eligible to attend the  
30 same school as that of the offender, the appropriate agency  
31 shall notify the victim's parent or legal guardian of the

1 right to attend the sentencing or disposition of the offender  
2 and request that the offender be required to attend a  
3 different school.

4 Section 5. Subsection (4) of section 985.228, Florida  
5 Statutes, is amended to read:

6 985.228 Adjudicatory hearings; withheld adjudications;  
7 orders of adjudication.--

8 (4) If the court finds that the child named in the  
9 petition has committed a delinquent act or violation of law,  
10 it may, in its discretion, enter an order stating the facts  
11 upon which its finding is based but withholding adjudication  
12 of delinquency and placing the child in a probation program  
13 under the supervision of the department or under the  
14 supervision of any other person or agency specifically  
15 authorized and appointed by the court. The court may, as a  
16 condition of the program, impose as a penalty component  
17 restitution in money or in kind, community service, a curfew,  
18 urine monitoring, revocation or suspension of the driver's  
19 license of the child, or other nonresidential punishment  
20 appropriate to the offense, and may impose as a rehabilitative  
21 component a requirement of participation in substance abuse  
22 treatment, or school or other educational program attendance.  
23 If the child is attending public school and the court finds  
24 that the victim or a sibling of the victim in the case was  
25 assigned to attend or is eligible to attend the same school as  
26 the child, the court order shall include a finding pursuant to  
27 the proceedings described in s. 985.23(1)(d). If the court  
28 later finds that the child has not complied with the rules,  
29 restrictions, or conditions of the community-based program,  
30 the court may, after a hearing to establish the lack of  
31 compliance, but without further evidence of the state of



1 delinquency, enter an adjudication of delinquency and shall  
2 thereafter have full authority under this chapter to deal with  
3 the child as adjudicated.

4 Section 6. Paragraph (d) of subsection (1) of section  
5 985.23, Florida Statutes, is amended to read:

6 985.23 Disposition hearings in delinquency  
7 cases.--When a child has been found to have committed a  
8 delinquent act, the following procedures shall be applicable  
9 to the disposition of the case:

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

12 (d) Give all parties present at the hearing an  
13 opportunity to comment on the issue of disposition and any  
14 proposed rehabilitative plan. Parties to the case shall  
15 include the parents, legal custodians, or guardians of the  
16 child; the child's counsel; the state attorney;  
17 representatives of the department; the victim if any, or his  
18 or her representative; representatives of the school system;  
19 and the law enforcement officers involved in the case. If the  
20 child is attending or is eligible to attend public school and  
21 the court finds that the victim or a sibling of the victim in  
22 the case is attending or may attend the same school as the  
23 child, the court shall, on its own motion or upon the request  
24 of any party or any parent or legal guardian of the victim,  
25 determine whether it is appropriate to enter a no contact  
26 order in favor of the victim or a sibling of the victim. If  
27 appropriate and acceptable to the victim and the victim's  
28 parent or parents or legal guardian, the court may reflect in  
29 the written disposition order that the victim or the victim's  
30 parent stated in writing or in open court that he or she did  
31 not object to the offender being permitted to attend the same

1 school or ride on the same school bus as the victim or a  
2 sibling of the victim.

3

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

10 Section 7. Paragraph (a) of subsection (1) of section  
11 985.231, Florida Statutes, is amended to read:

12 985.231 Powers of disposition in delinquency cases.--

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

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

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

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

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

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

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

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

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

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

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

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

31

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 residential commitment ~~restrictiveness~~ 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 is eligible to attend public  
18 school following residential commitment and the court finds  
19 that the victim or a sibling of the victim in the case is or  
20 may be attending the same school as the child, the commitment  
21 order shall include a finding pursuant to the proceedings  
22 described in s. 985.23(1)(d).If the child is not successful  
23 in the conditional release program, the department may use the  
24 transfer procedure under s. 985.404. Notwithstanding s. 743.07  
25 and paragraph (d), and except as provided in s. 985.31, the  
26 term of the commitment must be until the child is discharged  
27 by the department or until he or she reaches the age of 21.

28           4. Revoke or suspend the driver's license of the  
29 child.

30           5. Require the child and, if the court finds it  
31 appropriate, the child's parent or guardian together with the

1 child, to render community service in a public service  
2 program.

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

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

30           8. Commit the child to the Department of Juvenile  
31 Justice for placement in a program or facility for serious or

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

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

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

30           Section 8. Paragraph (f) is added to subsection (4) of  
31 section 985.233, Florida Statutes, to read:



1           985.233 Sentencing powers; procedures; alternatives  
2 for juveniles prosecuted as adults.--  
3           (4) SENTENCING ALTERNATIVES.--  
4           (f) School attendance.--If the child is attending or  
5 is eligible to attend public school and the court finds that  
6 the victim or a sibling of the victim in the case is attending  
7 or may attend the same school as the child, the court  
8 placement order shall include a finding pursuant to the  
9 proceeding described in s. 985.23(1)(d).

10  
11 It is the intent of the Legislature that the criteria and  
12 guidelines in this subsection are mandatory and that a  
13 determination of disposition under this subsection is subject  
14 to the right of the child to appellate review under s.  
15 985.234.

16           Section 9. This act shall take effect July 1, 2001.

17

18

19

\*\*\*\*\*

20

21

ADDITIONAL SPONSORS

22

23

24

25

26

27

28

29

30

31

Berfield, Attkisson, Bendross-Mindingall, Prieguez,  
Betancourt, Melvin, Fiorentino, Farkas, Harrington, Wilson and  
Andrews