

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.
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5 Be It Enacted by the Legislature of the State of Florida:
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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 a presentence investigation by the Department of Corrections,
28 the Department of Corrections shall make such request. If the
29 victim or any sibling of the victim attends or is eligible to
30 attend the same school as that of the offender, the
31 appropriate agency shall notify the victim's parent or legal

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