

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 185 Public K-12 Education

SPONSOR(S): Heller and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	<u>10 Y, 0 N</u>	<u>Gillespie</u>	<u>Ahearn</u>
2) <u>Schools & Learning Council</u>	<u></u>	<u>Gillespie</u>	<u>Cobb</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Bill 185 allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place the multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level; or
- After the first grading period following the siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school. (The bill also allows a parent to appeal the principal's determination according to school district policy).

A parent's requested classroom placement must be submitted in writing and be made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple-birth siblings enrolling after the first day of school). The bill does not affect the classroom placement of students with disabilities or the disciplinary authority of schools to remove a student from a classroom for misbehavior.

The Committee on K-12 adopted three amendments. The amendments allow a parent to submit a request for classroom placement of multiple siblings up to 5 days after (instead of 5 days before) the first day of school; clarify that a school is not required to place multiple-birth siblings in separate classrooms if an additional class must be added to the school (instead of grade level); and clarify that a parent's right to appeal applies to the school principal's decision to change the classroom placement of multiple-birth siblings after the first grading period following the siblings' enrollment in school (**see IV. AMENDMENTS**).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple-birth siblings be placed in the same classroom or in separate classrooms.

Empower Families: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple-birth siblings be placed in the same classroom or in separate classrooms.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Twins and Higher Order Multiple Births

There are two types of twins: *monozygotic* (identical), one-egg, twins; and *dizygotic* (fraternal), two-egg twins. Identical twins are genetically alike, having the same chromosomes and remarkable physical similarities.¹ Identical twins have the same gender, blood type, and hair and eye colors.²

Fraternal twins are not necessarily more alike than two siblings born to the same mother and father. The difference between fraternal twins and non-twin siblings is that twins share the same intrauterine environment and are the same age. Fraternal twins may be of the same or opposite genders.³

Three or more births to the same mother during the same pregnancy are known as higher order multiples or "supertwins."⁴ Higher-order multiples include, for example, triplets (three multiple births), quadruplets (four multiple births), and quintuplets (five multiple births). Higher-order multiples can be all identical, all fraternal, or a mix of identical and fraternal twins.⁵

Research on Classroom Placement of Multiple Births

A 1999 survey by the National Organization for Mothers of Twins Clubs (NOMOTC) found that, nationally, approximately 43 percent of teachers and school principals believed in a policy of separating all multiples in school,⁶ although NOMOTC asserted that, in 2000, there was no substantial evidence to support a policy that multiples must be placed in separate classrooms in order for them to grow and develop as individuals.⁷

In January 2004, the National Association of Elementary School Principals reported that the National Association of School Psychologists:

- Found that research was ambivalent as to whether twins should be separated or kept together in school; and

¹ National Organization for Mothers of Twins Clubs, *Placement of Multiple Birth Children in School: A Guide for Educators 2* (2000).

² *Id.* at 3.

³ *Id.*

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.* at 5.

⁷ *Id.* at 14.

- Urged that schools maintain a flexible perspective and consult with parents to determine when and if the separation of twins is desirable or unfavorable.⁸

In April 2004, researcher Lucy A. Tully (London, U.K.) and colleagues (London, U.K., and Madison, Wisconsin), found that twins separated in the first year of school (age 5) had more internalizing problems (e.g., depression, anxiety, and social withdrawal) than twins not separated.⁹ For identical twins, these problems increased following the first year of separation and persisted through age 7. Tully’s team also found that later-separated (age 7) identical twins had poorer reading abilities after separation than non-separated twins. Tully’s team found, however, that there were no significant differences among separated and non-separated twins in externalizing behavior (e.g., defying teachers, being aggressive toward others, failing to comply with teacher directions, and arguing). Finally, Tully’s team also found that fraternal twins separated after the first year of school were rated as working harder compared to fraternal twins not separated. In sum, Tully and colleagues concluded that their findings demonstrate that school-wide practices, especially those encouraging the separation of twins, have the potential to lead to adjustment problems for at least some children. Their findings did not, however, support the implementation of policies that keep all twins together in school. They concluded that schools should adopt a more flexible, family-focused approach that takes into account the characteristics and experiences of each twin as well as the views of the parents.

By comparison, in August 2005, researcher Marieke van Leeuwen and colleagues (Amsterdam, the Netherlands) found that, in the long term, there are no significant differences in academic achievement or problematic behavior between separated and non-separated twins.¹⁰ Accordingly, van Leeuwen’s team concluded that it makes no difference whether twins are separated or not. They also concluded that it still seems sensible for the decision about classroom separation to be based on what parents think is best for their twins and for themselves.

In 2006, researchers David A. Hay (Perth, Australia) and Pat Preedy (Hampshire, U.K.) identified several reasons for separating or not separating multiples:¹¹

General reasons for putting multiples in separate classes:	General reasons for keeping multiples together in the same class:
<ul style="list-style-type: none"> • The children are able to operate as individuals within the class situation; • The teacher is more likely to compare the multiple child against the peer group instead of his or her co-multiple(s); • The multiple-birth child is able to operate without his or her co-multiple telling, particularly if he or she is in trouble; • The multiple-birth child has an opportunity to make friends and socialize as an individual. 	<ul style="list-style-type: none"> • Multiple-birth children may need the support of each other particularly if they have not experienced separation prior to school; even if multiple-birth children are comfortable when separated, they may need to be able to check up on what the other is doing; • If one child is dominant, the dominant child may lose confidence as he or she no longer has his or her co-multiple(s) to organize; • The children may be compared more at home particularly if the teachers are very different and one child appears to be making more progress; • The teachers are less likely to understand how the children operate as multiples, e.g., being upset if one is ill or in trouble.

⁸ National Association of Elementary School Principals, “The Trouble with Twins,” *The Communicator: The Monthly Newsletter of NAESP*, Vol. 27, No. 5, 1, 7 (Jan. 2004), available at <http://www.naesp.org/ContentLoad.do?contentId=1144> (last visited Mar. 28, 2008).

⁹ Lucy A. Tully, et al., “What Effect Does Classroom Separation Have on Twins’ Behavior, Progress at School, and Reading Abilities?,” *Twin Research*, Vol. 7, No. 2, (International Society for Twin Studies, April 2004).

¹⁰ Marieke van Leeuwen et al., “Effects of Twin Separation in Primary School,” *Twin Research and Human Genetics*, Vol. 8, No. 4, 384, 389-90 (International Society for Twin Studies, Aug. 2005), available at http://www.twinslaw.com/Research_files/Leeuwen_TRHG_2005.pdf (last visited Mar. 28, 2008).

¹¹ David A. Hay & Pat Preedy, “Meeting the Educational Needs of Multiple Birth Children,” *Early Human Development*, No. 82, 401 (2006), available at <http://www.twinsandmultiples.org/downloads/pubs/haypreedy2006.pdf> (last visited Mar. 28, 2008).

Hay and Preedy also identified certain circumstances when multiple-birth children are likely to benefit from separation.¹²

Multiple-birth children are likely to benefit from separation when:

- One child is markedly more able than the other;
- One child perceives himself or herself as failing;
- There is markedly similar progress with one child leveling up or down so that they can keep together;
- There is disruptive behavior where multiples form a “fatal combination”;
- One or both children are dependent, unable to mix or relate with other children;
- There is intense competitiveness so that the child’s main goal is to keep up with or beat their co-multiple(s);
- One or both children polarize (go to opposite extremes);
- There is lack of privacy where one multiple-birth child constantly reports to parents about the activities and progress of the other.

Hay and Preedy expressed concern that the Minnesota legislature passed a 2005 law allowing parents to be the ones to ultimately decide if twins or higher multiples should be in the same class because the law “fail[ed] to take into account the many issues in deciding whether or not to separate.”¹³ They warn that putting multiple-birth children into separate classes requires careful consideration and consultation with parents because most multiple-birth children have had little or no experience of separation before starting school.¹⁴

Pat Preedy established a checklist and questionnaire, which provide a framework for parents and teachers when discussing the separation of multiple-birth children in school.¹⁵ The checklist considers the following:

- Dependence/independence of the multiples;
- Social skills and dependence upon adults;
- Previous experience of being apart;
- Language and abilities relative to each other and to their peer group;
- Behavior at preschool or at school;
- Whether one multiple dominates (e.g., when reading or telling about events), takes turns dominating, or none of the multiples dominate;
- In social situations, whether one multiple always hangs back;
- Interests at home, in sports, and at school;
- Needs for intervention (speech and language therapy, physiotherapy, etc.);
- Same or different friends;
- Whether twins are identical or fraternal and their genders. Generally girls are closer than boys and identical twins are closer than fraternal twins, but there are many exceptions;
- Physical development, *i.e.*, whether the multiples are much smaller (or larger) than most other children;

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Pay Preedy, “*Together or Apart*”: *A Checklist for Parents and Teachers of Multiples 1* (2004), available at http://www.twinsandmultiples.org/downloads/school_checklist.doc (last visited Mar. 28. 2008).

- Age of the multiples, e.g., whether it is time for multiples to try a new experience;
- Feelings of teachers and parents;
- Views of any other professionals observing the multiples; and
- Wishes of the multiples, especially when they differ from each other or from the wishes of adults.¹⁶

National Birth Statistics on Multiple Births

Hay and Preedy observe that there has been a significant increase in the number of twins and higher multiples so that one child in 33 is now a multiple. Accordingly, it is not unusual for schools to have several sets of twins, as well as triplets, and even higher multiples.¹⁷

According to the federal Centers for Disease Control and Prevention (CDC), the twin birth rate in 2005 (most recent available data) was 32.2 twins per 1,000 total births.¹⁸ The twin birth rate rose steadily (approximately 3 percent per year between 1990 and 2004) for a total increase of 42 percent since 1990, and 70 percent since 1980. The 2005 rate of triplet and other higher order multiple births was 161.8 multiple births per 100,000 total births. The rate of triplet and other higher order multiple births climbed by more than 400 percent during the 1980s and 1990s, peaking at 193.5 multiple births per 100,000 births in 1998. According to the CDC, two related trends have been closely associated with the rise in multiple births over the last two decades; the older age at childbearing (women in their thirties are more likely than younger women to conceive multiples spontaneously) and the widening use of fertility therapies, including assisted reproductive technologies (eggs and sperm are handled in the laboratory—e.g., in-vitro fertilization) and other therapies (e.g., ovulation-inducing drugs and artificial insemination).¹⁹

**Numbers of Twin, Triplet, Quadruplet, and Other Higher Order Multiple Births:
United States, 1990, 1995-2005**

Year	Twins	Triplets	Quadruplets	Quintuplets and other higher order multiple births
2005	133,122	6,208	418	68
2004	132,219	6,750	439	86
2003	128,665	7,110	468	85
2002	125,134	6,898	434	69
2001	121,246	6,885	501	85
2000	118,916	6,742	506	77
1999	114,307	6,742	512	67
1998	110,670	6,919	627	79
1997	104,137	6,148	510	79
1996	100,750	5,298	560	81
1995	96,736	4,551	365	57
1990	93,865	2,830	185	13

SOURCE: Centers for Disease Control and Prevention (2007).²⁰

Florida Policies on Multiple-birth Classroom Placements and Classroom Management

According to the Florida Department of Education (DOE), “[n]o evidence was found that any of Florida’s local school boards had policies in place that would prohibit twins and other multiple births from being placed in the same classroom.”²¹ DOE explained that “[s]ome school districts, such as Miami-Dade

¹⁶ *Id.*

¹⁷ Hay & Preedy, *supra* note 11, at 397.

¹⁸ U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *National Vital Statistics Report, Vol. 56, No. 6, 24* (Dec. 5, 2007), available at http://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56_06.pdf (last visited Mar. 28, 2008).

¹⁹ *Id.* at 25.

²⁰ *Id.* at 24.

²¹ Florida Department of Education, *2008 Agency Bill Analysis of HB 185, 2* (Dec. 17, 2007).

County Public Schools, allow all children who are part of a multiple birth to enroll in a school choice program when one of them is selected through the random selection process.²²

Florida law allows a teacher to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.²³ If a teacher removes a student from the classroom, the principal may place the student in another appropriate classroom, in-school suspension, or a dropout prevention and academic intervention program.²⁴ The principal may also recommend the student for out-of-school suspension or expulsion, as appropriate.

Class-Size Reduction

In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:²⁵

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12.

The constitutional amendment requires the Legislature, beginning with the 2003-2004 fiscal year, to provide funds for reducing the average number of students in each classroom by at least two students per year until reaching the maximum class sizes.²⁶

To implement the constitutional amendment, the Legislature required a school district that did not comply with the maximum class sizes to reduce its average number of students per classroom²⁷ by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level.
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level.
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level.²⁸

Thus, for fiscal years 2003-2004 through 2005-2006, a school district that did not meet the maximum class sizes for its classrooms was required to reduce the district's average number of students per classroom by two students. A school district was permitted to have a school whose average class size was not reduced as long as the district's average showed an overall reduction by two students.

For fiscal years 2006-2007 and 2007-2008, a public school (including a charter school) that does not meet the maximum class sizes for its classrooms is required to reduce the school's average number of

²² *Id.*

²³ Section 1003.32(4), F.S.

²⁴ Section 1003.32(5), F.S.

²⁵ Section 1(a), Art. IX of the State Constitution.

²⁶ *Id.*

²⁷ The State Constitution specifies that the class-size requirements do not apply to "extracurricular classes." *Id.* Section 1003.03(1), F.S., specifies that the maximum class sizes apply to "core-curricula courses," which section 1003.01(14), F.S., defines as "courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms."

²⁸ Section 1003.03(2)(b), F.S.

students per classroom by two students. A school is permitted to have individual classrooms that are not reduced as long as the school's average shows an overall reduction by two students.

Beginning in fiscal year 2008-2009, an individual classroom that does not meet the maximum class size must be reduced by two students to meet the maximum class size.

Proposed Changes:

The bill allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level; or
- After the first grading period following the siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school.

The bill allows a parent to appeal the principal's classroom placement of multiple-birth siblings. Appeals are conducted in the manner provided by school district policy. The bill directs that, during an appeal, the multiple-birth siblings remain in the classroom chosen by the parent. As drafted, the bill appears to limit a parent's opportunity to appeal the principal's classroom placement to instances in which the principal determines that the requested placement is disruptive to the school. The bill does not appear to allow a parent to appeal a classroom placement based on the siblings' performance or the need to add an additional class.

A parent's requested classroom placement must be submitted in writing and made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple-birth siblings enrolling after the first day of school). The bill authorizes a school to recommend to parents the appropriate classroom placement for multiple-birth siblings. The school may provide professional educational advice to assist parents in deciding the appropriate classroom placement.

The bill specifies that it does not affect a right or obligation under Florida law or the federal Individuals with Disabilities Act regarding the individual placement of exceptional students (*i.e.*, students with disabilities).²⁹ The bill also declares that it does not affect the authority of a school district, principal, or teacher to remove a student from a classroom in accordance with the district's discipline policies.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates s. 1003.61, F.S., which allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms.

Section 2. Provides an effective date of July 1, 2008.

²⁹ Special education and related services for students with disabilities are determined in an individualized education plan (IEP) prepared for the individual student by the student's IEP team.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to DOE, "compliance with the class size amendment, scheduling for limited student enrollment courses, and scheduling of small schools will create a fiscal impact of an amount that cannot be calculated at this time."³⁰ DOE explains:

At small elementary schools with large numbers of multiple-birth siblings, it may be difficult to accommodate parents' requests to place siblings in separate classrooms, particularly when there may only be one classroom teacher per grade level at the school. Even at larger schools, a principal may not know which students are twins or multiple births and may need to change student schedules the week before school starts to accommodate parents' requests.³¹

The bill poses two challenges for the schools, particularly at the secondary level, where students attend multiple classes during the school year. First, Florida's implementation of the class size amendment (CSA) will be based on the number of students in individual classrooms offering core-curricula courses beginning in the 2008-2009 school year. Second, for highly rigorous courses with limited student enrollment, such as AP Calculus or IB History of the Americas, it may be difficult for a school to accommodate both a student's scheduling preferences and a parent's request that siblings be placed in separate classrooms.³²

³⁰ Florida Department of Education, *supra* note 21, at 3.

³¹ *Id.* at 2.

³² *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE recommends that the bill be clarified to address the difference in schedules at elementary schools (grades) and secondary schools (subjects).³³ For example, a high school class may enroll students in both grades 11 and 12. The bill currently specifies that a school is not required to place multiple-birth siblings in separate classrooms if the request requires the school district to add an additional class to the “grade level.” The department recommends that the bill specify that a school is not required to place multiple-birth siblings in separate classrooms if the request requires the school district to add an additional class to the “school.”³⁴

D. STATEMENT OF THE SPONSOR

Representative Heller submitted the following sponsor statement:

The Florida DOE is focusing on the parents “separating” their multiple-birth children (MBC) in the school and its undetermined impact. When in reality, this bill receives countless communications from parents who are being denied by the local schools their request to have their MBC placed together. Most parents of MBC are thinking about their children’s placement upon entering preschool. Parents are told by the preschools that the elementary school will separate their children; so they should prepare for this inevitability.

We agree with the assertion that there is no policy mandating separation of MBC entering school. However, our experiences are different. We are told by administrators that separating our MBC is what is best for them. Many parents have tried sharing the research mentioned in the bill analysis with these administrators but to no avail. They then turn to the school superintendent for an intervention on their behalf. Often, superintendents will not override decisions made by the principal in charge.

³³ *Id.* at 3.

³⁴ *Id.*

The quote on page 4 of the analysis (see [text accompanying] footnote 14) was incomplete regarding the Hay and Preedy's concerns over the Minnesota Law. Listed below is the unabridged text from Hay and Preedy's "Meeting the Educational Needs of Multiple Birth Children":

The fact that the Minnesota State legislature found it necessary in 2005 to pass a law that parents should be the ones to ultimately decide if twins or higher multiples should be in the same class is both progressive but a concern, both because of the need for such a ruling and also because it fails to take into account the many issues in deciding whether or not to separate.

There is a framework school policy available at www.twinsandmultiples.org, which guides schools to have a flexible approach, assessing and meeting the needs of the children as individuals, while also taking into account the special multiple relationship. The key message is that with understanding and where necessary support, multiple-birth children can make good progress in school enjoying and celebrating the fact that they are twins or higher multiples.³⁵

As the research quoted in the analysis states, a flexible policy with parental input is best. Since parents are not feeling their input is valued and heard at the local school level, this bill is advocating this bill so that they will be heard and their choice granted. One size does not fit all. That is why the bill language includes both options. Parents know what is best for their children's emotional, psychological, social and educational needs. This bill will safeguard individual liberty and most importantly empower families to do what is best for their children.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 5, 2008, the Committee on K-12 adopted three amendments offered by Representative Heller, which:

- Allow a parent to submit a request for the classroom placement of multiple siblings 5 days after the first day of school year instead of 5 days before the first day of school year (amends line 22 of the bill);
- Clarify that a school is not required to place multiple-birth siblings in separate classrooms if the bill would require the school district to add an additional class to the school (instead of adding an additional class to the siblings' grade level). Some middle and high school classes include students from multiple grade levels (amends lines 39-40 of the bill); and
- Add a cross-reference to clarify that a parent's right to appeal applies to the school principal's decision to change the classroom placement of multiple-birth siblings after the first grading period following the siblings' enrollment in school (amends line 49 of the bill).

³⁵ Hay & Preedy, *supra* note 11, at 401.