

By the Committees on Judiciary; Criminal Justice; and Education
Pre-K - 12; and Senators Wise and Sobel

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1 A bill to be entitled
2 An act relating to zero-tolerance policies; amending
3 s. 1002.20, F.S.; conforming cross-references;
4 requiring that a district school board having a policy
5 authorizing corporal punishment as a form of
6 discipline review its policy on corporal punishment at
7 specified intervals; requiring that such review be
8 conducted at a district school board meeting held
9 pursuant to state law; requiring that the district
10 school board take public testimony at such meeting;
11 providing for the expiration of a district school
12 board's policy authorizing corporal punishment under
13 certain circumstances; amending s. 1006.09, F.S.;
14 conforming cross-references; amending s. 1006.13,
15 F.S.; providing legislative intent and findings;
16 revising the requirements for zero-tolerance policies;
17 deleting provisions relating to agreements with the
18 county sheriff's office and local police departments;
19 requiring that such agreements specify guidelines for
20 addressing acts that pose a serious threat to school
21 safety; providing that zero-tolerance policies do not
22 require the reporting of petty acts of misconduct and
23 misdemeanors to a law enforcement agency; requiring
24 each district school board to adopt a cooperative
25 agreement with the Department of Juvenile Justice
26 which establishes certain guidelines; requiring that
27 any disciplinary or prosecutorial action taken against
28 a student who violates a zero-tolerance policy be
29 based on the particular circumstances surrounding the

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30 student's misconduct; encouraging school districts to
31 use alternatives to expulsion or referral to law
32 enforcement agencies unless using such alternatives
33 will pose a threat to school safety; providing an
34 effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Paragraph (c) of subsection (4) and subsection
39 (5) of section 1002.20, Florida Statutes, are amended to read:

40 1002.20 K-12 student and parent rights.—Parents of public
41 school students must receive accurate and timely information
42 regarding their child's academic progress and must be informed
43 of ways they can help their child to succeed in school. K-12
44 students and their parents are afforded numerous statutory
45 rights including, but not limited to, the following:

46 (4) DISCIPLINE.—

47 (c) *Corporal punishment*.—

48 1. In accordance with the provisions of s. 1003.32,
49 corporal punishment of a public school student may only be
50 administered by a teacher or school principal within guidelines
51 of the school principal and according to district school board
52 policy. Another adult must be present and must be informed in
53 the student's presence of the reason for the punishment. Upon
54 request, the teacher or school principal must provide the parent
55 with a written explanation of the reason for the punishment and
56 the name of the other adult who was present.

57 2. A district school board having a policy authorizing the
58 use of corporal punishment as a form of discipline shall review

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59 its policy on corporal punishment once every 3 years during a
60 district school board meeting held pursuant to s. 1001.372. The
61 district school board shall take public testimony at the board
62 meeting. If such board meeting is not held in accordance with
63 this subparagraph, the portion of the district school board's
64 policy authorizing corporal punishment expires.

65 (5) SAFETY.—In accordance with the provisions of s.
66 1006.13(6) ~~s. 1006.13(5)~~, students who have been victims of
67 certain felony offenses by other students, as well as the
68 siblings of the student victims, have the right to be kept
69 separated from the student offender both at school and during
70 school transportation.

71 Section 2. Subsection (4) of section 1006.09, Florida
72 Statutes, is amended to read:

73 1006.09 Duties of school principal relating to student
74 discipline and school safety.—

75 (4) When a student has been the victim of a violent crime
76 perpetrated by another student who attends the same school, the
77 school principal shall make full and effective use of the
78 provisions of subsection (2) and s. 1006.13(6) ~~s. 1006.13(5)~~. A
79 school principal who fails to comply with this subsection shall
80 be ineligible for any portion of the performance pay policy
81 incentive or the differentiated pay under s. 1012.22. However,
82 if any party responsible for notification fails to properly
83 notify the school, the school principal shall be eligible for
84 the incentive or differentiated pay.

85 Section 3. Section 1006.13, Florida Statutes, is amended to
86 read:

87 1006.13 Policy of zero tolerance for crime and

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88 victimization.—

89 (1) It is the intent of the Legislature to promote a safe
90 and supportive learning environment in schools, to protect
91 students and staff from conduct that poses a serious threat to
92 school safety, and to encourage schools to use alternatives to
93 expulsion or referral to law enforcement agencies by addressing
94 disruptive behavior through restitution, civil citation, teen
95 court, neighborhood restorative justice, or similar programs.
96 The Legislature finds that zero-tolerance policies are not
97 intended to be rigorously applied to petty acts of misconduct
98 and misdemeanors, including, but not limited to, minor fights or
99 disturbances. The Legislature finds that zero-tolerance policies
100 must apply equally to all students regardless of their economic
101 status, race, or disability.

102 (2)~~(1)~~ Each district school board shall adopt a policy of
103 zero tolerance that for:

104 (a) Defines criteria for reporting to a law enforcement
105 agency any act that occurs whenever or wherever students are
106 within the jurisdiction of the district school board.

107 (b) Defines acts that pose a serious threat to school
108 safety.

109 (c) Defines petty acts of misconduct. ~~Crime and substance~~
110 ~~abuse, including the reporting of delinquent acts and crimes~~
111 ~~occurring whenever and wherever students are under the~~
112 ~~jurisdiction of the district school board.~~

113 (d)~~(b)~~ Minimizes the victimization of students, staff, or
114 volunteers, including taking all steps necessary to protect the
115 victim of any violent crime from any further victimization.

116 (e) Establishes a procedure that provides each student with

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117 the opportunity for a review of the disciplinary action imposed
118 pursuant to s. 1006.07.

119 (3)-(2) Zero-tolerance policies must ~~The zero tolerance~~
120 ~~policy shall~~ require students found to have committed one of the
121 following offenses to be expelled, with or without continuing
122 educational services, from the student's regular school for a
123 period of not less than 1 full year, and to be referred to the
124 criminal justice or juvenile justice system.

125 (a) Bringing a firearm or weapon, as defined in chapter
126 790, to school, to any school function, or onto any school-
127 sponsored transportation or possessing a firearm at school.

128 (b) Making a threat or false report, as defined by ss.
129 790.162 and 790.163, respectively, involving school or school
130 personnel's property, school transportation, or a school-
131 sponsored activity.

132
133 District school boards may assign the student to a disciplinary
134 program for the purpose of continuing educational services
135 during the period of expulsion. District school superintendents
136 may consider the 1-year expulsion requirement on a case-by-case
137 basis and request the district school board to modify the
138 requirement by assigning the student to a disciplinary program
139 or second chance school if the request for modification is in
140 writing and it is determined to be in the best interest of the
141 student and the school system. If a student committing any of
142 the offenses in this subsection is a student who has ~~with~~ a
143 disability, the district school board shall comply with
144 applicable State Board of Education rules.

145 (4) (a)-(3) Each district school board shall enter into

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146 agreements with the county sheriff's office and local police
147 department specifying guidelines for ensuring that acts that
148 pose a serious threat to school safety ~~felonies and violent~~
149 ~~misdemeanors~~, whether committed by a student or adult, and
150 ~~delinquent acts that would be felonies or violent misdemeanors~~
151 ~~if committed by an adult~~, are reported to a law enforcement
152 agency. Each ~~district school board shall adopt a cooperative~~
153 ~~agreement, pursuant to s. 1003.52(13) with the Department of~~
154 ~~Juvenile Justice, that specifies guidelines for ensuring that~~
155 ~~all no contact orders entered by the court are reported and~~
156 ~~enforced and that all steps necessary are taken to protect the~~
157 ~~victim of any such crime. Such~~

158 (b) The agreements must ~~shall~~ include the role of school
159 resource officers, if applicable, in handling reported
160 incidents, ~~special~~ circumstances in which school officials may
161 handle incidents without filing a report with a ~~to~~ law
162 enforcement agency, and a procedure for ensuring that school
163 personnel properly report appropriate delinquent acts and
164 crimes.

165 (c) Zero-tolerance policies do not require the reporting of
166 petty acts of misconduct and misdemeanors to a law enforcement
167 agency, including, but not limited to, disorderly conduct,
168 disrupting a school function, simple assault or battery, affray,
169 theft of less than \$300, trespassing, and vandalism of less than
170 \$1,000.

171 (d) The school principal shall ensure ~~be responsible for~~
172 ~~ensuring~~ that all school personnel are properly informed as to
173 their responsibilities regarding crime reporting, that
174 appropriate delinquent acts and crimes are properly reported,

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175 and that actions taken in cases with special circumstances are
176 properly taken and documented.

177 (5)~~(4)~~ Notwithstanding any other provision of law, each
178 district school board shall adopt rules providing that any
179 student found to have committed any offense in a violation of s.
180 784.081(1), (2), or (3) shall be expelled or placed in an
181 alternative school setting or other program, as appropriate.
182 Upon being charged with the offense, the student shall be
183 removed from the classroom immediately and placed in an
184 alternative school setting pending disposition.

185 (6)~~(5)~~(a) Notwithstanding any provision of law prohibiting
186 the disclosure of the identity of a minor, whenever any student
187 who is attending a public school is adjudicated guilty of or
188 delinquent for, or is found to have committed, regardless of
189 whether adjudication is withheld, or pleads guilty or nolo
190 contendere to, a felony violation of:

- 191 1. Chapter 782, relating to homicide;
- 192 2. Chapter 784, relating to assault, battery, and culpable
193 negligence;
- 194 3. Chapter 787, relating to kidnapping, false imprisonment,
195 luring or enticing a child, and custody offenses;
- 196 4. Chapter 794, relating to sexual battery;
- 197 5. Chapter 800, relating to lewdness and indecent exposure;
- 198 6. Chapter 827, relating to abuse of children;
- 199 7. Section 812.13, relating to robbery;
- 200 8. Section 812.131, relating to robbery by sudden
201 snatching;
- 202 9. Section 812.133, relating to carjacking; or
- 203 10. Section 812.135, relating to home-invasion robbery,

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205 and, before or at the time of such adjudication, withholding of
206 adjudication, or plea, the offender was attending a school
207 attended by the victim or a sibling of the victim of the
208 offense, the Department of Juvenile Justice shall notify the
209 appropriate district school board of the adjudication or plea,
210 the requirements in ~~of~~ this paragraph, and whether the offender
211 is prohibited from attending that school or riding on a school
212 bus whenever the victim or a sibling of the victim is attending
213 the same school or riding on the same school bus, except as
214 provided pursuant to a written disposition order under s.
215 985.455(2). Upon receipt of such notice, the district school
216 board shall take appropriate action to effectuate the provisions
217 in ~~of~~ paragraph (b).

218 (b) Each district school board shall adopt a cooperative
219 agreement with the Department of Juvenile Justice which
220 establishes guidelines for ensuring that any no contact order
221 entered by a court is reported and enforced and that all of the
222 necessary steps are taken to protect the victim of the offense.
223 Any offender described in paragraph (a), who is not exempted as
224 provided in paragraph (a), may ~~shall~~ not attend any school
225 attended by the victim or a sibling of the victim of the offense
226 or ride on a school bus on which the victim or a sibling of the
227 victim is riding. The offender shall be permitted by the
228 district school board to attend another school within the
229 district in which the offender resides, only if ~~provided~~ the
230 other school is not attended by the victim or sibling of the
231 victim of the offense; or the offender may be permitted by
232 another district school board to attend a school in that

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233 district if the offender is unable to attend any school in the
234 district in which the offender resides.

235 (c) If the offender is unable to attend any other school in
236 the district in which the offender resides and is prohibited
237 from attending a school in another school district, the district
238 school board in the school district in which the offender
239 resides shall take every reasonable precaution to keep the
240 offender separated from the victim while on school grounds or on
241 school transportation. The steps to be taken by a district
242 school board to keep the offender separated from the victim must
243 ~~shall~~ include, but are not limited to, in-school suspension of
244 the offender and the scheduling of classes, lunch, or other
245 school activities of the victim and the offender so as not to
246 coincide.

247 (d) The offender, or the parents of the offender if the
248 offender is a juvenile, shall arrange ~~be responsible for~~
249 ~~arranging~~ and pay ~~paying~~ for transportation associated with or
250 required by the offender's attending another school or that
251 would be required as a consequence of the prohibition against
252 riding on a school bus on which the victim or a sibling of the
253 victim is riding. However, the offender or the parents of the
254 offender may ~~shall~~ not be charged for existing modes of
255 transportation that can be used by the offender at no additional
256 cost to the district school board.

257 (7) Any disciplinary or prosecutorial action taken against
258 a student who violates a zero-tolerance policy must be based on
259 the particular circumstances of the student's misconduct.

260 (8) School districts are encouraged to use alternatives to
261 expulsion or referral to law enforcement agencies unless the use

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262 of such alternatives will pose a threat to school safety.

263 Section 4. This act shall take effect July 1, 2009.