

FINAL BILL ANALYSIS

BILL #: SB 228

FINAL HOUSE FLOOR ACTION:

101 Y's 15 N's

SPONSOR: Sen. Siplin (Rep. Rogers)

GOVERNOR'S ACTION: Approved

COMPANION BILLS: HB 61

SUMMARY ANALYSIS

SB 228 passed the House on May 4, 2011, and passed the Senate on March 24, 2011. The bill was approved by the Governor on June 2, 2011, chapter 2011-103, Laws of Florida, and becomes effective July 1, 2011. The bill requires school boards to include an explanation of the responsibilities of each student regarding appropriate dress within their code of student conduct. Additionally, each school board must adopt a dress code policy which forbids wearing clothing in such a way as to expose underwear or body parts in an indecent or vulgar manner or in a manner that disrupts the orderly learning environment. The bill also provides both an escalating series of disciplinary actions for students who violate the dress code, as well as a requirement for adherence to appropriate dress and other student conduct codes as a prerequisite for participation in interscholastic extracurricular activities.

See Fiscal Comments.

I. SUBSTANTIVE INFORMATION

EFFECT OF CHANGES:

Background

Student Dress and the School Environment

There is a long tradition of schools providing restrictions on student dress.¹ Modern proponents argue that dress codes can serve as part of an overarching strategy to improve the school environment.² Moreover, modern proponents cite various benefits of student dress restrictions, including increasing school safety, creating a better learning environment, improving student self-esteem, and reducing stress on students' families.³

Some recent examples of student dress restrictions include: prohibiting male students from wearing earrings, banning t-shirts which advertise alcohol, and not allowing individuals dressed as members of the opposite gender to attend school functions.⁴

The "Sagging" Phenomenon

Several Florida school districts have begun to confront the issue of "sagging." The term "sagging" is used to describe wearing one's clothes in a manner that exposes underwear. Although no rigidly academic analysis of the history of "sagging" has yet been conducted, it is commonly thought that "sagging" originated in prisons where belts are not issued because they may be used to commit suicide or used as weapons.⁵ The lack of belts combined with loose, ill-fitting pants result in pants falling below the waist. "Sagging" has been banned in several cities, with anti-sagging advocates going so far as to call for statewide bans.⁶ In 2008, the town of Opa-locka enacted a ban on "saggy pants in city parks, city hall and other city properties."⁷

The Duval County School Board's Code of Student Conduct states: "The waistband of shorts, slacks, skirts, and similar garments shall not be worn below the hips. Underwear, midriff and backs should not be exposed."⁸ The Orange County School Board's student code specifies that: "[c]lothes shall be worn as they are designed-suspenders over the shoulders, pants secured at the waist, belts buckled, no

¹ Wendell Anderson, *School Dress Codes and Uniform Policies*, Clearinghouse on Educational Policy and Management, University of Oregon College of Education, available at <http://cepm.uoregon.edu/publications/action.lasso?database=products&-Response=detail.fmt&-token.start=&ProductID=EPR004>, Fall 2002 (last visited March 31, 2011).

² *Id.*

³ *Id.* at 5.

⁴ Todd A. DeMitchell, Richard Fossey, and Casey Cobb, *Dress Codes in the Public Schools: Principals, Policies, and Precepts*, 29 J.L. & EDUC. 31, 33 (2000).

⁵ Niko Koppel, *Are Your Pants Sagging? Go Directly to Jail.*, THE NEW YORK TIMES (Aug. 30, 2007), available at <http://www.nytimes.com/2007/08/30/fashion/30baggy.html> (last accessed Jan. 20, 2011).

⁶ *Id.*

⁷ Art Levy, *Can State Legally Outlaw Saggy Pants?*, FLORIDA TREND (Apr. 1, 2008), available at http://www.floridatrend.com/print_article.asp?aID=48655 (last visited Jan. 19, 2011).

⁸ Duval County Public Schools, *Code of Appearance*, available at <http://www.duvalschools.org/static/students/codeofconduct/codeofappearance.asp> (last visited Jan. 19, 2011).

underwear as outerwear, no underwear exposed.”⁹ The Santa Rosa County School Board’s Code of Student Conduct specifies that undergarments shall not be shown.¹⁰

Current Student Code of Conduct Statutory Requirements

District school boards are required to “[a]dopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year.”¹¹ Currently, a district school board’s code of student conduct must include, for example:

- Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances;¹²
- Procedures to be followed for acts requiring discipline, including corporal punishment;¹³ and
- An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.¹⁴

District school boards may also impose dress code restrictions, including the requirement of school uniforms, when “those requirements are necessary for the safety or welfare of the student body or school personnel.”¹⁵ The law does not specifically address the issue of dress code requirements, but it does state that “[t]he district school board shall provide . . . for proper attention to health, safety, and other matters relating to the welfare of students.”¹⁶ There are no specific statutory prohibitions on exposing undergarments by students at public schools.

Student Requirements to Participate in Extracurricular Activities

Section 1006.15, F.S, establishes that in order to participate in interscholastic and intrascholastic extracurricular activities, a public school student must:

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1), F.S.;¹⁷
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents, if the

⁹ Orange County Public Schools, *Code of Student Conduct*, 5 (2010-11), available at <https://www.ocps.net/SiteCollectionDocuments/Docs%20Continually%20Updated/Code%20of%20Conduct.pdf> (last visited Jan. 19, 2011).

¹⁰ Santa Rosa County School District, *Code of Student Conduct* (Aug. 23, 2010), available at <http://www.santarosa.k12.fl.us/files/csc.pdf> (last visited Jan. 19, 2011).

¹¹ Section 1006.07(2), F.S.

¹² Section 1006.07(2)(a), F.S.

¹³ Section 1006.07(2)(b), F.S.

¹⁴ Section 1006.07(2)(c), F.S.

¹⁵ Section 1001.43(1)(b), F.S.

¹⁶ Section 1006.07, F.S.

¹⁷ Section 1006.15(3)(a)1., F.S.

student's cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1003.43(1), F.S.;¹⁸

- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1), F.S., during his or her junior or senior year;¹⁹ and
- Maintain satisfactory conduct.²⁰

The school board may also implement additional requirements for participation

Proposed Changes

This bill amends the law to require school districts to include within their student conduct codes provisions relating to appropriate dress. Additionally, school boards must adopt a dress code policy prohibiting students from wearing clothing which exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment during the school day while on school grounds.

The bill requires a district's code of student conduct to include the following punishments for violations of the dress code policy:

- First offense: verbal warning and the school principal must call the student's parent or guardian;
- Second offense: ineligibility to participate in any extracurricular activity for at most five days and a meeting between the student's parent or guardian and the principal;
- Third offense: in-school suspension pursuant to section 1003.01(5)(b), F.S.,²¹ for a maximum of 3 days; ineligibility to participate in extracurricular activities for a maximum of 30 days; and the principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

The bill requires adherence to the dress code requirements described above a prerequisite for participation in interscholastic extracurricular activities.

The bill has an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹⁸ Section 1006.15(3)(a)2., F.S.

¹⁹ Section 1006.15(3)(b)3., F.S.

²⁰ Section 1006.15(3)(b)4., F.S.

²¹ Section 1003.01(5)(b), F.S., provides that "[i]n-school suspension means the temporary removal of a student from the student's regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

District school boards may incur minimal costs associated with updating their existing codes on student conduct to include the new requirements.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.