

HB 493

2012

1 A bill to be entitled
2 An act relating to student discipline in public
3 schools; amending s. 1002.20, F.S.; revising
4 provisions relating to the rights of parents and
5 public school students; prohibiting the use of
6 corporal punishment as a form of discipline; amending
7 s. 1003.01, F.S.; deleting the definition of the term
8 "corporal punishment" to conform to changes made by
9 the act; amending s. 1003.32, F.S.; deleting
10 provisions relating to the authority of teachers to
11 administer corporal punishment; amending s. 1006.07,
12 F.S.; revising the duties of district school boards
13 and the code of student conduct relating to the
14 control and discipline of students; amending s.
15 1012.28, F.S.; deleting provisions relating to the
16 authority of principals to administer corporal
17 punishment; amending ss. 414.1251, 1001.11, 1002.01,
18 1002.20, 1002.42, 1002.43, 1003.03, 1003.26, and
19 1003.52, F.S.; conforming cross-references; providing
20 an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Paragraph (b) of subsection (2) and paragraph
25 (c) of subsection (4) of section 1002.20, Florida Statutes, are
26 amended to read:

27 1002.20 K-12 student and parent rights.—Parents of public
28 school students must receive accurate and timely information

29 regarding their child's academic progress and must be informed
 30 of ways they can help their child to succeed in school. K-12
 31 students and their parents are afforded numerous statutory
 32 rights including, but not limited to, the following:

33 (2) ATTENDANCE.—

34 (b) *Regular school attendance.*—Parents of students who
 35 have attained the age of 6 years by February 1 of any school
 36 year but who have not attained the age of 16 years must comply
 37 with the compulsory school attendance laws. Parents have the
 38 option to comply with the school attendance laws by attendance
 39 of the student in a public school; a parochial, religious, or
 40 denominational school; a private school; a home education
 41 program; or a private tutoring program, in accordance with the
 42 provisions of s. 1003.01(12) ~~1003.01(13)~~.

43 (4) DISCIPLINE.—

44 (c) *Corporal punishment.*—

45 1. ~~In accordance with the provisions of s. 1003.32,~~
 46 ~~corporal punishment of~~ A public school student may not be
 47 disciplined by the use of corporal punishment ~~only be~~
 48 ~~administered by a teacher or school principal within guidelines~~
 49 ~~of the school principal and according to district school board~~
 50 ~~policy. Another adult must be present and must be informed in~~
 51 ~~the student's presence of the reason for the punishment. Upon~~
 52 ~~request, the teacher or school principal must provide the parent~~
 53 ~~with a written explanation of the reason for the punishment and~~
 54 ~~the name of the other adult who was present.~~

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

HB 493

2012

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

63 | Section 2. Present subsections (8) through (16) of section
64 | 1003.01, Florida Statutes, are redesignated as subsections (7)
65 | through (15), respectively, and subsection (7) of that section
66 | is amended to read:

67 | 1003.01 Definitions.—As used in this chapter, the term:
68 | ~~(7) "Corporal punishment" means the moderate use of~~
69 | ~~physical force or physical contact by a teacher or principal as~~
70 | ~~may be necessary to maintain discipline or to enforce school~~
71 | ~~rule. However, the term "corporal punishment" does not include~~
72 | ~~the use of such reasonable force by a teacher or principal as~~
73 | ~~may be necessary for self-protection or to protect other~~
74 | ~~students from disruptive students.~~

75 | Section 3. Subsection (1) of section 1003.32, Florida
76 | Statutes, is amended to read:

77 | 1003.32 Authority of teacher; responsibility for control
78 | of students; district school board and principal duties.—Subject
79 | to law and to the rules of the district school board, each
80 | teacher or other member of the staff of any school shall have
81 | such authority for the control and discipline of students as may
82 | be assigned to him or her by the principal or the principal's
83 | designated representative and shall keep good order in the
84 | classroom and in other places in which he or she is assigned to

85 | be in charge of students.

86 | (1) In accordance with this section and within the
87 | framework of the district school board's code of student
88 | conduct, teachers and other instructional personnel shall have
89 | the authority to undertake any of the following actions in
90 | managing student behavior and ensuring the safety of all
91 | students in their classes and school and their opportunity to
92 | learn in an orderly and disciplined classroom:

93 | (a) Establish classroom rules of conduct.

94 | (b) Establish and implement consequences, designed to
95 | change behavior, for infractions of classroom rules.

96 | (c) Have disobedient, disrespectful, violent, abusive,
97 | uncontrollable, or disruptive students removed from the
98 | classroom for behavior management intervention.

99 | (d) Have violent, abusive, uncontrollable, or disruptive
100 | students directed for information or assistance from appropriate
101 | school or district school board personnel.

102 | (e) Assist in enforcing school rules on school property,
103 | during school-sponsored transportation, and during school-
104 | sponsored activities.

105 | (f) Request and receive information as to the disposition
106 | of any referrals to the administration for violation of
107 | classroom or school rules.

108 | (g) Request and receive immediate assistance in classroom
109 | management if a student becomes uncontrollable or in case of
110 | emergency.

111 | (h) Request and receive training and other assistance to
112 | improve skills in classroom management, violence prevention,

HB 493

2012

113 conflict resolution, and related areas.

114 (i) Press charges if there is a reason to believe that a
115 crime has been committed on school property, during school-
116 sponsored transportation, or during school-sponsored activities.

117 (j) Use reasonable force, according to standards adopted
118 by the State Board of Education, to protect himself or herself
119 or others from injury.

120 ~~(k) Use corporal punishment according to school board
121 policy and at least the following procedures, if a teacher feels
122 that corporal punishment is necessary:~~

123 ~~1. The use of corporal punishment shall be approved in
124 principle by the principal before it is used, but approval is
125 not necessary for each specific instance in which it is used.
126 The principal shall prepare guidelines for administering such
127 punishment which identify the types of punishable offenses, the
128 conditions under which the punishment shall be administered, and
129 the specific personnel on the school staff authorized to
130 administer the punishment.~~

131 ~~2. A teacher or principal may administer corporal
132 punishment only in the presence of another adult who is informed
133 beforehand, and in the student's presence, of the reason for the
134 punishment.~~

135 ~~3. A teacher or principal who has administered punishment
136 shall, upon request, provide the student's parent with a written
137 explanation of the reason for the punishment and the name of the
138 other adult who was present.~~

139 Section 4. Paragraph (a) of subsection (1) and paragraph
140 (b) of subsection (2) of section 1006.07, Florida Statutes, are

HB 493

2012

141 amended to read:

142 1006.07 District school board duties relating to student
143 discipline and school safety.—The district school board shall
144 provide for the proper accounting for all students, for the
145 attendance and control of students at school, and for proper
146 attention to health, safety, and other matters relating to the
147 welfare of students, including:

148 (1) CONTROL OF STUDENTS.—

149 (a) Adopt rules for the control, discipline, in-school
150 suspension, suspension, and expulsion of students and decide all
151 cases recommended for expulsion. Suspension hearings are
152 exempted from the provisions of chapter 120. Expulsion hearings
153 shall be governed by ss. 120.569 and 120.57(2) and are exempt
154 from s. 286.011. However, the student's parent must be given
155 notice of the provisions of s. 286.011 and may elect to have the
156 hearing held in compliance with that section. The district
157 school board shall adopt ~~may prohibit the use of corporal~~
158 ~~punishment, if the district school board adopts or has adopted a~~
159 ~~written program of alternative control or discipline~~ which may
160 include parent conferences, the revocation of student
161 privileges, work detail, community service, Saturday school, and
162 in-school restriction.

163 (2) CODE OF STUDENT CONDUCT.—Adopt a code of student
164 conduct for elementary schools and a code of student conduct for
165 middle and high schools and distribute the appropriate code to
166 all teachers, school personnel, students, and parents, at the
167 beginning of every school year. Each code shall be organized and
168 written in language that is understandable to students and

HB 493

2012

169 parents and shall be discussed at the beginning of every school
 170 year in student classes, school advisory council meetings, and
 171 parent and teacher association or organization meetings. Each
 172 code shall be based on the rules governing student conduct and
 173 discipline adopted by the district school board and shall be
 174 made available in the student handbook or similar publication.
 175 Each code shall include, but is not limited to:

176 (b) Procedures to be followed for acts requiring
 177 discipline, excluding the use of ~~including~~ corporal punishment.

178 Section 5. Subsection (5) of section 1012.28, Florida
 179 Statutes, is amended to read:

180 1012.28 Public school personnel; duties of school
 181 principals.—

182 (5) Each school principal shall perform such duties as may
 183 be assigned by the district school superintendent, pursuant to
 184 the rules of the district school board. Such rules shall
 185 include, but are not limited to, rules relating to
 186 administrative responsibility, instructional leadership in
 187 implementing the Sunshine State Standards and the overall
 188 educational program of the school to which the school principal
 189 is assigned, submission of personnel recommendations to the
 190 district school superintendent, administrative responsibility
 191 for records and reports, ~~administration of corporal punishment,~~
 192 and student suspension.

193 Section 6. Subsection (1) of section 414.1251, Florida
 194 Statutes, is amended to read:

195 414.1251 Learnfare program.—

196 (1) The department shall reduce the temporary cash

HB 493

2012

197 assistance for a participant's eligible dependent child or for
198 an eligible teenage participant who has not been exempted from
199 education participation requirements, if the eligible dependent
200 child or eligible teenage participant has been identified either
201 as a habitual truant, pursuant to s. 1003.01(7) ~~1003.01(8)~~, or
202 as a dropout, pursuant to s. 1003.01(8) ~~1003.01(9)~~. For a
203 student who has been identified as a habitual truant, the
204 temporary cash assistance must be reinstated after a subsequent
205 grading period in which the child's attendance has substantially
206 improved. For a student who has been identified as a dropout,
207 the temporary cash assistance must be reinstated after the
208 student enrolls in a public school, receives a high school
209 diploma or its equivalency, enrolls in preparation for the
210 General Educational Development Tests, or enrolls in other
211 educational activities approved by the district school board.
212 Good cause exemptions from the rule of unexcused absences
213 include the following:

214 (a) The student is expelled from school and alternative
215 schooling is not available.

216 (b) No licensed day care is available for a child of teen
217 parents subject to Learnfare.

218 (c) Prohibitive transportation problems exist (e.g., to
219 and from day care).

220

221 Within 10 days after sanction notification, the participant
222 parent of a dependent child or the teenage participant may file
223 an internal fair hearings process review procedure appeal, and
224 no sanction shall be imposed until the appeal is resolved.

225 Section 7. Subsection (7) of section 1001.11, Florida
 226 Statutes, is amended to read:

227 1001.11 Commissioner of Education; other duties.—

228 (7) The commissioner shall make prominently available on
 229 the department's website the following: links to the Internet-
 230 based clearinghouse for professional development regarding
 231 physical education; the school wellness and physical education
 232 policies and other resources required under s. 1003.453(1) and
 233 (2); and other Internet sites that provide professional
 234 development for elementary teachers of physical education as
 235 defined in s. 1003.01(15) ~~1003.01(16)~~. These links must provide
 236 elementary teachers with information concerning current physical
 237 education and nutrition philosophy and best practices that
 238 result in student participation in physical activities that
 239 promote lifelong physical and mental well-being.

240 Section 8. Section 1002.01, Florida Statutes, is amended
 241 to read:

242 1002.01 Definitions.—

243 (1) A "home education program" means the sequentially
 244 progressive instruction of a student directed by his or her
 245 parent in order to satisfy the attendance requirements of ss.
 246 1002.41, 1003.01(12) ~~1003.01(13)~~, and 1003.21(1).

247 (2) A "private school" is a nonpublic school defined as an
 248 individual, association, copartnership, or corporation, or
 249 department, division, or section of such organizations, that
 250 designates itself as an educational center that includes
 251 kindergarten or a higher grade or as an elementary, secondary,
 252 business, technical, or trade school below college level or any

HB 493

2012

253 organization that provides instructional services that meet the
254 intent of s. 1003.01(12) ~~1003.01(13)~~ or that gives preemployment
255 or supplementary training in technology or in fields of trade or
256 industry or that offers academic, literary, or career training
257 below college level, or any combination of the above, including
258 an institution that performs the functions of the above schools
259 through correspondence or extension, except those licensed under
260 the provisions of chapter 1005. A private school may be a
261 parochial, religious, denominational, for-profit, or nonprofit
262 school. This definition does not include home education programs
263 conducted in accordance with s. 1002.41.

264 Section 9. Paragraph (b) of subsection (2) of section
265 1002.20, Florida Statutes, is amended to read:

266 1002.20 K-12 student and parent rights.—Parents of public
267 school students must receive accurate and timely information
268 regarding their child's academic progress and must be informed
269 of ways they can help their child to succeed in school. K-12
270 students and their parents are afforded numerous statutory
271 rights including, but not limited to, the following:

272 (2) ATTENDANCE.—

273 (b) *Regular school attendance.*—Parents of students who
274 have attained the age of 6 years by February 1 of any school
275 year but who have not attained the age of 16 years must comply
276 with the compulsory school attendance laws. Parents have the
277 option to comply with the school attendance laws by attendance
278 of the student in a public school; a parochial, religious, or
279 denominational school; a private school; a home education
280 program; or a private tutoring program, in accordance with the

HB 493

2012

281 provisions of s. 1003.01(12) ~~1003.01(13)~~.

282 Section 10. Subsection (7) of section 1002.42, Florida
283 Statutes, is amended to read:

284 1002.42 Private schools.—

285 (7) ATTENDANCE REQUIREMENTS.—Attendance of a student at a
286 private, parochial, religious, or denominational school
287 satisfies the attendance requirements of ss. 1003.01(12)
288 ~~1003.01(13)~~ and 1003.21(1).

289 Section 11. Subsection (1) of section 1002.43, Florida
290 Statutes, is amended to read:

291 1002.43 Private tutoring programs.—

292 (1) Regular school attendance as defined in s. 1003.01(12)
293 ~~1003.01(13)~~ may be achieved by attendance in a private tutoring
294 program if the person tutoring the student meets the following
295 requirements:

296 (a) Holds a valid Florida certificate to teach the
297 subjects or grades in which instruction is given.

298 (b) Keeps all records and makes all reports required by
299 the state and district school board and makes regular reports on
300 the attendance of students in accordance with the provisions of
301 s. 1003.23(2).

302 (c) Requires students to be in actual attendance for the
303 minimum length of time prescribed by s. 1011.60(2).

304 Section 12. Subsection (6) of section 1003.03, Florida
305 Statutes, is amended to read:

306 1003.03 Maximum class size.—

307 (6) COURSES FOR COMPLIANCE.—Consistent with the provisions
308 in ss. 1003.01(13) ~~1003.01(14)~~ and 1003.428, the Department of

HB 493

2012

309 Education shall identify from the Course Code Directory the
310 core-curricula courses for the purpose of satisfying the maximum
311 class size requirement in this section. The department may adopt
312 rules to implement this subsection, if necessary.

313 Section 13. Paragraph (f) of subsection (1) of section
314 1003.26, Florida Statutes, is amended to read:

315 1003.26 Enforcement of school attendance.—The Legislature
316 finds that poor academic performance is associated with
317 nonattendance and that school districts must take an active role
318 in promoting and enforcing attendance as a means of improving
319 student performance. It is the policy of the state that each
320 district school superintendent be responsible for enforcing
321 school attendance of all students subject to the compulsory
322 school age in the school district and supporting enforcement of
323 school attendance by local law enforcement agencies. The
324 responsibility includes recommending policies and procedures to
325 the district school board that require public schools to respond
326 in a timely manner to every unexcused absence, and every absence
327 for which the reason is unknown, of students enrolled in the
328 schools. District school board policies shall require the parent
329 of a student to justify each absence of the student, and that
330 justification will be evaluated based on adopted district school
331 board policies that define excused and unexcused absences. The
332 policies must provide that public schools track excused and
333 unexcused absences and contact the home in the case of an
334 unexcused absence from school, or an absence from school for
335 which the reason is unknown, to prevent the development of
336 patterns of nonattendance. The Legislature finds that early

HB 493

2012

337 intervention in school attendance is the most effective way of
338 producing good attendance habits that will lead to improved
339 student learning and achievement. Each public school shall
340 implement the following steps to promote and enforce regular
341 school attendance:

342 (1) CONTACT, REFER, AND ENFORCE.—

343 (f)1. If the parent of a child who has been identified as
344 exhibiting a pattern of nonattendance enrolls the child in a
345 home education program pursuant to chapter 1002, the district
346 school superintendent shall provide the parent a copy of s.
347 1002.41 and the accountability requirements of this paragraph.
348 The district school superintendent shall also refer the parent
349 to a home education review committee composed of the district
350 contact for home education programs and at least two home
351 educators selected by the parent from a district list of all
352 home educators who have conducted a home education program for
353 at least 3 years and who have indicated a willingness to serve
354 on the committee. The home education review committee shall
355 review the portfolio of the student, as defined by s. 1002.41,
356 every 30 days during the district's regular school terms until
357 the committee is satisfied that the home education program is in
358 compliance with s. 1002.41(1)(b). The first portfolio review
359 must occur within the first 30 calendar days of the
360 establishment of the program. The provisions of subparagraph 2.
361 do not apply once the committee determines the home education
362 program is in compliance with s. 1002.41(1)(b).

363 2. If the parent fails to provide a portfolio to the
364 committee, the committee shall notify the district school

365 superintendent. The district school superintendent shall then
 366 terminate the home education program and require the parent to
 367 enroll the child in an attendance option that meets the
 368 definition of "regular school attendance" under s.
 369 1003.01(12)(a) ~~1003.01(13)(a)~~, (b), (c), or (e), within 3 days.
 370 Upon termination of a home education program pursuant to this
 371 subparagraph, the parent shall not be eligible to reenroll the
 372 child in a home education program for 180 calendar days. Failure
 373 of a parent to enroll the child in an attendance option as
 374 required by this subparagraph after termination of the home
 375 education program pursuant to this subparagraph shall constitute
 376 noncompliance with the compulsory attendance requirements of s.
 377 1003.21 and may result in criminal prosecution under s.
 378 1003.27(2). Nothing contained herein shall restrict the ability
 379 of the district school superintendent, or the ability of his or
 380 her designee, to review the portfolio pursuant to s.
 381 1002.41(1)(b).

382 Section 14. Subsection (4) of section 1003.52, Florida
 383 Statutes, is amended to read:

384 1003.52 Educational services in Department of Juvenile
 385 Justice programs.—

386 (4) Educational services shall be provided at times of the
 387 day most appropriate for the juvenile justice program. School
 388 programming in juvenile justice detention, commitment, and
 389 rehabilitation programs shall be made available by the local
 390 school district during the juvenile justice school year, as
 391 defined in s. 1003.01(10) ~~1003.01(11)~~. In addition, students in
 392 juvenile justice education programs shall have access to Florida

HB 493

2012

393 Virtual School courses. The Department of Education and the
394 school districts shall adopt policies necessary to ensure such
395 access.

396 Section 15. This act shall take effect July 1, 2012.