

By the Committee on Fiscal Policy; and Senator Detert

594-04416-15

2015888c1

1 A bill to be entitled
2 An act relating to education; amending s. 39.202,
3 F.S.; authorizing certain employees or agents of the
4 Department of Education to have access to certain
5 reports and records; amending s. 1011.62, F.S.;
6 requiring a school district to add additional points
7 to the calculation of a matrix of services for certain
8 students beginning in a specified school year;
9 amending s. 1012.39, F.S.; providing requirements
10 regarding liability insurance for students
11 participating in clinical field experience; amending
12 s. 1012.75, F.S.; requiring the department to
13 establish an educator liability insurance program;
14 specifying program administration and eligibility
15 requirements; amending s. 1012.79, F.S.; revising the
16 membership of the Education Practices Commission;
17 authorizing the Commissioner of Education to appoint
18 emeritus members to the commission; amending s.
19 1012.796, F.S.; authorizing the commissioner to issue
20 a letter of guidance in response to a complaint
21 against a teacher or administrator in lieu of a
22 probable cause determination; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Present paragraphs (q) through (s) of subsection
28 (2) of section 39.202, Florida Statutes, are redesignated as
29 paragraphs (r) through (t), respectively, and a new paragraph

594-04416-15

2015888c1

30 (q) is added to that subsection, to read:

31 39.202 Confidentiality of reports and records in cases of
32 child abuse or neglect.—

33 (2) Except as provided in subsection (4), access to such
34 records, excluding the name of the reporter which shall be
35 released only as provided in subsection (5), shall be granted
36 only to the following persons, officials, and agencies:

37 (q) An employee or agent of the Department of Education who
38 is responsible for the investigation or prosecution of
39 misconduct by a certified educator.

40 Section 2. Paragraph (e) of subsection (1) of section
41 1011.62, Florida Statutes, is amended to read

42 1011.62 Funds for operation of schools.—If the annual
43 allocation from the Florida Education Finance Program to each
44 district for operation of schools is not determined in the
45 annual appropriations act or the substantive bill implementing
46 the annual appropriations act, it shall be determined as
47 follows:

48 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
49 OPERATION.—The following procedure shall be followed in
50 determining the annual allocation to each district for
51 operation:

52 (e) *Funding model for exceptional student education*
53 *programs.*—

54 1.a. The funding model uses basic, at-risk, support levels
55 IV and V for exceptional students and career Florida Education
56 Finance Program cost factors, and a guaranteed allocation for
57 exceptional student education programs. Exceptional education
58 cost factors are determined by using a matrix of services to

594-04416-15

2015888c1

59 document the services that each exceptional student will
60 receive. The nature and intensity of the services indicated on
61 the matrix shall be consistent with the services described in
62 each exceptional student's individual educational plan. The
63 Department of Education shall review and revise the descriptions
64 of the services and supports included in the matrix of services
65 for exceptional students and shall implement those revisions
66 before the beginning of the 2012-2013 school year. Beginning
67 with the 2016-2017 school year, a school district shall add
68 three special consideration points to the calculation of a
69 matrix of services for a student who is deaf and enrolled in an
70 auditory-oral education program as defined in s. 1002.391.

71 b. In order to generate funds using one of the two weighted
72 cost factors, a matrix of services must be completed at the time
73 of the student's initial placement into an exceptional student
74 education program and at least once every 3 years by personnel
75 who have received approved training. Nothing listed in the
76 matrix shall be construed as limiting the services a school
77 district must provide in order to ensure that exceptional
78 students are provided a free, appropriate public education.

79 c. Students identified as exceptional, in accordance with
80 chapter 6A-6, Florida Administrative Code, who do not have a
81 matrix of services as specified in sub-subparagraph b. shall
82 generate funds on the basis of full-time-equivalent student
83 membership in the Florida Education Finance Program at the same
84 funding level per student as provided for basic students.
85 Additional funds for these exceptional students will be provided
86 through the guaranteed allocation designated in subparagraph 2.

87 2. For students identified as exceptional who do not have a

594-04416-15

2015888c1

88 matrix of services and students who are gifted in grades K
89 through 8, there is created a guaranteed allocation to provide
90 these students with a free appropriate public education, in
91 accordance with s. 1001.42(4)(1) and rules of the State Board of
92 Education, which shall be allocated annually to each school
93 district in the amount provided in the General Appropriations
94 Act. These funds shall be in addition to the funds appropriated
95 on the basis of FTE student membership in the Florida Education
96 Finance Program, and the amount allocated for each school
97 district shall not be recalculated during the year. These funds
98 shall be used to provide special education and related services
99 for exceptional students and students who are gifted in grades K
100 through 8. Beginning with the 2007-2008 fiscal year, a
101 district's expenditure of funds from the guaranteed allocation
102 for students in grades 9 through 12 who are gifted may not be
103 greater than the amount expended during the 2006-2007 fiscal
104 year for gifted students in grades 9 through 12.

105 Section 3. Subsection (3) of section 1012.39, Florida
106 Statutes, is amended to read:

107 1012.39 Employment of substitute teachers, teachers of
108 adult education, nondegreed teachers of career education, and
109 career specialists; students performing clinical field
110 experience.-

111 (3) A student who is enrolled in a state-approved teacher
112 preparation program in a postsecondary educational institution
113 that is approved by rules of the State Board of Education and
114 who is jointly assigned by the postsecondary educational
115 institution and a district school board to perform a clinical
116 field experience under the direction of a regularly employed and

594-04416-15

2015888c1

117 certified educator shall, while serving such supervised clinical
118 field experience, be accorded the same protection of law as that
119 accorded to the certified educator except for the right to
120 bargain collectively as an employee of the district school
121 board. The district school board providing the clinical field
122 experience shall notify the student electronically or in writing
123 regarding the availability of educator liability insurance under
124 s. 1012.75. A postsecondary educational institution or district
125 school board may not require a student enrolled in a state-
126 approved teacher preparation program to purchase liability
127 insurance as a condition of participation in any clinical field
128 experience or related activity on the premises of an elementary
129 or secondary school.

130 Section 4. Section 1012.75, Florida Statutes, is amended to
131 read:

132 1012.75 Liability of teacher or principal; ~~excessive~~
133 ~~force.~~—

134 (1) Except in the case of excessive force or cruel and
135 unusual punishment, a teacher or other member of the
136 instructional staff, a principal or the principal's designated
137 representative, or a bus driver shall not be civilly or
138 criminally liable for any action carried out in conformity with
139 State Board of Education and district school board rules
140 regarding the control, discipline, suspension, and expulsion of
141 students, including, but not limited to, any exercise of
142 authority under s. 1003.32 or s. 1006.09.

143 (2) The State Board of Education shall adopt rules that
144 outline administrative standards for the use of reasonable force
145 by school personnel to maintain a safe and orderly learning

594-04416-15

2015888c1

146 environment. Such standards shall be distributed to each school
147 in the state and shall provide guidance to school personnel in
148 receiving the limitations on liability specified in this
149 section.

150 (3) Beginning with the 2015-2016 school year, the
151 Department of Education shall administer an educator liability
152 insurance program, as provided in the General Appropriations
153 Act, to protect full-time instructional personnel, as defined by
154 the district school board, from liability for monetary damages
155 and the cost of defense of actions resulting from claims made
156 against them arising out of occurrences in the course of
157 activities in their professional capacity. For purposes of this
158 subsection, the term "instructional personnel" has the same
159 meaning as in s. 1012.01(2).

160 (a) Liability coverage in an amount not less than \$2
161 million must be provided to all full-time instructional
162 personnel, as defined by the district school board. Liability
163 coverage may be provided at cost to the following individuals
164 who choose to participate in the program: part-time
165 instructional personnel, as defined by the district school
166 board; administrative personnel, as defined by the district
167 school board; and students, as described in s. 1012.39(3).

168 (b) Each district school board shall annually notify
169 personnel specified in paragraph (a) regarding the liability
170 coverage provided pursuant to this section by August 1. The
171 department shall develop the form of the notice to be used by
172 each district school board. The notice shall be on an 8 1/2 by 5
173 1/2-inch postcard and include the amount of coverage, a general
174 description of the nature of the coverage, and the contact

594-04416-15

2015888c1

175 information for coverage and claims questions. The notification
176 must be provided separately from any other correspondence. Each
177 district school board shall certify to the department by August
178 5 of each year that the notification required by this subsection
179 has been provided.

180 (c) The department shall consult with the Department of
181 Financial Services to select the most economically prudent and
182 cost-effective means of implementing the program through self-
183 insurance, a risk management program, or competitive
184 procurement.

185 Section 5. Subsection (1) of section 1012.79, Florida
186 Statutes, is amended to read:

187 1012.79 Education Practices Commission; organization.—

188 (1) The Education Practices Commission is composed ~~consists~~
189 ~~of the following~~ 25 members: 10, ~~including 8~~ teachers; 5
190 administrators, at least one of whom represents ~~shall represent~~
191 a private or virtual school; 4 7 lay citizens who are, ~~5 of whom~~
192 ~~shall be~~ parents of public school students and who are unrelated
193 to public school employees; and 2 of whom shall be former
194 charter school governing board or district school board members
195 or former superintendents, assistant superintendents, or deputy
196 superintendents; and 4 5 sworn law enforcement officials,
197 appointed by the State Board of Education from nominations by
198 the Commissioner of Education and subject to Senate
199 confirmation. Prior to making nominations, the commissioner
200 shall consult with teaching associations, parent organizations,
201 law enforcement agencies, and other involved associations in the
202 state. In making nominations, the commissioner shall attempt to
203 achieve equal geographical representation, as closely as

594-04416-15

2015888c1

204 possible.

205 (a) A teacher member, in order to be qualified for
206 appointment:

207 1. Must be certified to teach in the state.

208 2. Must be a resident of the state.

209 3. Must have practiced the profession in this state for at
210 least 5 years immediately preceding the appointment.

211 (b) A school administrator member, in order to be qualified
212 for appointment:

213 1. Must have an endorsement on the educator certificate in
214 the area of school administration or supervision.

215 2. Must be a resident of the state.

216 3. Must have practiced the profession as an administrator
217 for at least 5 years immediately preceding the appointment.

218 (c) All ~~The lay~~ members must be residents of the state.

219 (d) The law enforcement official members must have served
220 in the profession for at least 5 years immediately preceding
221 appointment and have background expertise in child safety.

222 (e) The commissioner, upon request or recommendation from
223 the commission, may also appoint up to 5 emeritus members from
224 the commission's prior membership to serve 1-year terms.

225 Notwithstanding any prior service on the commission, an emeritus
226 member may serve up to five 1-year terms. An emeritus member
227 serves as a voting member at a discipline hearing and as a
228 consulting but nonvoting member during a business meeting.

229 Section 6. Subsection (3) of section 1012.796, Florida
230 Statutes, is amended to read:

231 1012.796 Complaints against teachers and administrators;
232 procedure; penalties.-

594-04416-15

2015888c1

233 (3) The department staff shall advise the commissioner
234 concerning the findings of the investigation. The department
235 general counsel or members of that staff shall review the
236 investigation and advise the commissioner concerning probable
237 cause or lack thereof. The determination of probable cause shall
238 be made by the commissioner. The commissioner shall provide an
239 opportunity for a conference, if requested, prior to determining
240 probable cause. The commissioner may enter into deferred
241 prosecution agreements in lieu of finding probable cause if, in
242 his or her judgment, such agreements are in the best interests
243 of the department, the certificateholder, and the public. Such
244 deferred prosecution agreements shall become effective when
245 filed with the clerk of the Education Practices Commission.
246 However, a deferred prosecution agreement may ~~shall~~ not be
247 entered into if there is probable cause to believe that a felony
248 or an act of moral turpitude, as defined by rule of the State
249 Board of Education, has occurred. Upon finding no probable
250 cause, the commissioner shall dismiss the complaint. In lieu of
251 a finding of probable cause, the commissioner may also issue a
252 letter of guidance to the educator.

253 Section 7. This act shall take effect July 1, 2015.