

Committee Substitute for Committee Substitute for
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 Senate Bill No. 1540

An act relating to zero-tolerance policies; amending s. 1002.20, F.S.; conforming cross-references; requiring that a district school board having a policy authorizing corporal punishment as a form of discipline review its policy on corporal punishment at specified intervals; requiring that such review be conducted at a district school board meeting held pursuant to state law; requiring that the district school board take public testimony at such meeting; providing for the expiration of a district school board's policy authorizing corporal punishment under certain circumstances; amending s. 1006.09, F.S.; conforming cross-references; amending s. 1006.13, F.S.; providing legislative intent and findings; revising the requirements for zero-tolerance policies; deleting provisions relating to agreements with the county sheriff's office and local police departments; requiring that such agreements specify guidelines for addressing acts that pose a serious threat to school safety; providing that zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency; requiring each district school board to adopt a cooperative agreement with the Department of Juvenile Justice which establishes certain guidelines; requiring that any disciplinary or prosecutorial action taken against a student who violates a zero-tolerance policy be based on the particular circumstances surrounding the student's misconduct; encouraging school districts to use alternatives to expulsion or referral to law enforcement agencies unless using such alternatives will pose a threat to school safety; providing an effective date.

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

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

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

- (4) DISCIPLINE.—
- (c) Corporal punishment.—

1. In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request,

the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

2. A district school board having a policy authorizing the use of corporal punishment as a form of discipline shall review its policy on corporal punishment once every 3 years during a district school board meeting held pursuant to s. 1001.372. The district school board shall take public testimony at the board meeting. If such board meeting is not held in accordance with this subparagraph, the portion of the district school board's policy authorizing corporal punishment expires.

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

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

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

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

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

1006.13 Policy of zero tolerance for crime and victimization.—

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

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

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

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

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

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

(e) Establishes a procedure that provides each student with the opportunity for a review of the disciplinary action imposed pursuant to s. 1006.07.

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

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

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

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

(4)(a)(3) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety felonies and violent misdemeanors, whether committed by a student or adult, and ~~delinquent acts that would be felonies or violent misdemeanors if committed by an adult~~, are reported to a law enforcement agency. ~~Each district school board shall adopt a cooperative agreement, pursuant to s. 1003.52(13) with the Department of Juvenile Justice, that specifies guidelines for ensuring that all no contact orders entered by the court are reported and enforced and that all steps necessary are taken to protect the victim of any such crime. Such~~

(b) The agreements must ~~shall~~ include the role of school resource officers, if applicable, in handling reported incidents, ~~special~~ circumstances in which school officials may handle incidents without filing a report with a ~~to~~ law

enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.

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

(d) The school principal shall ~~ensure~~ be responsible for ensuring that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

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

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

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

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate district school board of the adjudication or plea, the

requirements in of this paragraph, and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.455(2). Upon receipt of such notice, the district school board shall take appropriate action to effectuate the provisions in of paragraph (b).

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

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

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

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

(8) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

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

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.