

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1634

SPONSOR: Senator Klein

SUBJECT: Students/In-School Suspension

DATE: March 13, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill amends the definition in s. 228.041(25), F.S., for the term “in-school suspension.” The bill also establishes “on-campus intervention programs” (OICPs), as an alternative to out-of-school suspensions. The bill provides an appropriation of \$5 million from the General Revenue Fund to the Department of Education for OICPs for each of four specific fiscal years. The bill allows a public school principal to apply to the Commissioner of Education for up to \$75,000 to establish and conduct an on-campus intervention program. The bill specifies the contents of the application.

The bill allows a school principal to establish an on-campus intervention program using certain guidelines as a model. The bill specifies the program requirements. The school principal, with parental permission, may assign a student to the program for 3 or 5 days, in lieu of an out-of-school suspension. A student’s participation in the program is limited to a maximum of 3 times per school year.

The bill requires the submission of an annual report from each program funded under s. 230.23155, F.S., and specifies the contents of the report and the due date. Also, the Commissioner of Education must submit an evaluation of the effectiveness of on-campus intervention programs to specified members of the executive and legislative branch of government. The bill repeals s. 230.23155, F.S., effective July 1, 2004. The effective date of the bill is July 1, 2000.

This bill substantially amends s. 228.041(25), F.S., and creates s. 230.23155, F.S.

II. Present Situation:

Student Discipline and Suspension

The law (s. 228.041(25), F.S.) defines two types of suspension: out-of-school suspension and in-school suspension. Suspension (also referred to as out-of-school suspension) is the temporary

removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal's designee. In-school suspension is 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. 230.2316, F.S., under the supervision of school district personnel. Under this provision of law, in-school and out-of-school suspensions may not exceed 10 school days.

Each code of student conduct (s. 230.23(6), F.S.) must include consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, 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 as defined in chapter 893, F.S. The code must also contain policies to be followed for the assignment of violent or disruptive students to an alternative educational program, and notice that certain offenses are grounds for disciplinary action and may result in the imposition of criminal penalties. Students may not be suspended for unexcused tardiness, lateness, absence, or truancy. Any student transported to or from school at public expense may be suspended from the privilege of riding on a school bus for violation of school board transportation policies.

Each school board is required, in s. 230.23(6)(c), F.S., to adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and to decide all cases recommended for expulsion. Suspension hearings are exempt from chapter 120, F.S. Section 232.26, F.S., establishes the authority of school principals, including the development of policies for delegating responsibility for the control and direction of students to teachers, other members of the instructional staff, and bus drivers. Recommendations of these individuals must be considered when making a decision regarding student referral for discipline. A principal or his or her designee may suspend a student only in accordance with district school board rules. The law provides that school personnel may not be held legally responsible for suspensions of students made in good faith.

The law (s. 232.26, F.S.) sets forth the process for suspending students and includes the following activities:

- ▶ a good faith effort to immediately inform a student's parent or guardian by telephone of the student's suspension and the reasons; and
- ▶ a written report for each suspension and the reasons (within 24 hours) to the student's parent or guardian and the superintendent;

A good faith effort must also be made to employ parental assistance or other alternative measures prior to suspension, except for emergency or disruptive conditions requiring immediate suspension or for a serious breach of conduct as defined by district school board rules. The rules must require notice (oral and written) to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student must be given an opportunity to present his or her side of the story.

The law also provides for the initiation of suspension proceedings by a prosecuting attorney against students who are formally charged with a felony or delinquent act which would be felony if committed by an adult for certain incidents which allegedly occurred off school property. The proceedings may be initiated if, in an administrative hearing, the incident is shown to have an

adverse affect upon the education program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as the result of these proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the superintendent. However, the suspension does not affect the delivery of educational services to the student. The student must be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act, the school board may expel the student. However, the expulsion under this provision must not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting.

Dropout Prevention and Academic Intervention

The Dropout Prevention and Academic Intervention Act (s. 230.2316, F.S.) provides that these programs may differ from traditional education programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting. Students in grades 1 through 12 are eligible for these programs and participation is voluntary. Districts may assign students to a program for disruptive students. Eligible students must be reported in the appropriate basic cost factor in the FEFP.

The act provides for student eligibility and program criteria. A student is eligible for services funded through the program based on one of the following criteria:

- ▶ The student is academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or district proficiency levels in reading, mathematics, or writing.
- ▶ The student has a pattern of excessive absenteeism or has been identified as a habitual truant.
- ▶ The student has a history of disruptive behavior in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district code of student conduct.

"Second chance schools" are defined in law (s. 230.2316(3)(d), F.S.) to mean school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses. As partnership programs, second chance schools are eligible for grants. They are also eligible for waivers by the Commissioner of Education from chapters 230 through 235, F.S., and chapter 239, F.S., and State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings. Students enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second chance school if they meet the criteria in law. Students may be assigned to a second chance school if the school district in which the student resides has this type of school and the student meets one of three criteria in law.

Prior to assignment of students to second chance schools, school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills. Students assigned to second chance schools

must be evaluated by the school's local child study team before placement in a second chance school. The study team must ensure that students are not eligible for placement in a program for emotionally disturbed children.

Student Support Services

Currently, the number and type of student support services personnel varies in each school district. Federal and state safe schools funds currently provide a variety of safe schools initiatives. According to the Florida Department of Education, some districts currently hire student support services staff to implement or supervise schools safety programs. The department also noted that districts and schools have targeted student support services resources primarily to improve student achievement levels and to carry out mandated duties such as career counseling, truancy follow up, and testing for special class placement. This has resulted in an insufficient number of personnel to implement initiatives to increase school safety.

The law (s. 231.15, F.S.) requires the State Board of Education to prescribe classes of service, designate the certification subject areas, and establish competencies and certification requirements for all school-based personnel. Each person employed in specified positions, including a school counselor, in a public school must hold a certificate issued by the Department of Education. The term “instructional personnel” includes staff members (e.g., guidance counselors, social workers, occupational/placement specialists, and school psychologists) responsible for the following:

- ▶ advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments;
- ▶ providing placement services; and
- ▶ performing educational evaluations and similar functions.

Each school district’s school improvement plan is required to address student support services.

Current administrative rules (Rule 6A-4.0181, F.A.C.) provide for the certification of guidance and counseling personnel and provide two certification pathways. The first certification pathway requires a person to have a master’s or higher degree with a graduate major in guidance and counseling or counselor education which includes 3 semester hours in a supervised counseling practicum in an elementary or secondary school. Under the second pathway, a person must have a master’s or higher degree with 30 semester hours of graduate credit in guidance and counseling to include specific areas (e.g., counseling theories and individual counseling techniques, group counseling and guidance techniques, and consultation skills and techniques for conferring with various entities, including parents.)

Length of School Day

The law (s. 228.041(13), F.S.) defines a school day for any group of students as that portion of the day in which school is actually in session and it must comprise:

- ▶ not less than 5 net hours, excluding intermissions, for all grades above the third;
- ▶ not less than 4 net hours for the first three grades; and
- ▶ not less than 3 net hours for kindergarten or prekindergarten students with disabilities, or the equivalent as calculated on a weekly basis.

The net hours specified in this provision must consist only of instruction in an approved course of study and must exclude all noninstructional activities, as defined by Commissioner of Education rules.

Three of the last days of the 90-day term, and of the 180-day term, may be designated by the district school board as final examination days for secondary school students. These final examination days must consist of no less than 4 net hours, excluding intermissions. The minimum length of the school day may be decreased under State Board of Education rule for double session schools or programs, experimental schools, or schools operating under emergency conditions.

School Grades and Discipline Data

School discipline data is a part of grading a school's performance level, a measure of accountability. Chapter 99-398, L.O.F., created s. 229.57(7)&(8), F.S., to establish school performance grade category designations (letter grades "A," "B," "C," "D," and "F"), based on specific student assessment information and other appropriate performance data, including school discipline data, beginning in school year 1998-1999.

State Board of Education rule (Rule 6A-1.09981, F.A.C.) implements the A+ legislation and includes discipline data as an accountability element for use in designating school performance grades, beginning with the existing school year (1999-2000). Under the rule, the criteria related to discipline apply to schools at the Grade "A," "B," "C," and "D" designations. For the elementary, middle, and high schools with these designations, the percentage of out-of-school suspensions must be no more than one standard deviation above the state average. If a school's performance for any of the required data, including discipline, has improved from the previous year, the criteria for that data requirement will be considered as met. School discipline data will continue to be an accountability element for use in designating school performance grades in school year 2001-2002 and beyond.

On June 24, 1999, the Commissioner of Education released grades for all public schools for the 1998-1999 school year. According to the Florida Department of Education, the following criteria were used to designate "A" schools: meeting grade "B" criteria; having a percentage of students absent more than 20 days, a percentage of students suspended out of school, and a dropout rate (high schools) that were below state averages; demonstrating substantial improvement in reading scores; demonstrating no substantial decline in mathematics or writing scores; and having at least 95% of the standard curriculum students tested. The school discipline data (e.g., out-of-school suspensions), according to the department, applied to schools at the elementary, middle/junior, and high school levels. In 1998, the state averages for out-of-school suspensions were 2.2% for elementary schools, 15.4% for middle schools, and 13.4% for high schools. Subsequent to the release of the grades in June, the department reviewed 111 schools and made some adjustments to school grades.

On Campus Intervention Program History

The program was implemented in school year 1995-1996 as a joint effort between the Clearwater High School Advisory Council, the Pinellas County School Board, and Family Resources Inc., a non-profit counseling agency. According to the Department of Juvenile Justice, \$27,333 was provided through a grant from the Department of Juvenile Justice to Family Resources, Inc., for the program at Clearwater High School.

According to the Clearwater High School On Campus Intervention Program manual:

- ▶ the program was designed to provide a positive alternative to out-of-school suspensions.

- ▶ the high school staffing model consists of a counselor at the master's degree level, a certified teacher, and a counseling intern; at the middle school level, the staffing has consisted of a Life Skills Counselor rather than a teacher.
- ▶ the program was expanded to additional high schools and middle schools in Pinellas County.
- ▶ there were local funds used for the program.

III. Effect of Proposed Changes:

Section 1. The bill amends the definition in s. 228.041(25), F.S., for the term "in-school suspension." The term means the temporary removal of a student from his or her regular school program and placement in an alternative program, such as that provided in ss. 230.2316 and 230.23155, F.S., as created by the bill.

The bill also establishes "on-campus intervention programs" (OICPs), as an alternative to out-of-school suspensions. The bill provides an appropriation of \$5 million from the General Revenue Fund to the Department of Education for OICPs for each of four specific fiscal years (FY 2000-2001, FY 2001-2002, FY 2002-2003, and FY 2003-2004). The bill allows a public school principal to apply to the Commissioner of Education for up to \$75,000 to establish and conduct an on-campus intervention program. The contents of the application must include four items:

- a letter of support from the district school superintendent;
- letters of commitment from local community organizations with expertise in youth and family counseling or local government agencies for funds equaling at least one-third of the amount of the grant request;
- projected student outcomes; and
- a proposal for fulfilling specified program requirements.

The bill allows a school principal to establish an on-campus intervention program using guidelines established for the Pinellas County program as a model. The program must require the following:

- counseling, tutoring, instruction in life skills and anger management, and referrals to continued individual or family counseling for participating students;
- a school day that is at least the length of the school day as defined by s. 228.041(13), F.S.;
- student attendance for the full day each day the student is assigned to the program;
- staff that includes, but is not limited to, a certified teacher, a counselor at the master's degree level with expertise in youth and family counseling, and a clerical employee or intern;
- a phone or other means of direct communication by staff with the school administration; and
- space within the fixed school building that is dedicated solely to the program and that includes classroom space and separate office space for individual and group counseling.

The school principal, with parental permission, may assign a student to the program for 3 or 5 days, in lieu of an out-of-school suspension. The bill, however, limits a student's participation in the program to a maximum of 3 times per school year.

The bill requires the submission of an annual report from each program funded under s. 230.23155, F.S. The bill specifies the contents of the report and the due date (October 1). Also, the bill requires the Commissioner of Education to submit to specified members of the executive and legislative branch of government (by January 1, 2004) an evaluation of the effectiveness of on-campus intervention programs. The bill repeals s. 230.23155, F.S., effective July 1, 2004.

Section 2. The effective date of the bill is July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The number of local community agencies willing to commit the level of funds (at least one-third of the amount requested) specified in the application is unknown. To the extent that the bill results in needed services, students may benefit.

C. Government Sector Impact:

The bill provides an appropriation of \$5 million from the General Revenue Fund to the Department of Education for OICPs for each of four specific fiscal years. A principal may apply to the Commissioner of Education for up to \$75,000 to establish and conduct this type of program. The number of principals who will apply for these funds is unknown. It is not clear whether or not the principal may apply for these funds on a one-time or annual basis. The number of local government agencies willing to commit the level of funds (at least one-third of the amount requested) specified in the application is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
