

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 820

SPONSOR: Senator Klein

SUBJECT: Schools/Suspension

DATE: March 26, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/1 amendment</u>
2.	<u>McKee</u>	<u>Hickam</u>	<u>AED</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill creates the school-based alternative to suspension program (SASP) and sets forth the required program and staffing requirements. A public school district or a consortium of districts, in partnership with a local mental-health care agency, may apply to the Commissioner of Education for up to \$75,000 per program to establish the counseling component and conduct up to five programs in their respective districts. The bill provides for placements of students and for reporting requirements by counseling agencies and the Commissioner of Education. The bill provides an appropriation of \$1,875,000 from General Revenue to the Department of Education for each of four specific fiscal years (FY 2001-02, FY 2002-03, FY 2003-04, and FY 2004-05). The bill provides an effective date of July 1, 2001.

The bill amends s. 228.041, F.S., and creates s. 230.23155, F.S., which is repealed July 1, 2005.

## 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. It includes remanding the student to his or her parents with specific homework assignments to complete. 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.

**Code of Student Conduct**

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.

**Suspension Process**

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.

According to the Department of Education, thirty-three school districts reported developing and implementing dropout prevention and academic intervention in-school suspension programs for the 2000-2001 school year.

### **Second chance schools**

"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. Prior to placement in a second chance

school, the school's local child study team must evaluate students. 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. The law (s. 231.15, F.S.) requires each person employed in specified positions, including a school counselor, in a public school to 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.

Chapter 2000-235, L.O.F., requires each district school board to address the availability of qualified and experienced support services professionals who are trained in substance abuse or mental health to support teachers who identify students with potential problems. Districts may address the availability of these personnel through the use of in-school or local private providers.

### **Length of School Day**

The law (s. 228.041(13), F.S.) defines the length of a school day for any group of students.

### **On Campus Intervention Program (OCIP<sup>tm</sup>) 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. The program has been expanded to additional high schools and middle schools in Pinellas County. Suspensions Solutions, Inc., is a private, non-profit organization that assists in creating local partnerships among schools, counseling agencies, and funding sources to establish school based alternatives to suspension programs.

## **III. Effect of Proposed Changes:**

**Section 1.** The bill amends s. 228.041(25)(b), F.S., related to the definition of the term, "suspension," to add a cross-reference to s. 230.23155, F.S., the school based alternative to suspension program (SASP).

**Section 2.** The bill creates s. 230.23155, F.S., which is repealed July 1, 2005. This provision creates the school-based alternative to suspension program and provides an appropriation of \$1,875,000 from General Revenue to the Department of Education for each of four specific fiscal years (FY 2001-02, FY 2002-03, FY 2003-04, and FY 2004-05).

The bill allows a public school district or a consortium of districts, in partnership with a local mental-health care agency with expertise in youth and family counseling, to apply to the Commissioner of Education for up to \$75,000 per program to establish the counseling component and conduct up to five programs in their respective districts. The bill specifies the required contents of the application:

- letters of support from each district school board;
- letters of support from local colleges and universities for placement of counseling interns;
- letters of commitment from each school's principal and school advisory council related to space for housing the program and compliance with proper program implementation and utilization;
- letters of commitment from the school district, local government entities and agencies, or community based organizations for funding that equals at least one-third of the amount of the grant request;
- projected student outcomes; and
- a proposal for fulfilling specific program requirements.

The bill allows a school principal, in partnership with a local mental-health care agency, to establish an SASP and specifies the required program components for participating students:

- specific services (e.g., academic tutoring, intake assessment, counseling, instruction in life skills, aftercare sessions, and, as indicated, referrals to appropriate community-based agencies that offer services on a sliding scale for continued individual counseling, family counseling, or both);
- minimum school day (at least the length of the school day as defined by s. 228.041(13), F.S.); and
- attendance for each full day during assignment to the program.

A school that has more than 2,000 students must request two SASPs. Space within the fixed school building must be dedicated solely to the program and must include classroom space with a phone or other direct means of communication with the school administration, as well as separate office space (a minimum of approximately 1100 square feet) for individual and group counseling.

The bill specifies the minimum program staff requirements:

- a certified teacher;
- a counselor who has expertise in youth and family counseling and who possesses a master's degree;
- a counseling intern; and
- a part-time clerical assistant or volunteer help.

The program staff must conduct in-service training for school faculty on effective classroom management and alternative, positive disciplinary techniques.

The principal or the principal's designee, with parental permission, may assign a student to a program for a 5-day period, in lieu of an out-of-school suspension. At the counseling staff's discretion, a student may be released after 3 days or, if the counseling staff considers it necessary, may be retained in the program for an additional 5-day period. A student may participate in a program a maximum of three times per school year.

The counseling agency for each funded SASP must submit to the Commissioner of Education an annual report (by October 1) that includes, but is not limited to the following:

- program expenditures;
- number of program referrals (by grade, sex, and race);
- number of students referred to the program one, two, and three times;
- number of students subsequently suspended out-of-school;
- duplicated and unduplicated suspensions for the school;
- dropout rate, which must be included by participating high schools; and
- principal, faculty, student, and program staff comments about the program's effectiveness.

The Commissioner of Education must submit, by January 1, 2005, an evaluation of the effectiveness of school-based alternative to suspension programs. The report must be submitted to the Governor, the Senate President, the Speaker of the House of Representatives, and the majority and minority leaders of each chamber.

**Section 3.** The bill provides an effective date of July 1, 2001.

#### **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 a total appropriation of \$7.5 million from the General Revenue Fund to the

Department of Education for SASPs (\$1,875,000 for each of four specific fiscal years). A school district or a consortium of school districts may apply to the Commissioner of Education for up to \$75,000 to establish and conduct the counseling component of the program and conduct up to 5 SASPs. The number of school districts that will apply for these funds is unknown.

Amendment #1 adopted by the Committee on Education reduces the General Revenue appropriations over four fiscal years from \$1,875,000 to \$750,000 per year for establishing school-based alternatives to suspension programs in Palm Beach and Pinellas County School Districts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Education noted that it may be difficult for some school districts to meet the personnel requirements due to shortages of mental health counselors and lack of access to mental health counseling services.

**VIII. Amendments:**

#1 by Education:

Reduces the General Revenue appropriations over four fiscal years from \$1,875,000 to \$750,000 per year and provides for establishing school-based alternative to suspension programs in Palm Beach and Pinellas County School Districts.