

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 302

INTRODUCER: Senator Siplin

SUBJECT: Public School Dress Requirements

DATE: January 9, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill prohibits students from wearing and exposing undergarments that expose or exhibit covered or uncovered sexual organs. Students who do not comply would receive a verbal warning for the first offense and suspension from school for each subsequent infraction.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Under current law, there is authority for district school boards to impose reasonable restrictions on student dress. Specifically, s. 1001.43(1)(b), F.S., authorizes school districts to require uniforms or impose other dress-related requirements if the district determines that the requirements are necessary for the safety or welfare of the student body or school personnel. Although s. 1006.07, F.S., does not explicitly reference a standard of student dress, it requires each district school board to provide for the control of students and to preserve the health, safety, and welfare of students. Finally, s. 1001.51(14), F.S., authorizes a district school superintendent to enforce all laws, rules of the State Board of Education, and rules of the district school board.

Prohibitions on the exposure of undergarments is not specifically referenced in the school code.

The exposure of underwear, also known as sagging, allegedly originated in jails, where inmates are denied belts for security reasons.¹ There is a growing number of cities that are banning

¹ Star-Telegram, *Approval of anti-trend is sagging*, November 19, 2007, available at http://www.star-telegram.com/dallas_news/story/309992.html, last checked December 10, 2007.

sagging.² Opa-Locka, Florida, enacted a sagging ban ordinance on October 24, 2007, in schools, parks, and city-owned property.³ In fact, the Atlanta Board of Education is reportedly considering banning sagging in all of the system's public schools.⁴ Finally, in 2005, the Virginia House of Delegates passed a bill that would ban below-waist undergarments, although the bill did not ultimately pass the Virginia Senate.⁵

III. **Effect of Proposed Changes:**

This bill prohibits the wearing and exposing of below-waist underwear while on public school grounds in a manner that exhibits one's sexual organs, covered or uncovered, in a vulgar and indecent manner. Students who do not comply would receive the following sanctions:

- Verbal warning for the first offense;
- 3-day suspension from school for the second offense;
- 10-day suspension for the third offense; and
- Suspension, presumably indefinite, for any offense thereafter.

There may be some ambiguity in defining a vulgar and indecent manner. Accordingly, there may be a lack of uniformity in district school board implementation. Additionally, to preserve the sanctions, school districts would likely need to put students on notice when the display of one's sexual organs is vulgar and indecent. Finally, suspension may not have the intended effect if a student is refusing to comply for disciplinary reasons; rather, the bill may have the unintended consequence of increasing the drop-out rate.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² Kansas City Star, *Sagging-pants ban has its critics*, December 2, 2007, available at <http://www.kansascity.com/news/local/story/387149.html>, last checked December 10, 2007; Palm Beach Post, Pull-up or pay up; Riviera Beach mayor seeks ban on saggy pants, November 16, 2007, available at http://www.palmbeachpost.com/localnews/content/local_news/epaper/2007/11/16/s1a_RBSAGGY_1116.html?imw=Y, last checked December 10, 2007.

³ See Palm Beach Post, *supra* note 2.

⁴ Atlanta Journal-Constitution, *Atlanta's school board might ban saggy pants*, December 10, 2007, last checked December 10, 2007.

⁵ HB 1981, 2005 Gen. Assem., Reg. Sess. (Va. 2005)

D. Other Constitutional Issues:

First Amendment

The bill may implicate First Amendment concerns and be challenged. Courts have long held that students do not lose their constitutional right to freedom of speech or expression at the schoolhouse gate.⁶ However, courts have also repeatedly affirmed the authority of the states and school districts to prescribe and control conduct in schools.⁷ Accordingly, courts must analyze the speech or expressive conduct and determine whether the regulation does not impermissibly exceed the state's constitutional authority.⁸

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

⁶ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506 (1969).

⁷ *Id.* at 507.

⁸ See *Blau v. Fort Thomas Public School District*, 401 F.3d 381 (C.A. 6th KY 2005) (upholding dress code restriction on baggy or tight clothing, among other things); *Brandt v. Board of Educ. of City of Chicago*, 480 F.3d 460 (C.A. 7th Ill. 2007) (upholding dress code restriction on “gifted” T-shirt); *Canady v. Bossier Parish School Bd.*, 240 F.3d 437 (C.A.5 La. 2001) (upholding mandatory uniform policy); *Bar-Navon v. School Board of Brevard County, Florida*, 2007 WL 3284322, (M.D. Fla. 2007) (granting motion for summary judgment for the school district on dress code policy that provides that pierced jewelry is limited to the ear).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
