

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 Criminal Justice Committee

BILL: CS/CS/SB 1540

INTRODUCER: Criminal Justice Committee; Education Pre-K-12 Committee; and Senator Wise

SUBJECT: Zero Tolerance Policies/Schools

DATE: March 25, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	Dugger	Cannon	CJ	Fav/CS
3.			JU	
4.			EA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires district school boards to revise their zero-tolerance policies to:

- Define petty misconduct and offenses that pose a serious threat to school safety;
- Prohibit the reporting of petty misconduct and certain misdemeanors to a law enforcement agency;
- Provide for a review of the disciplinary action taken against a student pursuant to s. 1006.07, F.S.; and
- Consider the particular circumstances surrounding the student's misbehavior in any disciplinary or prosecutorial action.

The bill also requires cooperative agreements to specify guidelines for offenses that pose a serious threat to school safety and reporting them to law enforcement.

Finally, the bill requires a district school board having a policy authorizing corporal punishment to review such policy every 3 years during a public school board meeting. If the meeting does not happen, the corporal punishment policy expires.

This bill substantially amends ss. 1002.20, 1006.09, and 1006.13, of the Florida Statutes.

II. Present Situation:

*Code of Student Conduct*¹

Each school board must adopt a code of student conduct that includes consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and 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 provide notice that certain offenses are grounds for disciplinary action and may result in the imposition of criminal penalties.

Zero Tolerance for Crime and Victimization

School districts must adopt zero-tolerance policies for crime, substance abuse, and the victimization of students.² The policy must require students found to have committed specific offenses to be expelled, with or without continuing education services, from the student's regular school for a period of not less than one year and to be referred for criminal prosecution. The law does not require district policies to make a distinction between petty offenses and those of a more serious nature.

The law requires a procedure for ensuring that school personnel properly report delinquent acts and crimes to law enforcement and that all no contact orders entered by the court are enforced.³ These requirements are implemented through guidelines in cooperative agreements between school boards, law enforcement, and the Department of Juvenile Justice (DJJ). The agreements must include the role of school resource officers, if applicable, in handling reported incidents and special circumstances in which school officials may handle incidents without filing a report to law enforcement.

The current State Board of Education rule for zero tolerance lists nine offenses which subject a student to the most severe disciplinary action provided for by school board policy and provides that all of these offenses must be reported to local law enforcement agencies.⁴ Districts must ensure that appropriate due process procedures are followed prior to taking disciplinary action and that discipline is administered in an equitable manner.⁵

III. Effect of Proposed Changes:

The bill revises the requirements for zero-tolerance policies with the anticipation that there will be fewer incidences of petty acts of misconduct or misdemeanors reported to law enforcement.

¹ s. 1006.07(2), F.S.

² s. 1006.13 (1)(a), F.S.

³ s. 1006.13, F.S.

⁴ Rule 6A-1.0404, F.A.C. These offenses are homicide (murder, manslaughter); sexual battery; armed robbery; aggravated battery; battery or aggravated battery on a teacher or other school personnel; kidnapping or abduction; arson; possession, use, or sale of any firearm; or possession, use or sale of any explosive device. Districts must amend their code of student conduct to ensure consistency with these provisions.

⁵ *Id.*

Rather, districts would handle these offenses administratively at the district level without the involvement of law enforcement.

The bill prohibits district policies from requiring reports to law enforcement of petty misconduct and misdemeanors, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray,⁶ theft of less than \$300, trespassing, and vandalism of less than \$1,000. School districts are tasked with defining petty acts of misconduct. While the bill provides examples of this type of misconduct (i.e., minor fights or disturbances), it does not provide any objective criteria or guidelines to permit classification of the offense as petty.⁷ Accordingly, there may not be uniformity in the manner in which these offenses are reported to law enforcement agencies.

Under the bill, districts must also define offenses that pose a serious threat to school safety and report them to law enforcement. (Currently, the “zero tolerance” law requires reporting 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.⁸ It does not set a minimum threshold for offenses that can be reported.)

Zero tolerance policies must also specify a procedure to review the disciplinary action taken against a student pursuant to s. 1006.07, F.S. Current law provides for an administrative hearing for a student who has been expelled from school.⁹ The law does not provide for this type of hearing for a student who is suspended from school. For any disciplinary or prosecutorial action, the bill requires district policies to consider the particular circumstances surrounding the student’s misbehavior.

Finally, the bill requires a district school board having a policy authorizing corporal punishment to review such policy every 3 years during a public school board meeting. If the meeting does not happen, the corporal punishment policy expires.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶ A public brawl or fight.

⁷ Federal law defines certain types of misdemeanors and infractions as petty offenses. 18 U.S.C. s. 19.

⁸ s. 1006.13, F.S.

⁹ s. 1006.07(1), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Juvenile Justice, the provisions of the bill have no direct impact on the department. The DJJ notes that limiting the number of offenses reported to law enforcement should decrease referrals to the DJJ and, as a result, the need for DJJ services.

School districts would need to review their zero tolerance policies to conform to the provisions of the bill. There would likely be minimal cost associated with this review.

According to the Department of Education, “it would be responsible for the costs of modifications to training, tools, and materials for district training on incident and discipline reporting.”

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the DJJ, “black males and females account for 47% of all school-related referrals, while only representing 22% of the youth aged 10-17 in Florida. Setting thresholds and minimum standards for zero-tolerance policies will improve the uniformity of its application across the state and it will help address the over-representation of minorities in the juvenile justice system.”

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on March 25, 2009:**

- Requires a district school board having a corporal punishment policy to review the policy every 3 years during a public school board meeting; otherwise, the policy expires.
- Requires any disciplinary or prosecutorial action taken against a student who violates a zero-tolerance policy to be based not on the individual student, but rather on the particular circumstances of the misconduct.

- Requires the zero tolerance policy to minimize the victimization of not just students, but also staff and volunteers.

CS by Education Pre-K-12 on March 5, 2009:

- The committee substitute clarifies the law enforcement reporting requirement and requires zero tolerance policies to include a review of the disciplinary action taken against a student.

B. Amendments:

None.