

By Senator Wise

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1                   A bill to be entitled  
2       An act relating to zero-tolerance policies; amending  
3       ss. 1002.20 and 1006.09, F.S.; conforming cross-  
4       references; amending s. 1006.13, F.S.; providing  
5       legislative intent and findings; revising the  
6       requirements for zero-tolerance policies; deleting  
7       provisions relating to agreements with the county  
8       sheriff's office and local police departments;  
9       requiring that such agreements specify guidelines for  
10      addressing acts that pose a serious threat to school  
11      safety; prohibiting zero-tolerance policies from  
12      requiring the reporting of petty acts of misconduct  
13      and misdemeanors to a law enforcement agency;  
14      requiring that any disciplinary or prosecutorial  
15      action taken against a student who violates a zero-  
16      tolerance policy be based on the individual student  
17      and the particular circumstances surrounding the  
18      student's misconduct; encouraging school districts to  
19      use alternatives to expulsion or referral to law  
20      enforcement agencies unless using such alternatives  
21      will pose a threat to school safety; providing an  
22      effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26       Section 1. Subsection (5) of section 1002.20, Florida  
27       Statutes, is amended to read:

28       1002.20 K-12 student and parent rights.—Parents of public  
29       school students must receive accurate and timely information

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30 regarding their child's academic progress and must be informed  
31 of ways they can help their child to succeed in school. K-12  
32 students and their parents are afforded numerous statutory  
33 rights including, but not limited to, the following:

34 (5) SAFETY.—In accordance with the provisions of s.  
35 1006.13(6) ~~s. 1006.13(5)~~, students who have been victims of  
36 certain felony offenses by other students, as well as the  
37 siblings of the student victims, have the right to be kept  
38 separated from the student offender both at school and during  
39 school transportation.

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

42 1006.09 Duties of school principal relating to student  
43 discipline and school safety.—

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

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

56 1006.13 Policy of zero tolerance for crime and  
57 victimization.—

58 (1) It is the intent of the Legislature to promote a safe

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59 and supportive learning environment in schools, to protect  
60 students and staff from conduct that poses a serious threat to  
61 school safety, and to encourage schools to use alternatives to  
62 expulsion or referral to law enforcement agencies by addressing  
63 disruptive behavior through restitution, civil citation, teen  
64 court, neighborhood restorative justice, or similar programs.  
65 The Legislature finds that zero-tolerance policies are not  
66 intended to be rigorously applied to petty acts of misconduct  
67 and misdemeanors, including, but not limited to, minor fights or  
68 disturbances. The Legislature finds that zero-tolerance policies  
69 must apply equally to all students regardless of their economic  
70 status, race, or disability.

71 (2)-(1) Each district school board shall adopt a policy of  
72 zero tolerance that for:

73 (a) Defines criteria for reporting any act that occurs  
74 whenever or wherever students are within the jurisdiction of the  
75 district school board.

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

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

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

85 (e) Establishes a procedure that ensures each student the  
86 opportunity to appeal disciplinary action.

87 (3)-(2) Zero-tolerance policies must ~~The zero tolerance~~

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88 ~~policy shall~~ require students found to have committed one of the  
89 following offenses to be expelled, with or without continuing  
90 educational services, from the student's regular school for a  
91 period of not less than 1 full year, and to be referred to the  
92 criminal justice or juvenile justice system.

93 (a) Bringing a firearm or weapon, as defined in chapter  
94 790, to school, to any school function, or onto any school-  
95 sponsored transportation or possessing a firearm at school.

96 (b) Making a threat or false report, as defined by ss.  
97 790.162 and 790.163, respectively, involving school or school  
98 personnel's property, school transportation, or a school-  
99 sponsored activity.

100

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

113 (4) (a) (3) Each district school board shall enter into  
114 agreements with the county sheriff's office and local police  
115 department specifying guidelines for ensuring that acts that  
116 pose a serious threat to school safety ~~felonies and violent~~

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117 ~~misdemeanors, whether committed by a student or adult, and~~  
118 ~~delinquent acts that would be felonies or violent misdemeanors~~  
119 ~~if committed by an adult,~~ are reported to a law enforcement  
120 agency. Each district school board shall adopt a cooperative  
121 agreement, pursuant to s. 1003.52(13) with the Department of  
122 Juvenile Justice, that specifies guidelines for ensuring that  
123 all no contact orders entered by the court are reported and  
124 enforced and that all steps necessary are taken to protect the  
125 victim of any such crime. Such

126 (b) The agreements must ~~shall~~ include the role of school  
127 resource officers, if applicable, in handling reported  
128 incidents, ~~special~~ circumstances in which school officials may  
129 handle incidents without filing a report with a ~~to~~ law  
130 enforcement agency, and a procedure for ensuring that school  
131 personnel properly report appropriate delinquent acts and  
132 crimes.

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

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

145 (5)~~(4)~~ Notwithstanding any other provision of law, each

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146 district school board shall adopt rules providing that any  
147 student found to have committed any offense in a violation of s.  
148 784.081(1), (2), or (3) shall be expelled or placed in an  
149 alternative school setting or other program, as appropriate.  
150 Upon being charged with the offense, the student shall be  
151 removed from the classroom immediately and placed in an  
152 alternative school setting pending disposition.

153 (6)~~(5)~~(a) Notwithstanding any provision of law prohibiting  
154 the disclosure of the identity of a minor, whenever any student  
155 who is attending a public school is adjudicated guilty of or  
156 delinquent for, or is found to have committed, regardless of  
157 whether adjudication is withheld, or pleads guilty or nolo  
158 contendere to, a felony violation of:

- 159 1. Chapter 782, relating to homicide;
- 160 2. Chapter 784, relating to assault, battery, and culpable  
161 negligence;
- 162 3. Chapter 787, relating to kidnapping, false imprisonment,  
163 luring or enticing a child, and custody offenses;
- 164 4. Chapter 794, relating to sexual battery;
- 165 5. Chapter 800, relating to lewdness and indecent exposure;
- 166 6. Chapter 827, relating to abuse of children;
- 167 7. Section 812.13, relating to robbery;
- 168 8. Section 812.131, relating to robbery by sudden  
169 snatching;
- 170 9. Section 812.133, relating to carjacking; or
- 171 10. Section 812.135, relating to home-invasion robbery,
- 172

173 and, before or at the time of such adjudication, withholding of  
174 adjudication, or plea, the offender was attending a school

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175 attended by the victim or a sibling of the victim of the  
176 offense, the Department of Juvenile Justice shall notify the  
177 appropriate district school board of the adjudication or plea,  
178 the requirements in ~~of~~ this paragraph, and whether the offender  
179 is prohibited from attending that school or riding on a school  
180 bus whenever the victim or a sibling of the victim is attending  
181 the same school or riding on the same school bus, except as  
182 provided pursuant to a written disposition order under s.  
183 985.455(2). Upon receipt of such notice, the district school  
184 board shall take appropriate action to effectuate the provisions  
185 in ~~of~~ paragraph (b).

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

203 (c) If the offender is unable to attend any other school in

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204 the district in which the offender resides and is prohibited  
205 from attending a school in another school district, the district  
206 school board in the school district in which the offender  
207 resides shall take every reasonable precaution to keep the  
208 offender separated from the victim while on school grounds or on  
209 school transportation. The steps to be taken by a district  
210 school board to keep the offender separated from the victim must  
211 ~~shall~~ include, but are not limited to, in-school suspension of  
212 the offender and the scheduling of classes, lunch, or other  
213 school activities of the victim and the offender so as not to  
214 coincide.

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

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

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

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