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**K - 12**  
**Subcommittee**  
**Wednesday, March 12, 2014**  
**9:00 a.m. – 12:00 p.m.**  
**17 HOB**

**Meeting Packet**

**REVISED**

**Will Weatherford**  
Speaker

**Janet H. Adkins**  
Chair



## AGENDA

K-12 Subcommittee  
Wednesday, March 12, 2014  
9:00 p.m. – 12:00 p.m.  
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- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
  - HB 753 School Safety by Steube
  - HB 921 Instructional Materials for K-12 Public Education by Gaetz
- IV. Consideration of the following proposed committee substitute:

PCS for HB 497 Involuntary Examinations of Minors
- V. Closing Remarks and Adjournment



1                                   A bill to be entitled  
 2       An act relating to school safety; providing  
 3       legislative intent; amending s. 790.115, F.S.;  
 4       providing an exception to a prohibition on possession  
 5       of firearms or other specified devices on school  
 6       property or other specified areas for authorized  
 7       concealed weapon or firearm licensees as designated by  
 8       school principals or district superintendents;  
 9       providing requirements for designees; amending s.  
 10      1006.07, F.S.; requiring school boards to formulate  
 11      policies and procedures for managing active shooter  
 12      and hostage situations; requiring that active shooter  
 13      training for each school be conducted by the law  
 14      enforcement agency that is designated as the first  
 15      responder agency for the school; requiring that plans  
 16      for new schools be reviewed by law enforcement  
 17      agencies for specified purposes; requiring that all  
 18      recommendations be incorporated in such plans before  
 19      construction contracts may be awarded; amending s.  
 20      1006.12, F.S.; permitting district school boards to  
 21      commission one or more school safety officers on each  
 22      school campus; amending ss. 435.04, 790.251, 921.0022,  
 23      and 1012.315, F.S.; conforming cross-references;  
 24      providing an effective date.

25  
 26   Be It Enacted by the Legislature of the State of Florida:

27  
 28           Section 1. It is the intent of the Legislature to prevent

29 violent crimes from occurring on school grounds. The Legislature  
 30 acknowledges that the safekeeping of our students, teachers, and  
 31 campuses is imperative. In addition, the Legislature's intent is  
 32 not to mandate that a school have one or more designees as  
 33 described in the amendments made by this act to s. 790.115,  
 34 Florida Statutes; rather, the intent of the amendments is to  
 35 allow the school principal or authorizing superintendent the  
 36 opportunity to do so.

37 Section 2. Section 790.115, Florida Statutes, is amended  
 38 to read:

39 790.115 Possessing or discharging weapons or firearms at a  
 40 school-sponsored event or on school property prohibited;  
 41 penalties; exceptions.-

42 (1) For purposes of this section, "school" means any  
 43 preschool, elementary school, middle school, junior high school,  
 44 or secondary school, whether public or nonpublic.

45 (2)~~(1)~~ A person who exhibits any sword, sword cane,  
 46 firearm, electric weapon or device, destructive device, or other  
 47 weapon as defined in s. 790.001(13), including a razor blade,  
 48 box cutter, or common pocketknife, except as authorized in  
 49 support of school-sanctioned activities, in the presence of one  
 50 or more persons in a rude, careless, angry, or threatening  
 51 manner and not in lawful self-defense, at a school-sponsored  
 52 event or on the grounds or facilities of any school, school bus,  
 53 or school bus stop, or within 1,000 feet of the real property  
 54 that comprises a public or private elementary school, middle  
 55 school, or secondary school, during school hours or during the  
 56 time of a sanctioned school activity, commits a felony of the

57 | third degree, punishable as provided in s. 775.082, s. 775.083,  
 58 | or s. 775.084. This subsection does not apply to the exhibition  
 59 | of a firearm or weapon on private real property within 1,000  
 60 | feet of a school by the owner of such property or by a person  
 61 | whose presence on such property has been authorized, licensed,  
 62 | or invited by the owner.

63 | (3) This section does not apply to a member of a school's  
 64 | personnel who has been designated by the school principal of the  
 65 | school at which the member of the school's personnel is  
 66 | employed, or, for an administration building, by the district  
 67 | school superintendent, as authorized to carry a concealed weapon  
 68 | or firearm on school property.

69 | (a)1. A designee authorized to carry a concealed weapon or  
 70 | firearm on such school property under this subsection may only  
 71 | carry such weapon or firearm in a concealed manner. The weapon  
 72 | or firearm must be carried on the designee's person at all times  
 73 | while the designee is performing his or her official school  
 74 | duties.

75 | 2. The designee must submit to the authorizing principal  
 76 | or authorizing superintendent proof of completion of a minimum  
 77 | of 40 hours of a school safety program and annually complete 8  
 78 | hours of active shooter training and 4 hours of firearm  
 79 | proficiency training as the program and these trainings are  
 80 | defined and administered by the Department of Law Enforcement.  
 81 | For purposes of this subsection, a designee is an individual who  
 82 | is:

83 | a. A military veteran who was honorably discharged and who  
 84 | has not been found to have committed a firearms-related

85 disciplinary infraction during his or her service;

86 b. An active duty member of the military, the National  
 87 Guard, or military reserves who has not been found to have  
 88 committed a firearms-related disciplinary infraction during his  
 89 or her service;

90 c. A law enforcement officer or a former law enforcement  
 91 officer who has not been found to have committed a firearms-  
 92 related disciplinary infraction during his or her law  
 93 enforcement service; or

94 d. In possession of a valid permit under s. 790.06.

95 (b) School superintendents and principals may create a  
 96 school safety designee program for employees or volunteers. Each  
 97 public or private school principal or, for an administration  
 98 building, the superintendent, may designate one or more such  
 99 designees who have passed the training administered by the  
 100 Department of Law Enforcement and any additional screening or  
 101 screenings as required by the school principal or superintendent  
 102 pursuant to this subsection.

103 (4)-2(a) A person shall not possess any firearm, electric  
 104 weapon or device, destructive device, or other weapon as defined  
 105 in s. 790.001(13), including a razor blade or box cutter, except  
 106 as authorized in support of school-sanctioned activities, at a  
 107 school-sponsored event or on the property of any school, school  
 108 bus, or school bus stop; however, a person may carry a firearm:

109 1. In a case to a firearms program, class or function  
 110 which has been approved in advance by the principal or chief  
 111 administrative officer of the school as a program or class to  
 112 which firearms could be carried;

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113 2. In a case to a career center having a firearms training  
114 range; or

115 3. In a vehicle pursuant to s. 790.25(5); except that  
116 school districts may adopt written and published policies that  
117 waive the exception in this subparagraph for purposes of student  
118 and campus parking privileges.

119

120 ~~For the purposes of this section, "school" means any preschool,~~  
121 ~~elementary school, middle school, junior high school, secondary~~  
122 ~~school, career center, or postsecondary school, whether public~~  
123 ~~or nonpublic.~~

124 (b) A person who willfully and knowingly possesses any  
125 electric weapon or device, destructive device, or other weapon  
126 as defined in s. 790.001(13), including a razor blade or box  
127 cutter, except as authorized in support of school-sanctioned  
128 activities, in violation of this subsection commits a felony of  
129 the third degree, punishable as provided in s. 775.082, s.  
130 775.083, or s. 775.084.

131 (c)1. A person who willfully and knowingly possesses any  
132 firearm in violation of this subsection commits a felony of the  
133 third degree, punishable as provided in s. 775.082, s. 775.083,  
134 or s. 775.084.

135 2. A person who stores or leaves a loaded firearm within  
136 the reach or easy access of a minor who obtains the firearm and  
137 commits a violation of subparagraph 1. commits a misdemeanor of  
138 the second degree, punishable as provided in s. 775.082 or s.  
139 775.083; except that this does not apply if the firearm was  
140 stored or left in a securely locked box or container or in a



141 location which a reasonable person would have believed to be  
 142 secure, or was securely locked with a firearm-mounted push-  
 143 button combination lock or a trigger lock; if the minor obtains  
 144 the firearm as a result of an unlawful entry by any person; or  
 145 to members of the Armed Forces, National Guard, or State  
 146 Militia, or to police or other law enforcement officers, with  
 147 respect to firearm possession by a minor which occurs during or  
 148 incidental to the performance of their official duties.

149 (d) A person who discharges any weapon or firearm while in  
 150 violation of paragraph (a), unless discharged for lawful defense  
 151 of himself or herself or another or for a lawful purpose,  
 152 commits a felony of the second degree, punishable as provided in  
 153 s. 775.082, s. 775.083, or s. 775.084.

154 (e) The penalties of this subsection shall not apply to  
 155 persons licensed under s. 790.06. Persons licensed under s.  
 156 790.06 shall be punished as provided in s. 790.06(12), except  
 157 that a licenseholder who unlawfully discharges a weapon or  
 158 firearm on school property as prohibited by this subsection  
 159 commits a felony of the second degree, punishable as provided in  
 160 s. 775.082, s. 775.083, or s. 775.084.

161 ~~(5)(3)~~ This section does not apply to any law enforcement  
 162 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
 163 (8), (9), or (14).

164 ~~(6)(4)~~ Notwithstanding s. 985.24, s. 985.245, or s.  
 165 985.25(1), any minor under 18 years of age who is charged under  
 166 this section with possessing or discharging a firearm on school  
 167 property shall be detained in secure detention, unless the state  
 168 attorney authorizes the release of the minor, and shall be given

169 a probable cause hearing within 24 hours after being taken into  
 170 custody. At the hearing, the court may order that the minor  
 171 continue to be held in secure detention for a period of 21 days,  
 172 during which time the minor shall receive medical, psychiatric,  
 173 psychological, or substance abuse examinations pursuant to s.  
 174 985.18, and a written report shall be completed.

175 Section 3. Subsections (4) and (6) of section 1006.07,  
 176 Florida Statutes, are amended and subsection (7) is added to  
 177 that section to read:

178 1006.07 District school board duties relating to student  
 179 discipline and school safety.—The district school board shall  
 180 provide for the proper accounting for all students, for the  
 181 attendance and control of students at school, and for proper  
 182 attention to health, safety, and other matters relating to the  
 183 welfare of students, including:

184 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

185 (a) Formulate and prescribe policies and procedures for  
 186 emergency drills and for actual emergencies, including, but not  
 187 limited to, fires, natural disasters, active shooters, hostage  
 188 situations, and bomb threats, for all the public schools of the  
 189 district which comprise grades K-12. District school board  
 190 policies shall include commonly used alarm system responses for  
 191 specific types of emergencies and verification by each school  
 192 that drills have been provided as required by law and fire  
 193 protection codes. The emergency response agency that is  
 194 responsible for notifying the school district for each type of  
 195 emergency must be listed in the district's emergency response  
 196 policy.

197 (b) Establish model emergency management and emergency  
 198 preparedness procedures, including emergency notification  
 199 procedures pursuant to paragraph (a), for the following life-  
 200 threatening emergencies:

- 201 1. Weapon-use, and hostage, and active shooter situations.
- 202 The active shooter situation training for each school must be
- 203 conducted by the law enforcement agency or agencies that are
- 204 designated as first responders to the school's campus.
- 205 2. Hazardous materials or toxic chemical spills.
- 206 3. Weather emergencies, including hurricanes, tornadoes,
- 207 and severe storms.
- 208 4. Exposure as a result of a manmade emergency.

209 (6) SAFETY AND SECURITY BEST PRACTICES.—Use the Safety and  
 210 Security Best Practices developed by the Office of Program  
 211 Policy Analysis and Government Accountability to conduct a self-  
 212 assessment of the school districts' current safety and security  
 213 practices. Based on these self-assessment findings, the district  
 214 school superintendent shall provide recommendations to the  
 215 district school board and local law enforcement agencies that  
 216 are first responders to the district campuses which identify  
 217 strategies and activities that the district school board should  
 218 implement in order to improve school safety and security.  
 219 Annually each district school board must receive the self-  
 220 assessment results at a publicly noticed district school board  
 221 meeting to provide the public an opportunity to hear the  
 222 district school board members discuss and take action on the  
 223 report findings. Each district school superintendent shall  
 224 report the self-assessment results and school board action to

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225 the commissioner within 30 days after the district school board  
 226 meeting.

227 (7) SAFETY IN CONSTRUCTION AND PLANNING.-A district school  
 228 board must supply new construction plans for a new school to the  
 229 law enforcement agency designated as the first responding law  
 230 enforcement agency for that school for review and comment  
 231 concerning school safety and emergency issues before the  
 232 construction bid process begins. Any changes recommended by the  
 233 law enforcement agency based on its review must be incorporated  
 234 into the plans by the district school board before a  
 235 construction bid may be awarded.

236 Section 4. Paragraph (b) of subsection (2) of section  
 237 1006.12, Florida Statutes, is amended to read:

238 1006.12 School resource officers and school safety  
 239 officers.-

240 (2)

241 (b) A district school board may commission one or more  
 242 school safety officers for the protection and safety of school  
 243 personnel, property, and students on each school campus within  
 244 the school district. The district school superintendent may  
 245 recommend and the district school board may appoint the one or  
 246 ~~more~~ school safety officers.

247 Section 5. Paragraphs (p) and (q) of subsection (2) of  
 248 section 435.04, Florida Statutes, are amended to read:

249 435.04 Level 2 screening standards.-

250 (2) The security background investigations under this  
 251 section must ensure that no persons subject to the provisions of  
 252 this section have been arrested for and are awaiting final

253 disposition of, have been found guilty of, regardless of  
 254 adjudication, or entered a plea of nolo contendere or guilty to,  
 255 or have been adjudicated delinquent and the record has not been  
 256 sealed or expunged for, any offense prohibited under any of the  
 257 following provisions of state law or similar law of another  
 258 jurisdiction:

259 (p) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
 260 firearms or weapons within 1,000 feet of a school.

261 (q) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
 262 possessing an electric weapon or device, destructive device, or  
 263 other weapon on school property.

264 Section 6. Paragraph (a) of subsection (7) of section  
 265 790.251, Florida Statutes, is amended to read:

266 790.251 Protection of the right to keep and bear arms in  
 267 motor vehicles for self-defense and other lawful purposes;  
 268 prohibited acts; duty of public and private employers; immunity  
 269 from liability; enforcement.-

270 (7) EXCEPTIONS.-The prohibitions in subsection (4) do not  
 271 apply to:

272 (a) Any school property as defined in s. 790.115(1) and  
 273 regulated under that section ~~s. 790.115~~.

274 Section 7. Paragraphs (d) and (f) of subsection (3) of  
 275 section 921.0022, Florida Statutes, are amended to read:

276 921.0022 Criminal Punishment Code; offense severity  
 277 ranking chart.-

278 (3) OFFENSE SEVERITY RANKING CHART

279 (d) LEVEL 4

280

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	Florida Statute	Felony Degree	Description
281	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
282	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
283	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
284	499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
285	517.07 (1)	3rd	Failure to register securities.
286	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
287	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.

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288	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
289	784.075	3rd	Battery on detention or commitment facility staff.
290	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
291	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
292	784.081(3)	3rd	Battery on specified official or employee.
293	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
294	784.083(3)	3rd	Battery on code inspector.
295	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
296	787.03(1)	3rd	Interference with custody;

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			wrongly takes minor from appointed guardian.
297	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
298	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
299	787.07	3rd	Human smuggling.
300	<u>790.115 (2)</u> <del>790.115 (1)</del>	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
301	<u>790.115 (4) (b)</u> <del>790.115 (2) (b)</del>	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
302	<u>790.115 (4) (c)</u> <del>790.115 (2) (e)</del>	3rd	Possessing firearm on school property.
303	800.04 (7) (c)	3rd	Lewd or lascivious exhibition;



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			offender less than 18 years.
304	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
305	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
306	810.06	3rd	Burglary; possession of tools.
307	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
308	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
309	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
310	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.

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311	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
312	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
313	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
314	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
315	837.02(1)	3rd	Perjury in official proceedings.
316	837.021(1)	3rd	Make contradictory statements in official proceedings.
317	838.022	3rd	Official misconduct.
318	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.

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319	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
320	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
321	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
322	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
323	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
324	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
325	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d),

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(2) (a), (2) (b), or (2) (c) 4.  
drugs).

326

914.14 (2) 3rd Witnesses accepting bribes.

327

914.22 (1) 3rd Force, threaten, etc., witness,  
victim, or informant.

328

914.23 (2) 3rd Retaliation against a witness,  
victim, or informant, no bodily  
injury.

329

918.12 3rd Tampering with jurors.

330

934.215 3rd Use of two-way communications  
device to facilitate commission  
of a crime.

331

332 (f) LEVEL 6

333

Florida	Felony	
Statute	Degree	Description

334

316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
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335

499.0051 (3)	2nd	Knowing forgery of pedigree papers.
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336	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
337	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
338	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
339	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
340	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
341	784.041	3rd	Felony battery; domestic battery by strangulation.
342	784.048 (3)	3rd	Aggravated stalking; credible threat.
343	784.048 (5)	3rd	Aggravated stalking of person under 16.
344	784.07 (2) (c)	2nd	Aggravated assault on law

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			enforcement officer.
345	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
346	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
347	784.081 (2)	2nd	Aggravated assault on specified official or employee.
348	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
349	784.083 (2)	2nd	Aggravated assault on code inspector.
350	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
351	<u>790.115 (4) (d)</u>	2nd	Discharging firearm or weapon on school property.
	<del>790.115 (2) (d)</del>		
352	790.161 (2)	2nd	Make, possess, or throw destructive device with intent

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			to do bodily harm or damage property.
353	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
354	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
355	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
356	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
357	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
358	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
359			

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360	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
361	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
362	810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
363	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
364	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
365	812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
366	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
	812.13(2)(c)	2nd	Robbery, no firearm or other



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			weapon (strong-arm robbery).
367	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
368	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
369	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
370	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
371	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
372	827.03(2)(c)	3rd	Abuse of a child.
373	827.03(2)(d)	3rd	Neglect of a child.
374	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
375			

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376	836.05	2nd	Threats; extortion.
377	836.10	2nd	Written threats to kill or do bodily injury.
378	843.12	3rd	Aids or assists person to escape.
379	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
380	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
381	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
382	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate

or offender on community supervision, resulting in great bodily harm.

383

944.40                      2nd      Escapes.

384

944.46                      3rd      Harboring, concealing, aiding escaped prisoners.

385

944.47(1)(a)5.            2nd      Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

386

951.22(1)                      3rd      Intoxicating drug, firearm, or weapon introduced into county facility.

387

388                      Section 8. Paragraphs (n) and (o) of subsection (1) of  
389 section 1012.315, Florida Statutes, are amended to read:

390                      1012.315 Disqualification from employment.—A person is  
391 ineligible for educator certification, and instructional  
392 personnel and school administrators, as defined in s. 1012.01,  
393 are ineligible for employment in any position that requires  
394 direct contact with students in a district school system,  
395 charter school, or private school that accepts scholarship  
396 students under s. 1002.39 or s. 1002.395, if the person,  
397 instructional personnel, or school administrator has been  
398 convicted of:

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399 (1) Any felony offense prohibited under any of the  
 400 following statutes:

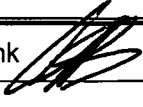

401 (n) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
 402 firearms or weapons at a school-sponsored event, on school  
 403 property, or within 1,000 feet of a school.

404 (o) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
 405 possessing an electric weapon or device, destructive device, or  
 406 other weapon at a school-sponsored event or on school property.

407 Section 9. This act shall take effect July 1, 2014.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 753 School Safety  
**SPONSOR(S):** Steube  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 968

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink 	Ahearn 
2) Higher Education & Workforce Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

The bill allows district school superintendents and school principals to create a school safety designee program through which the school principal, or, for an administration building, the district superintendent, may designate one or more individuals to carry a concealed weapon or firearm on school property. Weapons or firearms may only be carried in a concealed manner and must be on the individual's person at all times while performing official school duties. The bill does not require designees to possess a concealed weapon license.

For purposes of the prohibition on possessing or discharging weapons or firearms at a school, the bill amends the definition of "school" to exclude career centers and postsecondary institutions. Accordingly, the prohibition would no longer apply to career centers and postsecondary schools under s. 790.115, F.S. (Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions).

The bill establishes criteria and training requirements which designees must meet.

The bill requires district school board policies and procedures for emergencies and emergency drills to include active shooter and hostage situations. Active shooter situation training for each school must be conducted by the designated first responding law enforcement agency or agencies for the school's campus.

The bill requires each district school superintendent to provide recommendations to improve school safety and security to the first responding local law enforcement agencies.

The bill creates provisions relating to law enforcement agency review of construction plans for new schools. Any recommendations made by the law enforcement agency must be incorporated into the plans before construction bidding may begin.

The bill specifies that a district school board may commission one or more school safety officers on each school campus.

The bill does not appear to have a fiscal impact on the state or local governments.

See III.C., Drafting Issues or Other Comments, which identifies concerns. Representative Stuebe will be filing an amendment addressing the identified concerns.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Gun Free School Zones**

##### Federal Law

Federal law prohibits an individual from possessing a firearm at a place the person knows, or has reasonable cause to believe, is a school zone.<sup>1</sup> The prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By individuals licensed to possess a firearm by the state or a political subdivision of the state in which the school zone is located if the licensing law requires law enforcement verification that the individual meets the law's qualifications to receive the license before issuance;
- That is unloaded and stored in a locked container on a motor vehicle;
- Authorized pursuant to a program approved by the school in the school zone;
- By an individual pursuant to a contract between a school and the individual or an employer of the individual;
- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual who is authorized by the school to cross school grounds for the purpose of gaining access to public or private lands open to hunting.<sup>2</sup>

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm by a person at a place that the person knows is a school zone.<sup>3</sup> The prohibition does not apply to the discharge of a firearm:

- On private property not part of school grounds;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual; or
- By a law enforcement officer acting in his or her official capacity.<sup>4</sup>

Federal law further provides that it is not Congress's intent to occupy the field of firearms regulation, unless there is a direct, positive, and irreconcilable conflict between a federal and state firearms law regulating the same subject matter. Thus, states may regulate firearms in a manner that is consistent with federal law.<sup>5</sup>

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<sup>1</sup> 18 U.S.C. s. 922(q)(2)(A). An element of the offense is that the person knowingly possess a firearm that has moved in or that otherwise affects interstate or foreign commerce.

<sup>2</sup> 18 U.S.C. s. 922(q)(2)(B).

<sup>3</sup> 18 U.S.C. s. 922(q)(3)(A). An element of the offense is that the firearm have been moved in or otherwise affect interstate or foreign commerce.

<sup>4</sup> 18 U.S.C. s. 922(q)(3)(B).

<sup>5</sup> 18 U.S.C. s. 927.

## Florida Law

Florida law prohibits, with exceptions, the possession or discharge of weapons or firearms at a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.<sup>6</sup> The law prohibits:

- Exhibition of a weapon<sup>7</sup> or firearm in the presence of another in a rude, careless, angry, or threatening manner on school property or a school bus, at a school bus stop or school-sponsored event, or within 1,000 feet<sup>8</sup> of a K-12 public or private school, during school hours or at the time of a school activity.<sup>9</sup> Such exhibition is a third degree felony,<sup>10</sup> unless it is made in lawful self-defense.<sup>11</sup>
- Possession of a weapon<sup>12</sup> or firearm, "except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop." Penalties for such possession vary, as follows:
  - A person who willfully and knowingly possesses a firearm unlawfully on school property or a school bus or at a school bus stop or school-sponsored activity or event commits a third degree felony.<sup>13</sup>
  - A person who fails to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree misdemeanor.<sup>14</sup>
  - A person who discharges a firearm while unlawfully possessing it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree felony,<sup>15</sup> unless discharged for lawful defense of self or others or for a lawful purpose.<sup>16</sup>

The penalties for unlawful exhibition or possession of a firearm or weapon differ for licensed concealed weapons permit holders. Violations by such individuals constitute a second degree misdemeanor.<sup>17</sup>

The law provides several exceptions allowing individuals to carry a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event without express approval by school officials. A firearm may be carried:

- In a case to a school-approved firearms program;
- In a case to a career center having a firearms training range; or

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<sup>6</sup> Section 790.115(2)(a), F.S. (flush left provision at end of paragraph).

<sup>7</sup> "Weapon" means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife. Section 790.001(13), F.S. Exhibiting a sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. Section 790.115(1), F.S.

<sup>8</sup> The prohibition on exhibition of a firearm or weapon on private real property within 1,000 feet of a school does not apply to the property owner or those whose presence is authorized by the owner. Section 790.115(1), F.S.

<sup>9</sup> Section 790.115(1), F.S.

<sup>10</sup> A third degree felony is punishable by term of imprisonment not exceeding five years and a fine not exceeding \$5,000. Sections 775.082(3)(d) and 775.083(1)(c), F.S.

<sup>11</sup> Section 790.115(1), F.S.

<sup>12</sup> In addition to firearms and items defined as weapons, this provision also applies to possession of an electric weapon or device, destructive device, and a razor blade or box cutter. Section 790.115(2)(a), F.S.; *see supra* text accompanying note 4.

<sup>13</sup> Section 790.115(2)(e), F.S.

<sup>14</sup> Section 790.115(2)(c), F.S. This does not apply if the firearm was securely stored and the minor obtains the firearm as a result of an unlawful entry by any person or to members of the Armed Forces, National Guard, State Militia, or law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

<sup>15</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding \$10,000.

<sup>16</sup> Section 790.115(2)(d), F.S.

<sup>17</sup> Sections 790.115(2)(e) and 790.06(12)(a) and (d), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

- In a vehicle by a person who is at least 18 years of age and the firearm is securely encased or not readily accessible for immediate use.<sup>18</sup>

School districts may adopt policies waiving the vehicle exception for purposes of student and campus parking privileges.<sup>19</sup>

## **Concealed Weapons Permits**

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons permit (CWP) to individuals who meet statutory qualifications. Among other criteria, CWP applicants must pass a fingerprint-based criminal background check and complete a CWP training class. The CWP is a photo identification that enables the holder to carry a concealed weapon or firearm in public, except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.<sup>20</sup>

## **School Safety**

### Emergency Policies

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>21</sup>

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other "best practices," the self-assessment suggests that school districts:

- Develop a district-wide plan for potential attacks against school sites;
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes, among other things, procedures for weapons and hostage situations; and
- Share emergency plans and procedures with designated school and school district personnel, identify training for all types of school staff and staff that require specialized training, and incorporate such training into the Master Plan for In-Service Training.<sup>22</sup>

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.<sup>23</sup>

### School Safety Officers

School safety officers are certified law enforcement officers who are employed by either a law enforcement agency or a district school board. A school safety officer has the authority to carry firearms

<sup>18</sup> Section 790.115(2)(a), F.S.

<sup>19</sup> Section 790.115(2)(c), F.S.; *see, e.g.*, Policies 1217, 3217, 4217, 5772, and 7217, Leon County School Board.

<sup>20</sup> Section 790.06, F.S.

<sup>21</sup> Section 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. Section 1006.07(4)(b), F.S.

<sup>22</sup> Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited Feb. 28, 2014). The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. *Id.*

<sup>23</sup> Section 1006.07(6), F.S.



or other weapons when performing official duties.<sup>24</sup> School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel, property, and students within the school district. School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.<sup>25</sup>

### Background Screening

Florida law requires school district employees to undergo a fingerprint-based background screening as a condition of employment.<sup>26</sup> Instructional and noninstructional personnel<sup>27</sup> and noninstructional school district employees and contracted personnel<sup>28</sup> must undergo Level 2 background screening.<sup>29</sup> Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 criminal offenses.<sup>30</sup> Such employees must be rescreened every five years.<sup>31</sup>

### **Available Firearms and Security Training**

Individuals seeking a Class "D" license as a private security officer must complete at least 40 hours of professional training by a provider licensed by DACS.<sup>32</sup> The training addresses legal liability issues and court procedures; personal security; traffic and crowd control; fire detection and life safety; crime and accident prevention; terrorism awareness; first aid; emergency response procedures; ethics; and patrol, communication, observation, report writing, and interviewing techniques.<sup>33</sup>

Individuals holding a Class "G" statewide firearm license must annually complete four hours of firearms recertification training taught by a licensed firearms instructor as a condition of license renewal.<sup>34</sup> Such training includes a review of legal aspects of firearms use and when to use a gun, operational firearms safety and mechanical training, and range-based firearms requalification.<sup>35</sup> In lieu of proof of statewide firearms recertification training, such individuals may submit:

- Proof of current certification as a law enforcement officer or correctional officer and completion of law enforcement firearms requalification training annually during the previous two years of the licensure period;
- Proof of current certification as a federal law enforcement officer and receipt of law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- A Florida Criminal Justice Standards and Training Commission Instructor Certificate, National Rifle Association Private Security Firearm Instructor Certificate, or a firearms instructor certificate issued by a federal law enforcement agency and proof of having completed

<sup>24</sup> Section 1006.12(2)(a) and (c), F.S.

<sup>25</sup> Section 1006.12(2)(b) and (d), F.S.

<sup>26</sup> Sections 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. *See ss. 943.0542 and 1002.421(2)(i), F.S.*

<sup>27</sup> Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

<sup>28</sup> Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

<sup>29</sup> Sections 1012.32(1)-(2), 1012.465(2), and 1012.56(10), F.S.

<sup>30</sup> *See ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.*

<sup>31</sup> Sections 1012.465(2) and 1012.56(10)(b), F.S.

<sup>32</sup> Section 493.6303(4)(a), F.S.

<sup>33</sup> Florida Department of Agriculture and Consumer Services, *Security Officer Training Curriculum Guide* (July 2010) [hereinafter *Security Officer Training*].

<sup>34</sup> Section 493.6113(b), F.S.

<sup>35</sup> *Security Officer Training*, *supra* note 33.

requalification training during the previous two years of the licensure period.<sup>36</sup>

### **Effect of Proposed Changes**

The bill allows district school superintendents and school principals to create a school safety designee program. Under the program, each public or private school principal, or, for an administration building, the superintendent, may designate one or more designees to carry a concealed weapon or firearm on school property. The bill does not require the designee to possess a concealed weapon license. Weapons or firearms may only be carried in a concealed manner and must be on the designee's person at all times while performing official school duties.

For purposes of the prohibition on possessing or discharging weapons or firearms at a school, the bill amends the definition of "school" to exclude career centers and postsecondary institutions. Accordingly, the bill permits possession or discharge of a weapon or firearm at a career center or postsecondary institution without invoking a criminal penalty under s. 790.115, F.S., which prohibits possessing or discharging a weapon or firearm at a school-sponsored event or on school property. However, current law otherwise prohibits the discharge of a firearm in public<sup>37</sup> and the carrying of a concealed weapon or firearm on a career center or postsecondary institution campus.<sup>38</sup> The prohibition on carrying a concealed weapon or firearm does not apply if the individual carrying the weapon or firearm holds a valid license.<sup>39</sup> In addition, because the bill's amended definition of school excludes career centers, a provision of s. 790.115, F.S., which exempts from criminal penalty the carrying of a firearm in a case at a career center campus with a firearms training range,<sup>40</sup> would no longer be applicable.

The bill requires designated personnel to annually complete eight hours of active shooter training and four hours of firearm proficiency training and submit to the authorizing principal or superintendent proof of completion of a minimum of 40 hours of a school safety program.

The bill requires that a designee:

- Be a military veteran who was honorably discharged and who has not been found to have committed a firearms-related disciplinary infraction during his or her service;
- Be an active duty member of the military, the National Guard, or military reserves who has not been found to have committed a firearms-related disciplinary infraction during his or her service;
- Be a law enforcement officer or a former law enforcement officer who has not been found to have committed a firearms-related disciplinary infraction during his or her law enforcement service; or
- Possess a valid license to carry a concealed weapon or firearm pursuant to state law.

The bill provides that s. 790.115, F.S., does not apply to designees in the conduct of official school duties.<sup>41</sup> Among other things, this appears to exempt designees, when performing official school duties, from penalties for:

- Failure to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event; and
- Rude, careless, angry, or threatening exhibition of a weapon or firearm on school property or at school functions.

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<sup>36</sup> Section 493.6113(3)(b), F.S.

<sup>37</sup> See Section 790.15, F.S.

<sup>38</sup> See Section 790.01, F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 790.115(2)(a)2., F.S.

<sup>41</sup> This could be construed to mean that no provisions of the section, including the provisions of this bill, would apply to designees.

The bill does not provide for screening against other offenses related to carrying, possessing, purchasing, manufacturing, discharging or exhibiting weapons or firearms under chapter 790, F.S.

Designees must complete a minimum of 40 hours of a school safety program and annually complete eight hours of active shooter training and four hours of firearm proficiency training. It is unclear what cost is associated with completing a school safety program or active shooter training. A sampling of training provider websites indicates a cost of \$99 for a four-hour statewide firearms license recertification course.<sup>42</sup> The bill is silent regarding whether the designee or school district is to pay the cost of training. Accordingly, each district can decide how expenses for designee training are to be borne.

The bill requires district school board policies and procedures for emergencies and emergency drills to include active shooter and hostage situations. The bill requires each district school board to address active shooter situations in the board's model emergency management and emergency preparedness procedures. The training for each school must be conducted by the law enforcement agency or agencies that are designated as first responders to the school's campus.

The bill requires each district school superintendent to provide recommendations, which identify strategies and activities that the district school board should implement in order to improve school safety and security, and which currently are provided only to the district school board,<sup>43</sup> to the local law enforcement agencies that are first responders to the district's school campuses.

In addition, each district school board must provide construction plans for new schools to the designated first responding law enforcement agency for review and comment before the construction bid process begins. Any recommended changes by the law enforcement agency must be incorporated into the plans by the district school board before a construction bid may be awarded. If law enforcement makes a recommendation that the district school board finds untenable, the district must still make the law enforcement agency's recommended change.

The bill specifies that a district school board may commission one or more school safety officers for the protection and safety of school personnel, property, and students on each school campus, instead of simply within the district.

## B. SECTION DIRECTORY:

Section 1. Provides a statement of legislative intent.

Section 2. Amends s. 790.115, F.S., providing an exception to the prohibition on possession of firearms and other specified devices on school property; providing for school safety programs by which persons may be designated to carry a concealed weapon; providing requirements for designees.

Section 3. Amends s. 1006.07, F.S., requiring school boards to formulate policies and procedures for managing active shooter and hostage situations; requiring that active shooter training for each school be conducted by the law enforcement agency that is designated as the first responder agency for the school; requiring that plans for new schools be reviewed by law enforcement agencies; requiring that all recommendations made by reviewing law enforcement agencies be incorporated in such plans before construction contracts may be awarded.

Section 4. Amends s. 1009.12, F.S., permitting district school boards to commission one or more school safety officers on each school campus.

Section 5. Amends s. 435.04, F.S., conforming cross-references.

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<sup>42</sup> Onsite Tactical Training Institute, *Class "G" Recertification*, <http://ostti.com/glicrecert.php> (last visited Feb. 28, 2014).

<sup>43</sup> Section 1006.07(6), F.S.

Section 6. Amends s. 790.251, F.S., conforming cross-references.

Section 7. Amends s. 921.0022, F.S., conforming cross-references.

Section 8. Amends s. 1012.315, F.S., conforming cross-references.

Section 9. Provides an effective date of July 1, 2014.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

None.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 42-44, 120-123: The bill eliminates career centers and postsecondary institutions from the definition of "school" for purposes of the prohibition on possessing or discharging weapons or firearms

at a school. Accordingly, the criminal penalties identified in s. 790.115 for possession of a weapon or firearm or discharge of a firearm at a school are not applicable to career centers or postsecondary institutions. However, prohibitions on discharging a firearm in public and possessing a concealed weapon or firearm would apply, except that individuals who have a license to carry a concealed weapon or firearm would be permitted to carry the weapon or firearm on a career center or postsecondary institution campus.

Lines 63-69, 94-102: The bill specifically provides for designation of school personnel as authorized to carry a concealed weapon. However, with respect to administration buildings, it is unclear under the bill whether the district superintendent may only designate school personnel but not district-level personnel who are not employed on a school campus.

Lines 69, 94-96: The bill provides that a school safety designee program may be created for "employees or volunteers." However, only "school personnel" are exempted from the requirements of s. 790.115, F.S. These provisions of the bill appear to be in conflict.

Lines 227-235: With respect to proposed construction plans for new schools, any recommended changes by the designated law enforcement agency must be incorporated into the plans by the district school board before a construction bid may be awarded. Even if the law enforcement agency makes a recommendation that the district school board finds untenable, the district must still incorporate the recommended change.

Line 63 contains a technical error that exempts all designees from the provisions of s. 790.115, including the provisions of this bill. The text should specifically refer to any specific subsections, instead of the entire section, that are not applicable to designees.

The bill does not provide for screening against other offenses related to carrying, possessing, purchasing, manufacturing, discharging or exhibiting weapons or firearms under chapter 790, F.S.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
 2 Representative Gaetz offered the following:

3  
4  
5  
6  
7  
8

**Amendment**

Remove line 319 and insert:  
 satisfaction of each reviewer, accurate, objective, balanced,  
noninflammatory, fact-based, and current,



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
 2 Representative Gaetz offered the following:

**Amendment (with title amendment)**

Remove lines 602-603 and insert:

6 (3)~~(a)~~ Beginning in the 2014-2015 ~~By the 2015-2016~~ fiscal  
 7 year, each district school board shall use at least 50 percent  
 8 of the annual allocation, and may use all of the allocation, for  
 9 the

13 -----  
 14 **T I T L E A M E N D M E N T**

Remove lines 75-76 and insert:

16 courses in the subject area of mathematics; allowing each  
 17 district school board to use all



1                                   A bill to be entitled  
 2           An act relating to instructional materials for K-12  
 3           public education; amending s. 1006.28, F.S.; providing  
 4           that the district school board has the constitutional  
 5           duty and responsibility to select and provide adequate  
 6           instructional materials for all students; redefining  
 7           the term "adequate instructional materials"; amending  
 8           s. 1006.283, F.S.; requiring a district school board  
 9           or consortium of school districts to implement an  
 10          instructional materials program; including criteria  
 11          for the review and recommendation of instructional  
 12          materials, the process by which instructional  
 13          materials are adopted, and the process by which a  
 14          school district will notify parents of their ability  
 15          to access their children's instructional materials in  
 16          the list of the subjects that must be addressed by  
 17          rule of the district school board; requiring adopted  
 18          instructional materials to be provided in digital  
 19          format; defining the term "digital format"; requiring  
 20          the Department of Education to publish minimum,  
 21          recommended technology requirements; requiring the  
 22          district to make available, upon request, sample  
 23          copies of its adopted instructional materials;  
 24          repealing s. 1006.29, F.S., relating to state  
 25          instructional materials reviewers; amending s.  
 26          1006.30, F.S.; requiring each district instructional

27 materials reviewer to file an affidavit with the  
 28 district school board, rather than the department;  
 29 amending s. 1006.31, F.S.; deleting references to the  
 30 Department of Education regarding the duties of  
 31 instructional materials reviewers; revising the  
 32 evaluation procedure for instructional materials;  
 33 amending s. 1006.32, F.S.; conforming provisions to  
 34 changes made by the act; repealing s. 1006.33, F.S.,  
 35 relating to bids, proposals, and advertisement  
 36 regarding the adoption of instructional materials;  
 37 repealing s. 1006.34, F.S., relating to powers and  
 38 duties of the Commissioner of Education and the  
 39 department in selecting and adopting instructional  
 40 materials; amending s. 1006.35, F.S.; requiring the  
 41 district school board, rather than the commissioner,  
 42 to conduct an independent investigation to determine  
 43 the accuracy of district-adopted instructional  
 44 materials; authorizing the district school board,  
 45 rather than the commissioner, to remove materials from  
 46 the list of district-adopted materials under certain  
 47 circumstances; repealing s. 1006.36, F.S., relating to  
 48 the term of adoption for instructional materials;  
 49 amending s. 1006.37, F.S.; authorizing, rather than  
 50 requiring, the district school superintendent to  
 51 requisition adopted instructional materials from the  
 52 depository of a publisher with whom a contract has

53        been made or any other vendor selling the adopted  
 54        instructional materials; deleting provisions regarding  
 55        the superintendent's requisition of instructional  
 56        materials; conforming provisions to changes made by  
 57        the act; authorizing a district school board or a  
 58        consortium of school districts to requisition  
 59        instructional materials from the publisher's  
 60        depository or any other vendor selling adopted  
 61        instructional materials and to request assistance from  
 62        the publisher's depository to recommend instructional  
 63        materials for review, approval, adoption, and  
 64        purchase; requiring the recommended materials to be  
 65        consistent with certain goals, objectives, and  
 66        requirements; requiring that personnel from the  
 67        publisher's depository sign an affidavit in order to  
 68        be considered an instructional materials reviewer;  
 69        amending s. 1006.38, F.S.; conforming provisions to  
 70        changes made by the act; revising the duties,  
 71        responsibilities, and requirements of instructional  
 72        materials publishers and manufacturers; amending s.  
 73        1006.40, F.S.; deleting provisions regarding the  
 74        adoption of instructional materials for certain core  
 75        courses in the subject area of mathematics; requiring  
 76        each district school board to use a certain percentage  
 77        of the annual allocation for the purchase of digital,  
 78        rather than electronic, instructional materials that

79 meet certain goals, objectives, and requirements;  
 80 deleting provisions regarding the use of the  
 81 district's annual allocation for the purchase of  
 82 instructional materials; amending s. 1006.41, F.S.;  
 83 conforming provisions to changes made by the act;  
 84 amending ss. 1006.282 and 1010.82, F.S.; conforming  
 85 cross-references; providing an effective date.

86

87 Be It Enacted by the Legislature of the State of Florida:

88

89 Section 1. Subsection (1) of section 1006.28, Florida  
 90 Statutes, is amended to read:

91 1006.28 Duties of district school board, district school  
 92 superintendent; and school principal regarding K-12  
 93 instructional materials.—

94 (1) DISTRICT SCHOOL BOARD.—The district school board has  
 95 the constitutional duty and responsibility to select and provide  
 96 adequate instructional materials for all students in accordance  
 97 with the requirements of this part. The term "adequate  
 98 instructional materials" means a sufficient number of student or  
 99 site licenses or sets of materials that are available in bound,  
 100 unbound, kit, or package form and may consist of hardbacked or  
 101 softbacked textbooks, electronic content, consumables, learning  
 102 laboratories, manipulatives, and electronic media, and computer  
 103 courseware, ~~or~~ software, or applications that serve as the basis  
 104 for instruction for each student in the core courses of

105 mathematics, language arts, social studies, science, reading,  
 106 and literature. The district school board has the following  
 107 specific duties and responsibilities:

108 (a) Courses of study; adoption.—Adopt courses of study for  
 109 use in the schools of the district.

110 (b) Instructional materials.—Provide for proper  
 111 requisitioning, distribution, accounting, storage, care, and use  
 112 of all instructional materials and furnish such other  
 113 instructional materials as may be needed. The district school  
 114 board shall ensure that instructional materials used in the  
 115 district are consistent with the district goals and objectives  
 116 and the course descriptions established in rule of the State  
 117 Board of Education, as well as with the ~~state and district~~  
 118 performance standards provided for in s. 1001.03(1).

119 (c) Other instructional materials.—Provide such other  
 120 teaching accessories and aids as are needed for the school  
 121 district's educational program.

122 (d) School library media services; establishment and  
 123 maintenance.—Establish and maintain a program of school library  
 124 media services for all public schools in the district, including  
 125 school library media centers, or school library media centers  
 126 open to the public, and, in addition such traveling or  
 127 circulating libraries as may be needed for the proper operation  
 128 of the district school system.

129 Section 2. Subsections (1) and (2) of section 1006.283,  
 130 Florida Statutes, are amended, and subsections (7), (8), and (9)

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131 are added to that section, to read:

132 1006.283 District school board instructional materials  
133 review process.-

134 (1) A district school board or consortium of school  
135 districts shall ~~may~~ implement an instructional materials program  
136 that includes the review, approval, adoption, and purchase of  
137 instructional materials. ~~Beginning in the 2013-2014 school year,~~  
138 The district school superintendent shall certify to the  
139 department by March 31 of each year that all instructional  
140 materials for core courses used by the district are aligned with  
141 applicable state standards. ~~Included in the certification shall~~  
142 ~~be~~ A list of the core instructional materials that will be used  
143 or purchased for use by the school district shall be included in  
144 the certification.

145 (2) The district school board shall adopt rules  
146 implementing the district's instructional materials program  
147 which must include, but need not be limited to:

148 (a) Criteria for the review and recommendation of  
149 instructional materials, including a thorough review of  
150 curriculum content. The district shall establish a local  
151 instructional materials review committee to review and recommend  
152 instructional materials to the district school board for final  
153 adoption. A district may enter into an agreement with other  
154 districts to combine their local instructional materials review  
155 committees into one super committee. A local instructional  
156 materials review committee shall consist of the following

157 members, appointed as follows:

158 1. Each district school board member shall appoint one  
 159 person who has subject area expertise in science, mathematics,  
 160 language arts, social studies, or career or technical studies  
 161 and who is not employed by the district.

162 2. The superintendent shall appoint a number of classroom  
 163 teachers equal to the number of district school board members.  
 164 The selection of classroom teachers shall be representative of  
 165 the subject areas and grade levels of the instructional  
 166 materials being considered for adoption.

167 3. The district school board and the superintendent shall  
 168 each appoint at least one parent of a student who is currently  
 169 enrolled in a public school in the district ~~its review and~~  
 170 ~~purchase process.~~

171 (b) Identification, by subject area, of a review cycle for  
 172 instructional materials.

173 (c) The duties and qualifications of the instructional  
 174 materials reviewers.

175 (d) The requirements for an affidavit made by each a  
 176 district instructional materials reviewer which substantially  
 177 meets ~~includes~~ the requirements of s. 1006.30.

178 (e) Compliance with s. 1006.32, relating to prohibited  
 179 acts.

180 (f) A process for the district school board to determine  
 181 and certify that certifies the accuracy of district-adopted  
 182 instructional materials.

183 (g) The incorporation of applicable requirements of s.  
 184 1006.31, which relates to the duties of instructional materials  
 185 reviewers.

186 (h) The incorporation of applicable requirements of s.  
 187 1006.38, relating to the duties, responsibilities, and  
 188 requirements of publishers of instructional materials.

189 (i) The process by which instructional materials are  
 190 adopted by the district school board.

191 1. Instructional materials considered for adoption by the  
 192 district school board must be posted in a read-only format on  
 193 the district website at least 20 calendar days before the public  
 194 hearing and public meeting as specified in this paragraph. The  
 195 district shall establish an electronic process for the public to  
 196 submit, and the school board members and the superintendent to  
 197 access, comments on the recommended instructional materials.

198 2. The district school board shall conduct an open,  
 199 noticed district school board hearing to receive public comment  
 200 on and review the recommended instructional materials.

201 3. The district school board shall hold an open, noticed  
 202 public meeting to approve an annual instructional materials  
 203 plan, including the adoption of instructional materials. This  
 204 public meeting must be held on a different date than the public  
 205 hearing.

206 4. The notices for the public hearing and the public  
 207 meeting must specifically state which instructional materials  
 208 are being reviewed and the manner in which the instructional



209 materials can be accessed for public review.

210 ~~(j)(i)~~ The process by which instructional materials will  
 211 be purchased, including advertising, bidding, and purchasing  
 212 requirements.

213 (k) The process by which the school district will notify  
 214 parents of their ability to access their children's textbooks  
 215 and instructional materials through the district's local  
 216 instructional improvement system and by which the school  
 217 district will encourage parents to access the system. This  
 218 notification must be displayed prominently on the district  
 219 school board's website and provided annually in a written format  
 220 to all parents of enrolled students.

221 (7) Beginning in the 2015-2016 academic year, all adopted  
 222 instructional materials for students in kindergarten through  
 223 grade 12 must be available in a digital format. As used in this  
 224 subsection, the term "digital format" means text-based or image-  
 225 based content in a form that provides the student with various  
 226 interactive functions; that can be searched, tagged,  
 227 distributed, and used for individualized and group learning;  
 228 that includes multimedia content such as video clips, animation,  
 229 and virtual reality; and that can be accessed at anytime and  
 230 anywhere. The term does not include electronic or computer  
 231 hardware even if such hardware is bundled with software or other  
 232 electronic media, nor does the term include equipment or  
 233 supplies.

234 (8) The department shall publish recommended, minimum

235 technology requirements that include guidelines on the number of  
 236 students per device necessary to ensure that students can access  
 237 all instructional materials in digital format and specifications  
 238 for hardware, software, networking, and security.

239 (9) The school district shall make available upon request  
 240 for public inspection sample copies of all instructional  
 241 materials that have been adopted by the district school board.

242 Section 3. Section 1006.29, Florida Statutes, is repealed.

243 Section 4. Section 1006.30, Florida Statutes, is amended  
 244 to read:

245 1006.30 Affidavit of district ~~state~~ instructional  
 246 materials reviewers.—Before transacting any business, each  
 247 district ~~state~~ instructional materials reviewer shall make an  
 248 affidavit, to be filed with the district school board  
 249 ~~department~~, that:

250 (1) The reviewer will faithfully discharge the duties  
 251 imposed upon him or her.

252 (2) The reviewer does not have an ~~has no~~ interest in any  
 253 publishing or manufacturing organization that produces or sells  
 254 instructional materials.

255 (3) The reviewer is not ~~in no way~~ connected with the  
 256 distribution of the instructional materials.

257 (4) The reviewer does not have any direct or indirect  
 258 pecuniary interest in the business or profits of any person  
 259 engaged in manufacturing, publishing, or selling instructional  
 260 materials designed for use in the public schools.

261 (5) The reviewer will not accept any emolument or promise  
 262 of future reward of any kind from any publisher or manufacturer  
 263 of instructional materials or his or her agent or anyone  
 264 interested in, or intending to bias his or her judgment in any  
 265 way in, the selection of any materials to be adopted.

266 (6) The reviewer understands that it is unlawful to  
 267 discuss matters relating to instructional materials submitted  
 268 for adoption with any agent of a publisher or manufacturer of  
 269 instructional materials, either directly or indirectly, except  
 270 during the period when the publisher or manufacturer is  
 271 providing a presentation for the reviewer during his or her  
 272 review of the instructional materials submitted for adoption.

273 Section 5. Section 1006.31, Florida Statutes, is amended  
 274 to read:

275 1006.31 Duties of the ~~Department of Education~~ and school  
 276 district instructional materials reviewer.—The duties of the  
 277 instructional materials reviewer are:

278 (1) PROCEDURES.—To adhere to procedures prescribed by ~~the~~  
 279 ~~department or~~ the district for evaluating instructional  
 280 materials submitted by publishers and manufacturers in each  
 281 adoption. ~~This section applies to both the state and district~~  
 282 ~~approval processes.~~

283 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate  
 284 carefully all instructional materials submitted, in order to  
 285 ascertain which instructional materials, if any, submitted for  
 286 consideration implement the selection criteria developed by the

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287 | district ~~department~~ and those curricular objectives included  
288 | within applicable performance standards provided for in s.  
289 | 1001.03(1).

290 |         (a) When recommending instructional materials for use in  
291 | the schools, each reviewer shall include only instructional  
292 | materials that accurately portray the ethnic, socioeconomic,  
293 | cultural, and racial diversity of our society, including men and  
294 | women in professional, career, and executive roles, and the role  
295 | and contributions of the entrepreneur and labor in the total  
296 | development of this state and the United States.

297 |         (b) When recommending instructional materials for use in  
298 | the schools, each reviewer shall include only materials that  
299 | accurately portray, whenever appropriate, humankind's place in  
300 | ecological systems, including the necessity for the protection  
301 | of our environment and conservation of our natural resources and  
302 | the effects on the human system of the use of tobacco, alcohol,  
303 | controlled substances, and other dangerous substances.

304 |         (c) When recommending instructional materials for use in  
305 | the schools, each reviewer shall require such materials as he or  
306 | she deems necessary and proper to encourage thrift, fire  
307 | prevention, and humane treatment of people and animals.

308 |         (d) When recommending instructional materials for use in  
309 | the schools, each reviewer shall require, when appropriate to  
310 | the comprehension of students, that materials for social  
311 | science, history, or civics classes contain the Declaration of  
312 | Independence and the Constitution of the United States. A

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313 reviewer may not recommend any instructional materials for use  
 314 in the schools which contain any matter reflecting unfairly upon  
 315 persons because of their race, color, creed, national origin,  
 316 ancestry, gender, or occupation.

317 (e) Any instructional materials ~~material~~ recommended by  
 318 each reviewer for use in the schools must ~~shall~~ be, to the  
 319 satisfaction of each reviewer, accurate, objective, ~~and~~ current,  
 320 and suited to the needs and comprehension of students at their  
 321 respective grade levels. A reviewer ~~Reviewers~~ shall consider for  
 322 adoption materials developed for academically talented students  
 323 such as those enrolled in advanced placement courses.

324 (f) Any instructional materials containing pornography or  
 325 which are otherwise prohibited under s. 847.012 may not be used  
 326 or made available within a public school. When selecting  
 327 instructional materials, library media, and other reading  
 328 materials used in the public school system, each reviewer shall  
 329 use, at a minimum, the following standards to determine the  
 330 propriety of the material:

331 1. The age of the students who normally could be expected  
 332 to have access to the material.

333 2. The educational purpose to be served by the material.

334 In considering instructional materials for classroom use,  
 335 priority shall be given to the selection of materials that  
 336 encompass the performance standards provided for in s.  
 337 1001.03(1) and that include the instructional objectives  
 338 contained in the course description approved by rule of the

339 State Board of Education.

340 3. The degree to which the material would be supplemented  
 341 and explained by mature classroom instruction as part of a  
 342 normal classroom instructional program.

343 4. The consideration of the broad racial, ethnic,  
 344 socioeconomic, and cultural diversity of the students of this  
 345 state.

346 (3) REPORT OF REVIEWERS.—After a thorough study of all  
 347 data submitted on each instructional material, to submit an  
 348 electronic report to the district school board ~~department~~. The  
 349 report shall be made public and must include responses to each  
 350 section of the report format prescribed by the district school  
 351 board ~~department~~.

352 Section 6. Section 1006.32, Florida Statutes, is amended  
 353 to read:

354 1006.32 Prohibited acts.—

355 (1) A publisher or manufacturer of instructional material,  
 356 or any representative thereof, may not offer to give any  
 357 emolument, money, or other valuable thing, or any inducement, to  
 358 a ~~any~~ district school board official or ~~state~~ instructional  
 359 materials reviewer to directly or indirectly introduce,  
 360 recommend, vote for, or otherwise influence the adoption or  
 361 purchase of any instructional materials.

362 (2) A district school board official or an ~~a~~ ~~state~~  
 363 instructional materials reviewer may not solicit or accept any  
 364 emolument, money, or other valuable thing, or any inducement, to

365 directly or indirectly introduce, recommend, vote for, or  
 366 otherwise influence the adoption or purchase of any  
 367 instructional material.

368           (3) A district school board or publisher may not  
 369 participate in a pilot program of materials being considered for  
 370 adoption during the 18-month period before the official adoption  
 371 of the materials by the commissioner. Any pilot program during  
 372 the first 2 years of the adoption period must have the prior  
 373 approval of the commissioner.

374           (4) Any publisher or manufacturer of instructional  
 375 materials or representative thereof or any district school board  
 376 official or ~~state~~ instructional materials reviewer who violates  
 377 ~~any provision of~~ this section commits a misdemeanor of the  
 378 second degree, punishable as provided in s. 775.082 or s.  
 379 775.083. A ~~Any~~ representative of a publisher or manufacturer who  
 380 violates any provision of this section, in addition to any other  
 381 penalty, shall be banned from practicing business in the state  
 382 for a period of 1 calendar year.

383           (5) This section does not prohibit any publisher,  
 384 manufacturer, or agent from supplying, for purposes of  
 385 examination, necessary sample copies of instructional materials  
 386 to any district school board official or ~~state~~ instructional  
 387 materials reviewer.

388           (6) This section does not prohibit a district school board  
 389 official or ~~state~~ instructional materials reviewer from  
 390 receiving sample copies of instructional materials.

391 (7) This section does not prohibit or restrict a district  
 392 school board official from receiving royalties or other  
 393 compensation, other than compensation paid to him or her as  
 394 commission for negotiating sales to district school boards, from  
 395 the publisher or manufacturer of instructional materials  
 396 written, designed, or prepared by such district school board  
 397 official, and adopted by the commissioner or purchased by any  
 398 district school board. A ~~No~~ district school board official may  
 399 not ~~shall be allowed to~~ receive royalties on any materials not  
 400 on the district-adopted ~~state-adopted~~ list purchased for use by  
 401 his or her district school board.

402 (8) A district school superintendent, district school  
 403 board member, teacher, or other person officially connected with  
 404 the government or direction of public schools may not receive  
 405 during the months actually engaged in performing duties under  
 406 his or her contract any private fee, gratuity, donation, or  
 407 compensation, in any manner whatsoever, for promoting the sale  
 408 or exchange of any instructional material, map, or chart in any  
 409 public school, or be an agent for the sale of, or the publisher  
 410 of, any instructional material or reference work, or have a  
 411 direct or indirect pecuniary interest in the introduction of any  
 412 such instructional material, and any such agency or interest  
 413 shall disqualify any person so acting or interested from holding  
 414 any district school board employment whatsoever, and the person  
 415 commits a misdemeanor of the second degree, punishable as  
 416 provided in s. 775.082 or s. 775.083; however, this subsection



417 does not prevent the adoption of any instructional material  
 418 written in whole or in part by a Florida author.

419 Section 7. Section 1006.33, Florida Statutes, is repealed.

420 Section 8. Section 1006.34, Florida Statutes, is repealed.

421 Section 9. Section 1006.35, Florida Statutes, is amended  
 422 to read:

423 1006.35 Accuracy of instructional materials.—

424 (1) In addition to relying on statements of publishers or  
 425 manufacturers of instructional materials, the district school  
 426 board commissioner may conduct or cause to be conducted an  
 427 independent investigation to determine the accuracy of district-  
 428 adopted state-adopted instructional materials.

429 (2) When errors in district-adopted state-adopted  
 430 materials are confirmed, the publisher of the materials shall  
 431 provide to each district school board that ~~has~~ purchased the  
 432 materials the corrections in a format approved by the  
 433 investigating district school board department.

434 (3) The district school board commissioner may remove  
 435 materials from the list of district-adopted state-adopted  
 436 materials if it ~~he or she~~ finds that the content is in error and  
 437 the publisher refuses to correct the error when notified by the  
 438 district school board department.

439 (4) The district school board commissioner may remove  
 440 materials from the list of district-adopted state-adopted  
 441 materials at the request of the publisher if, in the district  
 442 school board's ~~his or her~~ opinion, there is no material impact

443 on the district's and the state's education goals.

444 Section 10. Section 1006.36, Florida Statutes, is  
 445 repealed.

446 Section 11. Section 1006.37, Florida Statutes, is amended  
 447 to read:

448 1006.37 Requisition of instructional materials from  
 449 publisher's depository.-

450 (1) The district school superintendent may ~~shall~~  
 451 requisition adopted instructional materials from the depository  
 452 of the publisher with whom a contract has been made or any other  
 453 vendor selling the adopted instructional materials. ~~However, the~~  
 454 ~~superintendent shall requisition current instructional materials~~  
 455 ~~to provide each student with a textbook or other materials as a~~  
 456 ~~major tool of instruction in core courses of the subject areas~~  
 457 ~~specified in s. 1006.40(2). These materials must be~~  
 458 ~~requisitioned within the first 3 years of the adoption cycle,~~  
 459 ~~except for instructional materials related to growth of student~~  
 460 ~~membership or instructional materials maintenance needs. The~~  
 461 ~~superintendent may requisition instructional materials in the~~  
 462 ~~core subject areas specified in s. 1006.40(2) that are related~~  
 463 ~~to growth of student membership or instructional materials~~  
 464 ~~maintenance needs during the 3rd, 4th, 5th, and 6th years of the~~  
 465 ~~original contract period.~~

466 (2) The district school superintendent shall verify that  
 467 the requisition is complete and accurate and order the  
 468 depository or vendor selling the adopted instructional materials

469 to forward to him or her the adopted instructional materials  
 470 shown by the requisition. The depository or vendor shall prepare  
 471 an invoice of the materials shipped, including shipping charges,  
 472 and mail it to the superintendent to whom the shipment is being  
 473 made. The superintendent shall pay the depository or vendor  
 474 within 60 days after receipt of the requisitioned materials from  
 475 the appropriation for the purchase of adopted instructional  
 476 materials.

477 (3) A district school board or a consortium of school  
 478 districts may ~~which implements an instructional materials~~  
 479 ~~program pursuant to s. 1006.283 is not required to~~ requisition  
 480 instructional materials from the publisher's depository or any  
 481 other vendor selling the adopted instructional materials.

482 (4) A district school board or a consortium of school  
 483 districts may request assistance from the publisher's depository  
 484 to recommend instructional materials for review, approval,  
 485 adoption, and purchase pursuant to s. 1006.283.

486 Section 12. Section 1006.38, Florida Statutes, is amended  
 487 to read:

488 1006.38 Duties, responsibilities, and requirements of  
 489 instructional materials publishers and manufacturers. ~~This~~  
 490 ~~section applies to both the state and district approval~~  
 491 ~~processes.~~ Publishers and manufacturers of instructional  
 492 materials, or their representatives, shall:

- 493 (1) Comply with all provisions of this part.
- 494 (2) Electronically deliver fully developed sample copies

495 of all instructional materials upon which bids are based to the  
 496 district ~~department~~ pursuant to procedures adopted by the  
 497 district school board ~~State Board of Education~~.

498 (3) Submit, at a time designated by the district school  
 499 board ~~in s. 1006.33~~, the following information:

500 (a) Detailed specifications of the physical  
 501 characteristics of the instructional materials, including any  
 502 software or technological tools required for use by the  
 503 district, school, teachers, or students. The publisher or  
 504 manufacturer shall comply with these specifications if the  
 505 instructional materials are adopted and purchased in completed  
 506 form.

507 (b) Evidence that the publisher or manufacturer has  
 508 provided materials that address the performance standards  
 509 provided for in s. 1001.03(1) and that can be accessed through  
 510 the district's local instructional improvement system and a  
 511 variety of electronic, digital, and mobile devices.

512 (c) Evidence that the instructional materials include  
 513 specific references to statewide standards in the teacher's  
 514 manual and incorporate such standards into chapter tests or the  
 515 assessments.

516 (4) Make available for purchase by any district school  
 517 board any diagnostic, criterion-referenced, or other tests that  
 518 they may develop.

519 (5) Furnish the instructional materials offered by them at  
 520 a price in the state which, including all costs of electronic

521 transmission, may not exceed the lowest price at which they  
522 offer such instructional materials for adoption or sale to any  
523 state or school district in the United States.

524 (6) Reduce automatically the price of the instructional  
525 materials to any district school board to the extent that  
526 reductions are made elsewhere in the United States.

527 (7) Provide any instructional materials free of charge in  
528 the state to the same extent as they are provided free of charge  
529 to any state or school district in the United States.

530 (8) Guarantee that all copies of any instructional  
531 materials sold in this state will be at least equal in quality  
532 to the copies of such instructional materials that are sold  
533 elsewhere in the United States and will be kept revised, free  
534 from all errors, and up-to-date as may be required by the  
535 department.

536 (9) Agree that any supplementary material developed at the  
537 district or state level does not violate the author's or  
538 publisher's copyright, provided such material is developed in  
539 accordance with the doctrine of fair use.

540 (10) Not in any way, directly or indirectly, become  
541 associated or connected with any combination in restraint of  
542 trade in instructional materials, nor enter into any  
543 understanding, agreement, or combination to control prices or  
544 restrict competition in the sale of instructional materials for  
545 use in the state.

546 (11) Maintain or contract with a depository in the state.

547 (12) For the core subject areas specified in s.  
 548 1006.40(2), maintain in the depository ~~for the first 3 years of~~  
 549 ~~the contract~~ an inventory of instructional materials sufficient  
 550 to receive and fill orders.

551 ~~(13) For the core subject areas specified in s.~~  
 552 ~~1006.40(2), ensure the availability of an inventory sufficient~~  
 553 ~~to receive and fill orders for instructional materials for~~  
 554 ~~growth, including the opening of a new school, and replacement~~  
 555 ~~during the 3rd and subsequent years of the original contract~~  
 556 ~~period.~~

557 (13)~~(14)~~ Accurately and fully disclose only the names of  
 558 those persons who actually authored the instructional materials.  
 559 In addition to the penalties provided in subsection (15)  
 560 ~~subsection (16)~~, the district school board commissioner may  
 561 remove from the list of district-adopted ~~state-adopted~~  
 562 instructional materials those instructional materials whose  
 563 publisher or manufacturer misleads the purchaser by falsely  
 564 representing genuine authorship.

565 (14)~~(15)~~ Grant, without prior written request, for any  
 566 copyright held by the publisher or its agencies automatic  
 567 permission to the district school board ~~department or its~~  
 568 ~~agencies~~ for the reproduction of instructional materials and  
 569 supplementary materials in Braille, large print, or other  
 570 appropriate format for use by visually impaired students or  
 571 other students with disabilities who ~~that~~ would benefit from use  
 572 of the materials.

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573        ~~(15)-(16)~~ Upon the willful failure of the publisher or  
 574 manufacturer to comply with the requirements of this section, be  
 575 liable to the district school board ~~department~~ in the amount of  
 576 three times the total sum which the publisher or manufacturer  
 577 was paid in excess of the price required under subsections (5)  
 578 and (6) and in the amount of three times the total value of the  
 579 instructional materials and services which the district school  
 580 board is entitled to receive free of charge under subsection  
 581 (7).

582        Section 13. Subsections (2) and (3) of section 1006.40,  
 583 Florida Statutes, are amended to read:

584        1006.40 Use of instructional materials allocation;  
 585 instructional materials, library books, and reference books;  
 586 repair of books.—

587        (2) Each district school board must purchase current  
 588 instructional materials to provide each student in kindergarten  
 589 through grade 12 with a major tool of instruction in core  
 590 courses of the subject areas of mathematics, language arts,  
 591 science, social studies, reading, and literature ~~for~~  
 592 ~~kindergarten through grade 12. Such purchase must be made within~~  
 593 ~~the first 3 years after the effective date of the adoption~~  
 594 ~~cycle. For the 2012-2013 mathematics adoption, a district using~~  
 595 ~~a comprehensive mathematics instructional materials program~~  
 596 ~~adopted in the 2009-2010 adoption shall be deemed in compliance~~  
 597 ~~with this subsection if it provides each student with such~~  
 598 ~~additional state-adopted materials as may be necessary to align~~

599 ~~the previously adopted comprehensive program to common core~~  
 600 ~~standards and the other criteria of the 2012-2013 mathematics~~  
 601 ~~adoption.~~

602 (3)~~(a)~~ By the 2015-2016 fiscal year, each district school  
 603 board shall use at least 50 percent of the annual allocation for  
 604 the purchase of digital ~~or electronic~~ instructional materials  
 605 that are consistent with district goals and objectives and the  
 606 course descriptions adopted in rule by the State Board of  
 607 Education, align with the performance standards provided for in  
 608 s. 1001.03(1), meet the requirements in s. 1006.31, and are on  
 609 the district-adopted list align with state standards included on  
 610 ~~the state adopted list, except as otherwise authorized in~~  
 611 ~~paragraphs (b) and (c). This section does not apply to a~~  
 612 ~~district school board or a consortium of school districts which~~  
 613 ~~implements an instructional materials program pursuant to s.~~  
 614 ~~1006.283, except that by the 2015-2016 fiscal year, each~~  
 615 ~~district school board shall use at least 50 percent of the~~  
 616 ~~annual allocation for the purchase of digital or electronic~~  
 617 ~~instructional materials that align with state standards.~~

618 ~~(b) Up to 50 percent of the annual allocation may be used~~  
 619 ~~for the purchase of instructional materials, including library~~  
 620 ~~and reference books and nonprint materials, not included on the~~  
 621 ~~state adopted list and for the repair and renovation of~~  
 622 ~~textbooks and library books.~~

623 ~~(c) District school boards may use 100 percent of that~~  
 624 ~~portion of the annual allocation designated for the purchase of~~



625 ~~instructional materials for kindergarten, and 75 percent of that~~  
 626 ~~portion of the annual allocation designated for the purchase of~~  
 627 ~~instructional materials for first grade, to purchase materials~~  
 628 ~~not on the state-adopted list.~~

629       Section 14. Subsection (1) of section 1006.41, Florida  
 630 Statutes, is amended to read:

631       1006.41 Disposal of instructional materials.—

632       (1) Instructional materials that have become unserviceable  
 633 or surplus or are no longer on the district ~~state~~ contract may  
 634 be disposed of, under adopted rule of the district school board,  
 635 by:

636       (a) Giving or lending the materials to other public  
 637 education programs within the district or state, to the teachers  
 638 to use in developing supplementary teaching materials, to  
 639 students or others, or to any charitable organization,  
 640 governmental agency, home education students, private school, or  
 641 state.

642       (b) Selling the materials to used book dealers, recycling  
 643 plants, pulp mills, or other persons, firms, or corporations  
 644 upon such terms as are most economically advantageous to the  
 645 district school board.

646       Section 15. Section 1006.282, Florida Statutes, is amended  
 647 to read:

648       1006.282 Pilot program for the transition to ~~electronic~~  
 649 ~~and~~ digital instructional materials.—

650       (1) A district school board may designate pilot program

651 schools to implement the transition to instructional materials  
 652 that are in ~~an electronic or~~ a digital format as defined in s.  
 653 1006.283 ~~s. 1006.29(3)~~.

654 (2) A district school board may designate pilot program  
 655 schools if the school district:

656 (a) Implements a local instructional improvement system  
 657 pursuant to s. 1006.281 which enables district staff to plan,  
 658 create, and manage professional development and to connect  
 659 professional development with staff information and student  
 660 performance, provides the ability to seamlessly connect the  
 661 system to ~~electronic and~~ digital instructional materials and the  
 662 instructional materials to student assessment data, and includes  
 663 the minimum standards published by the Department of Education.

664 (b) Requests only the ~~electronic or~~ digital format of the  
 665 sample copies of instructional materials submitted pursuant to  
 666 s. 1006.283 ~~s. 1006.33~~.

667 (c) Uses at least 50 percent of the pilot program school's  
 668 annual allocation from the district for the purchase of  
 669 ~~electronic or~~ digital instructional materials included on the  
 670 district-adopted ~~state-adopted~~ list.

671 (3) A school designated as a pilot program school by the  
 672 school board is exempt from:

673 (a) Section 1006.40(2), if the school provides  
 674 comprehensive ~~electronic or~~ digital instructional materials to  
 675 all students; and

676 (b) Section 1006.37.

677 (4) By August 1 of each year, beginning in 2011, the  
 678 school board must report to the Department of Education the  
 679 school or schools in its district which have been designated as  
 680 pilot program schools. The department shall publish the list of  
 681 pilot program schools on the department's Internet website. The  
 682 report must include:

683 (a) The name of the pilot program school, the contact  
 684 person and contact person information, and the grade or grades  
 685 and associated course or courses included in the pilot program  
 686 school.

687 (b) A description of the type of technological tool or  
 688 tools that will be used to access the ~~electronic or~~ digital  
 689 instructional materials included in the pilot program school,  
 690 whether district-owned or student-owned.

691 (c) The projected costs and funding sources, which must  
 692 include cost savings or cost avoidances, associated with the  
 693 pilot program.

694 (5) By September 1 of each year, beginning in 2012, each  
 695 school board that has a designated pilot program school shall  
 696 provide to the Department of Education, the Executive Office of  
 697 the Governor, and the chairs of the appropriations committees of  
 698 the Senate and the House of Representatives a review of the  
 699 pilot program schools which must include, but need not be  
 700 limited to:

701 (a) Successful practices;

702 (b) The average amount of online Internet time needed by a

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703 student to access and use the school's ~~electronic or~~ digital  
 704 instructional materials;

705 (c) Lessons learned;

706 (d) The level of investment and cost-effectiveness; and

707 (e) Impacts on student performance.

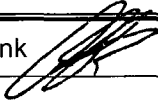
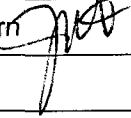
708 Section 16. Section 1010.82, Florida Statutes, is amended  
 709 to read:

710 1010.82 Textbook Bid Trust Fund.—Chapter 99-36, Laws of  
 711 Florida, re-created the Textbook Bid Trust Fund to record the  
 712 revenue and disbursements of textbook bid performance deposits  
 713 submitted to the Department of Education ~~as required in s.~~  
 714 ~~1006.33.~~

715 Section 17. This act shall take effect July 1, 2014.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 921 Instructional Materials for K-12 Public Education  
**SPONSOR(S):** Gaetz  
**TIED BILLS:** IDEN./SIM. BILLS: SB 864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee		Brink 	Ahearn 
2) Education Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

Currently, district school boards may implement their own instructional materials program or purchase instructional materials through the state review and adoption process. The bill eliminates the state's instructional materials review and adoption process and shifts the responsibility to each school district to select and provide adequate instructional materials for all students. Accordingly, the bill deletes corresponding sections of law that provide for:

- State review of instructional materials;
- The powers and duties of the Commissioner of Education (commissioner) and the Department of Education (DOE) related to selecting and adopting instructional materials;
- The bidding process for state instructional materials adoption; and
- Timelines and schedules relating to the adoption and requisition of instructional materials through the state adoption process.

The bill conforms language to reflect the shift in responsibility to the district school boards and clarifies that certain requirements for state instructional materials reviewers are applicable to district instructional materials reviewers.

The bill establishes district school board rulemaking requirements for implementation of the instructional materials review process, notice of instructional materials adoption and the opportunity for public review and comment, and appointment of district instructional materials reviewers by district school boards and district school superintendents. The bill allows district instructional materials review committees to combine with other district committees to form super committees, which may reduce costs associated with the review and adoption of instructional materials for smaller school districts.

The bill requires the DOE to publish recommended, minimum technology requirements that include guidelines on the number of students per device necessary to ensure that students can access all instructional materials in digital format and specification for hardware, software, networking, and security.

The bill authorizes districts to requisition adopted instructional materials either from a contracted publisher's depository or from another vendor selling the materials.

The bill prohibits instructional materials that contain pornography or are prohibited as matter harmful to minors under s. 847.02, F.S., from being used or made available within a public school.

Because the bill requires districts to hire reviewers and establish infrastructure for the review and adoption of instructional materials, there will be a fiscal impact on the school districts, but the impact is indeterminate.

The bill provides an effective date of July 1, 2014.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0921.KTS.DOCX

DATE: 3/7/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Instructional Materials Adoption

Instructional materials are items having intellectual content designed to serve as a major tool for instruction of a subject or course. Instructional materials may consist of hard-backed or soft-backed textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.<sup>1</sup> State law provides a statewide process for the adoption of instructional materials, and the Commissioner of Education (commissioner) annually determines the academic areas in which instructional materials must be submitted for adoption.<sup>2</sup>

Publishers and manufacturers that provide instructional materials as a single bundle must make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.<sup>3</sup>

Funding for instructional materials is provided annually in the General Appropriations Act. Legislation enacted in 2013 provides each school district the option of implementing its own program for the review, approval, adoption, and purchase of instructional materials.<sup>4</sup> School districts that participate in the state instructional materials adoption process must procure instructional materials for each content area every five years, with exceptions for content areas that require more frequent revision. The content areas scheduled for adoption rotate each year.<sup>5</sup> State reviewers evaluate instructional materials for alignment with the applicable state academic standards and recommend materials for inclusion on a state-adopted list.<sup>6</sup>

School districts that choose to purchase instructional materials through the state adoption process must expend a portion of their state funding to purchase materials on the state-adopted list. School districts that implement their own instructional materials program are not required to purchase instructional materials on the state-adopted list or follow the same review cycle used for state instructional materials adoption.<sup>7</sup>

##### School District Use of State Instructional Materials Funds

School districts that purchase instructional materials through the state adoption process must purchase instructional materials within the first three years of the effective date of the adoption cycle.<sup>8</sup> By fiscal year 2015-16, each school district that purchases instructional materials through the state adoption process must use at least 50 percent of the funds allocated for instructional materials to purchase digital or electronic instructional materials on the state-adopted list.<sup>9</sup> The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, but must be used for the purchase of instructional materials or other items having intellectual content which assist in the

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<sup>1</sup> Sections 1006.28(1) and 1006.29(2), F.S.

<sup>2</sup> Section 1006.29(1), F.S.

<sup>3</sup> Section 1006.29(2), F.S.

<sup>4</sup> Section 2, ch. 2013-237, L.O.F., *codified at* s. 1006.283, F.S.; *see* part I, subpart F., ch. 1006, F.S.

<sup>5</sup> Sections 1006.29(1) and 1006.36, F.S.

<sup>6</sup> Sections 1006.29(1)(b) and 1006.31(2), F.S.

<sup>7</sup> Sections 1006.283 and 1006.40, F.S.

<sup>8</sup> Section 1006.40(2), F.S.

<sup>9</sup> Section 1006.40(3)(a), F.S.

instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may include hardbacked or softbacked textbooks, electronic content, and replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by district school board rule.<sup>10</sup> A school district may also use the remainder of funds for the repair and renovation of textbooks and library books.<sup>11</sup>

One hundred percent of the state instructional materials funds used for kindergarten and 75 percent of the state instructional materials funds used for first grade may be spent to purchase materials that are not on the state-adopted list.<sup>12</sup>

A school district that implements its own instructional materials program must expend up to 50 percent of its annual instructional materials allocation on digital or electronic materials by FY 2015-16; however, the district is not required to purchase instructional materials on the state-adopted list. The remaining funds must be spent on instructional materials; however, unlike districts that purchase instructional materials through the state adoption process, the district has full discretion to determine the types of materials purchased.<sup>13</sup>

For all school districts, funds allocated to purchase instructional materials may only be used for other classroom expenditures or the purchase of hardware for student instruction when the district school board finds and declares in a resolution that the funds received for instructional materials are urgently needed to maintain school board specified academic classroom instruction.<sup>14</sup>

#### State Instructional Materials Adoption Process

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.<sup>15</sup> The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct the DOE to add one or more subject areas to the official schedule.<sup>16</sup>

Approximately one year before the adoption of instructional materials in a certain subject area, the DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.<sup>17</sup>

Beginning on or before May 15 of the adoption year, the DOE advertises<sup>18</sup> a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.<sup>19</sup>

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<sup>10</sup> Section 1006.40(4), F.S.

<sup>11</sup> Section 1006.40(3)(b), F.S.

<sup>12</sup> Section 1006.40(3)(c), F.S.

<sup>13</sup> Section 1006.40(3)(a), F.S.

<sup>14</sup> Section 1011.62(6)(b)5., F.S. The expenditure of funds for other classroom expenditures or for the purchase of hardware for student instruction may only occur if the school district has purchased all of the instructional materials necessary to provide updated materials aligned to the state academic standards for that fiscal year. Purchases may not be made before March 1. The funds available after March 1 may be used to purchase hardware for student instruction. *Id.*

<sup>15</sup> Section 1006.36(1), F.S.

<sup>16</sup> Section 1006.36(2), F.S.

<sup>17</sup> Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption*, at 1 (Dec. 2011), incorporated by reference into rule 6A-7.0710, F.A.C.

<sup>18</sup> Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

<sup>19</sup> Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as "suitable, usable, and desirable" instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.<sup>20</sup>

### State Instructional Materials Reviewers

The state instructional materials reviewers are state or national experts in the content areas submitted for adoption. The reviewers are appointed by the commissioner by April 15 of each school year to review the instructional materials and evaluate the content for alignment with the applicable state academic standards.<sup>21</sup>

The state instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.<sup>22</sup> After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.<sup>23</sup>

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.<sup>24</sup>

Each state instructional materials reviewer must sign an affidavit to the effect that he or she:

- Will faithfully discharge the duties imposed as a state instructional materials reviewer.
- Has no interest in any publishing or manufacturing organization that produces or sells instructional materials.
- Is in no way connected with the distribution of the instructional materials.
- Does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools.
- Will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted.
- Understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.<sup>25</sup>

### Duties of School Districts

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the

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<sup>20</sup> Section 1006.34(2)(a), F.S.

<sup>21</sup> Section 1006.29(1)(b), F.S.

<sup>22</sup> Section 1006.29(4), F.S.

<sup>23</sup> Section 1006.29(1)(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 1006.30, F.S.



instructional usability of the resources.<sup>26</sup> Persons selected as school district reviewers must complete training, developed by the DOE, related to the evaluation and selection of instructional materials.<sup>27</sup>

School districts are required to purchase current instructional materials to provide each student adequate materials for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>28</sup> School districts review state-adopted instructional materials and select materials to be used in their local schools.<sup>29</sup> State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.<sup>30</sup>

Within the first three years of the adoption cycle, a school district superintendent must purchase instructional materials to provide each student with a textbook or other materials as a major tool of instruction for these core courses.<sup>31</sup> The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.<sup>32</sup> The superintendent is also required to notify the DOE by April 1 of which instructional materials will be used by the district. The notification must include a plan to be used to determine if adequate instructional materials have been purchased.<sup>33</sup>

By July 1 of each year and before state instructional materials funds are released, a school district's superintendent must certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports implementation of instructional materials programs. The school district must verify that training was provided and that the materials are being implemented as designed.<sup>34</sup>

Instructional materials that are unserviceable, surplus, or no longer on state contract may be given by a school district to other education programs; teachers; students, including home education students; or any charitable organization, governmental agency, private school, or state. To dispose of instructional materials, a school district may also sell the materials to used-book dealers; recycling plants; pulp mills; or other persons, firms, or corporations. Any money received must be deposited in the school district's fund for instructional materials.<sup>35</sup>

### Duties of School Principals

A school principal is responsible for:

- Assuring that instructional materials are used to provide instruction to students enrolled at the grade level for which the materials are designed;
- Communicating to parents how instructional materials are used to implement curricular objectives;
- Selling instructional materials to parents upon request; and

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<sup>26</sup> Section 1006.29(1)(c), F.S.

<sup>27</sup> Section 1006.29(5), F.S.

<sup>28</sup> Section 1006.40(2), F.S. "Adequate instructional materials" means a "sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature." Section 1006.28(1), F.S.

<sup>29</sup> See s. 1006.28(1)(b), F.S.

<sup>30</sup> Sections 1006.36(1) and 1006.37(1), F.S.; see also s. 1006.28(2)(b), F.S.; Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-2012 through 2016-2017* (May 22, 2012), available at [http://www.fldoe.org/BII/instruct\\_mat/pdf/cycle.pdf](http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf);

<sup>31</sup> Section 1006.37(1), F.S.

<sup>32</sup> Section 1006.28(2)(a), F.S.

<sup>33</sup> Section 1006.28(2)(a), F.S.

<sup>34</sup> Section 1011.67(2), F.S.

<sup>35</sup> Section 1006.41(1) and (3), F.S.

- Accounting for instructional materials and collecting payment from a student or parent for any lost, destroyed, or damaged instructional materials<sup>36</sup> and transmitting all money collected to the school district superintendent for deposit into the district school board fund.<sup>37</sup>

### Duties of Publishers and Manufacturers

Publishers and manufacturers of instructional materials must, among other things:

- Submit electronic sample copies of instructional materials to the DOE;
- Submit evidence that the materials provided address the state academic and the materials can be accessed through the district's local instructional improvement system and a variety of electronic, digital, and mobile devices;
- Furnish instructional materials at a price not to exceed the lowest price offered in other states;
- Automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge;
- Disclose the authors of the instructional materials;
- Keep the materials revised, free from all errors, and up-to-date; and
- Maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state.<sup>38</sup>

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or state instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.<sup>39</sup>

### School District Instructional Materials Adoption Programs

School districts that choose to implement their own instructional materials program are not required to purchase instructional materials from the state-adopted list,<sup>40</sup> requisition instructional materials from the publisher's depository,<sup>41</sup> or follow the same review cycle used for state instructional materials adoption.<sup>42</sup> Multiple school districts may form a consortium for the purpose of implementing an instructional materials program.<sup>43</sup>

Each school board implementing an instructional materials program must adopt rules:

- Specifying the instructional materials review process, review cycle, and duties and qualifications of instructional materials reviewers;
- Requiring school district instructional materials reviewers to comply with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- Requiring reviewer and publisher compliance with law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;
- Specifying a process for certifying the accuracy of instructional materials;

<sup>36</sup> Principals are authorized to suspend a student from participating in extracurricular activities if the debt is not paid or require the student to participate in community service activities to satisfy the debt. Section 1006.28(3)(b), F.S.

<sup>37</sup> Section 1006.28(3), F.S.

<sup>38</sup> Section 1006.38, F.S.

<sup>39</sup> Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

<sup>40</sup> Section 1006.40(3)(a), F.S.

<sup>41</sup> Section 1006.37(3), F.S.

<sup>42</sup> Section 1006.283(2)(b), F.S.

<sup>43</sup> Section 1006.283(1), F.S.

- Requiring publisher compliance with law regarding publisher duties, responsibilities, and requirements; and
- Specifying the instructional materials purchase process, including advertising, bidding, and purchasing requirements.<sup>44</sup>

School district instructional materials reviewers must review instructional materials using standards similar to those currently specified for state instructional materials reviewers and for alignment to the state academic standards. Beginning in the 2013-14 school year, the district superintendent must annually certify that all instructional materials for core courses used by the school district are aligned with applicable state standards and provide a list of all core materials that will be used or purchased by the district.<sup>45</sup>

School districts implementing their own instructional materials program may collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to the DOE, and maintained in a separate line item for auditing purposes.<sup>46</sup>

School districts may only use revenues generated by fees to support the instructional materials review process, including the payment of stipends for reviewers, reimbursement of travel expenses and per diem incurred by reviewers, and costs relating to employing substitute teachers to fill in for instructional personnel serving as reviewers.<sup>47</sup>

#### Transition to Digital and Electronic Instructional Materials

Beginning in the 2015-16 school year, all state-adopted instructional materials for students in kindergarten through grade 12 must be provided in an electronic or digital format.<sup>48</sup> Also, by 2015-2016, each school district must use at least 50 percent of its annually allocated instructional materials funding to purchase digital or electronic instructional materials.<sup>49</sup>

Instructional materials in electronic format and digital format do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, equipment, or supplies.<sup>50</sup>

#### Local Instructional Improvement Systems

A local instructional improvement system is a system that uses electronic and digital tools that provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system must support relevant activities such as instructional planning, information gathering and analysis, rapid-time reporting, decision making on appropriate instructional sequence, and evaluating the effectiveness of instruction. Additionally, the system must

<sup>44</sup> Section 1006.283(2), F.S.

<sup>45</sup> Section 1006.283(2) and (4), F.S.

<sup>46</sup> Section 1006.283(3)(a), F.S.

<sup>47</sup> Section 1006.283(3)(b), F.S.

<sup>48</sup> Section 1006.29(3), F.S. "Electronic format" means text-based or image-based content in a form that is produced on, published by, and readable on computers or other digital devices and is an electronic version of a printed book, whether or not any printed equivalent exists. "Digital format" means text-based or image-based content in a form that provides the student with various interactive functions; that can be searched, tagged, distributed, and used for individualized and group learning; that includes multimedia content such as video clips, animations, and virtual reality; and that has the ability to be accessed at any time and anywhere. Section 1006.29(3)(a) and (b), F.S.

<sup>49</sup> Section 1006.40(3)(a), F.S. School districts that purchase instructional materials through the state adoption process must purchase the digital instructional materials off the state-adopted list. School districts that implement their own instructional materials program are not required to purchase the digital instructional materials off the state-adopted list. *Id.*

<sup>50</sup> Section 1006.29(3), F.S. (flush left at the end of subsection)

integrate instructional information with student-level data to provide predictions of future student achievement.<sup>51</sup>

Each school district must provide teachers, administrators, students, and parents access to a local instructional improvement system. The system must provide access to electronic and digital instructional materials, and teaching and learning tools and resources, including the ability for teachers and administrators to manage, assess, and track student learning.<sup>52</sup> By June 30, 2014, the local instructional improvement system should allow for a single, authenticated sign-on and include the following functionality:

- Vertically searches for, gathers, and organizes specific standards-based instructional materials.
  - Enables teachers to prepare lessons, individualize student instruction, and use best practices in providing instruction.
  - Provides communication, including access to up-to-date student performance data, in order to help teachers and parents better serve the needs of students.
  - Provides access for administrators to ensure quality.
  - Enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance data.
- Provides access to multiple content providers and provides the ability to seamlessly connect the local instructional improvement system to electronic and digital content.<sup>53</sup>

### Instructional Materials Content

Any instructional materials recommended by reviewers for use in schools must be, to the satisfaction of each reviewer, accurate, objective, current, and suited to the needs and comprehension of students at their respective grade levels.<sup>54</sup>

### **Effect of Proposed Changes**

School districts may establish their own instructional materials program or participate in the state instructional materials adoption process. The bill eliminates the state's instructional materials review and adoption process and shifts responsibility to each school district to select and provide adequate instructional materials for all students. Accordingly, the bill deletes corresponding sections of law that provide for:

- State review of instructional materials;<sup>55</sup>
- The powers and duties of the commissioner and the DOE relating to selecting and adopting instructional materials;<sup>56</sup>
- The bidding process for state instructional materials adoption;<sup>57</sup> and
- Timelines and schedules relating to the adoption of instructional materials through the state adoption process.<sup>58</sup>

The bill also conforms language to reflect the transfer of responsibility for the review and adoption of instructional materials to the district school boards.

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<sup>51</sup> Section 1006.281(1), F.S.

<sup>52</sup> Section 1006.281(2), F.S.

<sup>53</sup> Section 1006.281(3), F.S.

<sup>54</sup> Section 1006.31(2)(e), F.S.

<sup>55</sup> Section 1006.29, F.S.

<sup>56</sup> Section 1006.34, F.S.

<sup>57</sup> Section 1006.33, F.S.

<sup>58</sup> Section 1006.29, F.S.

Because the bill eliminates the state instructional materials adoption process, the bill requires each district school board or consortium of school boards to implement an instructional materials program. The bill requires each school district to make available upon request for public inspection sample copies of all instructional materials that have been adopted by the district school board.

The bill requires each district school board to adopt rules that establish the process by which the school board adopts instructional materials and criteria for the review and recommendation of instructional materials, including a thorough review of curriculum content. In addition, each district must establish a local instructional materials review committee to review and recommend instructional materials to the district school board for final adoption. The bill allows districts to combine local instructional materials review committees to form super committees, which may reduce costs associated with the review and adoption of instructional materials for smaller school districts.

Each local instructional materials review committee must consist of members who are appointed as follows:

- Each district school board member must appoint one person who has subject area expertise in science, mathematics, language arts, social studies, or career or technical studies and who is not employed by the district;
- The superintendent must appoint a number of classroom teachers, equal to the number of district school board members, who are representative of the subject areas and grade levels of the materials being considered for adoption; and
- The district school board and the superintendent must each appoint at least one parent of a student who is currently enrolled in a public school in the district.

The bill requires that each district instructional materials reviewer file with the district school board the affidavit currently filed by each state instructional materials reviewer with the DOE prior to transacting business. The bill does not retain the requirement that district instructional materials reviewers complete DOE-developed training related to the evaluation and selection of instructional materials.

The bill specifies that the review cycles for instructional materials must be identified by subject area in school board rule. The bill also clarifies that the instructional materials rules must require the school board to determine and certify the accuracy of the adopted instructional materials.

The district school board rule establishing the process by which the school board adopts instructional materials must provide for the following:

- An open, noticed district school board hearing to review recommended instructional material and receive public comment;
- An open, noticed public school board meeting, held on a different date than the public hearing, to approve an annual instructional materials plan, including the adoption of instructional materials;
- Notice posted on the district school board's website at least 20 days in advance of public hearings and public meetings on instructional materials recommended for adoption. The district must establish an electronic process by which the public can submit, and the school board members and the superintendent can access, comments on the recommended instructional materials; and
- The requirement that the notices for public hearing and public meetings specifically state which materials are being reviewed and the manner in which the materials can be accessed for public review.

The bill also requires each district school to adopt in rule the process by which the school district will notify parents of their ability to access their children's textbooks and instructional materials through the district's local instructional improvement system and by which the school district will encourage parents to access the system.

The bill requires that, beginning in the 2015-2016 school year, all adopted instructional materials for students in kindergarten through grade 12 be available in a digital format. The bill deletes reference to the term "electronic format,"<sup>59</sup> presumably because the term "digital format,"<sup>60</sup> includes instructional material in an electronic format.

The bill requires the DOE to publish recommended, minimum technology requirements that include guidelines on the number of students per device necessary to ensure that students can access all instructional materials in digital format and specification for hardware, software, networking, and security.

Any instructional materials that contain pornography or are prohibited as matter harmful to minors under s. 847.02, F.S., may not be used or made available within a public school. The bill provides that the following standards must be used to determine the propriety of instructional materials, library media, and other reading materials by district instructional materials reviewers:

- The age of the students who normally could be expected to have access to the material;
- The educational purpose to be served by the material, with priority given to the selection of materials that encompass the state academic standards provided by law and that include the instructional objectives contained in the course description approved by state board rule;
- The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program; and
- The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students in Florida.

With respect to the requisition of instructional materials, the bill provides that a district school superintendent, in addition to requisitioning materials from the depository of a publisher with whom a contract has been made, may requisition materials from any other vendor selling the district-adopted instructional materials. The bill also permits a district school board or consortium to requisition adopted instructional materials from a vendor or from the publisher's depository. District school boards and consortia are permitted to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase.

The bill provides that digital instructional materials purchased by districts in the 2015-2016 school year and thereafter must be included on the district-adopted list, align to state academic standards, and be consistent with district goals and objectives and the course descriptions adopted in state board rule.

## B. SECTION DIRECTORY:

Section 1. Amends s. 1006.28, F.S., providing that the district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students; redefining the term "adequate instructional materials."

Section 2. Amends s. 1006.283, F.S., requiring a district school board or consortium of school districts to implement an instructional materials program; including criteria for the review and recommendation of instructional materials, the process by which instructional materials are adopted, and the process by which a school district will notify parents of their ability to access their children's instructional materials in the list of the subjects that must be addressed by rule of the district school board; requiring adopted instructional materials to be provided in digital format; defining the term "digital format"; requiring the Department of Education to publish minimum, recommended technology requirements; requiring the district to make available, upon request, sample copies of its adopted instructional materials.

<sup>59</sup> See *supra* text accompanying note 58.

<sup>60</sup> See *supra* text accompanying note 59. The bill specifies that the definition of "digital format" does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does the term include equipment or supplies.

Section 3. Repeals s. 1006.29, F.S., relating to state instructional materials reviewers.

Section 4. Amends s. 1006.30, F.S., requiring each district instructional materials reviewer to file an affidavit with the district school board, rather than the DOE.

Section 5. Amends s. 1006.31, F.S., deleting references to the DOE regarding the duties of instructional materials reviewers; revising the evaluation procedure for instructional materials.

Section 6. Amends s. 1006.32, F.S., conforming provisions to changes made by the act.

Section 7. Repeals s. 1006.33, F.S., relating to bids, proposals, and advertisement regarding the adoption of instructional materials.

Section 8. Repeals s. 1006.34, F.S., relating to powers and duties of the commissioner and the DOE in selecting and adopting instructional materials.

Section 9. Amends s. 1006.35, F.S., requiring the district school board, rather than the commissioner, to conduct an independent investigation to determine the accuracy of district-adopted instructional materials; authorizing the district school board, rather than the commissioner, to remove materials from the list of district-adopted materials under certain circumstances.

Section 10. Repeals s. 1006.36, F.S., relating to the term of adoption for instructional materials.

Section 11. Amends s. 1006.37, F.S., authorizing, rather than requiring, the district school superintendent to requisition adopted instructional materials from the depository of a publisher with whom a contract has been made or any other vendor selling the adopted instructional materials; deleting provisions regarding the superintendent's requisition of instructional materials; conforming provisions to changes made by the act; authorizing a district school board or a consortium of school districts to requisition instructional materials from the publisher's depository or any other vendor selling adopted instructional materials and to request assistance from the publisher's depository to recommend instructional materials for review, approval, adoption, and purchase; requiring the recommended materials to be consistent with certain goals, objectives, and requirements; requiring that personnel from the publisher's depository sign an affidavit in order to be considered an instructional materials reviewer.

Section 12. Amends s. 1006.38, F.S., conforming provisions to changes made by the bill; revising the duties, responsibilities, and requirements of instructional materials publishers and manufacturers.

Section 13. Amends s. 1006.40, F.S., deleting provisions regarding the adoption of instructional materials for certain core courses in the subject area of mathematics; requiring each district school board to use a certain percentage of the annual allocation for the purchase of digital, rather than electronic, instructional materials that meet certain goals, objectives, and requirements; deleting provisions regarding the use of the district's annual allocation for the purchase of instructional materials.

Section 14. Amends s. 1006.41, F.S., conforming provisions to changes made by the act.

Section 15. Amends s. 1006.282, F.S., conforming cross-references.

Section 16. Amends s. 1010.82, F.S., conforming cross-references.

Section 17. Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The fiscal impact of the bill on school districts is indeterminate. Districts will likely incur costs related to the hiring of reviewers and establishing the infrastructure necessary to conduct reviews. See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

Although school districts are likely to incur costs associated with the review of materials, s. 1006.283, F.S., authorizes the districts to collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to DOE, used to support the review process, and maintained in a separate line item for auditing purposes.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill requires district school boards to adopt rules relating to the adoption of instructional materials.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.





1                                   A bill to be entitled  
 2           An act relating to involuntary examinations of minors;  
 3           amending s. 381.0056, F.S.; revising the term  
 4           "emergency health needs"; requiring school health  
 5           services plans to include notification requirements  
 6           when a student is removed from school, school  
 7           transportation, or a school-sponsored activity for  
 8           involuntary examination; amending s. 394.4599, F.S.;  
 9           requiring a receiving facility to provide notice of  
 10          the whereabouts of an adult or minor patient held for  
 11          involuntary examination; providing conditions for  
 12          delay in notification; requiring documentation of  
 13          contact attempts; amending ss. 1002.20 and 1002.33,  
 14          F.S.; requiring a public school or charter school  
 15          principal or a designee to provide notice of the  
 16          whereabouts of a student removed from school, school  
 17          transportation, or a school-sponsored activity for  
 18          involuntary examination; providing conditions for  
 19          delay in notification; requiring district school  
 20          boards and charter school governing boards to develop  
 21          certain notification policies and procedures;  
 22          providing an effective date.

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

25  
 26          Section 1.   Subsection (2) and paragraph (a) of subsection

27 (4) of section 381.0056, Florida Statutes, are amended to read:

28 381.0056 School health services program.-

29 (2) As used in this section, the term:

30 (a) "Emergency health needs" means onsite evaluation,  
 31 management, and aid for illness or injury pending the student's  
 32 return to the classroom or release to a parent, guardian,  
 33 designated friend, law enforcement officer, or designated health  
 34 care provider.

35 (b) "Entity" or "health care entity" means a unit of local  
 36 government or a political subdivision of the state; a hospital  
 37 licensed under chapter 395; a health maintenance organization  
 38 certified under chapter 641; a health insurer authorized under  
 39 the Florida Insurance Code; a community health center; a migrant  
 40 health center; a federally qualified health center; an  
 41 organization that meets the requirements for nonprofit status  
 42 under s. 501(c)(3) of the Internal Revenue Code; a private  
 43 industry or business; or a philanthropic foundation that agrees  
 44 to participate in a public-private partnership with a county  
 45 health department, local school district, or school in the  
 46 delivery of school health services, and agrees to the terms and  
 47 conditions for the delivery of such services as required by this  
 48 section and as documented in the local school health services  
 49 plan.

50 (c) "Invasive screening" means any screening procedure in  
 51 which the skin or any body orifice is penetrated.

52 (d) "Physical examination" means a thorough evaluation of

53 the health status of an individual.

54 (e) "School health services plan" means the document that  
 55 describes the services to be provided, the responsibility for  
 56 provision of the services, the anticipated expenditures to  
 57 provide the services, and evidence of cooperative planning by  
 58 local school districts and county health departments.

59 (f) "Screening" means presumptive identification of  
 60 unknown or unrecognized diseases or defects by the application  
 61 of tests that can be given with ease and rapidity to apparently  
 62 healthy persons.

63 (4)(a) Each county health department shall develop,  
 64 jointly with the district school board and the local school  
 65 health advisory committee, a school health services plan ~~and~~  
 66 The plan must include, at a minimum, provisions for:

- 67 1. Health appraisal~~.~~.
- 68 2. Records review~~.~~.
- 69 3. Nurse assessment~~.~~.
- 70 4. Nutrition assessment~~.~~.
- 71 5. A preventive dental program~~.~~.
- 72 6. Vision screening~~.~~.
- 73 7. Hearing screening~~.~~.
- 74 8. Scoliosis screening~~.~~.
- 75 9. Growth and development screening~~.~~.
- 76 10. Health counseling~~.~~.
- 77 11. Referral and followup of suspected or confirmed health  
 78 problems by the local county health department~~.~~.

79 12. Meeting emergency health needs in each school.~~†~~

80 13. County health department personnel to assist school  
81 personnel in health education curriculum development.~~†~~

82 14. Referral of students to appropriate health treatment,  
83 in cooperation with the private health community whenever  
84 possible.~~†~~

85 15. Consultation with a student's parent or guardian  
86 regarding the need for health attention by the family physician,  
87 dentist, or other specialist when definitive diagnosis or  
88 treatment is indicated.~~†~~

89 16. Maintenance of records on incidents of health  
90 problems, corrective measures taken, and such other information  
91 as may be needed to plan and evaluate health programs; except,  
92 however, that provisions in the plan for maintenance of health  
93 records of individual students must be in accordance with s.  
94 1002.22.~~†~~

95 17. Health information which will be provided by the  
96 school health nurses, when necessary, regarding the placement of  
97 students in exceptional student programs and the reevaluation at  
98 periodic intervals of students placed in such programs.~~†~~~~and~~

99 18. Notification to the local nonpublic schools of the  
100 school health services program and the opportunity for  
101 representatives of the local nonpublic schools to participate in  
102 the development of the cooperative health services plan.

103 19. Immediate notification to a student's parent or  
104 guardian if the student is removed from school, school

105 transportation, or a school-sponsored activity and taken to a  
106 receiving facility for an involuntary examination pursuant to s.  
107 394.463, including the requirements established under ss.  
108 1002.20(3) and 1002.33(9).

109 Section 2. Paragraphs (c) through (e) of subsection (2) of  
110 section 394.4599, Florida Statutes, are redesignated as  
111 paragraphs (d) through (f), respectively, paragraph (b) of that  
112 subsection is amended, and a new paragraph (c) is added to that  
113 subsection, to read:

114 394.4599 Notice.—

115 (2) INVOLUNTARY PATIENTS.—

116 (b) A receiving facility shall give prompt notice of the  
117 whereabouts of an adult or emancipated minor a patient who is  
118 being involuntarily held for examination, by telephone or in  
119 person within 24 hours after the patient's arrival at the  
120 facility, unless the patient requests that no notification be  
121 made. Contact attempts shall be documented in the patient's  
122 clinical record and shall begin as soon as reasonably possible  
123 after the patient's arrival. Notice that a patient is being  
124 admitted as an involuntary patient shall be given to the Florida  
125 local advocacy council no later than the next working day after  
126 the patient is admitted.

127 (c)1. A receiving facility shall give notice of the  
128 whereabouts of a minor patient who is being held involuntarily  
129 for examination pursuant to s. 394.463 to the patient's parent,  
130 guardian, or guardian advocate in person or through telephonic

131 or electronic communication immediately after the patient's  
 132 arrival at the facility. The facility may delay notification by  
 133 no more than 24 hours if the facility has submitted a report to  
 134 the Central Abuse Hotline, pursuant to s. 39.201, based upon  
 135 knowledge or suspicion of abuse, abandonment, or neglect and  
 136 deems delay in notification to be in the minor's best interest.

137 2. The receiving facility shall attempt to notify the  
 138 patient's parent, guardian, or guardian advocate until the  
 139 receiving facility receives confirmation from the parent,  
 140 guardian, or guardian advocate, either verbally, through  
 141 telephonic or electronic communication, or by recorded message,  
 142 that notification has been made. Attempts to notify the parent,  
 143 guardian, or guardian advocate must be repeated at least once  
 144 every hour during the first 12 hours after the patient's arrival  
 145 and once every 24 hours thereafter and must continue until such  
 146 confirmation is received or until the patient is released at the  
 147 end of the 72-hour examination period or a petition for  
 148 involuntary placement is filed with the court pursuant to s.  
 149 394.463(2)(i). A receiving facility may seek assistance from law  
 150 enforcement if notification is not made within the first 24  
 151 hours after the patient's arrival. The receiving facility must  
 152 document notification attempts in the patient's clinical record.

153 Section 3. Paragraph (1) is added to subsection (3) of  
 154 section 1002.20, Florida Statutes, to read:

155 1002.20 K-12 student and parent rights.—Parents of public  
 156 school students must receive accurate and timely information

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

161 (3) HEALTH ISSUES.—

162 (1) Notification of involuntary examinations.—The public  
 163 school principal or the principal's designee shall immediately  
 164 notify the parent of a student who is removed from school,  
 165 school transportation, or a school-sponsored activity and taken  
 166 to a receiving facility for an involuntary examination pursuant  
 167 to s. 394.463. The principal or the principal's designee may  
 168 delay notification if the principal or designee deems the delay  
 169 to be in the student's best interest and if a report has been  
 170 submitted to the Central Abuse Hotline, pursuant to s. 39.201,  
 171 based upon knowledge or suspicion of abuse, abandonment, or  
 172 neglect. The delay in notification must not exceed 24 hours  
 173 after the student's removal from school, school transportation,  
 174 or a school-sponsored activity. Each district school board shall  
 175 develop a policy and procedures for notification under this  
 176 paragraph.

177 Section 4. Paragraph (q) is added to subsection (9) of  
 178 section 1002.33, Florida Statutes, to read:

179 1002.33 Charter schools.—

180 (9) CHARTER SCHOOL REQUIREMENTS.—

181 (q) The charter school principal or the principal's  
 182 designee shall immediately notify the parent of a student who is

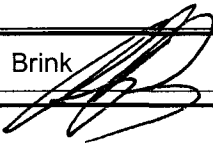
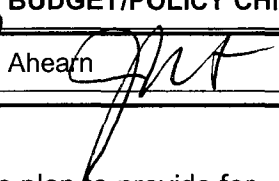


183 removed from school, school transportation, or a school-  
 184 sponsored activity and taken to a receiving facility for an  
 185 involuntary examination pursuant to s. 394.463. The principal or  
 186 the principal's designee may delay notification if the principal  
 187 or designee deems the delay to be in the student's best interest  
 188 and if a report has been submitted to the Central Abuse Hotline,  
 189 pursuant to s. 39.201, based upon knowledge or suspicion of  
 190 abuse, abandonment, or neglect. The delay in notification must  
 191 not exceed 24 hours after the student's removal from school,  
 192 school transportation, or a school-sponsored activity. Each  
 193 charter school governing board shall develop a policy and  
 194 procedures for notification under this paragraph.

195 Section 5. This act shall take effect July 1, 2014.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 497 Involuntary Examinations of Minors  
**SPONSOR(S):** K-12 Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-12 Subcommittee		Brink 	Ahearn 

**SUMMARY ANALYSIS**

The proposed committee substitute (PCS) requires each county school health services plan to provide for immediate notification to a student's parent or guardian if the student is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination. Each district school board and charter school governing board must develop a policy and procedures for such notification.

The PCS amends the definition of "emergency health needs" for purposes of school health services programs to expressly include onsite evaluation for illness or injury and release to a law enforcement officer.

The PCS requires a public school's principal, or his or her designee, to notify a student's parent if the student is removed from the school, school transportation, or a school-sponsored activity for an involuntary examination. The PCS also provides notification requirements for receiving facilities that hold minor patients for involuntary examination.

The PCS allows the school principal, or his or her designee, and the receiving facility each to delay notification by up to 24 hours if there is suspected abuse, abandonment, or neglect and delay has been deemed to be in the student's or minor patient's best interest. Delay in notification may occur only after a report of suspected abuse, abandonment, or neglect is submitted to the Department of Children and Families' Central Abuse Hotline.

The PCS does not appear to have a fiscal impact on the state or local governments.

The PCS has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### *Involuntary Examinations under Florida's Baker Act*

The Florida Mental Health Act, otherwise known as the Baker Act,<sup>1</sup> provides legal procedures for mental health examination and treatment,<sup>2</sup> including, among other things, involuntary examinations.<sup>3</sup> The Baker act protects the rights of all individuals examined or treated for mental illness in Florida.<sup>4</sup>

Involuntary examinations under the Baker Act are psychiatric examinations conducted without the examinee's consent<sup>5</sup> and may only be initiated by a law enforcement officer, mental health professional or physician, or circuit court order.<sup>6</sup> An involuntary examination may be initiated only if an individual appears to have a mental illness, presents a danger to him or herself or to others, and refuses a voluntary examination or is unable to understand the need for the examination.<sup>7</sup> Each law enforcement agency must enter a memorandum of understanding with each receiving facility within the law enforcement agency's jurisdiction to establish a single set of protocols for the safe and secure transportation and transfer of custody of individuals for involuntary examination.<sup>8</sup>

Only institutions designated as a receiving facility by the Florida Department of Children and Families (DCF) may conduct an involuntary examination.<sup>9, 10</sup> A physician or clinical psychologist must conduct the involuntary examination of a patient taken to a receiving facility without unnecessary delay.<sup>11</sup> The receiving facility may not release the patient without the documented approval of a psychiatrist, a clinical psychologist, or, if at a hospital, an attending emergency department physician experienced in diagnosing and treating mental disorders.<sup>12</sup> However, a patient may not be held in a receiving facility for involuntary examination longer than 72 hours.<sup>13</sup>

Within the 72-hour involuntary examination period,<sup>14</sup> the patient must be released or a petition for involuntary placement of the patient in outpatient or inpatient treatment must be filed in the circuit

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<sup>1</sup> Ch. 1971-131, L.O.F.

<sup>2</sup> See Part I, ch. 394, F.S.; Florida Department of children and Families, Florida's Baker Act: 2013 Fact Sheet, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf>.

<sup>3</sup> Section 394.463, F.S.

<sup>4</sup> See Sections 394.453, 394.459, F.S.; Florida Department of children and Families, Florida's Baker Act: 2013 Fact Sheet, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> Section 394.463(2), F.S.

<sup>7</sup> Section 394.463(a), F.S.; Florida Department of children and Families, Florida's Baker Act: 2013 Fact Sheet, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf>.

<sup>8</sup> Section 394.462(k), F.S.

<sup>9</sup> See Sections 394.455(26), 394.461, and 394.463, F.S.

<sup>10</sup> Section 394.461, F.S. The term "facility" is defined as any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a mental illness or have been diagnosed as having a mental illness. Section 493.455(10), F.S. Facilities licensed under chapter 400 or chapter 429 are not included under the term "facility" as defined by s. 493.455(10), F.S.

<sup>11</sup> Section 394.463(2)(f), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> If the 72 hours ends on a weekend or holiday, then the period is extended to the next working day thereafter. Section 493.463(2)(i), F.S.

court.<sup>15</sup> Nearly 76 percent of involuntary examinations end without a petition for involuntary placement.<sup>16</sup>

In 2011, approximately 150,000 involuntary examinations were conducted on 111,000 individuals under the Baker Act.<sup>17</sup> Nearly 18,000 of the examinees were children. From 2002 through 2011 there was a 35 percent increase in the number of children involuntarily examined.<sup>18</sup>

A 2013 study on involuntary examinations initiated for children ages 4 to 17 indicates that the rate of initiations for this age group is higher during the school year than it is over summer and winter break (December) months.<sup>19</sup> In addition, a significant number of these initiations occurred immediately after the children were in attendance at school.<sup>20</sup>

Receiving facilities must give prompt notice of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,<sup>21</sup> guardian advocate,<sup>22</sup> attorney, and representative.<sup>23</sup> The notice must be made by telephone or in person within 24 hours after the patient's arrival at the facility.<sup>24</sup> Attempts at notification must begin as soon as reasonably possible after the patient's arrival and must be documented in the patient's clinical record.<sup>25</sup>

### *School Health Services*

Each county health department must jointly develop with the district school board and local school health advisory committee a school health services plan.<sup>26</sup> The school health services plan describes the services to be provided pursuant to the plan, the responsibility for the provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.<sup>27</sup>

Each health services plan must include provisions for, among other things, meeting emergency health needs in each school.<sup>28</sup> "Emergency health needs" is defined as "onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider."<sup>29</sup> Each school health services plan must be reviewed each year for the purpose of updating the plan, and the plan must be approved every two years by the school district's superintendent, school board chairperson, county health department medical director or administrator, and the Department of Health's district administrator.<sup>30</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Florida Department of children and Families, *Florida's Baker Act: 2013 Fact Sheet*, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf>.

<sup>18</sup> *Id.*

<sup>19</sup> Annette Christy, University of South Florida de la Parte Florida Mental Health Institute, *Baker Act Examinations for Youth in Calendar Year 2012* (2013).

<sup>20</sup> *Id.* at 2.

<sup>21</sup> "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. Section 394.453(11), F.S.

<sup>22</sup> "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. The guardian may be granted specific additional powers by court order. Section 394.453, F.S.

<sup>23</sup> Section 394.4599(2)(a), F.S.

<sup>24</sup> Section 394.4599(2)(b), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 381.0056(4), F.S.

<sup>27</sup> Section 381.0056(2)(e), F.S.

<sup>28</sup> See s. 381.0056, F.S.

<sup>29</sup> Section 381.0056(2)(a), F.S.

<sup>30</sup> Rule 64F-6.002(3), F.A.C.

Health services plans are not required to provide for notification of a student's parent or guardian when the student is transported to a receiving facility for purposes of an involuntary examination under the Baker Act.

### *K-12 Student and Parent Rights*

In Florida, K-12 students and their parents are afforded certain statutory rights, including rights relating to health issues.<sup>31</sup> The rights enumerated by statute contain no requirement that a student's parent or guardian be notified when the student is transported to a receiving facility for purposes of an involuntary examination under the Baker Act.

### Effect of Proposed Changes

The PCS amends the definition of "emergency health needs" for purposes of school health services programs to expressly include onsite evaluation for illness or injury and release to a law enforcement officer. In addition, the PCS requires each county school health services plan to provide for immediate notification to a student's parent or guardian if the student is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination. Each district school board and charter school governing board must develop a policy and procedures for such notification.

The PCS provides that, if a student is removed from a public school, school transportation, or a school-sponsored activity for an involuntary examination, the school principal or the principal's designee must immediately notify the student's parent.<sup>32</sup> If the principal or principal's designee has submitted a report to the Central Abuse Hotline<sup>33</sup> for suspected abuse, abandonment, or neglect and deems delay of notification to be in the student's best interest, notification may be delayed by no more than 24 hours after the student's removal.<sup>34</sup>

The PCS requires receiving facilities to give notice of the whereabouts of a minor patient who is being held for an involuntary examination to the patient's parent, guardian, or guardian advocate immediately after the patient's arrival at the receiving facility. The receiving facility must attempt to notify the patient's parent, guardian, or guardian advocate until confirmation is received either verbally, through telephonic or electronic communication, or by recorded message that notification has been made. Attempts at notification must be made hourly during the first 12 hours after the patient's arrival at the facility and then once every 24 hours thereafter until confirmation is received or until the patient is released at the end of the 72-hour examination period or a petition for involuntary placement is filed with the court.

The PCS requires the receiving facility to document each attempt at notification in the patient's clinical record and provides that the facility may seek assistance from law enforcement if notification is not made within the first 24 hours after the patient's arrival. The PCS allows a receiving facility to delay notification by no more than 24 hours if it has submitted a report to the Central Abuse Hotline for suspected abuse, abandonment, or neglect and deems delay of notification to be in the patient's best interest.<sup>35</sup>

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<sup>31</sup> See Section 1002.20(3), F.S.

<sup>32</sup> Section 1000.21(4), F.S., defines parent as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.

<sup>33</sup> Section 39.201(1) and (2), F.S., requires a person who knows or has reasonable cause to suspect that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, other person responsible for the child's welfare, other adult, or a victim of sexual abuse by a known or suspected juvenile sexual offender to report such knowledge or suspicion to the Department of Children and Families using its Central Abuse Hotline.

<sup>34</sup> The bill also applies these requirements to charter schools.

<sup>35</sup> See *supra* text accompanying note 34.

Because the PCS vests discretion in both the school principal and the receiving facility to delay notification upon suspicion of abuse, neglect, or abandonment, there may be instances in which a decision to delay notification is made by only the principal or the receiving facility.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 381.0056, F.S., revising the term "emergency health needs"; requiring school health services plans to include notification requirements when a student is removed from school, school transportation, or a school-sponsored activity for involuntary examination.

Section 2. Amends s. 394.4599, F.S., requiring a receiving facility to provide notice of the whereabouts of an adult or minor patient held for involuntary examination; providing conditions for delay in notification; requiring documentation of contact attempts.

Section 3. Amends s. 1002.20, F.S., requiring public schools to provide notice of the whereabouts of a student removed from school, school transportation, or a school-sponsored activity for involuntary examination; providing conditions for delay in notification; requiring district school boards to develop certain notification policies and procedures.

Section 4. Amends s. 1002.33, F.S., requiring charter schools to provide notice of the whereabouts student removed from school, school transportation, or a school-sponsored activity for involuntary examination; providing conditions for delay in notification; requiring charter school governing boards to develop certain notification policies and procedures.

Section 5. Provides an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

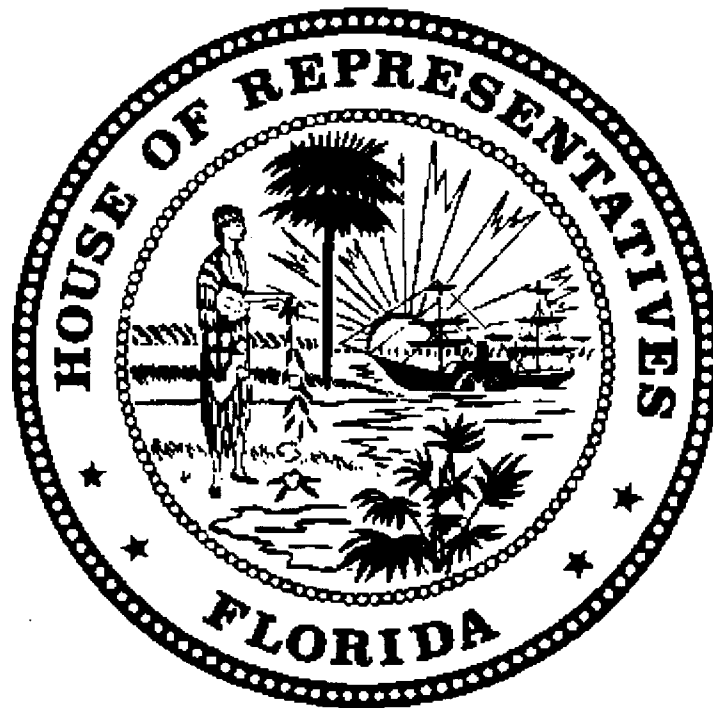
None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.



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**K - 12**

**Subcommittee**

**Wednesday, March 12, 2014**

**9:00 a.m. – 12:00 p.m.**

**102 HOB**

**AMENDMENT PACKET**

**Will Weatherford**  
Speaker

**Janet Adkins**  
Chair





Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
 2 Representative Gaetz offered the following:

**Amendment**

Remove lines 191-194 and insert:

6 1. The district school board shall establish a process to  
 7 allow student editions of instructional materials considered for  
 8 adoption to be accessed and viewed online by the public at least  
 9 20 calendar days before the public hearing and public meeting as  
 10 specified in this paragraph. This process must include  
 11 reasonable safeguards, including password protection, against  
 12 the unauthorized use, reproduction, and distribution of  
 13 instructional materials considered for adoption. The



Amendment No.3-1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
2 Representative Gaetz offered the following:

3  
4 **Amendment to Amendment (791217) by Representative**

5 Remove line 11 of the amendment and insert:  
6 reasonable safeguards against

7



Amendment No.4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
 2 Representative Gaetz offered the following:

**Amendment (with title amendment)**

Remove lines 482-485

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**T I T L E A M E N D M E N T**

Remove lines 61-68 and insert:  
instructional materials;



Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: K-12 Subcommittee  
 2 Representative Steube offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:  
 6 Section 1. It is the intent of the Legislature to prevent  
 7 violent crimes from occurring on school grounds. The Legislature  
 8 acknowledges that the safekeeping of our students, teachers, and  
 9 campuses is imperative. In addition, the Legislature's intent is  
 10 not to mandate that a school have one or more designees as  
 11 described in the amendments made by this act to s. 790.115,  
 12 Florida Statutes; rather, the intent of the amendments is to  
 13 allow the school principal or authorizing superintendent the  
 14 opportunity to do so.

15 Section 2. Section 790.115, Florida Statutes, is amended  
 16 to read:



## Amendment No.1

17 | 790.115 Possessing or discharging weapons or firearms at a  
18 | school-sponsored event or on school property prohibited;  
19 | penalties; exceptions.-

20 | (1) For purposes of this section, "school" means any  
21 | preschool, elementary school, middle school, junior high school,  
22 | secondary school, career center, or postsecondary school,  
23 | whether public or nonpublic.

24 | (2)~~(1)~~ A person who exhibits any sword, sword cane,  
25 | firearm, electric weapon or device, destructive device, or other  
26 | weapon as defined in s. 790.001(13), including a razor blade,  
27 | box cutter, or common pocketknife, except as authorized in  
28 | support of school-sanctioned activities, in the presence of one  
29 | or more persons in a rude, careless, angry, or threatening  
30 | manner and not in lawful self-defense, at a school-sponsored  
31 | event or on the grounds or facilities of any school, school bus,  
32 | or school bus stop, or within 1,000 feet of the real property  
33 | that comprises a public or private elementary school, middle  
34 | school, or secondary school, during school hours or during the  
35 | time of a sanctioned school activity, commits a felony of the  
36 | third degree, punishable as provided in s. 775.082, s. 775.083,  
37 | or s. 775.084. This subsection does not apply to the exhibition  
38 | of a firearm or weapon on private real property within 1,000  
39 | feet of a school by the owner of such property or by a person  
40 | whose presence on such property has been authorized, licensed,  
41 | or invited by the owner.



## Amendment No.1

42       (3) Subsection (4) does not apply to a member of a  
43 school's personnel or a volunteer who has been designated by the  
44 school principal of the school at which the member of the  
45 school's personnel or volunteer is employed or volunteering, or,  
46 for an administration building, a member of the district's  
47 personnel or a volunteer who has been designated by the district  
48 school superintendent, as authorized to carry a concealed weapon  
49 or firearm on school property.

50       (a)1. A designee authorized to carry a concealed weapon or  
51 firearm on such school property under this subsection may only  
52 carry such weapon or firearm in a concealed manner. The weapon  
53 or firearm must be carried on the designee's person at all times  
54 while the designee is performing his or her official school  
55 duties.

56       2. The designee must submit to the authorizing principal  
57 or authorizing superintendent proof of completion of a minimum  
58 of 40 hours of a school safety program and annually complete 8  
59 hours of active shooter training and 4 hours of firearm  
60 proficiency training. These training programs are created and  
61 defined by the Criminal Justice Standards and Training  
62 Commission. The training programs are administered by State of  
63 Florida Criminal Justice Training Centers. In addition, the  
64 Florida Criminal Justice Training Center must certify and  
65 provide proof of completion of the trainings in a manner  
66 prescribed by the Criminal Justice Standards and Training  
67 Commission. For purposes of this subsection, a designee is an



## Amendment No.1

68 individual licensed to carry a concealed firearm pursuant to s.  
69 790.06 who is:

70 a. A military veteran who was honorably discharged and who  
71 has not been found to have committed a firearms-related  
72 disciplinary infraction during his or her service;

73 b. An active duty member of the military, the National  
74 Guard, or military reserves who has not been found to have  
75 committed a firearms-related disciplinary infraction during his  
76 or her service;

77 c. A law enforcement officer in good standing or a former  
78 law enforcement officer who has left the law enforcement agency  
79 in good standing; or

80 d. A school district employee or volunteer as otherwise  
81 provided in this subsection.

82 (b) School superintendents and principals may create a  
83 school safety designee program for employees or volunteers. Each  
84 public or private school principal or, for an administration  
85 building, the superintendent, may designate one or more such  
86 designees who have provided proof of completion of training as  
87 created by the Criminal Justice Standards and Training  
88 Commission and administered and certified by the State of  
89 Florida Criminal Justice Training Center. The school principal  
90 or superintendent must require volunteer designees to undergo  
91 Level 2 background screening pursuant to s. 435.04 and every  
92 five years thereafter and may require additional screening or  
93 screenings for all designees.

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## Amendment No.1

94           (4)(2)(a) A person shall not possess any firearm, electric  
95    weapon or device, destructive device, or other weapon as defined  
96    in s. 790.001(13), including a razor blade or box cutter, except  
97    as authorized in support of school-sanctioned activities, at a  
98    school-sponsored event or on the property of any school, school  
99    bus, or school bus stop; however, a person may carry a firearm:

100           1. In a case to a firearms program, class or function  
101    which has been approved in advance by the principal or chief  
102    administrative officer of the school as a program or class to  
103    which firearms could be carried;

104           2. In a case to a career center having a firearms training  
105    range; or

106           3. In a vehicle pursuant to s. 790.25(5); except that  
107    school districts may adopt written and published policies that  
108    waive the exception in this subparagraph for purposes of student  
109    and campus parking privileges.

110  
111    ~~For the purposes of this section, "school" means any preschool,~~  
112    ~~elementary school, middle school, junior high school, secondary~~  
113    ~~school, career center, or postsecondary school, whether public~~  
114    ~~or nonpublic.~~

115           (b) A person who willfully and knowingly possesses any  
116    electric weapon or device, destructive device, or other weapon  
117    as defined in s. 790.001(13), including a razor blade or box  
118    cutter, except as authorized in support of school-sanctioned  
119    activities, in violation of this subsection commits a felony of





## Amendment No.1

120 the third degree, punishable as provided in s. 775.082, s.  
121 775.083, or s. 775.084.

122 (c)1. A person who willfully and knowingly possesses any  
123 firearm in violation of this subsection commits a felony of the  
124 third degree, punishable as provided in s. 775.082, s. 775.083,  
125 or s. 775.084.

126 2. A person who stores or leaves a loaded firearm within  
127 the reach or easy access of a minor who obtains the firearm and  
128 commits a violation of subparagraph 1. commits a misdemeanor of  
129 the second degree, punishable as provided in s. 775.082 or s.  
130 775.083; except that this does not apply if the firearm was  
131 stored or left in a securely locked box or container or in a  
132 location which a reasonable person would have believed to be  
133 secure, or was securely locked with a firearm-mounted push-  
134 button combination lock or a trigger lock; if the minor obtains  
135 the firearm as a result of an unlawful entry by any person; or  
136 to members of the Armed Forces, National Guard, or State  
137 Militia, or to police or other law enforcement officers, with  
138 respect to firearm possession by a minor which occurs during or  
139 incidental to the performance of their official duties.

140 (d) A person who discharges any weapon or firearm while in  
141 violation of paragraph (a), unless discharged for lawful defense  
142 of himself or herself or another or for a lawful purpose,  
143 commits a felony of the second degree, punishable as provided in  
144 s. 775.082, s. 775.083, or s. 775.084.



## Amendment No.1

145 (e) The penalties of this subsection shall not apply to  
146 persons licensed under s. 790.06. Persons licensed under s.  
147 790.06 shall be punished as provided in s. 790.06(12), except  
148 that a licenseholder who unlawfully discharges a weapon or  
149 firearm on school property as prohibited by this subsection  
150 commits a felony of the second degree, punishable as provided in  
151 s. 775.082, s. 775.083, or s. 775.084.

152 ~~(5)(3)~~ This section does not apply to any law enforcement  
153 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
154 (8), (9), or (14).

155 ~~(6)(4)~~ Notwithstanding s. 985.24, s. 985.245, or s.  
156 985.25(1), any minor under 18 years of age who is charged under  
157 this section with possessing or discharging a firearm on school  
158 property shall be detained in secure detention, unless the state  
159 attorney authorizes the release of the minor, and shall be given  
160 a probable cause hearing within 24 hours after being taken into  
161 custody. At the hearing, the court may order that the minor  
162 continue to be held in secure detention for a period of 21 days,  
163 during which time the minor shall receive medical, psychiatric,  
164 psychological, or substance abuse examinations pursuant to s.  
165 985.18, and a written report shall be completed.

166 Section 3. Subsections (4) and (6) of section 1006.07,  
167 Florida Statutes, are amended and subsection (7) is added to  
168 that section to read:

169 1006.07 District school board duties relating to student  
170 discipline and school safety.—The district school board shall



## Amendment No.1

171 provide for the proper accounting for all students, for the  
172 attendance and control of students at school, and for proper  
173 attention to health, safety, and other matters relating to the  
174 welfare of students, including:

175 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.-

176 (a) Formulate and prescribe policies and procedures for  
177 emergency drills and for actual emergencies, including, but not  
178 limited to, fires, natural disasters, active shooters, hostage  
179 situations, and bomb threats, for all the public schools of the  
180 district which comprise grades K-12. District school board  
181 policies shall include commonly used alarm system responses for  
182 specific types of emergencies and verification by each school  
183 that drills have been provided as required by law and fire  
184 protection codes. The emergency response agency that is  
185 responsible for notifying the school district for each type of  
186 emergency must be listed in the district's emergency response  
187 policy.

188 (b) Establish model emergency management and emergency  
189 preparedness procedures, including emergency notification  
190 procedures pursuant to paragraph (a), for the following life-  
191 threatening emergencies:

192 1. Weapon-use, ~~and~~ hostage, and active shooter situations.

193 The active shooter situation training for each school must be  
194 conducted by the law enforcement agency or agencies that are  
195 designated as first responders to the school's campus.

196 2. Hazardous materials or toxic chemical spills.



## Amendment No.1

197 3. Weather emergencies, including hurricanes, tornadoes,  
198 and severe storms.

199 4. Exposure as a result of a manmade emergency.

200 (6) SAFETY AND SECURITY BEST PRACTICES.-Use the Safety and  
201 Security Best Practices developed by the Office of Program  
202 Policy Analysis and Government Accountability to conduct a self-  
203 assessment of the school districts' current safety and security  
204 practices. Based on these self-assessment findings, the district  
205 school superintendent shall provide recommendations to the  
206 district school board and local law enforcement agencies that  
207 are first responders to the district campuses which identify  
208 strategies and activities that the district school board should  
209 implement in order to improve school safety and security.  
210 Annually each district school board must receive the self-  
211 assessment results at a publicly noticed district school board  
212 meeting to provide the public an opportunity to hear the  
213 district school board members discuss and take action on the  
214 report findings. Each district school superintendent shall  
215 report the self-assessment results and school board action to  
216 the commissioner within 30 days after the district school board  
217 meeting.

218 (7) SAFETY IN CONSTRUCTION AND PLANNING.-A district school  
219 board or private school principal or governing board must allow  
220 local law enforcement agencies that are first responders to the  
221 schools to tour the school campuses once every three years. Any  
222 changes related to school safety and emergency issues



## Amendment No.1

223 recommended by a law enforcement agency based on a campus tour  
224 must be documented by the district school board or the private  
225 school principal or governing board.

226 Section 4. Paragraph (b) of subsection (2) of section  
227 1006.12, Florida Statutes, is amended to read:

228 1006.12 School resource officers and school safety  
229 officers.-

230 (2)

231 (b) A district school board may commission one or more  
232 school safety officers for the protection and safety of school  
233 personnel, property, and students on each school campus within  
234 the school district. The district school superintendent may  
235 recommend and the district school board may appoint the ~~one or~~  
236 ~~more~~ school safety officers.

237 Section 5. Paragraphs (p) and (q) of subsection (2) of  
238 section 435.04, Florida Statutes, are amended to read:

239 435.04 Level 2 screening standards.-

240 (2) The security background investigations under this  
241 section must ensure that no persons subject to the provisions of  
242 this section have been arrested for and are awaiting final  
243 disposition of, have been found guilty of, regardless of  
244 adjudication, or entered a plea of nolo contendere or guilty to,  
245 or have been adjudicated delinquent and the record has not been  
246 sealed or expunged for, any offense prohibited under any of the  
247 following provisions of state law or similar law of another  
248 jurisdiction:



Amendment No.1

249 (p) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
250 firearms or weapons within 1,000 feet of a school.

251 (q) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
252 possessing an electric weapon or device, destructive device, or  
253 other weapon on school property.

254 Section 6. Paragraph (a) of subsection (7) of section  
255 790.251, Florida Statutes, is amended to read:

256 790.251 Protection of the right to keep and bear arms in  
257 motor vehicles for self-defense and other lawful purposes;  
258 prohibited acts; duty of public and private employers; immunity  
259 from liability; enforcement.-

260 (7) EXCEPTIONS.-The prohibitions in subsection (4) do not  
261 apply to:

262 (a) Any school property as defined in s. 790.115(1) and  
263 regulated under that section ~~s. 790.115~~.

264 Section 7. Paragraphs (d) and (f) of subsection (3) of  
265 section 921.0022, Florida Statutes, are amended to read:

266 921.0022 Criminal Punishment Code; offense severity  
267 ranking chart.-

268 (3) OFFENSE SEVERITY RANKING CHART

269 (d) LEVEL 4

270

Florida	Felony	Description
Statute	Degree	
316.1935(3)(a)	2nd	Driving at high speed or with

271



## Amendment No.1

wanton disregard for safety  
while fleeing or attempting to  
elude law enforcement officer  
who is in a patrol vehicle with  
siren and lights activated.

272

499.0051(1) 3rd Failure to maintain or deliver  
pedigree papers.

273

499.0051(2) 3rd Failure to authenticate  
pedigree papers.

274

499.0051(6) 2nd Knowing sale or delivery, or  
possession with intent to sell,  
contraband prescription drugs.

275

517.07(1) 3rd Failure to register securities.

276

517.12(1) 3rd Failure of dealer, associated  
person, or issuer of securities  
to register.

277

784.07(2)(b) 3rd Battery of law enforcement  
officer, firefighter, etc.

278

784.074(1)(c) 3rd Battery of sexually violent



## Amendment No.1

predators facility staff.

279

784.075 3rd Battery on detention or  
commitment facility staff.

280

784.078 3rd Battery of facility employee by  
throwing, tossing, or expelling  
certain fluids or materials.

281

784.08 (2) (c) 3rd Battery on a person 65 years of  
age or older.

282

784.081 (3) 3rd Battery on specified official  
or employee.

283

784.082 (3) 3rd Battery by detained person on  
visitor or other detainee.

284

784.083 (3) 3rd Battery on code inspector.

285

784.085 3rd Battery of child by throwing,  
tossing, projecting, or  
expelling certain fluids or  
materials.

286

787.03 (1) 3rd Interference with custody;





Amendment No.1

wrongly takes minor from  
appointed guardian.

287

787.04(2) 3rd Take, entice, or remove child  
beyond state limits with  
criminal intent pending custody  
proceedings.

288

787.04(3) 3rd Carrying child beyond state  
lines with criminal intent to  
avoid producing child at  
custody hearing or delivering  
to designated person.

289

787.07 3rd Human smuggling.

290

790.115(2) 3rd Exhibiting firearm or weapon  
~~790.115(1)~~ within 1,000 feet of a school.

291

790.115(4)(b) 3rd Possessing electric weapon or  
~~790.115(2)(b)~~ device, destructive device, or  
other weapon on school  
property.

292

790.115(4)(c) 3rd Possessing firearm on school  
~~790.115(2)(c)~~ property.



## Amendment No.1

293	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
294	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
295	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
296	810.06	3rd	Burglary; possession of tools.
297	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
298	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
299	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.



## Amendment No.1

300 812.0195(2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

301 817.563(1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.  
893.03(5) drugs.

302 817.568(2)(a) 3rd Fraudulent use of personal  
identification information.

303 817.625(2)(a) 3rd Fraudulent use of scanning  
device or reencoder.

304 828.125(1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

305 837.02(1) 3rd Perjury in official  
proceedings.

306 837.021(1) 3rd Make contradictory statements  
in official proceedings.



## Amendment No.1

307  
838.022 3rd Official misconduct.

308  
839.13(2)(a) 3rd Falsifying records of an  
individual in the care and  
custody of a state agency.

309  
839.13(2)(c) 3rd Falsifying records of the  
Department of Children and  
Family Services.

310  
843.021 3rd Possession of a concealed  
handcuff key by a person in  
custody.

311  
843.025 3rd Deprive law enforcement,  
correctional, or correctional  
probation officer of means of  
protection or communication.

312  
843.15(1)(a) 3rd Failure to appear while on bail  
for felony (bond estreature or  
bond jumping).

313  
847.0135(5)(c) 3rd Lewd or lascivious exhibition  
using computer; offender less



Amendment No.1

than 18 years.

314

874.05(1)(a) 3rd Encouraging or recruiting  
another to join a criminal  
gang.

315

893.13(2)(a)1. 2nd Purchase of cocaine (or other  
s. 893.03(1)(a), (b), or (d),  
(2)(a), (2)(b), or (2)(c)4.  
drugs).

316

914.14(2) 3rd Witnesses accepting bribes.

317

914.22(1) 3rd Force, threaten, etc., witness,  
victim, or informant.

318

914.23(2) 3rd Retaliation against a witness,  
victim, or informant, no bodily  
injury.

319

918.12 3rd Tampering with jurors.

320

934.215 3rd Use of two-way communications  
device to facilitate commission  
of a crime.

321



## Amendment No.1

322 (f) LEVEL 6

323

Florida Statute	Felony Degree	Description
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324

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
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325

499.0051(3)	2nd	Knowing forgery of pedigree papers.
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326

499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
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327

499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
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328

775.0875(1)	3rd	Taking firearm from law enforcement officer.
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329

784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
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330

784.021(1)(b)	3rd	Aggravated assault; intent to
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Amendment No.1

commit felony.

331

784.041 3rd Felony battery; domestic  
battery by strangulation.

332

784.048(3) 3rd Aggravated stalking; credible  
threat.

333

784.048(5) 3rd Aggravated stalking of person  
under 16.

334

784.07(2)(c) 2nd Aggravated assault on law  
enforcement officer.

335

784.074(1)(b) 2nd Aggravated assault on sexually  
violent predators facility  
staff.

336

784.08(2)(b) 2nd Aggravated assault on a person  
65 years of age or older.

337

784.081(2) 2nd Aggravated assault on specified  
official or employee.

338

784.082(2) 2nd Aggravated assault by detained  
person on visitor or other

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## Amendment No.1

detainee.

339

784.083(2) 2nd Aggravated assault on code  
inspector.

340

787.02(2) 3rd False imprisonment; restraining  
with purpose other than those  
in s. 787.01.

341

790.115(4)(d) 2nd Discharging firearm or weapon  
~~790.115(2)(d)~~ on school property.

342

790.161(2) 2nd Make, possess, or throw  
destructive device with intent  
to do bodily harm or damage  
property.

343

790.164(1) 2nd False report of deadly  
explosive, weapon of mass  
destruction, or act of arson or  
violence to state property.

344

790.19 2nd Shooting or throwing deadly  
missiles into dwellings,  
vessels, or vehicles.

345





## Amendment No.1

346 794.011(8)(a) 3rd Solicitation of minor to  
participate in sexual activity  
by custodial adult.

347 794.05(1) 2nd Unlawful sexual activity with  
specified minor.

348 800.04(5)(d) 3rd Lewd or lascivious molestation;  
victim 12 years of age or older  
but less than 16 years;  
offender less than 18 years.

349 800.04(6)(b) 2nd Lewd or lascivious conduct;  
offender 18 years of age or  
older.

350 806.031(2) 2nd Arson resulting in great bodily  
harm to firefighter or any  
other person.

351 810.02(3)(c) 2nd Burglary of occupied structure;  
unarmed; no assault or battery.

810.145(8)(b) 2nd Video voyeurism; certain minor  
victims; 2nd or subsequent  
offense.



## Amendment No.1

352	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
353	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
354	812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
355	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
356	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
357	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
358	825.102(1)	3rd	Abuse of an elderly person or disabled adult.



## Amendment No.1

359 825.102(3)(c) 3rd Neglect of an elderly person or  
disabled adult.

360 825.1025(3) 3rd Lewd or lascivious molestation  
of an elderly person or  
disabled adult.

361 825.103(2)(c) 3rd Exploiting an elderly person or  
disabled adult and property is  
valued at less than \$20,000.

362 827.03(2)(c) 3rd Abuse of a child.

363 827.03(2)(d) 3rd Neglect of a child.

364 827.071(2) & (3) 2nd Use or induce a child in a  
sexual performance, or promote  
or direct such performance.

365 836.05 2nd Threats; extortion.

366 836.10 2nd Written threats to kill or do  
bodily injury.

367 843.12 3rd Aids or assists person to

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Amendment No.1

escape.

368

847.011 3rd Distributing, offering to  
distribute, or possessing with  
intent to distribute obscene  
materials depicting minors.

369

847.012 3rd Knowingly using a minor in the  
production of materials harmful  
to minors.

370

847.0135(2) 3rd Facilitates sexual conduct of  
or with a minor or the visual  
depiction of such conduct.

371

914.23 2nd Retaliation against a witness,  
victim, or informant, with  
bodily injury.

372

944.35(3)(a)2. 3rd Committing malicious battery  
upon or inflicting cruel or  
inhuman treatment on an inmate  
or offender on community  
supervision, resulting in great  
bodily harm.

373

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## Amendment No.1

374 944.40 2nd Escapes.

375 944.46 3rd Harboring, concealing, aiding  
escaped prisoners.

376 944.47(1)(a)5. 2nd Introduction of contraband  
(firearm, weapon, or explosive)  
into correctional facility.

377 951.22(1) 3rd Intoxicating drug, firearm, or  
weapon introduced into county  
facility.

378 Section 8. Paragraphs (n) and (o) of subsection (1) of  
379 section 1012.315, Florida Statutes, are amended to read:

380 1012.315 Disqualification from employment.—A person is  
381 ineligible for educator certification, and instructional  
382 personnel and school administrators, as defined in s. 1012.01,  
383 are ineligible for employment in any position that requires  
384 direct contact with students in a district school system,  
385 charter school, or private school that accepts scholarship  
386 students under s. 1002.39 or s. 1002.395, if the person,  
387 instructional personnel, or school administrator has been  
388 convicted of:

389 (1) Any felony offense prohibited under any of the  
390 following statutes:



Amendment No.1

391 (n) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting  
392 firearms or weapons at a school-sponsored event, on school  
393 property, or within 1,000 feet of a school.

394 (o) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to  
395 possessing an electric weapon or device, destructive device, or  
396 other weapon at a school-sponsored event or on school property.

397 Section 9. This act shall take effect July 1, 2014.  
398  
399

400 -----

401 **T I T L E A M E N D M E N T**

402 Remove everything before the enacting clause and insert:  
403 An act relating to school safety; providing legislative intent;  
404 amending s. 790.115, F.S.; providing an exception to a  
405 prohibition on possession of firearms or other specified devices  
406 on school property or other specified areas for authorized  
407 concealed weapon or firearm licensees as designated by school  
408 principals or district superintendents; providing requirements  
409 for designees; amending s. 1006.07, F.S.; requiring school  
410 boards to formulate policies and procedures for managing active  
411 shooter and hostage situations; requiring that active shooter  
412 training for each school be conducted by the law enforcement  
413 agency that is designated as the first responder agency for the  
414 school; requiring that district school boards and private  
415 schools allow campus tours by local law enforcement agencies for  
416 specified purposes; requiring that all recommendations be

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Amendment No.1

417 | documented; amending s. 1006.12, F.S.; permitting district  
418 | school boards to commission one or more school safety officers  
419 | on each school campus; amending ss. 435.04, 790.251, 921.0022,  
420 | and 1012.315, F.S.; conforming cross-references; providing an  
421 | effective date.