

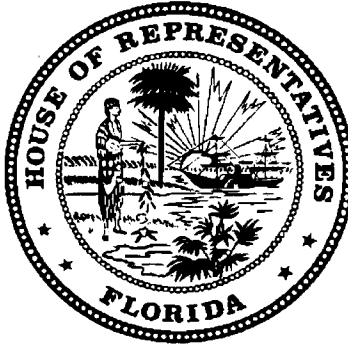


K - 12
Subcommittee
Wednesday, March 12, 2014
9:00 a.m. – 12:00 p.m.
17 HOB

Meeting Packet

Will Weatherford
Speaker

Janet H. Adkins
Chair



AGENDA

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

- 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;

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> 790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
301	<u>790.115(4)(b)</u> 790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
302	<u>790.115(4)(c)</u> 790.115(2)(e)	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.
	790.115 (2) (d)		
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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367			weapon (strong-arm robbery).
	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

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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:

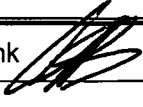

401 (n) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting
 402 firearms or weapons at a school-sponsored event, on school
 403 property, or within 1,000 feet of a school.

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.¹ 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.²

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.³ 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.⁴

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.⁵

¹ 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.

² 18 U.S.C. s. 922(q)(2)(B).

³ 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.

⁴ 18 U.S.C. s. 922(q)(3)(B).

⁵ 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.⁶ The law prohibits:

- Exhibition of a weapon⁷ 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 feet⁸ of a K-12 public or private school, during school hours or at the time of a school activity.⁹ Such exhibition is a third degree felony,¹⁰ unless it is made in lawful self-defense.¹¹
- Possession of a weapon¹² 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.¹³
 - 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.¹⁴
 - 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,¹⁵ unless discharged for lawful defense of self or others or for a lawful purpose.¹⁶

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.¹⁷

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

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

⁷ "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.

⁸ 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.

⁹ Section 790.115(1), F.S.

¹⁰ 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.

¹¹ Section 790.115(1), F.S.

¹² 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.

¹³ Section 790.115(2)(e), F.S.

¹⁴ 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.

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

¹⁶ Section 790.115(2)(d), F.S.

¹⁷ 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.¹⁸

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

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.²⁰

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.²¹

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.²²

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.²³

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

¹⁸ Section 790.115(2)(a), F.S.

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

²⁰ Section 790.06, F.S.

²¹ 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.

²² 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.*

²³ Section 1006.07(6), F.S.

or other weapons when performing official duties.²⁴ 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.²⁵

Background Screening

Florida law requires school district employees to undergo a fingerprint-based background screening as a condition of employment.²⁶ Instructional and noninstructional personnel²⁷ and noninstructional school district employees and contracted personnel²⁸ must undergo Level 2 background screening.²⁹ Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 criminal offenses.³⁰ Such employees must be rescreened every five years.³¹

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.³² 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.³³

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.³⁴ 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.³⁵ 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

²⁴ Section 1006.12(2)(a) and (c), F.S.

²⁵ Section 1006.12(2)(b) and (d), F.S.

²⁶ 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.*

²⁷ 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.

²⁸ 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.

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

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

³¹ Sections 1012.465(2) and 1012.56(10)(b), F.S.

³² Section 493.6303(4)(a), F.S.

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

³⁴ Section 493.6113(b), F.S.

³⁵ *Security Officer Training*, *supra* note 33.

requalification training during the previous two years of the licensure period.³⁶

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 public³⁷ and the carrying of a concealed weapon or firearm on a career center or postsecondary institution campus.³⁸ The prohibition on carrying a concealed weapon or firearm does not apply if the individual carrying the weapon or firearm holds a valid license.³⁹ 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,⁴⁰ 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.⁴¹ 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.

³⁶ Section 493.6113(3)(b), F.S.

³⁷ See Section 790.15, F.S.

³⁸ See Section 790.01, F.S.

³⁹ *Id.*

⁴⁰ Section 790.115(2)(a)2., F.S.

⁴¹ 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.⁴² 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,⁴³ 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.

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

⁴³ 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)

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

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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.

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.

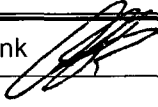
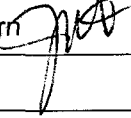
708 Section 16. Section 1010.82, Florida Statutes, is amended
 709 to read:

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.¹ 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.²

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.³

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.⁴ 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.⁵ State reviewers evaluate instructional materials for alignment with the applicable state academic standards and recommend materials for inclusion on a state-adopted list.⁶

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.⁷

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.⁸ 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.⁹ 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

¹ Sections 1006.28(1) and 1006.29(2), F.S.

² Section 1006.29(1), F.S.

³ Section 1006.29(2), F.S.

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

⁵ Sections 1006.29(1) and 1006.36, F.S.

⁶ Sections 1006.29(1)(b) and 1006.31(2), F.S.

⁷ Sections 1006.283 and 1006.40, F.S.

⁸ Section 1006.40(2), F.S.

⁹ 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.¹⁰ A school district may also use the remainder of funds for the repair and renovation of textbooks and library books.¹¹

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.¹²

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.¹³

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.¹⁴

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.¹⁵ 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.¹⁶

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.¹⁷

Beginning on or before May 15 of the adoption year, the DOE advertises¹⁸ 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.¹⁹

¹⁰ Section 1006.40(4), F.S.

¹¹ Section 1006.40(3)(b), F.S.

¹² Section 1006.40(3)(c), F.S.

¹³ Section 1006.40(3)(a), F.S.

¹⁴ 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.*

¹⁵ Section 1006.36(1), F.S.

¹⁶ Section 1006.36(2), F.S.

¹⁷ 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.*

¹⁸ 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.

¹⁹ 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.²⁰

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.²¹

The state instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.²² 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.²³

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.²⁴

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.²⁵

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

²⁰ Section 1006.34(2)(a), F.S.

²¹ Section 1006.29(1)(b), F.S.

²² Section 1006.29(4), F.S.

²³ Section 1006.29(1)(b), F.S.

²⁴ *Id.*

²⁵ Section 1006.30, F.S.

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

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 12.²⁸ School districts review state-adopted instructional materials and select materials to be used in their local schools.²⁹ 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.³⁰

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.³¹ The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.³² 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.³³

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.³⁴

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.³⁵

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

²⁶ Section 1006.29(1)(c), F.S.

²⁷ Section 1006.29(5), F.S.

²⁸ 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.

²⁹ See s. 1006.28(1)(b), F.S.

³⁰ 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;

³¹ Section 1006.37(1), F.S.

³² Section 1006.28(2)(a), F.S.

³³ Section 1006.28(2)(a), F.S.

³⁴ Section 1011.67(2), F.S.

³⁵ 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 materials³⁶ and transmitting all money collected to the school district superintendent for deposit into the district school board fund.³⁷

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.³⁸

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.³⁹

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,⁴⁰ requisition instructional materials from the publisher's depository,⁴¹ or follow the same review cycle used for state instructional materials adoption.⁴² Multiple school districts may form a consortium for the purpose of implementing an instructional materials program.⁴³

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;

³⁶ 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.

³⁷ Section 1006.28(3), F.S.

³⁸ Section 1006.38, F.S.

³⁹ 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.

⁴⁰ Section 1006.40(3)(a), F.S.

⁴¹ Section 1006.37(3), F.S.

⁴² Section 1006.283(2)(b), F.S.

⁴³ 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.⁴⁴

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.⁴⁵

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.⁴⁶

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.⁴⁷

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.⁴⁸ 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.⁴⁹

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.⁵⁰

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

⁴⁴ Section 1006.283(2), F.S.

⁴⁵ Section 1006.283(2) and (4), F.S.

⁴⁶ Section 1006.283(3)(a), F.S.

⁴⁷ Section 1006.283(3)(b), F.S.

⁴⁸ 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.

⁴⁹ 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.*

⁵⁰ 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.⁵¹

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.⁵² 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.⁵³

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.⁵⁴

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

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

⁵¹ Section 1006.281(1), F.S.

⁵² Section 1006.281(2), F.S.

⁵³ Section 1006.281(3), F.S.

⁵⁴ Section 1006.31(2)(e), F.S.

⁵⁵ Section 1006.29, F.S.

⁵⁶ Section 1006.34, F.S.

⁵⁷ Section 1006.33, F.S.

⁵⁸ 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,"⁵⁹ presumably because the term "digital format,"⁶⁰ 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.

⁵⁹ See *supra* text accompanying note 58.

⁶⁰ 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.—

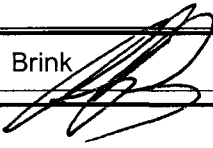
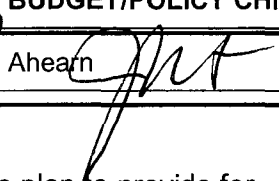
181 (q) The charter school principal or the principal's
 182 designee shall immediately notify the parent of a student who is

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,¹ provides legal procedures for mental health examination and treatment,² including, among other things, involuntary examinations.³ The Baker act protects the rights of all individuals examined or treated for mental illness in Florida.⁴

Involuntary examinations under the Baker Act are psychiatric examinations conducted without the examinee's consent⁵ and may only be initiated by a law enforcement officer, mental health professional or physician, or circuit court order.⁶ 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.⁷ 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.⁸

Only institutions designated as a receiving facility by the Florida Department of Children and Families (DCF) may conduct an involuntary examination.^{9, 10} A physician or clinical psychologist must conduct the involuntary examination of a patient taken to a receiving facility without unnecessary delay.¹¹ 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.¹² However, a patient may not be held in a receiving facility for involuntary examination longer than 72 hours.¹³

Within the 72-hour involuntary examination period,¹⁴ 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

¹ Ch. 1971-131, L.O.F.

² 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>.

³ Section 394.463, F.S.

⁴ 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>.

⁵ *Id.*

⁶ Section 394.463(2), F.S.

⁷ 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>.

⁸ Section 394.462(k), F.S.

⁹ See Sections 394.455(26), 394.461, and 394.463, F.S.

¹⁰ 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.

¹¹ Section 394.463(2)(f), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ 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.¹⁵ Nearly 76 percent of involuntary examinations end without a petition for involuntary placement.¹⁶

In 2011, approximately 150,000 involuntary examinations were conducted on 111,000 individuals under the Baker Act.¹⁷ 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.¹⁸

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.¹⁹ In addition, a significant number of these initiations occurred immediately after the children were in attendance at school.²⁰

Receiving facilities must give prompt notice of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,²¹ guardian advocate,²² attorney, and representative.²³ The notice must be made by telephone or in person within 24 hours after the patient's arrival at the facility.²⁴ 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.²⁵

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.²⁶ 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.²⁷

Each health services plan must include provisions for, among other things, meeting emergency health needs in each school.²⁸ "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."²⁹ 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.³⁰

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ 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>.

¹⁸ *Id.*

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

²⁰ *Id.* at 2.

²¹ "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.

²² "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.

²³ Section 394.4599(2)(a), F.S.

²⁴ Section 394.4599(2)(b), F.S.

²⁵ *Id.*

²⁶ Section 381.0056(4), F.S.

²⁷ Section 381.0056(2)(e), F.S.

²⁸ See s. 381.0056, F.S.

²⁹ Section 381.0056(2)(a), F.S.

³⁰ 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.³¹ 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.³² If the principal or principal's designee has submitted a report to the Central Abuse Hotline³³ 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.³⁴

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.³⁵

³¹ See Section 1002.20(3), F.S.

³² 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.

³³ 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.

³⁴ The bill also applies these requirements to charter schools.

³⁵ 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.

