

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2050

SPONSOR: Senator Lee, Senator Hargrett, Senator Webster

SUBJECT: School Safety and Truancy Reduction

DATE: March 31, 1999 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill addresses school safety, truancy reduction, discipline, and drop-out prevention for students in kindergarten through grade 12 and makes changes to the requirements for college teacher preparation and professional educator certification programs. The bill includes the following provisions for discipline, attendance, and truancy:

- Requires the inclusion of safety and discipline strategies in school improvement plans;
- Requires accurate and timely reporting;
- Revises the authority for the principal to discipline or expel students for unlawful possession or use of substances controlled under chapter 893, F.S.;
- Revises the steps for enforcing regular school attendance;
- Makes changes to filing a child-in-need-of-services and a family-in-need-of-services petition;
- Requires a court order mandating school attendance in certain circumstances;
- Requires, for purposes of determining the annual allocation to each school district for operations, the computation of an average daily attendance factor; and
- Authorizes school superintendents to file a truancy petition, defines the term “truancy petition,” and creates procedures for truancy hearings and penalties.

The bill includes the following provisions for dropout prevention:

- Provides priorities for districts projecting FTE for certain dropout prevention programs;
- Requires dropout prevention programs to employ diagnostic and assessment procedures and provide character education;
- Expands the use of dropout prevention funds to include students in grades 1 through 3; and
- Provides start-up grants for school districts, through private partnerships, to start second chance schools off public school campuses for disruptive students.

The bill includes the following provisions for college teacher preparation and professional educator certification:

- Requires criteria for continued teacher preparation program approval to emphasize additional outcome measures; and
- Includes additional minimum competencies related to managing student behavior, recognizing the early signs of truancy, and identifying effective interventions.

Finally, the bill authorizes a pilot program in Manatee County related to the compulsory school attendance of students who are between the ages of 16 and 18.

The bill substantially amends ss. 230.23, 230.2316, 231.085, 231.17, 232.17, 232.19, 232.26, 236.081, 240.529, and 984.03, F.S. The bill creates ss. 232.001 and 984.151, F.S.

II. Present Situation:

School Attendance

Generally, all children who are between the ages of 6 and 18 are required to attend school regularly during the entire school term. There are exceptions. A child between the ages of 16 and 18 years of age is not subject to compulsory school attendance if the child files a formal declaration of intent to terminate school enrollment with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the child and the child's parent or legal guardian. The school district must notify the child's parent or legal guardian of receipt of the child's declaration of intent. A child who attains the age of 18 during the school year is no longer subject to compulsory school attendance beyond the date which he or she attains that age. In addition, under the provisions of s. 232.06, F.S., children within compulsory attendance age limits who hold valid certificates of exemptions issued by the superintendent are exempt from attending school.

Regular school attendance may be achieved by attending one of the following:

- a public school supported by public funds;
- a parochial, religious, or denominational school;
- a private school supported in whole or in part by tuition charges or by endowment or gifts;
- a home education program that meets the requirements of s. 232.0201, F.S. ; or
- a private tutoring program that meets the requirements of s. 232.0202, F.S.

Section 232.09, F.S., provides that parents or legal guardians of children within the compulsory attendance age are responsible for the child's school attendance as required by law. Parents or guardians are *not* responsible for the child's nonattendance under any of the following conditions:

- with permission of the head of the school;
- without the parent's knowledge, consent, or connivance;
- financial inability of the parent to provide the child with necessary clothes;
- sickness, injury, or other insurmountable condition.

School boards are required to establish an attendance policy that includes the number of days each school year that the child is required to attend school and the number of absences and times tardy after which an explanation must be kept on file at the school. Each school in the district must determine if the absence or tardiness is excused or unexcused according to criteria established by the district school board.

The court procedures and penalties for the enforcement of compulsory attendance are provided for in s. 232.19, F.S. The law (s. 232.09(2), F.S.) provides that criminal prosecution may not be brought against a parent, guardian, or other person having control of the child until the provisions of s. 232.17(2), F.S., (relating to written notice) are met. The law relating to the Learnfare program (s. 414.125, F.S.) provides additional penalties for not complying with school attendance requirements.

Truancy

- Under s. 228.041, F.S.

Section 228.041(28), F.S., defines a habitual truant as a child subject to compulsory school attendance who has 15 unexcused absences within 90 calendar days, with or without the consent of the child's parent or legal guardian, and who does not qualify for an exemption. The steps in ss. 232.17 and 232.19, F.S., must be completed without successful remediation of the truancy problem before dealing with the child as a child-in-need-of-services under chapter 984, F.S.

- Under s. 984.03(29), F.S., relating to children-in-need-of-services, and s. 985.03(27), F.S., relating to delinquency

Children-in-need-of-services are referred to as "status offenders," in that they are truants, ungovernable, or runaways. The law defines a habitual truant as a child subject to compulsory school attendance who has 15 unexcused absences within 90 calendar days, with or without the consent of the child's parent or legal guardian, and who does not qualify for an exemption. Both provisions reference steps in ss. 232.17 and 232.19, F.S., and other activities that must be completed in an effort to identify and remediate truant behavior. The law specifies the manner in which children and parents will be treated if they fail or refuse to comply with prescribed activities or do not stop the truant behavior after participation in these activities.

If a child is responsive to the interventions in ss. 232.17 and 232.19, F.S., and has completed the necessary requirements to pass the current grade (as indicated in the district pupil progression plan), the child will not be considered habitually truant and must be passed.

The state attorney may file a child-in-need-of-services petition if the child has 15 unexcused absences within 90 calendar days or fails to enroll in school. Prior to filing a petition, the child must be referred for evaluation and the state attorney may file the petition after consulting with the evaluating agency.

Enforcing Attendance

The steps for enforcing attendance are enumerated in ss. 232.17 and 232.19, F.S. To determine the cause of truancy and attempt to remediate truant behavior, a designated school representative must complete the series of steps in s. 232.17, F.S., including the following:

- investigating nonenrollment and unexcused absences;
- giving written notice, either in person or by return-receipt mail, to a child's parent, guardian, or other person with control, when there is no valid reason for nonenrollment or when there are 3 but less than 6 unexcused absences within 90 calendar days; and
- visiting the home or any other place the child may be found and returning the child to the parent, school, guardian, or other person in control.

The notice requires enrollment or attendance within 3 days after the date of the notice. If the notice is ignored, the designated school representative must report the case to the superintendent and may refer the case to the case staffing committee, if certain conditions are met. (These conditions are enumerated in s. 232.19(3), F.S., and include referral of the child and family to the child-in-need-of-services or family-in-need-of-services provider or a case staffing committee.) The law allows the superintendent to take the steps needed for criminal prosecution against the parent, guardian, or other person in control of the child.

In a further effort to remediate truant behavior, section 232.19, F.S., contains additional criteria and escalating activities which must be completed and documented prior to filing a child-in-need-of-services petition. The criteria include :

- the child must have 15 unexcused absences within 90 calendar days, with or without the knowledge or consent of the child's parent or legal guardian; and
- the child must be subject to compulsory school attendance and have no exemption from the requirement.

The required activities include:

- one or more meetings, either in person or by phone, between a designated school representative, the child's parent or guardian, and the child, if necessary, after a minimum of 3 and before 6 unexcused absences within 90 calendar days;
- educational counseling to identify and implement curriculum changes (e.g., a dropout prevention program, including a second chance school); and
- educational evaluation.

If a child is responsive to these additional interventions and has completed the necessary requirements to pass the current grade, as indicated in the district pupil progression plan, the child must be passed.

Student Discipline and Expulsion

Chapter 893, F.S., relating to drug abuse prevention and control, classifies controlled substances into five categories or "schedules" to regulate their manufacture, distribution, or dispensation, while simultaneously minimizing interference with the legitimate business of physicians, pharmacists, and drug manufacturers. Section 893.13, F.S., defines controlled substance offenses and prescribes penalties for these offenses. The offenses include selling, manufacturing, or delivering a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school during certain hours.

In the code of student conduct, the school board must specify the disciplinary action resulting from a student's involvement in the illegal use, sale, or possession of controlled substances, as defined by chapter 893, F.S. Each code of student conduct (s. 230.23(6), F.S.) must include notice that illegal use, sale, or possession of a controlled substance while on school property or at a school function is grounds for disciplinary action by the school and may also result in the imposition of criminal penalties.

School personnel are required (s. 232.277, F.S.) to report to the principal or the principal's designee any suspected unlawful possession, use, or sale by a student of certain substances, including controlled substances as defined in s. 893.02, F.S. Only a principal or the principals's designee may contact a parent or legal guardian of a student about this situation. Section 232.26, F.S., establishes the authority of school principals, including the development of policies for delegating responsibility for the control and direction of students to teachers, other members of the instructional staff, and bus drivers. Recommendations of these individuals must be considered when making a decision regarding student referral for discipline.

Expulsion is defined in s. 228.041(26), F.S., as the removal of a student's right and obligation to attend a public school under conditions set by school board rule and for a period of time not to exceed the remainder of the term or school year and one additional year of attendance. Expulsions may be imposed with or without continuing educational services. The law (s. 228.041(25), F.S.) also defines two types of suspension: out-of-school suspension and in-school suspension.

The law sets forth the process for suspending students and making recommendations for the expulsion of students who have committed a serious breach of conduct. The conduct includes, but is not limited to, willful disobedience, open defiance of authority, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. Any recommendation for expulsion must include a detailed report by the principal or the principal's designated representative. The law also provides for suspension proceedings for students who are formally charged with a felony or delinquent act which would be felony if committed by an adult for certain incidents which allegedly occurred off school property.

A pupil who is subject to discipline and expulsion for unlawful possession or use of any substance controlled under chapter 893, F.S., may be entitled to a waiver of discipline or expulsion, contingent upon the following:

- the pupil divulges information leading to the arrest or conviction of the supplier.
- the pupil voluntarily discloses his or her unlawful possession of the controlled substance prior to his or her arrest.

A pupil may also be entitled to the waiver if the pupil commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program that he or she successfully completes. Currently, the law limits the discretion for disciplining or expelling a pupil for unlawful possession or use of any controlled substance under chapter 893, F.S. The discipline or expulsion may only occur upon the third violation.

Duties of School Boards

The powers and duties of school boards under s. 230.23, F.S., include maintaining a system of school improvement and accountability as provided by statute and State Board of Education rule. The system must be consistent with, and implemented through, the district's continuing system of planning and budgeting. The system must include annually approving a school improvement plan and requiring implementation of the plan for each school in the district. The plan must be designed to achieve specified state education goals and student performance standards. Beginning, in 1999-2000, the plan must include specific issues and other matters, as determined by school board rule.

Duties of Principals

District school boards must employ principals, through written contracts, to supervise the operation and management of the schools and property as determined necessary by the school board. Principals perform the duties assigned to them by the superintendent, as specified in school board rule. Rules must include administrative responsibility for records and reports.

Professional Certification

Section 231.17, F.S., sets forth the requirements for obtaining a Florida teaching certificate. The Department of Education must issue a certificate (not to exceed 5 years) to applicants who meet the temporary certificate requirements and who document mastery of minimum competencies prescribed by law. Mastery of these competencies must be documented on a written examination or through other criteria specified by State Board of Education rule.

Mastery must be demonstrated in the following three areas: (1) general knowledge, including the ability to read, write, and compute; (2) professional skills and knowledge of the standards of professional practice; and (3) the subject matter in each area for which certification is sought. The

law requires the State Board, by rule, to specify the minimum essential competencies that educators must possess and demonstrate in order to qualify to teach students the standards of student performance adopted by the state board.

Educator Preparation

The Florida Education Standards Commission makes recommendations to the State Board of Education regarding postsecondary teacher preparation program standards. A program approval process based on adopted standards must be established. Approved programs must require one of three prerequisites for admission. The State Board of Education must provide by rule for a waiver of these requirements. However, the rule must require that 90% of the students admitted to each teacher preparation program must meet the statutory requirements. The Department of Education, in collaboration with the departments and colleges of education, must develop procedures for continued program approval which document the continuous improvement of program processes and graduates' performance. The continuation of a program is contingent upon meeting criteria specified in law. In addition, the Commission may develop, for approval by the State Board of Education, additional criteria that emphasize outcome measures and may include, but not be limited to, program graduates' satisfaction with their training and the unit's responsiveness to local school districts.

All postsecondary instructors, school district personnel and instructional personnel, and school sites preparing instructional personnel through preservice field experience courses and internships must meet special requirements in s. 240.529(5), F.S.

Dropout Prevention

Dropout prevention programs are designed to meet the needs, interests, abilities, and talents of eligible students who are not effectively served by conventional education programs in the public school system. Dropout prevention educational programs must provide curricula and related services which lead to the completion of a high school diploma. Student participation in these programs must be voluntary, although districts may assign students to a program for disruptive students. The law (s. 230.2316, F.S.) specifies the minimum time period during which the student must participate in the program. The time period must be equivalent to two instructional periods per day unless the program uses a student support and assistance component rather than regularly scheduled courses. Students must be identified as being a potential dropout (at-risk student) based on one of six criteria, including having a history of disruptive behavior in school. The term "disruptive behavior" is defined in s. 230.2316(3)(c)5., F.S.

Students in grade 4 through 12 must be eligible for these programs. Eligible dropout prevention students must be reported for dropout prevention full-time equivalent student membership in the Florida Education Finance Program in standard dropout prevention classes or student support and assistance components which provide academic assistance and coordination of support services to students enrolled full time in a regular classroom. The student support and assistance component must include auxiliary services provided to students or teachers, or both. Students participating in this model must generate funding only for the time that they receive extra services or auxiliary help.

"Second chance schools" are school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent, or who have committed serious offenses. As partnership programs, these schools are eligible for waivers by the

Commissioner of Education from the provisions of law and State Board of Education rule that prevent the provision of appropriate educational services to violent, severely disruptive, or delinquent students in small non-traditional or court-adjudicated settings.

Students enrolled in a sixth, seventh, eighth, ninth, or tenth grade class may be assigned to a second-chance school if the students meet statutorily prescribed criteria. However, a student who is habitually truant may be assigned only if the case staff committee established in s. 984.12, F.S., determines that the placement would be beneficial. The student must also meet the criteria applicable to students enrolled in a sixth, seventh, eighth, ninth, or tenth grade class. In addition, the law provides criteria for assigning students who are residents of districts with second-chance schools. Prior to assignment in a second-chance school, school boards are encouraged to use alternative programs. Prior to placement, students assigned to second-chance schools must be evaluated by the school's local child study team. The team must ensure that students are not eligible for placement in a program for emotionally disturbed children. The law provides for students who exhibit progress to return to a traditional school setting. Second-chance schools must be funded at the dropout prevention program weight in s. 236.081, F.S., and may receive school safety funds or other funds as appropriate.

Character Education

The law (s. 233.0612, F.S.) allows each school district to provide students with programs and instruction at the appropriate grade levels in specified areas, including character development and law education. Chapter 98-211, L.O.F., created a provision in s. 233.0612(1), F.S., to encourage each school district to install secular character development programs in elementary schools within the district. The program must be the same or similar to the Character Counts or Character First! Education Series. The programs must emphasize qualities such as attentiveness, patience, and initiative.

Determination of Full-Time Equivalent (FTE)

The procedure for calculating the Florida Education Finance Program (FEFP) allocation for each school district is specified in s. 236.081, F.S., if the allocations are not determined in the General Appropriations Act or a substantive bill implementing the appropriations act. A full time equivalent (FTE) for Florida Education Finance Program funding purposes is one student in membership in one or more FEFP programs for a school year or its equivalent. For the purposes of calculating the FTE student membership, a student is considered in membership under s. 236.013(4), F.S., until withdrawal or the 11th consecutive school day of absence.

A student is eligible for FTE membership if both of the following conditions are satisfied:

- The student is in program membership at least 1 day during the survey period in an approved course, excluding non-instructional activities, and
- The student is in attendance at least 1 day during the survey period or one of the six scheduled meetings preceding the survey period on which students were in attendance in school.

To determine FTE membership, the law requires a program membership survey of each school by the district during each of several school weeks. The district's FTE membership must be calculated and currently maintained in accordance with the Commissioner of Education's regulations. The rule governing student membership surveys (Rule 6A-1.0451, F.A.C.) requires at least four FTE student

membership surveys during the year. The law (s. 236.081(1)(a), F.S.), specifies that the number of FTE student membership surveys may not exceed nine in a fiscal year. The four survey weeks for the 1998-99 school year are: July 6-10, 1998; October 5-9, 1998; February 1-5, 1999; and June 21-25, 1999.

III. Effect of Proposed Changes:

Section 1. School improvement plans (s. 230.23, F.S.) must include specific school safety and discipline strategies.

Section 2. The bill amends s. 230.2316, F.S., to set 3 priorities for school districts projecting FTE for certain dropout prevention programs (programs *other than those* serving students in residential and non-residential programs operated by the Department of Juvenile Justice):

- to address students at risk of dropping out due to repeated disruptive, violent, or delinquent behavior;
- to implement intensive instruction programs within alternative settings for students who fail to meet promotion requirements and require intensive instruction or a more structured learning environment; and
- for students at risk due to other factors.

School districts must include, as an indicator of need, recommended strategies to reduce certain behavior, as identified in the school improvement plans. School districts must project the number of FTE's for which alternatives are required. The bill provides legislative intent to fund these FTE's prior to those projected in dropout prevention for other purposes.

Dropout prevention programs must employ specified elements, including diagnostic and assessment procedures. The bill adds character education to the educational portion of a dropout prevention program. The group of students who are eligible for dropout prevention programs is expanded to include students in grades 1-3. Currently, students in grades 4-12 are eligible.

The bill provides for one year start-up grants from the Department of Education (DOE) for partnerships between a school district and a private entity to operate a second chance school for disruptive students. Grants are to offset the start-up costs to implement programs off public school campuses. Also, the bill requires general operating funds to be generated through the Florida Education Finance Program. Grants are for private nonprofit or for-profit providers to fully operate schools. The program must be operated pursuant to DOE rules and to the extent funded by the Legislature.

Students seeking to reenter traditional schools must complete a character-education program and to demonstrate preparedness to reenter the regular school setting. The current requirement for an evaluation of these students by school district personnel is eliminated.

Section 3. The bill amends s. 231.085, F.S., relating to the duties of principals, to require principals to ensure the accuracy and timeliness of school reports and to provide staff training opportunities needed to accurately report attendance, FTE program participation, student performance, teacher appraisal, and school safety and discipline data.

Section 4. Two new minimum competencies must be demonstrated for professional educator certification. The competencies (s. 231.17, F.S.) are: a) knowledge and skill in managing student behavior, including techniques for preventing and intervening in disruptive or violent incidents; and b) recognition of the early signs of truancy and the identification of effective interventions.

Section 5. The bill creates s. 232.001, F.S., authorizing Manatee County District School Board to implement a pilot project related to compulsory school attendance for students between the ages of 16 and 18, beginning July 1, 1999. The bill provides procedural requirements for the district, including notice. The bill provides for the applicability of state laws and rules regarding school attendance, with the exception of the policy for a formal declaration of intent to terminate school enrollment. The bill requires a study by the district on the policy's effect on school attendance, the dropout rate, and cost.

Section 6. The bill amends s. 232.17, F.S., to provide legislative findings that link poor academic performance with nonattendance and state that schools must take an active role in enforcing attendance, as a means of improving student performance. The bill places responsibility on school district superintendents to enforce attendance, including making recommendations to the school board. School board policies must require justifiable absences that are evaluated based on school board policy. Policies must require schools to track absences and contact the home. Also, the bill specifies the steps required to enforce regular school attendance.

The bill provides specific requirements for the school principal, the teacher, and the child study team. The primary teacher must report to the school principal or the principal's designee concerning unexcused absences or absences for which the reasons are unknown. The principal, under certain conditions, must refer the case to the school's child study team. The child study team determines if early patterns of truancy are developing and must implement specific interventions, including:

- frequent communication between the teacher and family, changes in the learning environment, mentoring, student counseling, tutoring, peer tutoring, placement into different classes, evaluation for alternative education programs, attendance contracts, and referral to other agencies for family services.

The study team must be diligent in facilitating intervention services and must report to the superintendent only when its efforts are exhausted. The bill authorizes parental appeal to the school board and allows the school board to provide a hearing officer who makes a recommendation for final action to the board. If the board ultimately determines that the strategies of the child study team are appropriate, and the parent still refuses to participate or cooperate, a superintendent may seek criminal prosecution. The bill requires the superintendent, the parent, or the guardian to file a child-in-need-of-services petition or a family-in-need-of-services petition seeking services from the Department of Juvenile Justice and a court order to attend school, if the parent reports to the study team or other designated school representative that the child is ungovernable and will not attend school. The bill requires the superintendent to provide certain evidence to the court and allows the court to enforce a contempt of court order if the child refuses to comply.

The bill revises current notice requirements and removes the option of referring the case to the case staffing committee. The bill requires a superintendent to seek criminal prosecution against parents, if the notice and other requirements are ignored. The bill requires a superintendent to give written notice in person or by return-receipt mail to the parent that criminal prosecution is being sought. The

notice of prosecution is provided after the completion of the activities in subsection (1). The bill eliminates the current requirements for designated school representatives to investigate cases of nonenrollment and unexcused absences of all children subject to compulsory school attendance.

The bill revises the requirements related to returning a child to the parent. Children may be returned to the juvenile assessment center or other location established by the school board to receive students who are absent from school. The bill requires immediate notification to the parent when the student is received.

Section 7. The bill amends s. 232.19, F.S., to require a court order for school attendance as a part of services for habitual truancy cases. The superintendent may file a truancy petition. If the superintendent chooses not to file a truancy petition, procedures for filing a child-in-need-of-services petition must be initiated. The bill eliminates the current requirements that must be met before filing a child-in-need-of-services petition. Prior to filing a petition, a school district must comply with the revised provisions of s. 232.17, F.S., and these efforts must have been unsuccessful. The bill eliminates the requirement in this section to promote a child who is responsive to interventions and who meets the necessary requirements to pass the current grade.

Section 8. The bill amends s. 232.26, F.S., to remove a limitation on principals to discipline or expel a student for unlawful possession or use of any substance controlled under chapter 893, F.S. (Currently, this section allows principals to discipline or expel pupils upon the third violation.)

Section 9. The bill amends s. 236.081, F.S., to require, for purposes of determining the annual allocation to each school district for operations, the computation of an average daily attendance factor. The bill specifies the method for computation and the time frames for documenting the daily attendance of each student by school and district and adjusting the district's FTE membership.

Section 10. The bill amends s. 240.529, F.S., relating to teacher preparation programs. The bill adds legislative intent to include the goals of helping students meet high standards for student achievement and providing safe and secure classroom learning environments. The bill revises the legislative intent language related to the contribution of teachers.

Criteria for continued program approval must emphasize additional outcome measures of college students performing in the areas of classroom management and improving the performance of students who have traditionally failed to meet student achievement goals and who have been over represented in school suspensions and other disciplinary actions.

The bill removes one of the alternatives for meeting the special requirements for instructors in postsecondary teacher preparation programs. The requirement applies to those who instruct or supervise preservice field experience courses or internships. All school district personnel and instructional personnel who supervise or direct teacher preparation students during field experience courses or internships must successfully demonstrate effective classroom management strategies and consistently improve student performance.

Section 11. The bill amends s. 984.03, F.S., to revise the definition of habitual truant by eliminating the reference to "escalating" activities. The bill requires, rather than allows, the state attorney to file a child-in-need-of-services petition, unless the state attorney determines that another alternative

placement is preferable. The bill requires the appropriate jurisdictional agency to file a child-in-need-of-services petition. The bill eliminates the required referral of the child for evaluation. The bill provides for handling situations after the Department of Juvenile Justice and the school administration have worked with the child as provided for in both s. 232.19(3) and (4), F.S. The bill defines the term "truancy petition" as a petition filed by the school superintendent alleging that a student subject to compulsory school attendance has had more than 15 unexcused absences in a 90 calendar day period. The bill specifies that a truancy petition is filed and processed under s. 984.151, F.S.

Section 12. The bill creates s. 984.151, F.S., to allow a superintendent to file a truancy petition if the school determines that a student subject to compulsory school attendance has had more than 15 unexcused absences in a 90 calendar day period. The petition must be filed in the circuit in which the student is enrolled in school. Original jurisdiction to hear the truancy petition is in circuit court. However, the bill allows the circuit court to use a general or special master pursuant to Supreme Court rules. The bill specifies the contents of the truancy petition. The petition must be sworn to by the superintendent. The court must hear the petition within 30 days after it has been filed. The student and the student's parents must attend the hearing.

Based on the court's determination that the student missed any of the alleged days, the court must order the student to attend school and the parent to ensure that the child attends school. The court may order participation by students, parents, or guardians in any of several specified activities (e.g., alternative sanctions that include mandatory attendance at alternative classes and subsequent mandatory community service hours, homemaker or parent aide services, intensive crisis counseling, community mental health services, voluntary or community agency services, and vocational, job training, or employment services). The bill provides that if the student does not successfully complete the court-ordered sanctions, the child's case must be referred to the case staffing committee under s. 984.12, F.S., with a recommendation to file a child-in-need-of-services petition.

Section 13. Provides an effective date (Upon becoming a law).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None identified.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Individuals seeking professional educator certification under s. 231.17, F.S., must demonstrate the new competencies specified in the bill. Instructors in postsecondary teacher preparation programs who instruct or supervise field experience courses or internships will no longer have the option of meeting the special requirements in s. 240.529(5)(a), F.S., through a commitment to teaching in the public schools. Other school district personnel and instructional personnel who supervise or direct teacher preparation students during field experience courses or internships will be subject to the new requirements in s. 240.529(5)(b), F.S.

Students in second chance schools who demonstrate progress and wish to return to a traditional school must first complete a character development program and demonstrate that they are prepared to reenter the traditional school setting.

C. Government Sector Impact:

To the extent funded by the Legislature, the Department of Education must provide non-recurring start-up grants to private entities that wish to enter into partnerships for second chance schools off public school campuses for disruptive students. General operating funds for these schools must be generated through the appropriate programs of the Florida Education Finance Program.

The Department of Education estimates that \$37 million in dropout prevention program funds will be used for students in grades 1 through 3. The department estimated that \$2.2 million would be needed for a pilot project to raise the compulsory age of attendance. The district school board participating in the pilot project must provide a report related to the impact of the project.

The bill provides an additional factor for attendance to the current FEFP structure, with an adjustment for the district.

Dropout prevention programs must employ diagnostic and assessment procedures, as well as character education curricula. According to the resource guide of the Character Education Partnership, a nonpartisan coalition of organizations and individuals, there are over 30 organizations that promote character education programs. Many of these organizations sell character education materials on-line at a variety of prices for use in elementary schools. The CHARACTER COUNTS! coalition produces character education curricular materials, including the basic classroom kit, available for approximately \$100 per kit (kindergarten through grade 5) or approximately \$195 per kit (grade 6 to 8). Supplemental materials are available for an additional charge. According to CHARACTER COUNTS! coalition materials, formal membership in the coalition is restricted to nonprofit organizations and schools, which have

exclusive right to the CHARACTER COUNTS! name and logo. Certain other names and their respective logos or images cannot be used without written permission from the coalition's national office.

Child study teams are currently authorized in s. 230.2316(3)(d)6., F.S., to evaluate children assigned to second chance schools. The bill extends their participation to working with children referred by the principal under the revised provisions of s. 232.17, F.S.

To the extent that parties consent to truancy proceedings by a general or special master and the cases are successfully resolved, the number of child-in-need-of-services petitions may decrease. It is uncertain whether the use a general or a special master in proceedings involving truancy petitions will result in a reduction in costs. Cost savings or gains in judicial efficiency may be offset if there are appeals.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Although the bill (page 17, lines 20-28) requires the school principal to contact the home to determine the reason for each unexcused absence or absence for which the reason is unknown, the bill (page 20, lines 13-16) eliminates the requirement for written notification to parents or guardians when a specific number of absences occur. Since written notice must still be provided for nonenrollment, the reason for eliminating the written notice requirements to parents or guardians after a specified threshold of absences is unclear. In addition, the law (s. 232.09(2), F.S.) provides that criminal prosecution may not be brought against a parent, guardian, or other person having control of the child until the provisions of s. 232.17(2), F.S., (relating to written notice) are met.

Parents or guardians who refuse to participate in the child study team's remedial strategies on the basis that the strategies are unnecessary or inappropriate may appeal to the school board. The bill (page 19, lines 1-13) allows the school board to provide a hearing officer to make a recommendation for final action the school board. The status of this type of proceeding is not clear.

Section 985.03(27), F.S., relating to delinquency, contains the same provisions for habitual truancy that are found in s. 984.03(29), F.S. The bill makes changes to the filing of a child-in-need-of-services petition in s. 984.03, F.S., but does not make similar changes to the same provisions in s. 985.03, F.S. In addition, s. 985.03, F.S., references the steps in ss. 232.17 and 232.19, F.S., and other activities that must be completed in an effort to identify and remediate truant behavior. The bill makes substantial changes to both ss. 232.17 and 232.19, F.S. The impact of these changes on s. 985.03, F.S., is not clear.

The law (s. 230.2316(3)(d)8., F.S.) requires second chance schools to be funded at the dropout prevention weight pursuant to s. 230.081, F.S., and allows these schools to receive school safety funds or other funds as appropriate. As partnership programs (s. 230.2316(3)(d)1., F.S.), second chance schools are eligible for waivers by the Commissioner of Education from chapters 230-239, F.S., and State Board of Education rules that prevent the provision of appropriate educational

services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings.

As of March 30, 1999, SB 2500 (1st Engrossed) included the following appropriations for truancy programs:

SPECIFIC APPROPRIATION ITEM	AMOUNT	ITEM
734, 736, 737 & 740	\$ 191,312	Broward County State Attorney Truancy Intervention Program
736A 2123	\$ 59,936 \$ 200,000	Aid to Local Government Truancy Program
949	\$ 259,700	Community Awareness and Response to Truancy

Specific Appropriation 109 provides \$70,350,000 for safe schools. The funds are allocated according to a funding formula (two-thirds must be based on the latest official Florida Crime Index provided by the Department of Law Enforcement and one-third must be based on each district's share of the state's total weighted student enrollment. Proviso language defines the activities of safe schools to include: (1) after school programs for middle school students; (2) other improvements to enhance the learning environment, including implementation of conflict resolution strategies; (3) alternative school programs for adjudicated youth; and (4) other improvements to make the school a safe place to learn. Each district must determine, based on a review of its existing programs and priorities, how much of its total allocation to use for each authorized safe schools activity.

The Supreme Court has adopted rules allowing for the use of general and special masters, including the Florida Family Law Rules of Procedure (Rules 12.490 and 12.492, Fla. Fam. L. R. P.), the Florida Rules of Juvenile Procedure (Rule 8.255, Fla. R. Juv. P.), and the Florida Rules of Civil Procedure (Rule 1.490, Fla. R. Civ. P.) All of these rules, however, require the consent of the parties for referral to a general or special master. (There is a limited exception under the Florida Family Law Rules of Procedure to the consent requirement for an attorney/special master appointed by the court to preside over depositions and ruling on objections.)

Chapter 984, F.S., relates to children and families in need of services. The law (s. 984.04, F.S.) sets forth the jurisdiction and procedures, including petitions, pleadings, subpoenas, summonses, and hearings in child-in-need-of-services and family-in-need-of-services cases. While the state attorneys can currently file a child-in-need-of-services petition under ss. 984.03 or 985.03, F.S., if a child has 15 unexcused absences within 90 calendar days or fails to enroll in school, the law provides for others to file these types of petitions. Section 984.15, F.S., provides the requirements for filing a child in need of services petition by the Department of Juvenile Justice, the child's parent, guardian, or legal custodian. The law also specifies the contents of the petition and provides that the form of the petition and any additional contents must be determined by rules of procedure adopted by the Supreme Court.

The bill specifies that the truancy petition's contents must include the number of days and dates that the student has missed school. The First District Court of Appeal, *F.A.T. v. State*, 690 So.2d 1347 (Fla. 1st DCA 1997) held that school attendance records showing absences by class periods and

absence and warning summary were “attendance data” within the definition of “reports and records” protected by statute from public disclosure. The court also held that juveniles’ indirect contempt concerning violation of a condition of community control constituted a new delinquent act, calling for a new hearing followed by a new deposition, and thus, school attendance records could not be used in a contempt proceeding under a provision allowing sharing of school records pursuant to an interagency agreement but precluding admission of such information in court proceedings prior to a dispositional hearing.

The court distinguished between “attendance data” in reports and records in s. 228.093(2)(e), F.S., protected from public disclosure by s. 228.093(3)(d), F.S., and “dates of attendance” within the definition of “directory information” in s. 228.093(2)(c), F.S., that is subject to disclosure. The court also noted that the law (s. 228.093(3)(d)12., F.S., which provides that information provided in furtherance of certain interagency agreements is intended solely for use in determining the appropriate programs and services for juveniles and their families and for coordinating the delivery of these programs and services. The law specifically makes the information inadmissible in any court proceedings prior to a dispositional hearing, unless written consent is provided by the parent, guardian, or other responsible adult on behalf of the juvenile.

The court reviewed a copy of the attendance record relied upon in the filing of an affidavit in support of the order to show cause, entitled “Student Schedule/Absence Summary” which contained a schedule of classes and an absence detail by period, as well as an absence and warning summary. The court noted that the records were intended to be used as evidence of appellants’ violations of a provision of community control. The attendance records had been released to the state attorney under an interagency agreement between the school board and the state attorney’s truancy arbitration program. However, neither the parents nor the children had given consent to release the attendance information, nor was there a court order or subpoena directing the release of the information.

It is unclear as to whether the absence information (the number of days and dates that the student has missed school) should be subject to disclosure in the truancy petition. An alternative is to allow the contents of the petition to be determined by rules of procedure adopted by the Supreme Court.

On March 3, 1999, the Senate Committee on Education passed CS/SB 698 which requires instruction in the public elementary schools to include a secular character development program such as Character Counts or a similar curriculum. The program must stress qualities such as attentiveness, patience, and initiative. CS/SB 698 eliminates the provision in s. 233.0612(1), F.S., that encourages school districts to install character development programs in elementary schools.

VIII. Amendments:

None.