

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2166

SPONSOR: Senator Silver

SUBJECT: Schools/Safe Passage Act

DATE: April 6, 2001

REVISED: 4/10/01

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	O'Farrell	ED	Fav/2 amendments
2.			GO	
3.			CJ	
4.			AED	
5.			AP	
6.				

## I. Summary:

The bill creates the "Safe Passage Act," and creates legislative findings and intent. The bill defines the term, "best safety and security practices" and requires the Department of Education to provide Internet access to these practices. School advisory councils must use these for school improvement plans. School districts are subject to a state-funded, mandatory safety audit on a 5-year cycle as provided by the Legislature in the General Appropriations Act. The bill provides a process for making recommendations for the districts to be audited and requires the Legislature, in the General Appropriations Act, to designate the districts that will receive a fully funded safety audit. The bill sets forth requirements for the audit team and the purpose of the audits. The bill establishes a mandatory audit review and appeal process that involves members of the public and the State Board of Education.

The bill requires each district to create and maintain a toll-free school safety hotline for students, parents, school staff, and other persons to anonymously report activity that affects the school's safety and well-being. School districts must adopt policies to encourage the use of the hotline. The bill sets forth the requirements for hotlines, provides for mandatory reporting by adults, imposes a criminal penalty for failing to report or preventing others from making reports, and provides immunity from civil or criminal liability for good faith reporting efforts. The Department of Education may impose a fine (up to \$1,000 for each violation) for false reports of alleged offenses directly threatening the safety or well being of persons or property within a school. The State Board of Education must adopt rules to implement the act. The Commissioner of Education, in conjunction with the Partnership for School Safety and Security, must hold public rule development workshops.

The bill requires the State Fire Marshal to adopt and administer rules prescribing firesafety standards for the occupants of educational and ancillary facilities. The bill makes several

changes to the required inspections and reports related to compliance with firesafety, sanitation, and casualty standards for educational and ancillary plants. The State Fire Marshal is charged with adopting specific new rules. The bill allows an inspector to close an educational plant until violations are corrected. An inspecting agency may request the State Fire Marshal or local fire control authority to take certain actions if the district school board, a community college board of trustees, or the Board of Trustees for the Florida School for the Deaf and the Blind fails to do so.

The bill provides an effective date of July 1, 2001.

This bill creates s. 229.8349, F.S., and amends ss. 235.06 and 633.01, F.S.

## II. Present Situation:

### **Partnership for School Safety and Security**

Chapter 2000-235, L.O.F., created the Partnership for School Safety and Security in s. 229.8347, F.S., based on the recommendations of the 2000 Senate Task Force on School Safety.<sup>1</sup> The Partnership consists of eleven members with responsibilities that include the following:

- Evaluating school safety and security programs and strategies and making recommendations for inclusion in the clearinghouse of safety and security information and to the Legislature for funding school safety and security programs.
- Assessing the extent to which best practices for school safety and security are being followed, including, but not limited to, best practices for schools with student participation in planning and implementing violence prevention and other student efforts that contribute to school safety; placing and training new teachers; and providing incentives and support systems for teachers.

In October 2000, the Governor appointed ten of the eleven Partnership members. The Partnership held organizational meetings in February 2001.

### **School Safety Initiatives and Funding**

The major federal source of funds for school-based prevention activities is the Safe and Drug Free Schools and Communities Act. The funds are administered by the U.S. Department of Education for different programs. The Act, as reauthorized in 1994, was expanded to include violence prevention activities and imposed new accountability requirements on local education agencies. Under the largest program, the U.S. Department of Education awards grants to state education agencies, including the Florida Department of Education, mainly for further distribution to local education agencies. State and local plans form the basis for accountability for these funds. These funds are used for a variety of initiatives.

The Florida Legislature appropriates state funds in the General Appropriations Act for safe schools. Proviso language describes the allocation methodology, as well as the activities for which the funds may be used. The funds are distributed to the local school districts by the Florida Department of Education.

---

<sup>1</sup> Florida Senate Education Committee, *Task Force on School Safety*, Interim Project Report 2000-32.

**Best Financial Management Practices**

Under s. 230.23025, F.S., the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) administers or conducts Best Financial Management Practice Reviews. The Legislature authorized these reviews to assist school districts in identifying ways to save funds, improve management, and increase the efficiency and effectiveness of district operations. The reviews compare the district's management and operations to the state-adopted best practices. OPPAGA and the Office of the Auditor General developed, and the Commissioner of Education adopted, a set of best financial management practices for Florida school districts. The 2000 Legislature directed OPPAGA to expand the Best Financial Management Practices to include additional areas, including school safety. The Commissioner of Education adopted the new best practices in October 2000, including school safety and security. The Partnership for School Safety and Security is not currently a part of this process.

**Toll-free school safety hotlines**

Current law (s. 230.23185, F.S.) allows for hotlines as an avenue for students to report criminal activity and to enhance the safety and welfare of students, faculty, and staff. The law also allows the Department of Education to contract with the Florida Sheriff's Association to operate an anonymous statewide toll-free hotline and prohibits rewards. The law requires actionable offenses to be reported and defines this type of offense as an incident that could directly affect the safety or well being of a person or property within a school. The Florida Sheriff's Association must provide a report to assess reported incidents. The information may be used to assess future school safety education needs and prevention programs.

**School improvement plans**

Section 229.58, F.S., requires each school advisory council to assist in the preparation and evaluation of a school improvement plan. The law (s. 230.23(16), F.S.) delineates a school district's responsibilities for annually approving and requiring implementation of a new, amended, or continuation school improvement plan for each school in the district. However, a school board may establish a district school improvement plan which includes all schools in the district that provide educational services to youth in Department of Juvenile Justice programs. Each plan must address specific issues, including school safety and discipline, based on an analysis of student achievement and other school performance data.

**Educational Facilities**

Chapter 633, F.S., relates to fire prevention and control. Section 633.01, F.S., sets forth the powers and duties of the State Fire Marshal, as head of the Department of Insurance. The law (s. 633.022, F.S.) requires the Department of Insurance to establish uniform firesafety standards that apply to specific buildings, including public schools. The department must use the firesafety standards that have been adopted by the State Board of Education for public schools. The law (s. 633.081, F.S.) provides for inspection authority, sets forth certification requirements for firesafety inspectors, and provides grounds for disciplinary action.

The law (s. 235.26, F.S.) requires the Commissioner of Education to adopt a uniform standard building code for public educational and ancillary plants. Section 235.06, F.S., relating to safety and sanitation standards and inspection, provides for the adoption of rules by the Commissioner for use by all public agencies when inspecting public educational and ancillary plants. Persons certified by the State Fire Marshal must make annual firesafety inspections. The law requires

inspection reports and provides for corrective action or discontinuing the plant's use by order of the Commissioner.

The 2000 Legislature revised s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities, effective July 1, 2001, to:

- eliminate the authority of the Commissioner of Education to adopt a uniform statewide building code for educational facilities, and replace this with a requirement for the code to be adopted by the Florida Building Commission for adoption within the Florida Building Code;
- require the Department of Education to develop standards for sanitation and safety of educational and ancillary plants and the health and safety of their occupants;
- require the State Fire Marshal and the Florida Building Commission in cooperation with Department of Education to develop fire safety criteria relating to the safety of occupants of educational and ancillary plants (these must be incorporated into the Florida Fire Prevention Code);
- require that all public educational and ancillary plants constructed by a district school boards or community college district boards of trustees conform to the Florida Building Code and the Florida Fire Prevention Code; and
- require any inspection by state or local government to be based on the Florida Building Code and the Florida Fire Prevention Code.

#### **Complaints against teachers**

Section 231.261, F.S., creates the Education Practices Commission, and s. 231.262, F.S., gives the Commission authority to take action against the certificates of persons who are licensed to teach in Florida. The Department of Education, through its Office of Professional Practice Services, investigates complaints against educators and, if the Commission takes action, the certificate may be suspended or revoked.

#### **Criminal penalties and fines**

Chapter 775, F.S., provides that persons convicted of a first degree misdemeanor may be sentenced for a term of up to one year and required to pay a fine of up to \$1,000.

### **III. Effect of Proposed Changes:**

#### **Legislative findings and intent**

**Section 1.** The bill creates the "Safe Passage Act" in section 229.8349, F.S., relating to a school safety accountability program. The bill provides legislative findings related to the safety of students, teachers, and staff and the school atmosphere. Also, the bill provides legislative intent to foster a safe learning environment in each public school in the state serving all or portions of grades K-12.

The bill allows the Commissioner of Education to offer technical assistance to school districts to promote the successful implementation of school safety accountability. The bill defines the term, "best safety and security practices" as specific practices developed under the provisions of s. 230.23025, F.S., in consultation with the Partnership for School Safety and Security. The Department of Education must provide Internet access to these practices and school advisory councils must use these for school improvement plans.

**Safety audits**

Each school district is subject to a state-funded, mandatory safety audit on a 5-year cycle as provided by the Legislature in the General Appropriations Act. The Commissioner of Education must annually recommend to the presiding legislative officers the districts for audit during the next fiscal year. In the General Appropriations Act, the Legislature must annually designate the school districts that will receive a fully funded safety audit.

The audit must be conducted by professional, third-party auditors under state contract with the Department of Education. The bill sets forth the minimum requirements for the composition of the audit team. The audit must gather evidence of the extent to which the district and schools within the district have adopted and effectively implemented best safety and security practices, including the following:

- ensuring that the safety and security program has clear direction and is effective in meeting its intended purpose in a cost-efficient manner;
- having comprehensive plans and procedures to promote the safety and security of students and employees;
- adopting and implementing best safety and security practices to identify, minimize, and protect students, teachers, administrators, resource officers, and other personnel from the effects of disruptive or violent student behavior; and
- adopting and implementing best safety and security practices to ensure that school facilities and equipment are safe and in good working condition.

**Review and appeal of audit recommendations**

School boards must conduct a public hearing to review the audit recommendations and adopt (by a time certain) an action plan at the district and school levels to address the recommendations. The school board must institute the action plan and require it to be instituted at the school level. The bill requires the board to provide a detailed written follow-up report to the Commissioner of Education. Also, the Department of Education must provide Internet access to all school district audit follow-up reports.

If the district school board fails to vote on adopting an action plan or the district fails to implement the plan after a vote, any school district resident may submit a written appeal to the State Board of Education. The bill provides different filing periods for these appeals. The State Board of Education must, by majority vote, accept or reject the district school board's decision no later than 60 days after filing an appeal and must remand the appeal to the district school board with written recommendations for district board action. After evaluating the appeal, the Commissioner of Education may contact the district, assess the situation, urge implementation, and offer any needed technical assistance.

**Toll-free school safety hotline reporting, criminal penalties, and liability**

The bill requires (by September 1, 2001) each district to create and maintain a toll-free school safety hotline for students, parents, school staff, and other persons to anonymously report activity that affects the school's safety and well-being. School districts must adopt policies to encourage the use of the hotline. The bill sets forth the following requirements for hotlines:

- ensuring that designated local law enforcement and school officials are notified of complaints that concern the school;

- reporting complaints that concern an alleged offense directly threatening the safety or well-being of a person or property within a school to the school's designated official as soon as possible;
- requiring the designated official to conduct an investigation and take timely and appropriate action;
- maintaining a record of calls and requiring the provision of a summary report of the calls to the school district, parents, school staff, local law enforcement, and the Department of Education;
- prohibiting an award or monetary benefits for reporting incidents; and
- requiring the Department of Education to provide Internet access to all safety hotline reports.

Adults who know of, or have reasonable cause to suspect, an alleged offense directly threatening the safety or well-being of a person or property within a school or at a school-sponsored function must make a report to a hotline. The bill imposes a penalty (a first degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.) for persons who knowingly and willfully fail to report or who prevent another person from doing so. The bill allows the department to impose a fine (not to exceed \$1,000 for each violation) upon those who knowingly and willfully make a false report of an alleged offense directly threatening the safety or well-being of a person or property within a school. The bill provides immunity from any civil or criminal liability for persons making good faith reports to the hotline of any suspected or alleged offense.

These provisions do not affect a district's obligations in s. 231.262(1)(c), F.S., for timely investigation and reporting of complaints against certificate holders.

### **Rules**

The bill requires the State Board of Education to adopt rules to implement the provision of the act. The Commissioner of Education, in conjunction with the Partnership for School Safety and Security, must hold public rule development workshops to encourage the involvement of the public, parents, educators, students, and other stakeholders. The Commissioner's determination of the location of rule development workshops is not subject to review under administrative rule.

**Section 2.** The bill amends s. 235.06, F.S., relating to safety and sanitation standards and inspection of property, to require the State Fire Marshal to adopt and administer rules prescribing firesafety standards. Also, the district school board, a community college board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind must make annual inspections of each educational and ancillary plant to determine compliance with sanitation and casualty standards prescribed by rule of either the Commissioner of Education or the State Fire Marshal. (Currently, this provision only refers to the Commissioner's rules.) These boards are required to submit a copy of the firesafety inspection report to the State Fire Marshal and any existing local fire control authority that conducts firesafety inspections. The firesafety inspection report must contain the plan of action and schedule for correcting deficiencies that was developed in consultation with the local fire control authority. The bill amends the provisions related to inspections of educational property by other public agencies to require the agencies to use either the standards of the Commissioner or the standards of the State Fire Marshal instead of any other inspection standards in rule or statute. The bill deletes reference to chapter 633, F.S.

For educational or ancillary plants located in a county, municipality, or special fire control districts that conduct firesafety inspections, the bill requires a minimum of one inspection each fiscal year that uses the State Fire Marshal's standards. Also, a minimum of one firesafety inspection of a plant not located in a county, municipality, or special fire control district must be conducted each fiscal year by State Fire Marshal personnel. The boards must cooperate with the inspecting authority when the inspection is done by a governmental authority. The bill deletes the existing requirements related to local fire control authority reports and inspections and using the Commissioner of Education's standards. The bill amends the provisions related to corrective action to allow the inspecting agency to request either the State Fire Marshal or the local fire control authority to take action if the boards fail to do so.

The State Fire Marshal must adopt and administer rules prescribing the following standards for the safety and health of occupants of educational and ancillary plants:

- the designation of serious life safety hazards (including nonfunctional fire alarm systems, nonfunctional fire sprinkler systems, doors with padlocks or other locks or devices that prevent egress at any time, inadequate exits, hazardous electrical system conditions, potential structural failure, storage conditions that create a fire hazard, and other conditions identified as serious by the inspection authority);
- the occupant load must be determined on the basis of a specific methodology;
- the proper placement of functional smoke and heat detectors and accessible, unexpired fire extinguishers;
- the maintenance of fire doors without doorstops or wedges improperly holding them open.

The inspector, whether acting on behalf of the Department of Education, the State Fire Marshal or a local fire control authority, may order a plant closed until the violation has been corrected. The closing may occur when a firesafety inspection discloses a violation that is an immediate hazard to the safety of students or staff.

**Section 3.** The bill amends s. 633.01(7), F.S. , to require the State Fire Marshal to adopt and administer rules prescribing firesafety standards for the occupants of educational and ancillary facilities in accordance with ss. 235.06 and 235.26, F.S.

**Section 4.** The bill provides an effective date of July 1, 2001.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who knowingly and willfully make false reports related to the safety or well-being of persons or property within a school will be subject to the fine (up to \$1,000) imposed by the Department of Education. Persons who are convicted of the criminal penalty will be subject to a fine of up to \$1,000 and imprisonment. Persons who make good faith reports to the hotline will be immune from civil or criminal liability.

Private consulting firms retained to perform the safety audits will realize an economic benefit.

C. Government Sector Impact:

Safety audits must be conducted once every 5 years. These audits must be funded entirely by the Legislature. The cost is indeterminate at this time. School districts will save the cost of reviews, and could realize cost savings by implementing the audit recommendations.

The provisions of the bill for imposing fines do not designate the specific fund into which the fines must be deposited. The effect of the provisions for sentencing and fines on the corrections and court systems is unknown.

There will be some costs associated with the rulemaking provisions of the bill for the State Fire Marshal and the Department of Education. The bill requires the State Fire Marshal to adopt rules prescribing safety and health standards in educational plants, to make inspections, and take enforcement action. According to the Department of Insurance, these provisions will result in additional travel and field inspections. The department noted that current law requires firesafety inspections to be performed by local fire officials. The department also indicated that there are 19 districts with limited firesafety inspection capability and 17 districts with no fire inspection personnel.

School districts that are not currently operating a toll-free hotline will incur some costs. Any hotlines operating on an award or monetary incentive basis will no longer be able to do so under the provisions of the bill.

**VI. Technical Deficiencies:**

The bill creates a duty for adults to report an alleged offense, based upon actual knowledge or reasonable cause to suspect, an alleged offense directly threatening the safety or well-being of a



person or property within in a school. The bill does not define an alleged offense. This may create some confusion. The requirements for anonymous reporting may result in some difficulty in enforcing the sanctions and penalties in the bill.

**VII. Related Issues:**

Specific Appropriation 140 in SB 2000 (relating to the General Appropriations for FY 2001-02) provides \$176,676 in General Revenue for the Partnership for School Safety.

**VIII. Amendments:**

#1 by Education:

Removes the provisions requiring adults to make reports to a hotline and imposing a criminal penalty for persons who knowingly and willfully fail to report or who prevent another person from doing so. (With Title Amendment)

#2 by Education:

Removes provisions requiring the State Fire Marshal to prescribe standards for the safety and health of occupants of educational and ancillary plants related to occupant load.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---