

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: CS/SB 492

SPONSOR: Criminal Justice Committee and Senator Rossin

SUBJECT: Firearm Possession at School

DATE: April 10, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable/CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 492 would require any child found to have committed a delinquent act regardless of whether adjudication was withheld or one who pleads guilty or nolo contendere to bringing a firearm to school, to any school function, or onto any school-sponsored transportation be assigned to a disciplinary program or second-chance school, if one is available, during the expulsion period.

This bill substantially amends section 230.235 of the Florida Statutes.

II. Present Situation:

Second-Chance School--There is no current statutory language requiring juveniles convicted of bringing a firearm to school, to any school function, or onto any school-sponsored transportation to be assigned to a disciplinary program or second-chance school during the period of expulsion. However, school districts have the discretion under s. 230.2316(3)(d), F.S., to assign a juvenile to a second-chance school program if the juvenile is found to have committed a serious offense, including weapon possession, that warrants suspension or expulsion from school according to the district code of student conduct.

Possession of a Firearm on School Property--Section 790.115(2)(c), F.S., makes it a third degree felony to willfully and knowingly possess a firearm at a school-sponsored event, on school property, or on a school bus. It is punishable by imprisonment not exceeding 5 years and/or a fine not exceeding \$5,000 under ss. 775.082 and 775.083, F.S.

Under s. 790.115(4), F.S., any minor under 18 years of age charged with possessing or discharging a firearm on school property is required to be detained in secure detention until the

detention hearing within 24 hours of being taken into custody. The court is authorized to continue to hold the juvenile in secure detention for another 21 days after the detention hearing under this statute and under s. 985.215(1)(2), F.S.

Possession of a Firearm by Juvenile--Section 790.22(3), F.S., provides that it is a first degree misdemeanor for a minor under 18 years of age to possess a firearm, other than an unloaded firearm at his or her home, except in the following circumstances:

- The minor is engaged in a lawful hunting activity and is at least 16 years of age, or if under 16, is supervised by an adult;
- The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is at least 16 years of age, or if under 16, is supervised by an adult, who is acting with the consent of the minor's parent or guardian; or
- The firearm is unloaded and is being transported by the minor directly to or from a lawful hunting or marksmanship event.

The penalties for both the minor who violates subsection (3) and his parent are set forth in ss. 790.22(4) and 790.22(5), F.S. A parent who knowingly and willfully permits a violation commits a third degree felony, punishable by a maximum of five years incarceration and/or a fine not exceeding \$5,000. The court may require a parent to participate in parenting education classes approved by the Department of Juvenile Justice (DJJ). Further convictions of the minor may result in the court ordering the parent to continue parenting education classes or perform community service hours with the minor.

A minor who violates subsection (3) commits a first degree misdemeanor; for a first offense, he or she may be required to serve up to 3 days in secure detention, perform 100 hours of community service, and have his or her driver's license suspended or withheld for up to one year. If the minor commits a second or subsequent violation, he or she commits a third degree felony and must serve up to 15 days in secure detention, perform between 100 and 250 hours of community service, and have his or her driver's license suspended or withheld for up to two years.

Section 790.22(8), F.S., requires that a minor charged with an offense that involves the use or possession of a firearm, other than simple possession of a firearm, initially be detained in a secure detention center, unless the state attorney allows the release of the minor. The detained minor is required to have a court hearing within 24 hours, at which time the court may continue to hold the minor in secure detention if the youth meets detention criteria or if the court finds that the minor presents a clear and convincing danger to himself or the community.

Section 790.22(9), F.S., requires that if the minor is adjudicated, but not residentially committed to the DJJ for committing an offense involving the use or possession of a firearm, other than simple possession of a firearm, the minor must be ordered to serve 15 days in secure detention and perform 100 hours of community service. The minor may also be placed on community control. For a second or subsequent offense, the minor must be ordered to serve 21 days in secure detention, perform between 100 and 250 hours of community service, and may be placed

on community control. In addition, the driver's license must be suspended or withheld for up to two years for a second or subsequent offense.

III. Effect of Proposed Changes:

The Committee Substitute for Senate Bill 492 would require any child found to have committed a delinquent act regardless of whether adjudication was withheld or one who pleads guilty or nolo contendere to bringing a firearm to school, to any school function, or onto any school-sponsored transportation be assigned to a disciplinary program or second-chance school, if one is available, during the expulsion period. The CS would require the court to retain jurisdiction over the child while attending the available second-chance school or disciplinary program.

If the child violates the second-chance school requirements, the school must notify the court and DJJ and the court could order appropriate sanctions under current law. If the child is already under the department's supervision for committing the original offense and the child violates conditions of supervision by failing to attend an available second-chance school, the court could order appropriate sanctions for violating probation or conditional release supervision, including being held in a secure consequence unit (5 days for a first violation and 15 days for a second or subsequent), if one is available. If a consequence unit is not available, the child could be placed on home detention with electronic monitoring. The court would also be able to impose any sanction it could have originally imposed at the disposition hearing.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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