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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 53
RELATING TO: In-school Suspension
SPONSOR(S): Representative(s) Farkas, Lerner, and Justice
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION
 - (2) EDUCATION APPROPRIATIONS
 - (3) FISCAL POLICY & RESOURCES
 - (4) COUNCIL FOR LIFELONG LEARNING
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 53 creates School-based Alternative to Suspension Programs (SASPs) in order to provide an alternative to out-of-school suspensions. The bill authorizes a school district or a consortium of school districts, in partnership with a local mental-health care agency with expertise in youth and family counseling, to apply to the Commissioner of Education for up to \$75,000 in order to establish an SASP. Each school district is authorized to conduct up to five SASPs.

The bill authorizes a school principal, in partnership with a local mental-health care agency, to establish an SASP and specifies the required program components for participating students, which include academic tutoring, intake assessment, counseling, instruction in life skills, aftercare sessions, and, as indicated, referrals to appropriate community-based agencies that offer services on a sliding scale for continued individual counseling, family counseling, or both. Additionally, the bill specifies the minimum program staff requirements. The staff must conduct in-service training for school faculty on effective classroom management and alternative, positive disciplinary techniques.

The counseling agency for each funded SASP must submit to the Commissioner of Education an annual report that describes the program and the students that are participating. The Commissioner of Education must submit, by January 1, 2006, an evaluation of the effectiveness of the School-based Alternative to Suspension Programs to certain presiding members of the Legislature and to the Governor.

The bill also amends current law in order to include School-based Alternative to Suspension Programs as viable options to place students that are under in-school suspension. The bill repeals School-based Alternative to Suspension Programs on July 1, 2006.

The bill provides for an appropriation of \$1.875 million from the General Revenue Fund to the Department of Education to establish SASPs, for each of four specified fiscal years (FY 2002-2003, FY 2003-2004, FY 2004-2005, and FY 2005-2006).

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

The bill creates a new program to provide an alternative to out-of-school suspensions, the School-based Alternative to Suspension Programs; therefore it may not support the principle of less government.

B. PRESENT SITUATION:

Student Discipline and Suspension

Subsection 228.041(25), F.S., defines two types of suspension: out-of-school suspension and in-school suspension. Suspension (also referred to as out-of-school suspension) is the temporary removal of a student from all classes of instruction on public school grounds and all other school-sponsored activities, except as authorized by the principal or the principal's designee. It includes remanding the student to his or her parents with specific homework assignments to complete. In-school suspension is the temporary removal of a student from the student's regular school program and placement in an alternative program under the supervision of school district personnel. Under this provision of law, in-school and out-of-school suspensions may not exceed 10 school days.

Code of Student Conduct

Paragraph 230.23(6)(d), F.S., requires school boards to adopt a code of student conduct (code) that must include consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances as defined in law. The code must also contain policies to be followed for the assignment of violent or disruptive students to an alternative educational program, and notice that certain offenses are grounds for disciplinary action and may result in the imposition of criminal penalties.

Suspension Process

Paragraph 230.23(6)(c), F.S., requires each school board to adopt rules for the control, discipline, in-school suspension, suspension, and expulsion of students and to decide all cases recommended for expulsion. Section 232.26, F.S., authorizes a principal or his or her designee to suspend a student only in accordance with school board rules. However, students may not be suspended for unexcused tardiness, lateness, absence, or truancy. The law provides that school personnel may not be held legally responsible for suspensions of students made in good faith. Any student transported to or from school at public expense may be suspended from the privilege of riding on a school bus for violation of school board transportation policies.

Section 232.26, F.S., sets forth the process for suspending students, including the following requirements:

- A good faith effort must be made to immediately inform a student's parent or guardian by telephone of the student's suspension and the reasons for suspension.
- Within 24 hours, provide to the student's parent or guardian and the superintendent a written report for each suspension and the reasons for it.

A good faith effort must also be made to employ parental assistance or other alternative measures prior to suspension, except for emergency or disruptive conditions requiring immediate suspension or for a serious breach of conduct as defined by school board rules. The rules must require oral and written notice to the student of the charges and an explanation of the evidence against him or her prior to the suspension. Each student must be given an opportunity to present his or her version of the incident surrounding the suspension.

The law also provides for the initiation of suspension proceedings by a prosecuting attorney against students who are formally charged with a felony or delinquent act which would be a felony if committed by an adult for certain incidents which allegedly occurred off school property. The proceedings may be initiated if, in an administrative hearing, the incident is shown to have an adverse affect upon the education program, discipline, or welfare in the school in which the student is enrolled. Any student who is suspended as a result of these proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the superintendent. However, the suspension does not affect the delivery of educational services to the student. The student must be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. If the court determines that the student did commit the felony or delinquent act, the school board may expel the student. However, the expulsion under this provision must not affect the delivery of educational services to the student in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting.

Dropout Prevention and Academic Intervention

Section 230.2316, F.S., creates the Dropout Prevention and Academic Intervention Act, which provides that dropout prevention and academic intervention programs may differ from traditional education programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting. Students in grades 1 through 12 are eligible for these programs and participation is voluntary. Students may be assigned to a program for disruptive students, or be placed in a program with parental permission.

The act provides for student eligibility and program criteria. A student is eligible for services funded through the program based on one of the following criteria:

- The student is academically unsuccessful as evidenced by low test scores, retention, failing grades, low grade point average, falling behind in earning credits, or not meeting the state or school district proficiency levels in reading, mathematics, or writing.
- The student has a pattern of excessive absenteeism or has been identified as a habitual truant.

- The student has a history of disruptive behavior¹ in school or has committed an offense that warrants out-of-school suspension or expulsion from school according to the district code of student conduct.

According to the Department of Education, 33 school districts reported developing and implementing dropout prevention and academic intervention in-school suspension programs for the 2000-2001 school year.

Alternative Schools/Public Private Partnerships

Pursuant to the 2001-2002 General Appropriations Act, a school district may apply for funding for an educational program to serve a minimum of 500 or more disruptive and low-performing students per school in grades 6-12. Programs funded must provide proof of educational progress in reading and mathematics when compared to existing programs with similar student populations. The program must operate in a separate school facility provided by the education provider, unless otherwise negotiated with the school district. Any provider of this program must have at least three years of experience successfully serving this student population. The design of the school must include small learning communities and areas of support services provided by community-based providers. The district school board may contract with a non-profit or for-profit entity to operate the program including the provision of personnel, supplies, equipment and/or facilities.

The 2001 Legislature appropriated \$1.0 million to establish Alternative Schools/Public Private Partnership Incentives.

Second Chance Schools

Paragraph 230.2316(3)(d), F.S., defines second chance schools as 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 are disruptive or violent or who commit serious offenses. As partnership programs, second chance schools are eligible for grants, they are also eligible for waivers by the Commissioner of Education from chapters 230 through 235, F.S., chapter 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. Students enrolled in a 6th through 10th grade class may be assigned to a second chance school if they meet the following criteria:

- The student is a habitual truant² as defined in s. 228.041(28), F.S.
- The student's excessive absences detrimentally affect the student's academic progress and the student has unique needs that a traditional school setting may not meet.
- The student's high incidences of truancy are directly linked to a lack of motivation.
- The student is at risk of dropping out of school.

¹ "Disruptive behavior" is behavior that: (a) Interferes with the student's own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide or results in frequent conflicts of a disruptive nature while the student is under the jurisdiction of the school either in or out of the classroom; or (b) Severely threatens the general welfare of students or others with whom the student comes into contact.

² "Habitual truant" is a student who has 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or legal guardian, is subject to compulsory school attendance, and is not exempt, by statute or rule, from compulsory school attendance.

Provisions in s. 230.2316(3)(d)5., F.S., allow all other students to be assigned to a second chance school if the school district in which the student resides has this type of school and the student meets one of the following three criteria in law:

- The student habitually exhibits disruptive behavior in violation of the code of student conduct.
- The student interferes with his or her own learning or the educational process of others and requires attention and assistance beyond that which the traditional program can provide, or, while the student is under the jurisdiction of the school either in or out of the classroom, frequent conflicts of a disruptive nature occur.
- The student commits a serious offense³, which warrants suspension or expulsion from school according to the district code of student conduct.

According to s. 230.2316(3)(d)6. F.S., prior to assignment of students to second chance schools, school boards are encouraged to use alternative programs, such as in-school suspension, which provide instruction and counseling leading to improved student behavior, a reduction in the incidence of truancy, and the development of more effective interpersonal skills. Prior to placement in a second chance school, the school's local child study team must evaluate students. The study team must ensure that students are not eligible for placement in a program for emotionally disturbed children.

C. EFFECT OF PROPOSED CHANGES:

HB 53 establishes School-based Alternative to Suspension Programs (SASPs) in order to provide an alternative to out-of-school suspensions.

The bill authorizes a school district or a consortium of school districts, in partnership with a local mental-health care agency with expertise in youth and family counseling, to apply to the Commissioner of Education for up to \$75,000 in order to establish an SASP. Each school district is authorized to conduct up to five SASPs. The bill specifies the following required contents of the application:

- A letter of support from each district's school board.
- A letter from each school's principal and school advisory council committing adequate space for housing the SASP and pledging the school's compliance with proper program implementation and utilization.
- Letters of commitment from the school district, local municipalities, government agencies, or community based organizations for funding that equals at least one-third of the amount of the grant request.
- Letters of support from local colleges and universities promising to place counseling interns in the SASP.
- Projected student outcomes.
- A proposal for fulfilling specific program requirements.

The bill authorizes a school principal, in partnership with a local mental-health care agency, to establish the SASP and specifies the following required program components:

³ "Serious offense" is behavior which: (a) Threatens the general welfare of students or others with whom the student comes into contact; (b) Includes violence; (c) Includes possession of weapons or drugs; or (d) Is harassment or verbal abuse of school personnel or other students.

- Students participating in the SASP must be provided with academic tutoring, intake assessment, counseling, instruction in life skills, aftercare sessions, and, as indicated, referrals to appropriate community-based agencies that offer services on a sliding scale for continued individual counseling, family counseling, or both.
- The school day for the SASP must be at least the length of the school day as defined by s. 228.041(13), F.S.⁴
- A participating student must attend the SASP for the full length of the day during each day he or she is assigned to the SASP.

The bill specifies that a school that has more than 2,000 students must request two SASPs. Space within the fixed school building must be dedicated solely to the SASP and must include classroom space with a phone or other direct means of communication with the school administration, as well as separate office space for individual and group counseling.

The bill specifies the minimum program staff requirements:

- A certified teacher.
- A counselor who has expertise in youth and family counseling and who possesses a master's degree.
- A counseling intern.
- A part-time clerical assistant or volunteer help.

The program staff must conduct in-service training for school faculty on effective classroom management and alternative, positive disciplinary techniques.

The bill provides that the principal or the principal's designee, with parental permission, may assign a student to an SASP for a five-day period, in lieu of an out-of-school suspension. At the counseling staff's discretion, a student may be released after three days or, if the counseling staff considers it necessary, may be retained in the SASP for an additional five-day period. A student may participate in an SASP a maximum of three times per school year.

The counseling agency for each funded SASP must submit to the Commissioner of Education an annual report, by October 1 that includes, but is not limited to the following:

- Program expenditures.
- Number of program referrals by grade, sex, and race.
- Number of students referred to the program one, two, and three times.
- Number of students subsequently suspended out-of-school.
- Duplicated and unduplicated suspensions for the school.
- Dropout rate, which must be included by participating high schools.
- Principal, faculty, student, and SASP staff comments about the program's effectiveness.

The Commissioner of Education must submit by January 1, 2006, an evaluation of the effectiveness of the School-based Alternative to Suspension Programs. The report must be submitted to the Governor, the Senate President, the Speaker of the House of Representatives, and the majority and minority leaders of each chamber.

⁴ Subsection 228.041(13) states that, "A school day for any group of students is that portion of the day in which school is actually in session and shall comprise not less than 5 net hours, excluding intermissions, for all grades above the third; not less than 4 net hours for the first three grades; and not less than 3 net hours for kindergarten or pre-kindergarten students with disabilities, or the equivalent as calculated on a weekly basis."

The bill also amends current law in order to include School-based Alternative to Suspension Programs as viable options to place students that are under in-school suspension.

The bill repeals School-based Alternative to Suspension Programs on July 1, 2006.

It appears that the students in the SASP may benefit from the assessments provided by the mental healthcare providers and from the required tutoring and instruction. Also, they may benefit from staying in the school environment during their suspension, rather than being forced out of school.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends subsection 228.041(25)(b), F.S., to include School-based Alternative to Suspension Programs as viable options to place students that are under in-school suspension.

Section 2: Creates section 230.23155, F.S., to (1) create the School-based Alternative to Suspension Programs (SASP); (2) provide funding; (3) provide procedures for applying to the Commissioner of Education for funds to establish and conduct an SASP; (4) provide program requirements; (5) require an annual report; and (6) provide for future repeal.

Section 3: Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill provides a total appropriation of \$7.5 million from the General Revenue Fund to the Department of Education for SASPs (\$1.875 million for each of four specific fiscal years). A school district or a consortium of school districts may apply to the Commissioner of Education for up to \$75,000 to establish and conduct the counseling component of the program and conduct up to five SASPs. The number of school districts that will apply for these funds is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The number of local community agencies willing to commit the level of funds (at least one-third of the amount requested) specified in the application is unknown. To the extent that the bill results in needed services, students may benefit.

D. FISCAL COMMENTS:

Please see above.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

This bill does not grant any rule-making authority to any government agency.

C. OTHER COMMENTS:

According to Department of Education, it may be difficult for some school districts to meet the personnel requirements due to shortages of mental health counselors in the region and lack of access to local mental health counseling services.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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