

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Education Pre-K - 12 Appropriations Committee

BILL: CS/CS/SB 1058

INTRODUCER: Education Pre-K - 12 Committee, Criminal Justice Committee, and Senator Aronberg

SUBJECT: Notification of School Personnel/Child Felony

DATE: March 31, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>deMarsh-Mathues</u>	<u>Matthews</u>	<u>ED</u>	Fav/CS
3.	<u>Armstrong</u>	<u>Hamon</u>	<u>EA</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill adds the director of transportation to the list of individuals required to be notified by the school superintendent when a youth is arrested and formally charged with an alleged felony or violent crime. In addition, the principal is required to immediately notify the youth's assigned bus driver and any other school personnel whose duties include directly supervising the youth. The bill also requires that the principal and other school personnel whose duties include direct supervision of the youth be notified of the disposition of the charges against the youth.

The bill authorizes educational agencies, public K-12 schools, centers, or institutions to disclose education records, without prior consent, to parties to an interagency agreement that include the Department of Juvenile Justice (DJJ), the school, law enforcement authorities, and other agencies. The bill provides the circumstances under which disclosure is permitted and the limitations on the further disclosure of the information.

This bill amends sections 985.04 and 1002.221 of the Florida Statutes.

II. Present Situation:

Section 985.04(4), F.S., requires a law enforcement officer taking a youth into custody for committing an alleged felony offense or a violent crime to notify the youth's school superintendent. Similarly, when a youth is formally charged by the state attorney, that office must notify the school superintendent of the youth's alleged criminal charges. The school superintendent must, within 48 hours, notify the appropriate school personnel, including the youth's principal, who in turn, is required to immediately notify the youth's immediate classroom teachers.

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student education records.¹ Parents have specific rights with respect to their children's education records, including the right to inspect and review education records, to seek to have education records amended in certain circumstances, and to consent to the disclosure of education records. Educational agencies and institutions must comply with FERPA or risk losing federal funds.²

FERPA provides exceptions that allow for the disclosure of education records to third parties without prior consent. One of the exceptions relates to the juvenile justice system. Public educational agencies and institutions may disclose the education records of students, without prior consent, if such disclosure is expressly authorized by a state statute that concerns the juvenile justice system.³ The statute must specify which state and local authorities are authorized to receive the records.⁴ The disclosure must concern the juvenile justice system's ability to effectively serve the child before adjudication.⁵

III. Effect of Proposed Changes:

The bill adds the director of transportation to the list of individuals required to be notified by the school superintendent when a youth is arrested and formally charged with an alleged felony or violent crime. In addition, the principal is required to immediately notify the youth's assigned bus driver, and any other school personnel whose duties include directly supervising the youth. The bill also requires that the principal and other school personnel whose duties include direct supervision of the youth be notified of the disposition of the charges against the youth.

The bill authorizes educational agencies, public K-12 schools, centers, or institutions to disclose education records, without prior consent, to parties to an interagency agreement.⁶ The parties to the interagency agreement are the DJJ, the school, law enforcement authorities, and other agencies that are a party to the agreement. Disclosure is permitted to improve school safety; reduce juvenile crime, truancy, and in-school and out-of-school suspensions; and support alternatives to suspension and expulsion. This provision restores an exception to FERPA that was inadvertently repealed in 2009.⁷

¹ 20 U.S.C. § 1232g

² *Id.*

³ 20 U.S.C. § 1232g(b)(1)(E)

⁴ 34 C.F.R. § 99.31(a)(5)(i)

⁵ 34 C.F.R. § 99.38

⁶ FERPA defines "educational agency or institution" to mean any public or private agency or institution that receives federal funding. 20 U.S.C. § 1232g(a)(3).

⁷ ch. 2009-239, L.O.F.

Information contained in education records may only be disclosed for the purpose of determining appropriate programs and services for the student or his or her family and to coordinate the delivery of programs and services. The bill provides that such information is inadmissible in court proceedings before a dispositional hearing unless written consent is provided by a parent or other responsible adult.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K-12 on March 23, 2010:

- Allows educational agencies, public K-12 schools, centers, or institutions to disclose education records, without prior consent, to parties to an interagency

agreement that include the DJJ, the school, law enforcement authorities, and other agencies; and

- Provides the circumstances under which disclosure is permitted and the limitations on the further disclosure of the information.

CS by Criminal Justice on March 4, 2010:

- Requires that the principal and other school personnel whose duties include direct supervision of the youth also be notified of the disposition of the charges against the youth.

B. Amendments:

None.