

**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 Committee on Education

BILL: CS/SB 1226

INTRODUCER: Education Committee and Senator Brandes

SUBJECT: Virtual Learning

DATE: February 2, 2022      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	<b>Fav/CS</b>
2.			AED	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1226 creates the Florida Virtual School Justice Education Program (FLVS JEP) to serve specified Department of Correction (DOC) inmates, and makes a number of modifications to Florida Virtual School (FLVS) responsibilities and funding provisions. Specifically the bill:

- Authorizes the FLVS to offer online distance and blended learning courses.
- Removes authorization for the FLVS Board of Trustees to adopt specified procedures.
- Requires the FLVS, beginning in the 2022-2023 school year, to establish the FLVS JEP to offer inmates younger than 22 years of age the opportunity to earn a standard high school diploma.
- Adds students enrolled in the FLVS JEP as a priority population to be served by the school.
- Authorizes funding for full-time FLVS JEP students enrolled in online or blended learning courses, including during a specified summer school period.
- Requires students enrolled in the FLVS JEP to take all industry certification exams, national and statewide standardized assessments at the institution under the supervision of the DOC.
- Requires the FLVS JEP school performance be assessed based on demonstrated student learning gains and student progression.
- Requires blended or online learning courses to be delivered in an educational setting under the supervision of the DOC by FLVS certified personnel.
- Authorizes a student who turns 22 years of age to remain in the program if approved, but funding for such a student through the Florida Education Finance program is prohibited.

- Requires the DOE, with the assistance of the FLVS and the DOC, to select a common student assessment instrument and protocol for measuring student learning gains.
- Authorizes a student who is removed from the program to appeal to the DOE to seek reinstatement, subject to the final determination by the Commission of Education.
- Requires by July 1, 2023, and annually thereafter, the FLVS to negotiate a specified cooperative agreement with the DOC to implement the FLVS JEP.
- Specifies that the FLVS JEP does not prohibit a student from participating in other DOC educational programs.

The bill also modifies the definition of an FLVS full-time equivalent student to differentiate between online learning and blended learning funding models. In addition, the bill adds that students enrolled in the FLVS JEP are authorized for funding beyond the 180-day regular term.

The fiscal impact of the bill is indeterminate, but significant. See Section V.

The bill takes effect on July 1, 2022.

## II. Present Situation:

### Digital Learning Now Act

In 2011, the Florida Legislature created the Digital Learning Now Act to provide all kindergarten through grade 12 students with access to multiple high quality part-time and full-time digital learning options, including:<sup>1</sup>

- Part-time or full-time virtual charter school instruction.
- Florida Virtual School (FLVS).
- School district operated part-time or full-time virtual instruction program options.
- Other online and blended courses.

### Blended Learning

School districts and charter schools may deliver blended learning courses consisting of both traditional classroom and online instructional techniques. Students in a blended learning course must be full-time students of the school, and the funding, performance, and accountability requirements for blended learning courses are the same as those for traditional courses.<sup>2</sup>

District virtual schools, virtual charter schools, and the FLVS are not expressly authorized to offer blended learning courses and are only funded through the Florida Education Finance Program (FEFP) for online courses completed through virtual learning.<sup>3</sup>

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<sup>1</sup> Section 1002.321(4) and Section 1002.455, F.S.

<sup>2</sup> Section 1003.498(1), F.S. Section 1002.33(7)(a), F.S.

<sup>3</sup> Section 1011.61, F.S.

## Virtual Learning

Florida defines a virtual instruction program as a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>4</sup>

Virtual learning has grown significantly over the last decade and, more recently, was thrust into the spotlight because of the shift to remote instruction caused by the COVID-19 pandemic. In the 2019-2020 school year, full-time virtual schools enrolled more than 330,000 students, and statewide programs provided over 1 million courses.

### *The Florida Virtual School*

The FLVS was established to develop and deliver online and distance learning education,<sup>5</sup> and is part of the Florida public school system.<sup>6</sup> The Commissioner of Education (commissioner) is charged with monitoring the FLVS.<sup>7</sup> The FLVS is required to serve any student in the state who meets the profile for success, giving priority to students:<sup>8</sup>

- Who need expanded access to courses in order to meet their educational goals.
- Seeking accelerated access to obtain a high school diploma at least one semester early.
- Who are children of an active duty member of the United States Armed Forces whose home of record or state of legal residence is Florida.

### FLVS Governance

The FLVS is governed by a Board of Trustees (BOT), comprised of seven members appointed by the Governor to four-year staggered terms that must, among other requirements:<sup>9</sup>

- Be responsible for the development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and self-sufficient.
- Aggressively seek avenues to generate revenue to support future endeavors, and enter into agreements with distance learning providers.
- Be responsible for the administration and control of all local school funds.
- Administer and maintain personnel programs for all employees.
- Establish priorities for student enrollment.
- Maintain financial records and accounts.

The BOT must submit an annual report to the Governor, the Legislature, the commissioner, and the SBE that addresses the FLVS and FLVS Global.<sup>10</sup> The report must describe operations, marketing, finances, accomplishments, recommendations regarding the unit cost of providing

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<sup>4</sup> Section 1002.45(1), F.S.

<sup>5</sup> Section 1002.37(1), F.S.

<sup>6</sup> Section 1000.04(4), F.S.

<sup>7</sup> Section 1002.37(1)(a), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 1002.37(2), F.S.

<sup>10</sup> FLVS Global provides instruction courseware, training, and expertise to online and blended programs for schools, districts, states, and international agencies. FLVS Global is now known as Flexpoint Education Cloud. FlexPoint Education Cloud, *About us*, <https://www.flvsglobal.net/about-us/> (last visited Jan. 27, 2022).Section 1002.37(7), F.S.

services to students, and recommendations regarding an accountability mechanism to assess the effectiveness of the services provided.

### FLVS Operations

The FLVS is authorized to provide full-time and part-time instruction for students in kindergarten through grade 12.<sup>11</sup> Public school students receiving full-time and part-time instruction by the FLVS must take all statewide assessments required pursuant to law.<sup>12</sup> In addition, the FLVS offers a comprehensive selection of courses that fulfill all state standards, including core courses, world language electives, Advanced Placement,<sup>13</sup> Advanced International Certificate of Education,<sup>14</sup> and Career and Technical Education (CTE)<sup>15</sup> courses.

As a public school, federal law<sup>16</sup> requires FLVS to provide full-time enrolled students, regardless of disability, with an equal opportunity to participate in and benefit from the school's education program.<sup>17</sup>

The FLVS must receive a school grade for students receiving full-time instruction.<sup>18</sup>

Students enrolled full-time may earn a standard high school diploma from FLVS.<sup>19</sup> However, the FLVS does not currently offer a General Education Development (GED)<sup>20</sup> high school equivalency diploma program.<sup>21</sup>

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<sup>11</sup> Section 1002.37(9), F.S.

<sup>12</sup> Section 1002.37(10), F.S.

<sup>13</sup> The AP program offers students the opportunity to take college-level courses and exams in high school and earn college credit. CollegeBoard, *Advanced Placement Program (AP)*, <https://parents.collegeboard.org/college-board-programs/advanced-placement-program#:~:text=Advanced%20Placement%20Program%20%28AP%29%201%20Fast%20Facts.%20There,just%20like%20when%20they%20take%20any%20other%20course.> (last visited Jan. 28, 2022).

<sup>14</sup> The Cambridge Advanced International Certificate of Education (AICE) Diploma is an international curriculum and examination system that emphasizes the value of broad and balanced study. Cambridge Assessment International Education, *Cambridge AICE Diploma*, <https://www.cambridgeinternational.org/programmes-and-qualifications/cambridge-advanced/cambridge-aice-diploma/> (last visited Jan. 28, 2022).

<sup>15</sup> FLVS offers industry certification pathways in web application development and programming, applied cybersecurity, agriculture communications, finance, education and training, and hospitality and tourism management. FLVS, *Get Inspired with Career and Technical Education at FLVS, Find Your Path*, <https://www.flvs.net/online-courses/career-education-courses?source=courses/flex> (last visited Jan. 28, 2021).

<sup>16</sup> The Individuals with Disabilities Education Act (IDEA) requires a FAPE to eligible children<sup>16</sup> with disabilities and ensures special education and related services are provided to those children. Children from birth through age 21 may receive intervention, special education and related services. U.S. Department of Education, *IDEA Individuals with Disabilities Education Act*, <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose> (last visited Jan. 27, 2022).

<sup>17</sup> FLVS, *FLVS Full Time Frequently Asked Questions*, <https://www.flvs.net/full-time/more?source=2020info#faqs> (last visited Jan. 28, 2022).

<sup>18</sup> Section 1002.37(11), F.S.

<sup>19</sup> FLVS, *FLVS Full Time Frequently Asked Questions*, <https://www.flvs.net/full-time/more?source=2020info#faqs> (last visited Jan. 28, 2022).

<sup>20</sup> Florida offers the 2014 GED for Florida students seeking a high school equivalency diploma. Rule 6A-6.0201, F.A.C. Florida Department of Education, *High School Equivalency Diploma Program – GED Testing*, <https://www.fldoe.org/academics/career-adult-edu/hse/> (last visited Jan. 28, 2022).

<sup>21</sup> FLVS, *FLVS High School Courses*, <https://www.flvs.net/online-high-school-courses> (last visited Jan. 28, 2022). Email, Mike Miller, FLVS (Jan. 28, 2022).

### FLVS Funding

The FEFP is the primary mechanism for funding the operating costs of FLVS. Under the FEFP, financial support for education is based on the full-time equivalent<sup>22</sup> (FTE) student membership in public schools.<sup>23</sup> An FTE student in a virtual instruction program, virtual charter school, or FLVS is funded on performance and only funded if the student completes the course with a passing grade or credits earned.<sup>24</sup>

Student membership in programs scheduled for more than 180 days is limited to students enrolled in Department of Juvenile Justice (DJJ) education programs, FLVS, and other specified virtual instruction programs.<sup>25</sup> Funding on the basis of FTE membership beyond the 180-day regular term is provided only for students enrolled in DJJ programs.<sup>26</sup>

During the 2019-2020 school year, FLVS served 12,567 full-time students and over 360,753 semester courses were completed by part-time students.<sup>27</sup>

### **Florida High School Diploma**

#### *Requirements*

Florida law establishes academic requirements for earning a standard high school diploma to include five options.<sup>28</sup>

- 24-credit program;<sup>29</sup>
- Career and Technical Education Pathway;<sup>30</sup>
- An International Baccalaureate curriculum;<sup>31</sup>
- An Advanced International Certificate of Education curriculum;<sup>32</sup> or
- 18-credit Academically Challenging Curriculum to Enhance Learning option.<sup>33</sup>

The 24 credits required for a standard high school diploma include:<sup>34</sup>

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<sup>22</sup> A “full-time student” is one student on the membership roll of one school program or a combination of school programs for the school year or the equivalent for instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program. Section 1011.61(1), F.S.

<sup>23</sup> Section 1011.62, F.S.

<sup>24</sup> DOE, *FTE General Instructions 2021-22 (2021)*, available at <https://www.fldoe.org/core/fileparse.php/7508/urlt/2122FTEGeneralInstructions.pdf>, at 39-50. Section 1011.61(1)(c)1.b(III)-(VI), F.S.

<sup>25</sup> Section 1011.61 (1)(c)2., F.S.

<sup>26</sup> Section 1011.62(1)(f), F.S.

<sup>27</sup> DOE, *Fact Sheet, Office of Independent Education and Parental Choice (2021)*, available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

<sup>28</sup> In addition to the five options available for students to earn a standard diploma, students with disabilities have two additional options. Rule 6A-1.09963, F.A.C. DOE, *Standard Diploma Requirements*, <https://www.fldoe.org/core/fileparse.php/7764/urlt/StandardDiplomaRequirements.pdf> (last visited Jan., 25, 2022).

<sup>29</sup> Section 1003.4282(1)(a), F.S.

<sup>30</sup> Section 1003.4282(10), F.S.

<sup>31</sup> Section 1003.4282(1)(a), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Section 1002.3105(6), F.S.

<sup>34</sup> Section 1003.4282(3)(a)-(g), F.S.

- Four credits in English Language Arts (ELA);
- Four credits in mathematics;
- Three credits in science;
- Three credits in social studies;
- One credit in fine or performing arts, speech, and debate, or practical arts;
- One credit in physical education; and
- Eight credits in electives.

Within the 24 credits, at least one course must be completed through online learning.<sup>35</sup> In addition to successful completion of the required courses a student must earn a cumulative grade point average (GPA) of 2.0 on a 4.0 scale<sup>36</sup> and must pass the following required statewide standardized assessments:

- Grade 10 ELA assessment or earn a concordant score,<sup>37</sup> and
- Algebra I end-of-course (EOC) assessment or earn a comparative score.<sup>38</sup>

### **School Grading System**

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.<sup>39</sup> School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,<sup>40</sup> or to determine whether a school is eligible for school recognition funds.<sup>41</sup>

### ***School improvement rating***

School improvement ratings are calculated for alternative schools and exceptional student education center schools that choose to receive a school improvement rating in lieu of a school grade.<sup>42</sup> The commissioner prepares an annual report on the performance of each school receiving a school improvement rating.<sup>43</sup> Schools that elect a school improvement rating in lieu of a school grade will have the rating based on student learning gains for statewide, standardized assessments for ELA and mathematics<sup>44</sup>

<sup>35</sup> Section 1003.4282(4), F.S.

<sup>36</sup> Section 1003.4282(3) and s. 1003.4282(6)(a), F.S.

<sup>37</sup> Section 1003.4282(3)(a), F.S. Students and adults who have not yet earned their required passing score on the Grade 10 FSA ELA Assessment, may meet this testing requirement to qualify for a high school diploma by earning a concordant passing score on the SAT or ACT. Rule 6A-1.09422(8)(a)2., F.A.C.

<sup>38</sup> Section 1003.4282(3)(b)1. and (9)(d)2., F.S. Students and adults who have not yet earned their required passing score on the Algebra 1 EOC assessment, may meet this testing requirement to qualify for a high school diploma by earning a comparative passing score on the Math section of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), the SAT or the ACT or on the Geometry EOC assessment. Rule 6A-1.09422(8)(b)2., F.A.C.

<sup>39</sup> DOE, *2019 School Grades Overview* (2019), available at

<http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

<sup>40</sup> See s. 1008.33(4), F.S.

<sup>41</sup> See s. 1008.36, F.S.

<sup>42</sup> Section 1008.341; 1008.3415, F.S.; Rule 6A-1.099822 and 6A-1.099828, F.A.C.

<sup>43</sup> Section 1008.341(1), F.S.

<sup>44</sup> DOE, *2020-21 Guide to Calculating School Improvement Ratings, July 2021*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SIRCalcGuide19.pdf>.

The DJJ education program also includes the school improvement ratings required for alternative schools, however, the calculation is customized to meet the needs of the DJJ population.<sup>45</sup>

### **Department of Corrections**

The Department of Corrections (DOC) by mission is to provide a continuum of services to meet the needs of those entrusted to its care, creating a safe and professional environment with the outcome of reduced victimization, safer communities, and an emphasis on the premium of life.<sup>46</sup> One aspect of the DOC's responsibility to affect positive results for the reintegrating the population and Florida's communities is to operate the Correctional Education Program (CEP).<sup>47</sup>

#### ***Education for State Prisoners***

Section 944.801, F.S., establishes the CEP under the DOC, which must be composed of the educational facilities and services of all institutions and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:<sup>48</sup>

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to specified staff.
- Monitoring, assessing, and reporting inmate education program services as required.
- Approving educational programs and developing procedures for admission.
- Entering into agreements, as appropriate, with colleges, universities, and public or private school districts, including charter schools and the FLVS.
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution.
- Selecting programs to add or delete from the vocational curriculum.
- Ensuring that every inmate who has 2 years or more remaining to serve on his or her sentence and who lacks basic and functional literacy skills<sup>49</sup> attends not fewer than 150 hours of sequential instruction in a correctional adult basic education<sup>50</sup> program.
- Recommending the award of additional incentives for inmates who receive a high school equivalency diploma or a vocational certificate.
- Ensuring that all education staff are certified in accordance with the DOE standards.

The CEP is established in 51 state-operated institutions and 7 privately owned facilities across Florida.<sup>51</sup> It is designed to prepare students for the GED examination and receipt of a State of

<sup>45</sup> DOE, *2020-21 Guide to Calculating DJJ Accountability Ratings* (2020), available at, <https://www.fldoe.org/core/fileparse.php/18534/urlt/DJJCalcGuide21.pdf>. Section 1003.52(3)(d), F.S.

<sup>46</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.

<sup>47</sup> *Id.*

<sup>48</sup> Section 944.801(3), F.S. The Secretary of Corrections is the head of the DOC and is responsible for, among other duties, to provide for the direct management of all departmental programs, including the coordination and delivery of education and job training to the offenders in the custody of the department. Section 20.315(3), F.S.

<sup>49</sup> "Functional literacy," which is also referred to as "intermediate adult basic education," means the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by means approved for this purpose by the State Board of Education. Section 1004.02(15), F.S.

<sup>50</sup> "Adult basic education" means courses of instruction designed to improve the employability of the state's workforce through instruction in mathematics, reading, language, and workforce readiness skills at grade level equivalency. Section 1004.02(1), F.S.

<sup>51</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.



Florida high school equivalency diploma in accordance with DOE adult education curriculum frameworks and performance standards.<sup>52</sup> The CEP also offers CTE programs that are also aligned with DOE curriculum frameworks and performance standards. In addition to the opportunity to complete the GED and a variety of CTE certifications, the DOC offers job assignment credentialing programs that provide job-related instruction and industry-related credentials designed to improve the employability of Florida's workforce.<sup>53</sup> The DOC holds active and outcome-based agreements and contracts with community providers, universities, and colleges to provide credits and credentials leading to licensure within the existing training courses in several state-operated institutions.<sup>54</sup>

Participation in the CEP is not mandatory. The CEP operates by an assessment-based student progress monitoring process to gauge academic skills and readiness for the GED exam with educational services directed to inmates with the most critical need. This educational approach has been deliberately developed to address the educational needs of incarcerated adults while avoiding some of the challenges of treating them as youthful learners.<sup>55</sup>

Not considered to be primarily an educational agency, but rather the state corrections agency for adjudicated adults, the CEP does not receive funding through the FEFPP, tabulate grade point averages, monitor credit accrual, nor retain or issue official transcripts for adult students.<sup>56</sup>

As of January 2021, the DOC incarcerates approximately 80,000 persons. During 2020-2021, a total of 14,877 inmates participated in academic education programs resulting in the conferring of 812 GEDs with an operational cost of approximately \$1,300 per student. As measured through progress monitoring, 3,968 students made the following learning gains:<sup>57</sup>

- 45.2 percent demonstrated gains of 1 or more levels in mathematics;
- 54.1 percent advanced 1 or more levels in reading; and
- 51 percent showed academic gains of 1 or more levels in language.

Traditionally the DOC tends to concentrate educational needs on the younger demographic, especially those who qualify under IDEA<sup>58</sup> and are entitled to education services until the age of 22. Not all such inmates qualify for special education services, but for those that do, the DOC provides the required accommodations and modifications.<sup>59</sup>

Currently there are 1,634 inmates under 22 years of age, housed at 100 institutions across the state, including 595 located at a privately operated facility managed by the Department of Management Services. Others are located at work camps and community release centers. Of

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<sup>52</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.

<sup>53</sup> *Id.*

<sup>54</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022), at 4.

<sup>55</sup> *Id.* at 2.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 3.

<sup>58</sup> The Individuals with Disabilities Education Act (IDEA) is a federal law that makes available a FAPE to eligible children<sup>58</sup> with disabilities throughout the nation and ensures special education and related services are provided to those children. Children from birth through age 21 may receive intervention, special education and related services. U.S. Department of Education, *IDEA Individuals with Disabilities Education Act*, <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose> (last visited Jan. 27, 2022).

<sup>59</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).



these, 1,196 are listed as not having a high school diploma or GED, and 206 are currently in restrictive housing or a disciplinary confinement setting. The highest level of education claimed is as follows:<sup>60</sup>

Grade Level	Number of Inmates
Fourth Grade	2
Fifth Grade	2
Sixth Grade	15
Seventh Grade	25
Eighth	89
Ninth Grade	147
Tenth Grade	205
Eleventh Grade	258
Twelfth Grade	126
First Year of College	1
None	256
Unknown	70
<b>Total</b>	<b>1196</b>

Within this demographic, 380 are verified to have cognitive disabilities and are federally required to receive special education services. Of the 380 special education eligible inmates, 133 refused services and programming.<sup>61</sup>

In addition, the DOC has received \$750,000 in state funds to provide an online career education and high school diploma program for the same demographic of students. As authorized in the appropriation, the DOC may contract with the FLVS or similar provider to provide the program.<sup>62</sup>

**III. Effect of Proposed Changes:**

CS/SB 1226 creates s. 1002.371, F.S., to establish the Florida Virtual School Justice Education Program (FLVS JEP) to serve specified Department of Correction (DOC) inmates, and makes a number of modifications to Florida Virtual School (FLVS) responsibilities and funding provisions.

**Florida Virtual School**

The bill modifies the purpose of the FLVS to replace the development and delivery of online and distance learning education with the development and delivery of online distance and blended learning education. In addition the bill:

- Adds students enrolled in the FLVS JEP as a priority population to be served by the school.

<sup>60</sup> DOC, 2022 Legislative Bill Analysis of SB 1226 (Jan. 26, 2022), at 4.

<sup>61</sup> Inmate participation in the CEP is voluntary. DOC, 2022 Legislative Bill Analysis of SB 1226 (Jan. 26, 2022), at 4.

<sup>62</sup> *Id.* at 6. s. 4, ch. 2020-111, L.O.F. Specific Appropriation, 714, s. 4, ch. 2021-36, L.O.F. The DOC posted a request for proposal for this program in Oct. 2020. Due to the lack of response, the DOC initiated a new procurement, an Intent to Negotiate (ITN-21-041) in November 2021 with responses scheduled back in March 2022. Email, Senate Appropriations Subcommittee on Education (Jan. 28, 2022).

- Requires the Board of Trustees (BOT) to enter into agreements with online distance and blended learning providers, rather than distance learning providers, and requires the BOT to submit to the State Board of Education (SBE) the number of students enrolled in the FLVS JEP program.
- Removes authorization for the BOT to adopt specified procedures.
- Beginning in 2022-2023, requires the FLVS to include specified FLVS JEP information in the required annual report submitted to the Governor, Legislature, Commissioner of Education (commissioner), and SBE.
- Requires students enrolled in the FLVS JEP to take all industry certification exams, national assessments, and statewide standardized assessment at the institution or facility operated by, or under the supervision of the DOC.
- Requires that FLVS JEP school performance be assessed based on demonstrated student learning gains and student progression.

### ***Florida Virtual School Justice Education Program***

The bill requires the FLVS to establish the FLVS JEP beginning in the 2022-2023 school year to offer inmates younger than 22 years of age housed in institutions and facilities operated by, or under the supervision of, the DOC the opportunity to earn a standard high school diploma. Specifically the bill:

- Requires blended or online learning courses to be delivered in an educational setting under the supervision of the DOC by FLVS-certified personnel.
- Defines a blended learning course as a course consisting of both traditional classroom and online instructional techniques. Students in such courses must be full-time students of the school, and that the funding, performance, and accountability requirements for such courses are the same as those for traditional classroom courses.
- Requires the FLVS JEP to include and receive funding for a specified summer school period.
- Authorizes a student who turns 22 years of age to remain in the program if approved, however funding for such a student through the FEFP is prohibited.
- Requires the DOE, with the assistance of the FLVS and the DOC, to select a common student assessment instrument and protocol for measuring student learning gains for students enrolled in the FLVS JEP. The assessment instrument and protocol must be jointly reviewed for effectiveness with changes implemented as necessary.
- Authorizes a student who is removed from the program to appeal to the DOE to seek reinstatement, subject to the final determination by the commissioner.
- Requires by July 1, 2023, and annually thereafter, the FLVS to negotiate a cooperative agreement with the DOC for the delivery of educational services to implement the FLVS JEP, which includes:
  - Roles and responsibilities of the FLVS and the DOC.
  - Resolution of administrative issues.
  - Allocation of resources.
  - Procedures for educational evaluation for exceptional education students.
  - Procedures for individualized progress monitoring plans.
  - Curriculum and delivery of instruction, including resources required for technology.
  - Procedures for assessments.
  - Classroom management procedures and attendance policies.
  - Procedures for the provision of qualified personnel.

- Provisions for improving skills in teaching and working with students in the FLVS JEP.
- Transition plans for student moving into and out of the FLVS JEP.
- Procedures for the documentation of credits earned.
- Methods and procedures for dispute resolution.
- Provisions for ensuring the safety of educational personnel and support of the FLVS JEP.
- Provides that FLVS is not required to provide more services than can be supported by the funds generated by students participating in the FLVS JEP.
- Specifies that participation in the FLVS JEP does not prohibit a student from participating in other DOC educational programs.
- Requires the SBE to adopt rules to administer the FLVS JEP.

The bill also modifies the definition of an FLVS full-time equivalent student to differentiate between online learning and blended learning funding models. In addition, the bill adds that students enrolled in the FLVS JEP are authorized for funding beyond the 180-day regular term.

The establishment of the FLVS JEP may offer additional opportunities for up to 1,196 inmates to earn a standard high school diploma. It is unclear if this program competes with the \$750,000 allocation provided through the General Appropriations Act to the DOC for a similar program.<sup>63</sup>

Clarification may also be needed to ensure eligible inmates at a privately operated facility managed by the Department of Management Services may participate in the FLVS JEP.

The bill takes effect on July 1, 2022.

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

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None.

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<sup>63</sup> DOC, 2022 *Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

There is an indeterminate significant negative fiscal impact to the future costs for adding the additional FTE students to the Florida Education Finance Program.<sup>64</sup>

The Department of Corrections (DOC) recommends adding additional full-time equivalent (FTE) positions and costs as follows:<sup>65</sup>

- Two FTE in the central office for infrastructure and security at a cost of \$194,472.
- One FTE per site at cost of \$73,462 per site to support the lifecycle management of the equipment, infrastructure, and related security to support the Florida Virtual School Justice Education Program (FLVS JEP). To scale the program statewide, the DOC recommends 50 site-based FTE at a cost of \$3,673,103.

In addition, the DOC estimates a technology impact to provide for the computer workstations, infrastructure, software licensing for a single site with 200 workstations to cost \$400,000-\$550,000 with \$200,000-\$250,000 of recurring funding annually.<sup>66</sup> It is unclear what the technology impact may be to scale the program across the 100 facilities where eligible inmates are currently housed.

It is also unclear how these costs may be shared between the DOC and Florida Virtual School (FLVS) and if there is an additional fiscal impact to the FLVS or Department of Education to implement the FLVS JEP.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

There may be a conflict in statutory responsibilities authorizing the Commissioner of Education to act as the ultimate decision-maker in hearing inmate student appeals regarding reinstatement of a student inmate who has been removed from the Florida Virtual School Justice Education Program. Decisions impacting the daily lives of inmates are under the purview of the Secretary of Correction pursuant to s. 20.315, F.S.<sup>67</sup>

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<sup>64</sup> Email, Senate Appropriations Subcommittee on Education (Jan. 30, 2022).

<sup>65</sup> DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 11.

**VIII. Statutes Affected:**

This bill substantially amends sections 1002.37, 1011.61, and 1011.62 of the Florida Statutes.

This bill creates section 1002.371 of the Florida Statutes.

**IX. 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 on February 1, 2022:**

The committee substitute modifies provisions of s. 1002.37, F.S., the Florida Virtual School (FLVS). Specifically, the committee substitute:

- Revises the purpose of the FLVS to provide for the development and delivery of online distance and blended learning education rather than the development and delivery of online and blended learning education.
- Requires the Board of Trustees (BOT) to enter into agreements with online distance and blended learning providers, rather than blended learning providers,
- Removes authorization for the FLVS BOT to adopt specified procedures.
- Restores to current law, FLVS funding provisions under s. 1002.37, F.S.

**B. Amendments:**

None.