

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 439 Corporal Punishment
SPONSOR(S): Waldron and others
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Education Quality Subcommittee		Wolff	Sanchez
2) Education & Employment Committee			

SUMMARY ANALYSIS

School districts and school personnel are authorized by current law to use corporal punishment as a method of maintaining student discipline. "Corporal punishment" means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rule.

The bill amends the provisions of Florida law governing corporal punishment to require parents to opt-in to the use of corporal punishment on their children. The bill requires that school principals be responsible for the implementation and administration of corporal punishment in schools.

The bill prohibits the use of corporal punishment as discipline for the following students: exceptional education students; students with an individual education plan; students who attend an alternative school; children and youths who are experiencing homelessness; and students covered under s. 504 of the Rehabilitation Act of 1973 and 29 U.S.C. s. 794.

The bill requires each principal to annually report the following information to the Office of Safe School and the school district: the number of instances where corporal punishment was used during the school year; the number of students who were punished using corporal punishment during the school year; the number of students who were punished more than once using corporal punishment during the school year.

The bill adds the new requirements related to corporal punishment to the list of education statutes that charter schools are required to comply with to provide all Florida's public school families the same limitations in the application of corporal punishment.

The bill does not have a fiscal impact.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Student Discipline

Florida law requires each district school board to provide for the proper accounting for all students; for the attendance and control of students at school; and for proper attention to health, safety, and other matters relating to the welfare of students. School boards must adopt rules, policies, and procedures for addressing disciplinary issues and providing for a safe and orderly school environment.¹

Each school board must adopt a code of student conduct that is based upon its rules governing student conduct and discipline.² The code of student conduct must include, but is not limited to:

- consistent policies and specific grounds for disciplinary action;
- penalties and procedures for acts requiring discipline, including in-school suspension, out-of-school suspension, expulsion, and corporal punishment;
- an explanation of the rights and responsibilities of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities;
- a dress code policy and penalties and procedures for addressing dress code violations;
- notice that student possession of alcohol, drugs, weapons, or firearms; violence against school district personnel; disruptive behavior on a school bus; sexual harassment; use of a wireless communications device in a criminal act; and threats or false reports made against school property, personnel, or transportation are grounds for disciplinary action and may result in the imposition of criminal penalties and referral to mental health services;
- policies for the assignment of violent or disruptive students to alternative educational programs or referral of such students to mental health services identified by the school district;
- student eligibility standards and related student disciplinary actions regarding student participation in extracurricular activities;
- criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest; and
- criteria for assigning a student who commits a petty act of misconduct, as defined in the district school board zero tolerance for crime and victimization policy, to a school-based intervention program.³

At the beginning of each school year, the code of student conduct must be:

- distributed to all teachers, school personnel, students, and parents;
- made available in the school district's student handbook or similar publication; and discussed in student classes, school advisory council meetings, and parent and teacher association or organization meetings at the beginning of the school year.⁴

Current law provides an extensive description of the roles, duties, and authority of each personnel classification charged with maintaining a safe and orderly school environment and enforcing disciplinary violations.⁵ Each district school superintendent must, among other duties, recommend to the district school board plans for promoting the welfare of students, including attendance, discipline,

¹ Section 1006.07(1)(a), F.S.

² Section 1006.07(2), F.S.

³ Section 1006.07(2)(a)-(o), F.S.

⁴ Section 1006.07(2), F.S.

⁵ See ss. 1003.32 (classroom teachers and school principals), 1006.08 (superintendents), 1006.09 (school principals), and 1006.10, F.S. (school bus drivers).

health and safety, and other matters. Each superintendent must fully support the disciplinary authority of school principals, classroom teachers, and school bus drivers.⁶

Generally speaking, the law provides that each classroom teacher “shall have such authority for the control and discipline of students as may be assigned to him or her by the principal” Consistent with the school district’s code of student conduct, classroom teachers have authority to establish classroom rules of conduct; establish and implement consequences for infractions; and remove disobedient, disorderly, or violent students from the classroom.⁷

Each school principal must, among other responsibilities, develop policies for delegating responsibility for the control and direction of students to classroom teachers, other instructional staff, and school bus drivers. Each school principal must fully support the authority of such personnel to remove disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students from the classroom and the school bus. The principal must consider disciplinary recommendations made by such personnel when making disciplinary referrals.⁸

Corporal Punishment

School districts and school personnel are authorized by current law to use corporal punishment as a method of maintaining student discipline. “Corporal punishment” means the moderate use of physical force or physical contact by a teacher or principal as may be necessary to maintain discipline or to enforce school rules.⁹

The use of corporal punishment must be approved by the principal before it is used, but approval is not necessary for each specific instance in which it is used.¹⁰ The principal must prepare guidelines for administering such punishment which identify punishable offenses, the conditions for administering such punishment, and the school staff who are authorized to administer the punishment.¹¹ A teacher or principal may only administer corporal punishment in the presence of another adult who is informed beforehand, and in the student’s presence, of the reason for the punishment.¹²

If requested by a student’s parent, a teacher or principal who has administered corporal punishment to the student must provide a written explanation of the reason for the punishment and the name of the other adult who was present.¹³ District school boards may prohibit the use of corporal punishment if a written program of alternative control or discipline is adopted.¹⁴ A school board that has a policy authorizing the use of corporal punishment must review its policy once every three years during a school board meeting.¹⁵

Corporal Punishment Data

As authorized by law, corporal punishment is used by a number of school districts across the state. The following charts provides that data, as reported by district to the Department of Education, for the prior 3 school years:

Incidents of Corporal Punishment 2020-2023		
School Year	Number of Districts	Number of Incidents

⁶ Section 1006.08(1), F.S.

⁷ Section 1003.32(1), F.S.

⁸ Section 1006.09(1)(a), F.S.

⁹ Section 1003.01(7), F.S. The term does not include the use of reasonable force by a teacher or principal necessary to protect themselves or other students from disruptive behavior.

¹⁰ Section 1003.32(1)(k)1., F.S.

¹¹ *Id.*

¹² Section 1003.32(1)(k)2., F.S.

¹³ Section 1003.32(1)(k)3., F.S.

¹⁴ Section 1006.07(1)(a), F.S.

¹⁵ Section 1002.20(4)(c)2., F.S.

2020-2021 ¹⁶	21	736
2021-2022 ¹⁷	20	717
2022-2023 ¹⁸	18	509

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor.¹⁹ This performance contract is known as a “charter.”²⁰ The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.²¹ One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”²²

Charter schools are exempt from a number of Florida’s Early Learning-20 Education Code statutes,²³ except for statutes that pertain specifically to charter schools.²⁴ Statutory provisions that expressly include charter schools within their scope include statutes pertaining to student assessment and school grading; the provision of services to students with disabilities; civil rights; student health, safety and welfare; public records, public meetings and public inspection; criminal and civil penalties and provisions relating to educator compensation, contracts and the substantive requirements relating to performance evaluations.²⁵ Additionally, charter schools must be in compliance with statutes relating to school safety, including safe-school officers; school safety plans, tools, and reporting; school personnel training on youth mental health; and reporting of involuntary examinations.²⁶ Therefore, charter schools are authorized by current law to use corporal punishment as a method of maintaining student discipline.

Effect of Proposed Changes

The bill amends the provisions of Florida law governing corporal punishment to require parents to opt-in to the use of corporal punishment on their children. The bill requires that school principals be responsible for the implementation and administration of corporal punishment in schools.

Specifically, the bill requires that each principal that elects to use corporal punishment in his or her school must at the beginning of the school year provide each parent of a student enrolled at his or her school a written form that allows the parent to authorize the use of corporal punishment when disciplining his or her child. The form is required to read:

Do you authorize the use of corporal punishment on your child? Florida Statutes defines the term 'corporal punishment' as 'the moderate use of physical force or physical contact by a principal as may be necessary to maintain school discipline or to enforce school rule.' Your school district's code of student conduct provides further information on how corporal punishment may be administered at your student's school. Please check YES if you consent to the use of corporal punishment on your student or

¹⁶ Florida Department of Education, *Discipline Data*, <https://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Jan. 27, 2024) (click “Discipline Data, 2020-21” hyperlink to access the excel file).

¹⁷ Florida Department of Education, *Discipline Data*, <https://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Jan. 27, 2024) (click “Discipline Data, 2021-22” hyperlink to access the excel file).

¹⁸ Florida Department of Education, *Discipline Data*, <https://www.fldoe.org/safe-schools/discipline-data.stml> (last visited Jan. 27, 2024) (click “Discipline Data, 2022-23” hyperlink to access the excel file); *see also* Graham Bernstein, Florida Student Policy Forum, University of Florida, *Corporal Punishment in Florida’s Public Schools, 2020-2023*, <https://infogram.com/school-corporal-punishment-in-florida-2020-2021-2021-2022-and-2022-2023-1h1749vggqy1q6z> (last visited Jan. 27, 2024) (providing a visualization of statewide corporal punishment data for 2020-2023).

¹⁹ Section 1002.33(1), (7), and (9)(a), F.S.

²⁰ Section 1002.33(7) and (9)(c), F.S.

²¹ Section 1002.33(2)(b)3. and (16), F.S.

²² Section 1002.33(2)(a)1., F.S.

²³ Chapters 1000 through 1013, F.S., comprise the Florida Early Learning-20 Education Code. Section 1000.01(1), F.S.

²⁴ Section 1002.33(16), F.S.

²⁵ *Id.*

²⁶ Section 1002.33(16)(b)8.-15., F.S.

check NO if you do not consent to the use of corporal punishment on your student and provide your signature. You may contact your student's principal with any relevant questions about the administration of corporal punishment.

Each principal must collect and store the completed forms. The bill expressly provides that a parent's failure to return a completed form bars the use of corporal punishment on that parent's student.

The bill requires, prior to the application of corporal punishment, the principal to, in the presence of another adult, verify that the parent of such student has completed the parental consent form and consented to allow the administration of corporal punishment on his or her student. Additionally, after the administration of corporal punishment, the principal must provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present and who witnessed the principal verify the student's parental consent form before the administration of the corporal punishment.

The bill prohibits the use of corporal punishment as discipline for the following students:

- Exceptional education students;
- Students with an individual education plan;
- Students who attend an alternative school;
- Children and youths who are experiencing homelessness; and
- Students covered under s. 504 of the Rehabilitation Act of 1973 and 29 U.S.C. s. 794.

The bill requires each principal to annually report the following information to the Office of Safe Schools and the school district:

- The number of instances where corporal punishment was used during the school year.
- The number of students who were punished using corporal punishment during the school year.
- The number of students who were punished more than once using corporal punishment during the school year.

The bill adds the new requirements related to corporal punishment to the list of education statutes that charter schools are required to comply with to provide all Florida's public school families the same guardrails in the application of corporal punishment.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.20, F.S.; conforming provisions to changes made by the act.

Section 2: Amends s. 1002.33, F.S.; requiring charter schools to comply with general law relating to corporal punishment.

Section 3: Amends s. 1003.01, F.S.; conforming provisions to changes made by the act.

Section 4: Amends s. 1003.32, F.S.; deleting provisions authorizing teachers to administer corporal punishment; providing duties of and responsibilities for principals relating to corporal punishment; requiring a specified notification be provided to parents relating to corporal punishment; providing requirements for a student to be disciplined using corporal punishment; prohibiting the use of corporal punishment on specified students; providing reporting requirements relating to corporal punishment.

Section 5: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.