

Senate Bill 120 - Frequently Asked Questions

(From an FAPT training session with district transportation personnel, DOE officials, and DOC officials on June 30, 2004.)

1. Q- What do I do about a child with a disability living in an apartment complex whose Individual Educational Plan (IEP) requires “door-to-door” pick-up, with a conditional releasee residing in the same complex?

A- While we would have to seek the legally correct answer, precedent has been that when there is a conflict between the federal Individuals with Disabilities Education Act (IDEA) and state law, IDEA normally prevails. In no case, however, should a district put a child at risk simply to comply with IDEA, and it is presumed that a child in these circumstances would always be under the custodial supervision of one or more assigned adults (the parents or guardians before pick-up and after drop-off, and school officials in between).

2. Q- Will the minimum 1,000 feet distance to the bus stop be measured radially (as the crow flies) or as the walk distance along an available route?

A- Personnel will use available systems established such as computer routing software and programs or the Global Positioning System (GPS) database, to determine the 1,000 feet radius around the releasee’s residence. These systems, designed to measure the distance "as the crow flies," are the preferred method. The 1,000 feet distance will normally be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, or school bus stop. The distance will not normally be measured by a pedestrian route or automobile route. If there are special circumstances, however, that render it more appropriate to use a walking distance measurement, the situation should be discussed with the parole officer. Examples would include a lake, fence, or other obstruction that makes the effective proximity of the releasee to the bus stop greater than 1,000 feet.

Once the radius is established, the school district will determine whether any prohibited location(s) is within the 1,000 feet radius. If it is determined that a known school bus stop is located within or close to this radius, the measuring wheel may be utilized to obtain another measurement at the discretion of the school district and parole officer and her/his supervisor.

1. *The distance will be measured from the property line if the offender's residence is a single dwelling unit. If the offender's residence is a multi-dwelling unit, such as an apartment building or duplex, the distance will be measured from the front or back door of the offender's dwelling unit.*

3. Q- What do we do about a releasee whose own child (same residence) rides the bus?

A- There are no listed provisions or exemptions within the law for such situations. Our best suggestion for the select group of conditional releasees, if any, who have children who qualify for school bus transportation would be to have the bus stop located outside of the 1,000 feet corridor unless it is a single child stop where the only student at the stop

is the releasee's child. Clearly, the courts would not have allowed the child to remain in the parent's custody if there was a concern for the child's safety.

4. Q- Will the bill be expanded next year to include more offenders?

A- There is no way to know. Districts would be well advised to keep their legislative liaisons informed of facts and circumstances surrounding this issue, especially with regard to measures already in place to limit proximity of children to sexual offenders and predators, and with regard to whether various potential policies may have unintended consequences that may compromise student safety (for example, policies that may require a student to walk by an offender's home unsupervised in order to reach a safe haven).

5. Q- What are the defining criteria for the conditional releasees who may not live within 1,000 feet of a bus stop?

A- Although there are 3,096 offenders currently on conditional release supervision, only 53 are currently subject to this provision of the bill, i.e., they meet the conditions of the bill regarding subject offenses, the age of the victim, and the offense date(s) and are currently being supervised in the community. The following summarizes the criteria of the bill used to calculate the number of conditional release offenders subject to the requirements of this bill:

- convicted of a crime committed on or after October 1, 1995, or who have been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, Florida Statutes (sex offenses);*
- subject to conditional release supervision, which is a form of post-release supervision, imposed on certain inmates, after serving the majority of their prison sentence; (The Florida Parole Commission establishes the terms of supervision and retains jurisdiction over the case and the DOC supervisors the offenders.); and*
- offense must have involved a victim under the age of 18.*

6. Q- Is there potential for sexual offender numbers to dramatically increase in the future?

A- Although there are no certainties, with the specific criteria sexual offenders must meet to be subject to SB 120 requirements and the fact that the reported average time these offenders are under condition release supervision is between six and seven months, the potential for the numbers to increase significantly would be unlikely.

7. Q- Must the existing "conditional releasees" move on October 1, 2004?

A- No, according to the bill, "if, on October 1, 2004, any public school bus stop is located within 1,000 feet of the existing residence of such releasee, the district school board shall relocate that school bus stop."

8. Q- How will the Department of Corrections (DOC) officers communicate with the district?

A- The DOC is developing an electronic form of notification wherein an e-mail will be sent to the appropriate Director of Transportation with a link to the DOC's Inmate Release Information web-site before a subject inmate is released. The link will provide the releasee's name, address, photograph, and other identifying information. The program is also designed to notify affected school districts when an offender relocates to a new approved residence, when an offender vacates a residence and when the offender is no longer on conditional release supervision.

9. Q- Is the measurement to the door or to the property line?

A- The distance will be measured from the property line if the offender's residence is a single dwelling unit. If the offender's residence is a multi-dwelling unit, such as an apartment building or duplex, the distance will be measured from the front or back door of the offender's dwelling unit.

10. Q- What about proximity to students' walk paths?

A- Senate Bill 120 did not address this situation. It only referenced certain areas where children congregate. These locations are specifically mentioned as schools, day care centers, parks, playgrounds, designated public school bus stops or other places where children regularly congregate.

11. Q- How will districts be notified when the releasee's status begins and when it ends?

A- According to the bill, "On October 1, 2004, the department shall notify each affected school district of the location of the residence of a releasee 30 days prior to release and thereafter, if the releasee relocates to a new residence, shall notify any affected school district of the residence of the releasee within 30 days after relocation. Beginning October 1, 2004, a district school board may not establish or relocate a public school bus stop within 1,000 feet of the residence of a releasee who is subject to this subparagraph. The failure of the district school board to comply with this subparagraph shall not result in a violation of conditional release supervision." Due to their shared mission of ensuring public safety, it is expected that DOC will attempt to provide notification of a releasee's "relocation" with the same notice they provide prior to the inmate's initial release; i.e., we do not expect they will wait the full 30 days allowed by the bill to notify school districts of a relocation.

12. Q- What about the effect on the students who fall under the McKinney-Vento Homeless Assistance Act and live in the same area?

A- We will seek legal guidance on this issue, but it appears that it would be a similar situation to the first question about students with disabilities.

13. Q- How will the districts be notified about impending location or relocation of conditional releasees, and who will be notified?

A- The Department of Education has provided the DOC with the e-mail addresses for the Director of Transportation of each school district and the Florida School for the Deaf and Blind. E-mail notices will be forwarded to all affected school district transportation directors. For that reason and others, it is very important for school district transportation directors to notify the Department of Education's School Transportation office of any changes to their e-mail addresses.

14. Q- Does the school district have influence over where an offender may live?

A- While the school district may have no clear legal standing in the matter, we would encourage each school district to keep their regional DOC officials informed regarding future school sites and possible routing changes. This will help eliminate potential last minute adjustments relating to approval of releasees' residences.