

1 A bill to be entitled

2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; revising criteria that
4 determine a hazardous walking condition for public
5 school students; revising procedures for inspection
6 and identification of hazardous walking conditions;
7 authorizing a district school superintendent to
8 initiate a formal request for correction of a
9 hazardous walking condition; authorizing a district
10 school board to initiate an administrative proceeding
11 under certain circumstances and providing requirements
12 therefor; requiring a district school board to provide
13 transportation to students who would be subjected to
14 hazardous walking conditions; requiring state or local
15 governmental entities with jurisdiction over a road
16 with a hazardous walking condition to correct the
17 condition within a reasonable period of time;
18 providing requirements for a governmental entity
19 relating to its capital improvements program;
20 providing requirements relating to a civil action for
21 damages; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 1006.23, Florida Statutes, is reordered
26 and amended to read:

27 1006.23 Hazardous walking conditions.—

28 (1) DEFINITION.—As used in this section, "student" means
 29 any public elementary school student whose grade level does not
 30 exceed grade 6.

31 ~~(2)-(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
 32 ~~CONDITIONS.—~~

33 (a) Walkways parallel to the road.—

34 1. It shall be considered a hazardous walking condition
 35 with respect to any road along which students must walk in order
 36 to walk to and from school if there is not an area at least 4
 37 feet wide adjacent to the road, not including drainage ditches,
 38 sluiceways, swales, or channels, having a surface upon which
 39 students may walk without being required to walk on the road
 40 surface. In addition, whenever the road along which students
 41 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
 42 miles per hour or greater, the area as described above for
 43 students to walk upon shall be set off the road by no less than
 44 3 feet from the edge of the road.

45 2. The provisions of subparagraph 1. do not apply when the
 46 road along which students must walk:

47 ~~a. Is in a residential area which has little or no~~
 48 ~~transient traffic;~~

49 ~~a.b.~~ Is a road on which the volume of traffic is less than
 50 180 vehicles per hour, per direction, during the time students
 51 walk to and from school; or

52 ~~b.e.~~ Is located in a residential area and has a posted

53 speed limit of 30 miles per hour or less.

54 (b) Walkways perpendicular to the road.—It shall be
 55 considered a hazardous walking condition with respect to any
 56 road across which students must walk in order to walk to and
 57 from school if:

58 1. ~~If~~ The traffic volume on the road exceeds the rate of
 59 360 vehicles per hour, per direction (including all lanes),
 60 during the time students walk to and from school and if the
 61 crossing site is uncontrolled. For purposes of this subsection,
 62 an "uncontrolled crossing site" is an intersection or other
 63 designated crossing site where no crossing guard, traffic
 64 enforcement officer, or stop sign or other traffic control
 65 signal is present during the times students walk to and from
 66 school.

67 2. ~~If~~ The total traffic volume on the road exceeds 4,000
 68 vehicles per hour through an intersection or other crossing site
 69 controlled by a stop sign or other traffic control signal,
 70 unless crossing guards or other traffic enforcement officers are
 71 also present during the times students walk to and from school.

72
 73 Traffic volume shall be determined by the most current traffic
 74 engineering study conducted by a state or local governmental
 75 agency.

76 (c) Crossings over the road.—It shall be considered a
 77 hazardous walking condition with respect to any road at any
 78 uncontrolled crossing site if:

79 1. The road has a posted speed limit of 50 miles per hour
 80 or greater; or

81 2. The road has six lanes or more, not including turn
 82 lanes, regardless of the speed limit.

83 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

84 (a) When a request for review is made by ~~to~~ the district
 85 school superintendent with respect to a road over which a state
 86 or local governmental entity has jurisdiction ~~or the district~~
 87 ~~school superintendent's designee~~ concerning a condition
 88 perceived to be hazardous to students in that district who live
 89 within the 2-mile limit and who walk to school, such condition
 90 shall be inspected jointly by a representative of the school
 91 district, and a representative of the state or local
 92 governmental entity with ~~that~~ has jurisdiction over the
 93 perceived hazardous location, and a representative of the
 94 municipal police department for a municipal road, a
 95 representative of the sheriff's office for a county road, or a
 96 representative of the Department of Transportation for a state
 97 road. If the jurisdiction is within an area for which there is a
 98 metropolitan planning organization, a representative of that
 99 organization shall also be included. The governmental
 100 representatives shall determine whether the condition
 101 constitutes a hazardous walking condition as provided in
 102 subsection (2). If the governmental representatives concur that
 103 a condition constitutes a hazardous walking condition as
 104 provided in subsection (2), they shall report that determination

105 in writing to the district school superintendent who shall
106 initiate a formal request for correction as provided in
107 subsection (4).

108 (b) If the governmental representatives are unable to
109 reach a consensus, the reasons for lack of consensus shall be
110 reported to the district school superintendent who shall provide
111 a report and recommendation to the district school board. The
112 district school board may initiate an administrative proceeding
113 under chapter 120 seeking a determination as to whether the
114 condition constitutes a hazardous walking condition as provided
115 in subsection (2) after providing at least 30 days' notice in
116 writing to the local governmental entities having jurisdiction
117 over the road of its intent to do so unless, within 30 days
118 after such notice is provided, the local governmental entities
119 concur in writing that the condition is a hazardous walking
120 condition as provided in subsection (2) and provide the position
121 statement pursuant to subsection (4). If an administrative
122 proceeding is initiated under this paragraph, the district
123 school board has the burden of proving such condition by the
124 greater weight of evidence. If the district school board
125 prevails, the district school superintendent shall report the
126 outcome to the Department of Education and initiate a formal
127 request for correction of the hazardous walking condition as
128 provided in subsection (4). ~~The district school superintendent~~
129 ~~or his or her designee and the state or local governmental~~
130 ~~entity or its representative shall then make a final~~

131 ~~determination that is mutually agreed upon regarding whether the~~
132 ~~hazardous condition meets the state criteria pursuant to this~~
133 ~~section. The district school superintendent or his or her~~
134 ~~designee shall report this final determination to the~~
135 ~~Department.~~

136 (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.—

137 (a) A district school board ~~It is intended that district~~
138 ~~school boards~~ and other governmental entities shall work
139 cooperatively to identify and correct conditions that are
140 hazardous along student walking routes to school, and a district
141 school board shall ~~that district school boards~~ provide
142 transportation to students who would be subjected to such
143 conditions. Additionally, ~~It is further intended that~~ state or
144 local governmental entities with having jurisdiction over a road
145 along which a hazardous walking condition is determined to exist
146 shall correct the condition ~~such hazardous conditions~~ within a
147 reasonable period of time.

148 (b) Upon a determination pursuant to subsection (3) ~~this~~
149 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
150 ~~to students~~, the district school superintendent ~~board~~ shall
151 request a position statement with respect to correction of such
152 condition ~~determination~~ from the state or local governmental
153 entity with having jurisdiction over the road. Within 90 days
154 after receiving such request, the state or local governmental
155 entity shall inform the district school superintendent ~~regarding~~
156 whether the entity will include correction of the hazardous

157 walking condition in its next annual 5-year capital improvements
158 program ~~hazard will be corrected~~ and, if so, when correction of
159 the condition will be completed. If the hazardous walking
160 condition will not be included in the state or local
161 governmental entity's next annual 5-year capital improvements
162 program, the factors justifying such conclusion must be stated
163 in writing to the district school superintendent and the
164 Department of Education ~~regarding a projected completion date.~~

165 (c) State funds shall be allocated for the transportation
166 of students subjected to a hazardous walking condition. However,
167 ~~such hazards, provided that~~ such funding shall cease upon
168 correction of the hazardous walking condition ~~hazard~~ or upon the
169 projected completion date, whichever occurs first.

170 (5) CIVIL ACTION.—In a civil action for damages brought
171 against a governmental entity under s. 768.28, the designation
172 of a hazardous walking condition under this section is not
173 admissible in evidence.

174 Section 2. This act shall take effect July 1, 2014.