

STORAGE NAME: h0683s1.edk

DATE: April 7, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
ANALYSIS**

BILL #: CS/HB 683

RELATING TO: Truancy

SPONSOR(S): Committee on Education K-12 and Representative Gottlieb

COMPANION BILL(S): SB 1088

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12 YEAS 8 NAYS 0
 - (2) EDUCATION APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The committee substitute (CS) establishes as state policy that school superintendents be responsible for enforcing school attendance. Such responsibility includes recommending policies and procedures to the school board regarding timely response to unexcused absences or absences due to unknown reasons.

The CS revises notification requirements relating to cases of student nonenrollment. Under current law, written notification to the parent or guardian is required when the student is not enrolled or has from three to six unexcused absences in a ninety calendar day period. If the notice is ignored, the school may refer the case to a case staffing committee and the superintendent may seek criminal prosecution against the parent or guardian. The CS requires the notification in any invalid case of nonenrollment and requires the superintendent to seek criminal prosecution against the parent or guardian if the notice is ignored. It contains an additional written notification requirement if the parent or guardian fails to comply. A subsequent notice must be delivered in person or by return-receipt mail, advising the parent or guardian of intent to seek criminal prosecution for nonattendance.

The CS authorizes school representatives who are charged with finding absent students to transfer such students to a juvenile assessment center (JAC) or other location established by the school board to receive students who are absent from school. This provision is in addition to an existing requirement to return the student to a parent, the school, or a private tutor, as appropriate. The CS requires that the parent be immediately notified when a child is delivered to a JAC or similar location. It authorizes the school superintendent to file a truancy petition in truancy court, or a child-in-need-of-services/family-in-need-of-services (CINS/FINS) petition in conjunction with securing a court order requiring school attendance. The school district must have exhausted all previous remedies before filing the CINS/FINS petition. The CS deletes current provisions relating to habitual truancy cases where certain activities have to be performed and documented prior to filing a CINS/FINS petition. It defines "truancy court" and "truancy petition" and establishes new provisions under which habitual truancy cases are to be processed.

The CS revises the formula for calculating full-time-equivalent (FTE) student membership for the purposes of the Florida Education Finance Program (FEFP). Beginning with school year 1999-2000, school districts will be required to document daily attendance. An average daily attendance factor will be computed, and beginning with school year 2001-2002, will be used to adjust district FTE memberships.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Habitual Truant

A habitual truant is defined in ss. 228.041(28) and 984.03(29), F.S., as a student of compulsory school age who accumulates 15 unexcused absences within a period of 90 calendar days, with or without the knowledge or consent of his or her parent or legal guardian, and who does not qualify for an exemption. In addition to the steps required for enforcing school attendance, the following activities must be met and documented in writing to determine the cause and attempt to remediate a child's truant behavior:

- One or more meetings, in person or by phone, between the school representative, the child's parent, and the child, after a minimum of 3 and before 6 unexcused absences within 90 calendar days. If the parent refuses to participate in the meetings and the school representative has documented the refusal, the meeting requirement is considered to have been met.
- Educational counseling to identify and implement curriculum changes, which may include a dropout prevention program or a second chance school.
- Educational evaluation, which may include a psychological evaluation, to help determine reason for child's nonattendance. If a condition was diagnosed in the evaluation, the school must have made specific efforts to remedy the condition.

If the problem is not resolved after the above steps are completed, the student and his or her family are referred to a child-in-need-of-services/family-in-need-of-services (CINS/FINS) provider or a case staffing committee. Before and after a CINS/FINS petition is filed due to habitual truancy, the appropriate governmental agencies must allow a reasonable time to remedy the truant behavior through completion of the all the previously listed actions.

If a child responds to these interventions and completes the necessary requirements to pass the current grade, the child must be passed.

In 1997, the Florida Legislature passed HB 1309 (Ch. 97-234, L.O.F.), which prevents minors who accumulate 15 unexcused absences within 90 days from obtaining or retaining a driver's license, pursuant to s. 232.19, F.S.

Sections 232.19, and 414.125, F.S., provide additional penalties for parents, legal guardians, principals, teachers, or employers who refuse or fail to comply with the compulsory school attendance and habitual truancy laws.

Determination of FTE

A full time equivalent (FTE) for FEFP funding purposes is one student in membership in one or more FEFP programs for a school year or its equivalent. For the purposes of calculating the FTE membership, a student is considered in membership until withdrawal or the 11th consecutive school day of absence. A student is eligible for FTE membership if both of the following conditions are satisfied:

1. Student is in program membership *at least 1 day* during the survey period in an approved course.
2. Student is in attendance *at least 1 day* during the survey period or one of the six scheduled meetings preceding the survey period on which students were in attendance in school.

There are at least four FTE student membership surveys (commonly referred to as "count weeks") conducted during the year, of which two are conducted during the regular 180 day school term and two are conducted during the summer term. Section 236.081(1)(a), F.S., specifies that the number of FTE student membership surveys not exceed nine in a fiscal year. The four count weeks for the 1998-99 school year are July 6-10, 1998; October 5-9, 1998; February 1-5, 1999; and June 21-25, 1999.

*This means that a student who is enrolled but **only** attends two days (one day in each of the two count weeks during the school year) is funded as a **full time** FTE. The district receives funding as if the student had been in attendance for the entire 180 days.*

Although daily attendance of students is not used to calculate FTE membership or enrollment, daily attendance data is collected by the Florida Department of Education (DOE).

B. EFFECT OF PROPOSED CHANGES:

Enforcement of School Attendance

The CS amends s. 232.17, F.S., to establish as state policy that school superintendents be responsible for enforcing school attendance. Such responsibility includes recommending policies and procedures to the school board regarding timely response to unexcused absences or absences due to unknown reasons. The policies must include a requirement that: a parent or guardian justify a student's absence and that the justification be evaluated; schools track excused and unexcused absences and contact with the home in the case of unexcused absences or absences for unknown reasons.

Public schools will be required to implement steps to enforce regular school attendance. The principal or his designee will have to contact the home in the event of an unexcused absence or absence due to unknown reasons. The school must provide opportunities for students to make up work missed due to an excused absence. If a student has at least five unapproved absences within a calendar month or ten unapproved absences within a ninety calendar day period, the student's primary teacher must report to the principal that the student may be developing a pattern of nonattendance. If such a pattern is developing, the child must be referred to the school's child study team to determine if a pattern of truancy is developing. If a pattern of nonattendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled in order to examine possible remedies. Further interventions, if necessary, may include frequent communication between the teacher and the family; changes in the learning environment; mentoring; student counseling; tutoring; placement into different classes; evaluation for alternative education programs; attendance contracts; referral to other agencies for family services; and other interventions. The child study team is required to report the case to the superintendent if all reasonable efforts to remedy the situation have been exhausted. The parent or guardian may appeal to the school board if he or she feels that the remediation efforts are unnecessary or inappropriate. A hearing officer may be appointed to make a final recommendation to the school board. If the strategies are deemed appropriate, the superintendent may seek criminal prosecution against the parent or guardian for failure to assure compulsory school attendance. If the child is deemed ungovernable, the parent, guardian, or superintendent must file a CINS/FINS petition seeking services from the Department of Juvenile Justice (DJJ) and a court order to attend school. The court may enforce a contempt of court order if the child refuses to comply.

The CS revises notification requirements relating to cases of student nonenrollment. Under current law, written notification to the parent or guardian is required when the student is not enrolled or has from three to six unexcused absences in a ninety calendar day period. If the notice is ignored, the school may refer the case to a case staffing committee and the superintendent may seek criminal prosecution against the parent or guardian. The CS requires the notification in any invalid case of non-enrollment and requires the superintendent to seek criminal prosecution against the parent or guardian if the notice is ignored. The CS contains an additional written notification requirement if the parent or guardian fails to comply. A subsequent notice must be delivered in person or by return-receipt mail, advising the parent or guardian of intent to seek criminal prosecution for nonattendance.

The CS authorizes school representatives who are charged with finding absent students to transfer such students to a JAC or other location established by the school board to receive students who are absent from school. This provision is in addition to an existing requirement to return the student to a parent, the school, or a private tutor, as appropriate. The CS requires that the parent be immediately notified when a child is delivered to a JAC or similar location.

The CS amends s. 232.19, F.S., to authorize the school superintendent to file a truancy petition in truancy court, or a CINS/FINS petition in conjunction with securing a court order requiring school attendance. The school district must have exhausted all previous remedies before filing the CINS/FINS petition.

The CS deletes current provisions relating to habitual truancy cases where certain activities have to be performed and documented prior to filing a CINS/FINS petition, including meetings with the parent or guardian, educational counseling, and educational evaluation.

Determination of Average Daily Attendance Factor

The CS amends s. 236.081, F.S., to revise the formula for calculating FTE student membership for the purposes of the FEFP. Beginning with school year 1999-2000, an average daily attendance factor will be computed by dividing the total daily attendance for all students by the total student membership; this figure is then divided by the number of days in the regular school year (180). Beginning with school year 2001-2002 this factor will be used to adjust district FTE memberships.

This calculation will not require any new data collection by the districts or the department since attendance data is currently collected by the district and reported to and maintained by the department.

Truancy Court and Truancy Petition

The CS amends s. 984.03, F.S., to define "truancy court" and "truancy petition". It authorizes additional agencies, besides the State Attorney, to file CINS petitions.

The CS creates s. 984.151, F.S., establishing new provisions for habitual truancy cases to be processed. A school superintendent will be authorized to file a truancy petition in circuit court. The court will be authorized to delegate authority to a general or special master trained in truancy issues. The petition must include the student's name, age, address, name and address of the parent or guardian, school, efforts to remedy the truancy, the number of days and the dates the student missed school, and other documentation. The petition must be heard within 30 days of filing. If the court determines that the student missed any of the alleged days, he or she will be ordered to attend school. The court may also order the student to participate in alternative sanctions such as attendance in alternative classes, community service for up to six months, and may require student/family participation in homemaker or parent aide services, crisis counseling, community mental health services if available or applicable, services provided by voluntary or community agencies, vocational, job training, or employment services. If sanctions are not successfully completed, the case must be referred to a case staffing committee with a recommendations for the filing of a CINS petition.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

District superintendents are responsible for enforcement of school attendance. They are provided with new truancy procedures, and must also give written notice to parents when criminal prosecution is being sought for nonattendance.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

The CS provides for determination of development of early truancy patterns in students. The child study team meets with the parent to identify potential remedies to the pattern of nonattendance. Parents may appeal to the school board if they believe the strategies are unnecessary or inappropriate. Although a hearing officer may make recommendations to the school board, the school board makes the final determination.

The superintendent may seek criminal prosecution for noncompliance with compulsory school attendance. If the parent reports to the team that the child is ungovernable and will not comply, the superintendent must file a CINS or FINS petition seeking services and a court order for school attendance. If a child has 15 unexcused absences in 90 calendar days or fails to enroll in school, the State Attorney must file a CINS petition unless an alternative placement is preferable.

- (2) Who makes the decisions?

The child study team meets with the parent to identify potential remedies to the pattern of nonattendance. Parents may appeal to the school board if they believe the strategies are unnecessary or inappropriate. The superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

The child study team meets with the parent to identify potential remedies to the pattern of nonattendance. Parents may appeal to the school board if they believe the strategies are unnecessary or inappropriate.

- (5) Are families penalized for not participating in a program?

The superintendent may seek criminal prosecution for noncompliance with compulsory school attendance.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

The bill amends ss. 232.17, 232.19, 236.081, 984.03, and 236.081, F.S., and creates s. 984.151, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 232.17, F.S., to establish as state policy that school superintendents be responsible for enforcing school attendance. Such responsibility includes recommending policies and procedures to the school board regarding timely response to unexcused absences or absences due to unknown reasons. The policies must include a requirement that: a parent or guardian justify a student's absence and that the justification be evaluated; schools track excused and unexcused absences and contact with the home in the case of unexcused absences or absences for unknown reasons.

Public schools will be required to implement steps to enforce regular school attendance. The principal or his designee will have to contact the home in the event of an unexcused absence or absence due to unknown reasons. The school must provide opportunities for students to make up work missed due to an excused absence. If a student has at least five unapproved absences within a calendar month or ten unapproved absences within a ninety calendar day period, the student's primary teacher must report to the principal that the student may be developing a pattern of non-attendance. If such a pattern is developing, the child must be referred to the school's child study team to determine if a pattern of truancy is developing. If a pattern of non-attendance is developing, whether the absences are excused or not, a meeting with the parent must be scheduled in order to examine possible remedies. Further interventions, if necessary, may include frequent communication between the teacher and the family; changes in the learning environment; mentoring; student counseling; tutoring; placement into different classes; evaluation for alternative education programs; attendance contracts; referral to other agencies for family services; and other interventions. The child study team is required to report the case to the superintendent if all reasonable efforts to remedy the situation have been exhausted. The parent or guardian may appeal to the school board if he or she feels that the remediation efforts are unnecessary or inappropriate. A hearing officer may be appointed to make a final recommendation to the school board. If the strategies are deemed appropriate, the superintendent may seek criminal prosecution against the parent or guardian for failure to assure compulsory school attendance. If the child is deemed ungovernable, the parent, guardian, or superintendent must file a CINS/FINS petition seeking services from the DJJ and a court order to attend school. The court may enforce a contempt of court order if the child refuses to comply.

The section revises notification requirements relating to cases of student nonenrollment. Under current law, written notification to the parent or guardian is required when the student is not enrolled or has from three to six unexcused absences in a ninety calendar day period. If the notice is ignored, the school may refer the case to a case staffing committee and the superintendent may seek criminal prosecution against the parent or guardian. The section requires the notification in any invalid case of nonenrollment and requires the superintendent to seek criminal prosecution against the parent or guardian if the notice is ignored. It contains an additional written notification requirement if the parent or guardian fails to comply. A subsequent notice must be delivered in person or by return-receipt mail, advising the parent or guardian of intent to seek criminal prosecution for nonattendance.

The section authorizes school representatives who are charged with finding absent students to transfer such students to a JAC or other location established by the school board to receive students who are absent from school. This provision is in addition to an existing requirement to return the student to a parent, the school, or a private tutor, as appropriate. The section requires that the parent be immediately notified when a child is delivered to a JAC or similar location.

Section 2 amends s. 232.19, F.S., to authorize the school superintendent to file a truancy petition in truancy court, or a CINS/FINS petition in conjunction with securing a court order requiring school attendance. The school district must have exhausted all previous remedies before filing the CINS/FINS petition.

The section deletes current provisions relating to habitual truancy cases where certain activities have to be performed and documented prior to filing a CINS/FINS petition, including meetings with the parent or guardian, educational counseling, and educational evaluation.

Section 3 amends s. 236.081, F.S., to revise the formula for calculating FTE student membership for the purposes of the FEFP. Beginning with school year 1999-2000, an average daily attendance factor will be computed by dividing the total daily attendance for all students by the total student membership; this figure is then divided by the number of days in the regular school year (180). Beginning with school year 2001-2002 this factor will be used to adjust district FTE memberships.

Section 4 amends s. 984.03, F.S., to define "truancy court" and "truancy petition". It authorizes additional agencies, besides the State Attorney, to file CINS petitions.

Section 5 creates s. 984.151, F.S., establishing new provisions for habitual truancy cases to be processed. A school superintendent will be authorized to file a truancy petition in circuit court. The court will be authorized to delegate authority to a general or special master trained in truancy issues. The petition must include the student's name, age, address, name and address of the parent or guardian, school, efforts to remedy the truancy, the number of days and the dates the student missed school, and other documentation. The petition must be heard within 30 days of filing. If the court determines that the student missed any of the alleged days, he or she will be ordered to attend school. The court may also order the student to participate in alternative sanctions such as attendance in alternative classes, community service for up to six months, and may require student/family participation in homemaker or parent aide services, crisis counseling, community mental health services if available or applicable, services provided by voluntary or community agencies, vocational, job training, or employment services. If sanctions are not successfully completed, the case must be referred to a case staffing committee with a recommendations for the filing of a CINS petition.

Section 6 provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

FTE calculations have been used for approximately 25 years, since the advent of the FEFP. A number of experts believe that this method of calculating a district's FEFP allocation is a disincentive to reducing truancy. The use of average daily attendance (ADA) is expected to encourage districts to be more aggressive in combating truancy since funding will be adjusted by an average daily attendance factor based on students reporting for class each day, not just during the periodic FTE counts.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute differs from the original bill in that it contains more extensive revisions to existing truancy statutes. Specifically, it establishes a revised protocol for parental notification and escalated attendance enforcement procedures. It revises written notification requirements to include a notice of intent to prosecute the parent or guardian for student nonattendance in those cases where other remedies have been unsuccessful. It authorizes school personnel to deliver truant students to JACs or similar locations and requires immediate parental notification of such transfers. It authorizes the school superintendent to file a truancy petition or a CINS petition. It requires the calculation of an average daily attendance factor that is to be used to adjust FTE counts for allocations under the FEFP. It defines "truancy court" and "truancy petition" and establishes a protocol whereby truancy cases can be handled via a truancy court process.

STORAGE NAME: h0683s1.edk

DATE: April 7, 1999

PAGE 10

VII. SIGNATURES:

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