

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 an administrative proceeding in certain  
8 instances; authorizing a district school  
9 superintendent to initiate a formal request for  
10 correction of a hazardous walking condition under  
11 certain circumstances; requiring a district school  
12 board to provide transportation to students who would  
13 be subjected to hazardous walking conditions;  
14 requiring state or local governmental entities with  
15 jurisdiction over a road with a hazardous walking  
16 condition to correct the condition within a specified  
17 period of time; providing requirements for a  
18 governmental entity relating to its capital  
19 improvements program; revising provisions relating to  
20 funding for the transportation of students subjected  
21 to a hazardous walking condition; providing  
22 requirements relating to a civil action for damages;  
23 providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Section 1006.23, Florida Statutes, is reordered  
 28 and amended to read:

29 1006.23 Hazardous walking conditions.—

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

33 (4)~~(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

34 (a) A district school board ~~It is intended that district~~  
 35 ~~school boards~~ and other governmental entities shall work  
 36 cooperatively to identify and correct conditions that are  
 37 hazardous along student walking routes to school, and a district  
 38 school board shall ~~that district school boards~~ provide  
 39 transportation to students who would be subjected to such  
 40 conditions. Additionally, ~~It is further intended that~~ state or  
 41 local governmental entities with having jurisdiction over a road  
 42 along which a hazardous walking condition is determined to exist  
 43 shall correct the condition ~~such hazardous conditions~~ within 3  
 44 years after such determination, unless a longer period is  
 45 reasonably required to acquire additional right-of-way needed to  
 46 correct the condition, but, in any event, the condition shall be  
 47 corrected within 5 years after the determination ~~a reasonable~~  
 48 ~~period of time.~~

49 (b) Upon a determination pursuant to subsection (3) ~~this~~  
 50 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~  
 51 ~~to students,~~ the district school superintendent ~~board~~ shall  
 52 request a position statement with respect to correction of such

53 condition determination from the state or local governmental  
54 entity with ~~having~~ jurisdiction over the road. Within 90 days  
55 after receiving such request, the state or local governmental  
56 entity shall inform the district school superintendent regarding  
57 whether the entity will include correction of the hazardous  
58 walking condition in its next annual 5-year capital improvements  
59 program ~~hazard will be corrected~~ and, if so, when correction of  
60 the condition will be completed. If the hazardous walking  
61 condition will not be included in the state or local  
62 governmental entity's next annual 5-year capital improvements  
63 program, the factors justifying such conclusion must be stated  
64 in writing to the district school superintendent and the  
65 Department of Education regarding a projected completion date.  
66 (c) State funds shall be allocated for the transportation  
67 of students subjected to a hazardous walking condition during  
68 the time provided for determination and correction of such  
69 condition pursuant to this section. However, ~~such hazards,~~  
70 ~~provided that~~ such funding shall cease upon correction of the  
71 hazardous walking condition or, for a road within the  
72 jurisdiction of a local governmental entity, expiration of the  
73 time provided for correction in this section, whichever occurs  
74 first. If a hazardous walking condition is not corrected by a  
75 local governmental entity within the time provided in this  
76 section and state funding is no longer authorized under this  
77 section, funding for the actual operational cost of  
78 transportation of students subjected to the hazardous walking

79 condition shall be reimbursed by the local governmental entity  
80 to the district school board until the condition is corrected  
81 ~~hazard or upon the projected completion date, whichever occurs~~  
82 ~~first.~~

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). ~~The district school superintendent or his or her~~  
108 ~~designee and the state or local governmental entity or its~~  
109 ~~representative shall then make a final determination that is~~  
110 ~~mutually agreed upon regarding whether the hazardous condition~~  
111 ~~meets the state criteria pursuant to this section. The district~~  
112 ~~school superintendent or his or her designee shall report this~~  
113 ~~final determination to the Department.~~

114 (b) If the governmental representatives are unable to  
115 reach a consensus, the reasons for lack of consensus shall be  
116 reported to the district school superintendent who shall provide  
117 a report and recommendation to the district school board. The  
118 district school board may initiate an administrative proceeding  
119 under chapter 120 seeking a determination as to whether the  
120 condition constitutes a hazardous walking condition as provided  
121 in subsection (2) after providing at least 30 days' notice in  
122 writing to the local governmental entities having jurisdiction  
123 over the road of its intent to do so, unless within 30 days  
124 after such notice is provided, the local governmental entities  
125 concur in writing that the condition is a hazardous walking  
126 condition as provided in subsection (2). If an administrative  
127 proceeding is initiated under this paragraph, the district  
128 school board has the burden of proving such condition by the  
129 greater weight of evidence. If the district school board  
130 prevails, the district school superintendent shall report the

131 outcome to the Department of Education and initiate a formal  
 132 request for correction of the hazardous walking condition as  
 133 provided in subsection (4).

134 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~  
 135 ~~CONDITIONS.-~~

136 (a) Walkways parallel to the road.-

137 1. It shall be considered a hazardous walking condition  
 138 with respect to any road along which students must walk in order  
 139 to walk to and from school if there is not an area at least 4  
 140 feet wide adjacent to the road, not including drainage ditches,  
 141 sluiceways, swales, or channels, having a surface upon which  
 142 students may walk without being required to walk on the road  
 143 surface. In addition, whenever the road along which students  
 144 must walk is uncurbed and has a posted speed limit of 50 ~~55~~  
 145 miles per hour or greater, the area as described above for  
 146 students to walk upon shall be set off the road by no less than  
 147 3 feet from the edge of the road.

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

150 ~~a. Is in a residential area which has little or no~~  
 151 ~~transient traffic;~~

152 ~~a.b.~~ Is a road on which the volume of traffic is less than  
 153 180 vehicles per hour, per direction, during the time students  
 154 walk to and from school; or

155 ~~b.e.~~ Is located in a residential area and has a posted  
 156 speed limit of 30 miles per hour or less.

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

161 1. ~~If~~ The traffic volume on the road exceeds the rate of  
 162 360 vehicles per hour, per direction (including all lanes),  
 163 during the time students walk to and from school and if the  
 164 crossing site is uncontrolled. For purposes of this subsection,  
 165 an "uncontrolled crossing site" is an intersection or other  
 166 designated crossing site where no crossing guard, traffic  
 167 enforcement officer, or stop sign or other traffic control  
 168 signal is present during the times students walk to and from  
 169 school.

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

175  
 176 Traffic volume shall be determined by the most current traffic  
 177 engineering study conducted by a state or local governmental  
 178 agency.

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

182 1. The road has a posted speed limit of 50 miles per hour

HB 1121

2014

183 or greater; or

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

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

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