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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/RE/2R

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03/08/2018 05:26 PM

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Senator Baxley moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (2) of section 1002.41,
Florida Statutes, are amended, and subsections (11), (12), and
(13) are added to that section, to read:

1002.41 Home education programs.—

(1) As used in this section, the term a "home education
program" has the same meaning as is defined in s. 1002.01. A
home education program is not a school district program and is



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12 registered with the district school superintendent only for the
13 purpose of complying with the state's attendance requirements
14 under s. 1003.21(1). The parent is not required to hold a valid
15 regular Florida teaching certificate.

16 (a) The parent, as defined in s. 1000.21, who establishes
17 and maintains a home education program shall notify the district
18 school superintendent of the county in which the parent resides
19 of her or his intent to establish and maintain a home education
20 program. The notice must ~~shall~~ be in writing, signed by the
21 parent, and ~~shall~~ include the full legal names, addresses, and
22 birthdates of all children who shall be enrolled as students in
23 the home education program. The notice must ~~shall~~ be filed in
24 the district school superintendent's office within 30 days of
25 the establishment of the home education program.

26 (b) The district school superintendent shall accept the
27 notice and immediately register the home education program upon
28 receipt of the notice. The district may not require any
29 additional information or verification from the parent unless
30 the student chooses to participate in a school district program
31 or service. The district school superintendent may not assign a
32 grade level to the home education student or include a social
33 security number or any other personal information of the student
34 in any school district or state database unless the student
35 chooses to participate in a school district program or service.

36 (c) The parent shall file a written notice of termination
37 upon completion of the home education program with ~~shall be~~
38 ~~filed in~~ the district school superintendent, along with the
39 annual evaluation required in paragraph (f), within
40 ~~superintendent's office within 30 days of after said~~



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41 termination.

42 (d)~~(b)~~ The parent shall maintain a portfolio of records and
43 materials. The portfolio must ~~shall~~ consist of the following:

44 1. A log of educational activities that is made
45 contemporaneously with the instruction and that designates by
46 title any reading materials used.

47 2. Samples of any writings, worksheets, workbooks, or
48 creative materials used or developed by the student.

49 (e) The parent shall determine the content of the
50 portfolio, preserve it shall be preserved by the parent for 2
51 years, and make it shall be made available for inspection, if
52 requested, by the district school superintendent, or the
53 district school superintendent's agent, upon 15 days' written
54 notice. Nothing in this section shall require the district
55 school superintendent to inspect the portfolio.

56 (f)~~(e)~~ The parent shall provide for an annual educational
57 evaluation in which is documented the student's demonstration of
58 educational progress at a level commensurate with her or his
59 ability. The parent shall select the method of evaluation and
60 shall file a copy of the evaluation annually with the district
61 school superintendent's office in the county in which the
62 student resides. The annual educational evaluation shall consist
63 of one of the following:

64 1. A teacher selected by the parent shall evaluate the
65 student's educational progress upon review of the portfolio and
66 discussion with the student. Such teacher shall hold a valid
67 regular Florida certificate to teach academic subjects at the
68 elementary or secondary level;

69 2. The student shall take any nationally normed student



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70 achievement test administered by a certified teacher;

71 3. The student shall take a state student assessment test
72 used by the school district and administered by a certified
73 teacher, at a location and under testing conditions approved by
74 the school district;

75 4. The student shall be evaluated by an individual holding
76 a valid, active license pursuant to the provisions of s.
77 490.003(7) or (8); or

78 5. The student shall be evaluated with any other valid
79 measurement tool as mutually agreed upon by the district school
80 superintendent of the district in which the student resides and
81 the student's parent.

82 (2) The district school superintendent shall ~~review and~~
83 accept the results of the annual educational evaluation of the
84 student in a home education program. If the student does not
85 demonstrate educational progress at a level commensurate with
86 her or his ability, the district school superintendent shall
87 notify the parent, in writing, that such progress has not been
88 achieved. The parent shall have 1 year from the date of receipt
89 of the written notification to provide remedial instruction to
90 the student. At the end of the 1-year probationary period, the
91 student shall be reevaluated as specified in paragraph (1)(f)
92 ~~(1)(e)~~. Continuation in a home education program shall be
93 contingent upon the student demonstrating educational progress
94 commensurate with her or his ability at the end of the
95 probationary period.

96 (11) A school district may provide access to career and
97 technical courses and programs for a home education program
98 student who enrolls in a public school solely for the career and



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99 technical courses or programs. The school district that provides
100 the career and technical courses and programs shall report each
101 student as a full-time equivalent student in the class and in a
102 manner prescribed by the department, and funding shall be
103 provided through the Florida Education Finance Program pursuant
104 to s. 1011.62.

105 (12) Industry certifications, national assessments, and
106 statewide, standardized assessments offered by a school district
107 shall be available to home education program students. Each
108 school district shall notify home education program students of
109 the available certifications and assessments; the date, time,
110 and locations for the administration of each certification and
111 assessment; and the deadline for notifying the school district
112 of the student's intent to participate and the student's
113 preferred location.

114 (13) A school district may not further regulate, exercise
115 control over, or require documentation from parents of home
116 education program students beyond the requirements of this
117 section unless the regulation, control, or documentation is
118 necessary for participation in a school district program.

119 Section 2. Subsection (4) of section 1003.21, Florida
120 Statutes, is amended to read:

121 1003.21 School attendance.—

122 (4) Before admitting a child to kindergarten, the principal
123 shall require evidence that the child has attained the age at
124 which he or she should be admitted in accordance with the
125 provisions of subparagraph (1)(a)2. The district school
126 superintendent may require evidence of the age of any child who
127 is being enrolled in public school and who the district school



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128 superintendent ~~whom he or she~~ believes to be within the limits
129 of compulsory attendance as provided for by law; however, the
130 district school superintendent may not require evidence from any
131 child who meets regular attendance requirements by attending a
132 school or program listed in s. 1003.01(13)(b)-(e). If the first
133 prescribed evidence is not available, the next evidence
134 obtainable in the order set forth below shall be accepted:

135 (a) A duly attested transcript of the child's birth record
136 filed according to law with a public officer charged with the
137 duty of recording births;

138 (b) A duly attested transcript of a certificate of baptism
139 showing the date of birth and place of baptism of the child,
140 accompanied by an affidavit sworn to by the parent;

141 (c) An insurance policy on the child's life that has been
142 in force for at least 2 years;

143 (d) A bona fide contemporary religious record of the
144 child's birth accompanied by an affidavit sworn to by the
145 parent;

146 (e) A passport or certificate of arrival in the United
147 States showing the age of the child;

148 (f) A transcript of record of age shown in the child's
149 school record of at least 4 years prior to application, stating
150 date of birth; or

151 (g) If none of these evidences can be produced, an
152 affidavit of age sworn to by the parent, accompanied by a
153 certificate of age signed by a public health officer or by a
154 public school physician, or, if these are not available in the
155 county, by a licensed practicing physician designated by the
156 district school board, which states that the health officer or



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157 physician has examined the child and believes that the age as
158 stated in the affidavit is substantially correct. Children and
159 youths who are experiencing homelessness and children who are
160 known to the department, as defined in s. 39.0016, shall be
161 given temporary exemption from this section for 30 school days.

162 Section 3. Paragraph (f) of subsection (1) and paragraph
163 (a) of subsection (2) of section 1003.26, Florida Statutes, are
164 amended to read:

165 1003.26 Enforcement of school attendance.—The Legislature
166 finds that poor academic performance is associated with
167 nonattendance and that school districts must take an active role
168 in promoting and enforcing attendance as a means of improving
169 student performance. It is the policy of the state that each
170 district school superintendent be responsible for enforcing
171 school attendance of all students subject to the compulsory
172 school age in the school district and supporting enforcement of
173 school attendance by local law enforcement agencies. The
174 responsibility includes recommending policies and procedures to
175 the district school board that require public schools to respond
176 in a timely manner to every unexcused absence, and every absence
177 for which the reason is unknown, of students enrolled in the
178 schools. District school board policies shall require the parent
179 of a student to justify each absence of the student, and that
180 justification will be evaluated based on adopted district school
181 board policies that define excused and unexcused absences. The
182 policies must provide that public schools track excused and
183 unexcused absences and contact the home in the case of an
184 unexcused absence from school, or an absence from school for
185 which the reason is unknown, to prevent the development of



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186 patterns of nonattendance. The Legislature finds that early
187 intervention in school attendance is the most effective way of
188 producing good attendance habits that will lead to improved
189 student learning and achievement. Each public school shall
190 implement the following steps to promote and enforce regular
191 school attendance:

192 (1) CONTACT, REFER, AND ENFORCE.—

193 (f)1. If the parent of a child who has been identified as
194 exhibiting a pattern of nonattendance enrolls the child in a
195 home education program pursuant to chapter 1002, the district
196 school superintendent shall provide the parent a copy of s.
197 1002.41 and the accountability requirements of this paragraph.
198 The district school superintendent shall also refer the parent
199 to a home education review committee composed of the district
200 contact for home education programs and at least two home
201 educators selected by the parent from a district list of all
202 home educators who have conducted a home education program for
203 at least 3 years and who have indicated a willingness to serve
204 on the committee. The home education review committee shall
205 review the portfolio of the student, as defined by s. 1002.41,
206 every 30 days during the district's regular school terms until
207 the committee is satisfied that the home education program is in
208 compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~. The first
209 portfolio review must occur within the first 30 calendar days of
210 the establishment of the program. The provisions of subparagraph
211 2. do not apply once the committee determines the home education
212 program is in compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~.

213 2. If the parent fails to provide a portfolio to the
214 committee, the committee shall notify the district school



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215 superintendent. The district school superintendent shall then
216 terminate the home education program and require the parent to
217 enroll the child in an attendance option that meets the
218 definition of "regular school attendance" under s.
219 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon
220 termination of a home education program pursuant to this
221 subparagraph, the parent shall not be eligible to reenroll the
222 child in a home education program for 180 calendar days. Failure
223 of a parent to enroll the child in an attendance option as
224 required by this subparagraph after termination of the home
225 education program pursuant to this subparagraph shall constitute
226 noncompliance with the compulsory attendance requirements of s.
227 1003.21 and may result in criminal prosecution under s.
228 1003.27(2). Nothing contained herein shall restrict the ability
229 of the district school superintendent, or the ability of his or
230 her designee, to review the portfolio pursuant to s.
231 1002.41(1)(e) ~~s. 1002.41(1)(b)~~.

232 (2) GIVE WRITTEN NOTICE.—

233 (a) Under the direction of the district school
234 superintendent, a designated school representative shall give
235 written notice that requires enrollment or attendance within 3
236 days after the date of notice, in person or by return-receipt
237 mail, to the parent when no valid reason is found for a
238 student's nonenrollment in school. If the notice and requirement
239 are ignored, the designated school representative shall report
240 the case to the district school superintendent, who ~~and~~ may
241 refer the case to the child study team in paragraph (1)(b) at
242 the school the student would be assigned according to district
243 school board attendance area policies or to the case staffing



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244 committee, established pursuant to s. 984.12. The child study
245 team shall diligently facilitate intervention services and shall
246 report the case back to the district school superintendent only
247 when all reasonable efforts to resolve the nonenrollment
248 behavior are exhausted. If the parent still refuses to cooperate
249 or enroll the child in school, the district school
250 superintendent shall take such steps as are necessary to bring
251 criminal prosecution against the parent.

252 Section 4. Subsection (2) of section 1003.27, Florida
253 Statutes, is amended to read:

254 1003.27 Court procedure and penalties.—The court procedure
255 and penalties for the enforcement of the provisions of this
256 part, relating to compulsory school attendance, shall be as
257 follows:

258 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

259 (a) In each case of nonenrollment or of nonattendance upon
260 the part of a student who is required to attend some school,
261 when no valid reason for such nonenrollment or nonattendance is
262 found, the district school superintendent shall institute a
263 criminal prosecution against the student's parent. However,
264 criminal prosecution may not be instituted against the student's
265 parent until the school and school district have complied with
266 s. 1003.26.

267 (b) Each public school principal or the principal's
268 designee shall notify the district school board of each minor
269 student under its jurisdiction who accumulates 15 unexcused
270 absences in a period of 90 calendar days. ~~Each designee of the~~
271 ~~governing body of each private school, and each parent whose~~
272 ~~child is enrolled in a home education program, may provide the~~



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273 ~~Department of Highway Safety and Motor Vehicles with the legal~~
274 ~~name, sex, date of birth, and social security number of each~~
275 ~~minor student under his or her jurisdiction who fails to satisfy~~
276 ~~relevant attendance requirements and who fails to otherwise~~
277 ~~satisfy the requirements of s. 322.091.~~ The district school
278 superintendent must provide the Department of Highway Safety and
279 Motor Vehicles the legal name, sex, date of birth, and social
280 security number of each minor student who has been reported
281 under this paragraph and who fails to otherwise satisfy the
282 requirements of s. 322.091. The Department of Highway Safety and
283 Motor Vehicles may not issue a driver license or learner's
284 driver license to, and shall suspend any previously issued
285 driver license or learner's driver license of, any such minor
286 student, pursuant to the provisions of s. 322.091.

287 (c) Each designee of the governing body of each private
288 school and each parent whose child is enrolled in a home
289 education program may provide the Department of Highway Safety
290 and Motor Vehicles with the legal name, sex, date of birth, and
291 social security number of each minor student under his or her
292 jurisdiction who fails to satisfy relevant attendance
293 requirements and who fails to otherwise satisfy the requirements
294 of s. 322.091. The Department of Highway Safety and Motor
295 Vehicles may not issue a driver license or learner's driver
296 license to, and shall suspend any previously issued driver
297 license or learner's driver license of, any such minor student
298 pursuant to s. 322.091.

299 Section 5. Paragraph (1) of subsection (5) and paragraph
300 (a) of subsection (11) of section 1002.385, Florida Statutes,
301 are amended to read:



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302 1002.385 The Gardiner Scholarship.—

303 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
304 used to meet the individual educational needs of an eligible
305 student and may be spent for the following purposes:

306 (1) Fees for an annual evaluation of educational progress
307 by a state-certified teacher under s. 1002.41(1)(f) ~~s.~~
308 ~~1002.41(1)(e)~~, if this option is chosen for a home education
309 student.

310

311 A provider of any services receiving payments pursuant to this
312 subsection may not share, refund, or rebate any moneys from the
313 Gardiner Scholarship with the parent or participating student in
314 any manner. A parent, student, or provider of any services may
315 not bill an insurance company, Medicaid, or any other agency for
316 the same services that are paid for using Gardiner Scholarship
317 funds.

318 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
319 PARTICIPATION.—A parent who applies for program participation
320 under this section is exercising his or her parental option to
321 determine the appropriate placement or the services that best
322 meet the needs of his or her child. The scholarship award for a
323 student is based on a matrix that assigns the student to support
324 Level III services. If a parent receives an IEP and a matrix of
325 services from the school district pursuant to subsection (7),
326 the amount of the payment shall be adjusted as needed, when the
327 school district completes the matrix.

328 (a) To satisfy or maintain program eligibility, including
329 eligibility to receive and spend program payments, the parent
330 must sign an agreement with the organization and annually submit



331 a notarized, sworn compliance statement to the organization to:

332 1. Affirm that the student is enrolled in a program that
333 meets regular school attendance requirements as provided in s.
334 1003.01(13)(b)-(d).

335 2. Affirm that the program funds are used only for
336 authorized purposes serving the student's educational needs, as
337 described in subsection (5).

338 3. Affirm that the parent is responsible for the education
339 of his or her student by, as applicable:

340 a. Requiring the student to take an assessment in
341 accordance with paragraph (8)(c);

342 b. Providing an annual evaluation in accordance with s.
343 1002.41(1)(f) ~~s. 1002.41(1)(e)~~; or

344 c. Requiring the child to take any preassessments and
345 postassessments selected by the provider if the child is 4 years
346 of age and is enrolled in a program provided by an eligible
347 Voluntary Prekindergarten Education Program provider. A student
348 with disabilities for whom a preassessment and postassessment is
349 not appropriate is exempt from this requirement. A participating
350 provider shall report a student's scores to the parent.

351 4. Affirm that the student remains in good standing with
352 the provider or school if those options are selected by the
353 parent.

354
355 A parent who fails to comply with this subsection forfeits the
356 Gardiner Scholarship.

357 Section 6. This act shall take effect July 1, 2018.

358
359 ===== T I T L E A M E N D M E N T =====



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360 And the title is amended as follows:

361 Delete everything before the enacting clause
362 and insert:

363 A bill to be entitled

364 An act relating to home education; amending s.
365 1002.41, F.S.; specifying that a home education
366 program is not a school district program and is
367 registered with the district school superintendent
368 only for the purpose of complying with the state's
369 attendance requirements; revising the content
370 requirements of a notice of enrollment of a student in
371 a home education program; requiring the district
372 school superintendent to immediately register a home
373 education program upon receipt of the notice;
374 prohibiting a school district from requiring
375 additional information or verification of a home
376 education student except in specified circumstances;
377 authorizing a school district to provide home
378 education program students with access to certain
379 courses and programs offered by the school district;
380 requiring reporting and funding through the Florida
381 Education Finance Program; requiring home education
382 program students be provided access to certain
383 certifications and assessments offered by the school
384 district; prohibiting a school district from taking
385 certain actions against a home education program
386 student's parent unless such action is necessary for a
387 school district program; amending s. 1003.21, F.S.;
388 prohibiting a district school superintendent from



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389 requiring certain evidence relating to a child's age
390 from children enrolling in specified schools and
391 programs; amending s. 1003.26, F.S.; authorizing a
392 school district superintendent to refer certain cases
393 relating to student nonenrollment to the child study
394 team of certain schools; requiring the child study
395 team to provide specified services in such instances;
396 conforming cross-references; amending s. 1003.27,
397 F.S.; requiring a school and school district to comply
398 with specified provisions before instituting criminal
399 prosecution against certain parents relating to
400 compulsory school attendance; amending s. 1002.385,
401 F.S.; conforming cross-references; providing an
402 effective date.