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2018 Legislature

1
2 An act relating to home education; amending s.
3 1002.41, F.S.; specifying that a home education
4 program is not a school district program and is
5 registered with the district school superintendent
6 only for the purpose of complying with the state's
7 attendance requirements; revising the content
8 requirements of a notice of enrollment of a student in
9 a home education program; requiring the district
10 school superintendent to immediately register a home
11 education program upon receipt of the notice;
12 prohibiting a school district from requiring
13 additional information or verification of a home
14 education student except in specified circumstances;
15 authorizing a school district to provide home
16 education program students with access to certain
17 courses and programs offered by the school district;
18 requiring reporting and funding through the Florida
19 Education Finance Program; requiring home education
20 program students be provided access to certain
21 certifications and assessments offered by the school
22 district; prohibiting a school district from taking
23 certain actions against a home education program
24 student's parent unless such action is necessary for a
25 school district program; amending s. 1003.21, F.S.;

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26 prohibiting a district school superintendent from
 27 requiring certain evidence relating to a child's age
 28 from children enrolling in specified schools and
 29 programs; amending s. 1003.26, F.S.; authorizing a
 30 school district superintendent to refer certain cases
 31 relating to student nonenrollment to the child study
 32 team of certain schools; requiring the child study
 33 team to provide specified services in such instances;
 34 conforming cross-references; amending s. 1003.27,
 35 F.S.; requiring a school and school district to comply
 36 with specified provisions before instituting criminal
 37 prosecution against certain parents relating to
 38 compulsory school attendance; amending s. 1002.385,
 39 F.S.; conforming cross-references; amending s.
 40 1007.35, F.S.; updating terminology; requiring the
 41 department to provide certain teacher and student ACT
 42 and PreACT information for the evaluation of certain
 43 services and activities; providing an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsections (1) and (2) of section 1002.41,
 48 Florida Statutes, are amended, and subsections (11), (12), and
 49 (13) are added to that section, to read:
 50 1002.41 Home education programs.—

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51 (1) As used in this section, the term a "home education
52 program" has the same meaning as is defined in s. 1002.01. A
53 home education program is not a school district program and is
54 registered with the district school superintendent only for the
55 purpose of complying with the state's attendance requirements
56 under s. 1003.21(1). The parent is not required to hold a valid
57 regular Florida teaching certificate.

58 (a) The parent, as defined in s. 1000.21, who establishes
59 and maintains a home education program shall notify the district
60 school superintendent of the county in which the parent resides
61 of her or his intent to establish and maintain a home education
62 program. The notice must ~~shall~~ be in writing, signed by the
63 parent, and ~~shall~~ include the full legal names, addresses, and
64 birthdates of all children who shall be enrolled as students in
65 the home education program. The notice must ~~shall~~ be filed in
66 the district school superintendent's office within 30 days of
67 the establishment of the home education program.

68 (b) The district school superintendent shall accept the
69 notice and immediately register the home education program upon
70 receipt of the notice. The district may not require any
71 additional information or verification from the parent unless
72 the student chooses to participate in a school district program
73 or service. The district school superintendent may not assign a
74 grade level to the home education student or include a social
75 security number or any other personal information of the student

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76 | in any school district or state database unless the student
 77 | chooses to participate in a school district program or service.

78 | (c) The parent shall file a written notice of termination
 79 | upon completion of the home education program ~~with shall be~~
 80 | ~~filed in~~ the district school superintendent, along with the
 81 | annual evaluation required in paragraph (f), within
 82 | ~~superintendent's office within 30 days of after said~~
 83 | termination.

84 | (d) ~~(b)~~ The parent shall maintain a portfolio of records
 85 | and materials. The portfolio must ~~shall~~ consist of the
 86 | following:

87 | 1. A log of educational activities that is made
 88 | contemporaneously with the instruction and that designates by
 89 | title any reading materials used.

90 | 2. Samples of any writings, worksheets, workbooks, or
 91 | creative materials used or developed by the student.

92 | (e) The parent shall determine the content of the
 93 | portfolio, preserve it ~~shall be preserved by the parent~~ for 2
 94 | years, and make it ~~shall be made~~ available for inspection, if
 95 | requested, by the district school superintendent, or the
 96 | district school superintendent's agent, upon 15 days' written
 97 | notice. Nothing in this section shall require the district
 98 | school superintendent to inspect the portfolio.

99 | (f) ~~(e)~~ The parent shall provide for an annual educational
 100 | evaluation in which is documented the student's demonstration of

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101 educational progress at a level commensurate with her or his
 102 ability. The parent shall select the method of evaluation and
 103 shall file a copy of the evaluation annually with the district
 104 school superintendent's office in the county in which the
 105 student resides. The annual educational evaluation shall consist
 106 of one of the following:

107 1. A teacher selected by the parent shall evaluate the
 108 student's educational progress upon review of the portfolio and
 109 discussion with the student. Such teacher shall hold a valid
 110 regular Florida certificate to teach academic subjects at the
 111 elementary or secondary level;

112 2. The student shall take any nationally normed student
 113 achievement test administered by a certified teacher;

114 3. The student shall take a state student assessment test
 115 used by the school district and administered by a certified
 116 teacher, at a location and under testing conditions approved by
 117 the school district;

118 4. The student shall be evaluated by an individual holding
 119 a valid, active license pursuant to the provisions of s.
 120 490.003(7) or (8); or

121 5. The student shall be evaluated with any other valid
 122 measurement tool as mutually agreed upon by the district school
 123 superintendent of the district in which the student resides and
 124 the student's parent.

125 (2) The district school superintendent shall ~~review and~~

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126 | accept the results of the annual educational evaluation of the
127 | student in a home education program. If the student does not
128 | demonstrate educational progress at a level commensurate with
129 | her or his ability, the district school superintendent shall
130 | notify the parent, in writing, that such progress has not been
131 | achieved. The parent shall have 1 year from the date of receipt
132 | of the written notification to provide remedial instruction to
133 | the student. At the end of the 1-year probationary period, the
134 | student shall be reevaluated as specified in paragraph (1)(f)
135 | ~~(1)(e)~~. Continuation in a home education program shall be
136 | contingent upon the student demonstrating educational progress
137 | commensurate with her or his ability at the end of the
138 | probationary period.

139 | (11) A school district may provide access to career and
140 | technical courses and programs for a home education program
141 | student who enrolls in a public school solely for the career and
142 | technical courses or programs. The school district that provides
143 | the career and technical courses and programs shall report each
144 | student as a full-time equivalent student in the class and in a
145 | manner prescribed by the department, and funding shall be
146 | provided through the Florida Education Finance Program pursuant
147 | to s. 1011.62.

148 | (12) Industry certifications, national assessments, and
149 | statewide, standardized assessments offered by a school district
150 | shall be available to home education program students. Each

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151 school district shall notify home education program students of
 152 the available certifications and assessments; the date, time,
 153 and locations for the administration of each certification and
 154 assessment; and the deadline for notifying the school district
 155 of the student's intent to participate and the student's
 156 preferred location.

157 (13) A school district may not further regulate, exercise
 158 control over, or require documentation from parents of home
 159 education program students beyond the requirements of this
 160 section unless the regulation, control, or documentation is
 161 necessary for participation in a school district program.

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

164 1003.21 School attendance.—

165 (4) Before admitting a child to kindergarten, the
 166 principal shall require evidence that the child has attained the
 167 age at which he or she should be admitted in accordance with the
 168 provisions of subparagraph (1)(a)2. The district school
 169 superintendent may require evidence of the age of any child who
 170 is being enrolled in public school and who the district school
 171 superintendent ~~whom he or she~~ believes to be within the limits
 172 of compulsory attendance as provided for by law; however, the
 173 district school superintendent may not require evidence from any
 174 child who meets regular attendance requirements by attending a
 175 school or program listed in s. 1003.01(13)(b)-(e). If the first

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176 prescribed evidence is not available, the next evidence
 177 obtainable in the order set forth below shall be accepted:

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

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

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

186 (d) A bona fide contemporary religious record of the
 187 child's birth accompanied by an affidavit sworn to by the
 188 parent;

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

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

194 (g) If none of these evidences can be produced, an
 195 affidavit of age sworn to by the parent, accompanied by a
 196 certificate of age signed by a public health officer or by a
 197 public school physician, or, if these are not available in the
 198 county, by a licensed practicing physician designated by the
 199 district school board, which states that the health officer or
 200 physician has examined the child and believes that the age as

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201 | stated in the affidavit is substantially correct. Children and
202 | youths who are experiencing homelessness and children who are
203 | known to the department, as defined in s. 39.0016, shall be
204 | given temporary exemption from this section for 30 school days.

205 | Section 3. Paragraph (f) of subsection (1) and paragraph
206 | (a) of subsection (2) of section 1003.26, Florida Statutes, are
207 | amended to read:

208 | 1003.26 Enforcement of school attendance.—The Legislature
209 | finds that poor academic performance is associated with
210 | nonattendance and that school districts must take an active role
211 | in promoting and enforcing attendance as a means of improving
212 | student performance. It is the policy of the state that each
213 | district school superintendent be responsible for enforcing
214 | school attendance of all students subject to the compulsory
215 | school age in the school district and supporting enforcement of
216 | school attendance by local law enforcement agencies. The
217 | responsibility includes recommending policies and procedures to
218 | the district school board that require public schools to respond
219 | in a timely manner to every unexcused absence, and every absence
220 | for which the reason is unknown, of students enrolled in the
221 | schools. District school board policies shall require the parent
222 | of a student to justify each absence of the student, and that
223 | justification will be evaluated based on adopted district school
224 | board policies that define excused and unexcused absences. The
225 | policies must provide that public schools track excused and

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226 unexcused absences and contact the home in the case of an
 227 unexcused absence from school, or an absence from school for
 228 which the reason is unknown, to prevent the development of
 229 patterns of nonattendance. The Legislature finds that early
 230 intervention in school attendance is the most effective way of
 231 producing good attendance habits that will lead to improved
 232 student learning and achievement. Each public school shall
 233 implement the following steps to promote and enforce regular
 234 school attendance:

235 (1) CONTACT, REFER, AND ENFORCE.—

236 (f)1. If the parent of a child who has been identified as
 237 exhibiting a pattern of nonattendance enrolls the child in a
 238 home education program pursuant to chapter 1002, the district
 239 school superintendent shall provide the parent a copy of s.
 240 1002.41 and the accountability requirements of this paragraph.
 241 The district school superintendent shall also refer the parent
 242 to a home education review committee composed of the district
 243 contact for home education programs and at least two home
 244 educators selected by the parent from a district list of all
 245 home educators who have conducted a home education program for
 246 at least 3 years and who have indicated a willingness to serve
 247 on the committee. The home education review committee shall
 248 review the portfolio of the student, as defined by s. 1002.41,
 249 every 30 days during the district's regular school terms until
 250 the committee is satisfied that the home education program is in

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251 compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~. The first
252 portfolio review must occur within the first 30 calendar days of
253 the establishment of the program. The provisions of subparagraph
254 2. do not apply once the committee determines the home education
255 program is in compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~.

256 2. If the parent fails to provide a portfolio to the
257 committee, the committee shall notify the district school
258 superintendent. The district school superintendent shall then
259 terminate the home education program and require the parent to
260 enroll the child in an attendance option that meets the
261 definition of "regular school attendance" under s.
262 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon
263 termination of a home education program pursuant to this
264 subparagraph, the parent shall not be eligible to reenroll the
265 child in a home education program for 180 calendar days. Failure
266 of a parent to enroll the child in an attendance option as
267 required by this subparagraph after termination of the home
268 education program pursuant to this subparagraph shall constitute
269 noncompliance with the compulsory attendance requirements of s.
270 1003.21 and may result in criminal prosecution under s.
271 1003.27(2). Nothing contained herein shall restrict the ability
272 of the district school superintendent, or the ability of his or
273 her designee, to review the portfolio pursuant to s.
274 1002.41(1)(e) ~~s. 1002.41(1)(b)~~.

275 (2) GIVE WRITTEN NOTICE.—

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276 (a) Under the direction of the district school
277 superintendent, a designated school representative shall give
278 written notice that requires enrollment or attendance within 3
279 days after the date of notice, in person or by return-receipt
280 mail, to the parent when no valid reason is found for a
281 student's nonenrollment in school. If the notice and requirement
282 are ignored, the designated school representative shall report
283 the case to the district school superintendent, who ~~and~~ may
284 refer the case to the child study team in paragraph (1)(b) at
285 the school the student would be assigned according to district
286 school board attendance area policies or to the case staffing
287 committee, established pursuant to s. 984.12. The child study
288 team shall diligently facilitate intervention services and shall
289 report the case back to the district school superintendent only
290 when all reasonable efforts to resolve the nonenrollment
291 behavior are exhausted. If the parent still refuses to cooperate
292 or enroll the child in school, the district school
293 superintendent shall take such steps as are necessary to bring
294 criminal prosecution against the parent.

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

297 1003.27 Court procedure and penalties.—The court procedure
298 and penalties for the enforcement of the provisions of this
299 part, relating to compulsory school attendance, shall be as
300 follows:

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301 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

302 (a) In each case of nonenrollment or of nonattendance upon
 303 the part of a student who is required to attend some school,
 304 when no valid reason for such nonenrollment or nonattendance is
 305 found, the district school superintendent shall institute a
 306 criminal prosecution against the student's parent. However,
 307 criminal prosecution may not be instituted against the student's
 308 parent until the school and school district have complied with
 309 s. 1003.26.

310 (b) Each public school principal or the principal's
 311 designee shall notify the district school board of each minor
 312 student under its jurisdiction who accumulates 15 unexcused
 313 absences in a period of 90 calendar days. ~~Each designee of the~~
 314 ~~governing body of each private school, and each parent whose~~
 315 ~~child is enrolled in a home education program, may provide the~~
 316 ~~Department of Highway Safety and Motor Vehicles with the legal~~
 317 ~~name, sex, date of birth, and social security number of each~~
 318 ~~minor student under his or her jurisdiction who fails to satisfy~~
 319 ~~relevant attendance requirements and who fails to otherwise~~
 320 ~~satisfy the requirements of s. 322.091.~~ The district school
 321 superintendent must provide the Department of Highway Safety and
 322 Motor Vehicles the legal name, sex, date of birth, and social
 323 security number of each minor student who has been reported
 324 under this paragraph and who fails to otherwise satisfy the
 325 requirements of s. 322.091. The Department of Highway Safety and

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326 Motor Vehicles may not issue a driver license or learner's
 327 driver license to, and shall suspend any previously issued
 328 driver license or learner's driver license of, any such minor
 329 student, pursuant to the provisions of s. 322.091.

330 (c) Each designee of the governing body of each private
 331 school and each parent whose child is enrolled in a home
 332 education program may provide the Department of Highway Safety
 333 and Motor Vehicles with the legal name, sex, date of birth, and
 334 social security number of each minor student under his or her
 335 jurisdiction who fails to satisfy relevant attendance
 336 requirements and who fails to otherwise satisfy the requirements
 337 of s. 322.091. The Department of Highway Safety and Motor
 338 Vehicles may not issue a driver license or learner's driver
 339 license to, and shall suspend any previously issued driver
 340 license or learner's driver license of, any such minor student
 341 pursuant to s. 322.091.

342 Section 5. Paragraph (1) of subsection (5) and paragraph
 343 (a) of subsection (11) of section 1002.385, Florida Statutes,
 344 are amended to read:

345 1002.385 The Gardiner Scholarship.—

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

349 (1) Fees for an annual evaluation of educational progress
 350 by a state-certified teacher under s. 1002.41(1)(f) ~~s.~~

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351 ~~1002.41(1)(c)~~, if this option is chosen for a home education
 352 student.

353
 354 A provider of any services receiving payments pursuant to this
 355 subsection may not share, refund, or rebate any moneys from the
 356 Gardiner Scholarship with the parent or participating student in
 357 any manner. A parent, student, or provider of any services may
 358 not bill an insurance company, Medicaid, or any other agency for
 359 the same services that are paid for using Gardiner Scholarship
 360 funds.

361 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 362 PARTICIPATION.—A parent who applies for program participation
 363 under this section is exercising his or her parental option to
 364 determine the appropriate placement or the services that best
 365 meet the needs of his or her child. The scholarship award for a
 366 student is based on a matrix that assigns the student to support
 367 Level III services. If a parent receives an IEP and a matrix of
 368 services from the school district pursuant to subsection (7),
 369 the amount of the payment shall be adjusted as needed, when the
 370 school district completes the matrix.

371 (a) To satisfy or maintain program eligibility, including
 372 eligibility to receive and spend program payments, the parent
 373 must sign an agreement with the organization and annually submit
 374 a notarized, sworn compliance statement to the organization to:

- 375 1. Affirm that the student is enrolled in a program that

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376 | meets regular school attendance requirements as provided in s.
 377 | 1003.01(13)(b)-(d).

378 | 2. Affirm that the program funds are used only for
 379 | authorized purposes serving the student's educational needs, as
 380 | described in subsection (5).

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

383 | a. Requiring the student to take an assessment in
 384 | accordance with paragraph (8)(c);

385 | b. Providing an annual evaluation in accordance with s.
 386 | 1002.41(1)(f) ~~s. 1002.41(1)(e)~~; or

387 | c. Requiring the child to take any preassessments and
 388 | postassessments selected by the provider if the child is 4 years
 389 | of age and is enrolled in a program provided by an eligible
 390 | Voluntary Prekindergarten Education Program provider. A student
 391 | with disabilities for whom a preassessment and postassessment is
 392 | not appropriate is exempt from this requirement. A participating
 393 | provider shall report a student's scores to the parent.

394 | 4. Affirm that the student remains in good standing with
 395 | the provider or school if those options are selected by the
 396 | parent.

397 |
 398 | A parent who fails to comply with this subsection forfeits the
 399 | Gardiner Scholarship.

400 | Section 6. Subsection (5), paragraph (j) of subsection

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401 (6), and subsection (8) of section 1007.35, Florida Statutes,
 402 are amended to read:

403 1007.35 Florida Partnership for Minority and
 404 Underrepresented Student Achievement.—

405 (5) Each public high school, including, but not limited
 406 to, schools and alternative sites and centers of the Department
 407 of Juvenile Justice, shall provide for the administration of the
 408 Preliminary SAT/National Merit Scholarship Qualifying Test
 409 (PSAT/NMSQT), or the PreACT ~~preliminary ACT~~ to all enrolled 10th
 410 grade students. However, a written notice shall be provided to
 411 each parent which must include the opportunity to exempt his or
 412 her child from taking the PSAT/NMSQT or the PreACT ~~preliminary~~
 413 ~~ACT~~.

414 (a) Test results will provide each high school with a
 415 database of student assessment data which certified school
 416 counselors will use to identify students who are prepared or who
 417 need additional work to be prepared to enroll and be successful
 418 in AP courses or other advanced high school courses.

419 (b) Funding for the PSAT/NMSQT or the PreACT ~~preliminary~~
 420 ~~ACT~~ for all 10th grade students shall be contingent upon annual
 421 funding in the General Appropriations Act.

422 (c) Public school districts must choose either the
 423 PSAT/NMSQT or the PreACT ~~preliminary ACT~~ for districtwide
 424 administration.

425 (6) The partnership shall:

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426 (j) Provide information to students, parents, teachers,
 427 counselors, administrators, districts, Florida College System
 428 institutions, and state universities regarding PSAT/NMSQT or the
 429 PreACT ~~preliminary ACT~~ administration, including, but not
 430 limited to:

- 431 1. Test administration dates and times.
- 432 2. That participation in the PSAT/NMSQT or the PreACT
 433 ~~preliminary ACT~~ is open to all 10th grade students.
- 434 3. The value of such tests in providing diagnostic
 435 feedback on student skills.
- 436 4. The value of student scores in predicting the
 437 probability of success on AP or other advanced course
 438 examinations.

439 (8) (a) By September 30 of each year, the partnership shall
 440 submit to the department a report that contains an evaluation of
 441 the effectiveness of the delivered services and activities.
 442 Activities and services must be evaluated on their effectiveness
 443 at raising student achievement and increasing the number of AP
 444 or other advanced course examinations in low-performing middle
 445 and high schools. Other indicators that must be addressed in the
 446 evaluation report include the number of middle and high school
 447 teachers trained; the effectiveness of the training; measures of
 448 postsecondary readiness of the students affected by the program;
 449 levels of participation in 10th grade PSAT/NMSQT or the PreACT
 450 ~~preliminary ACT~~ testing; and measures of student, parent, and

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451 | teacher awareness of and satisfaction with the services of the
452 | partnership.

453 | (b) The department shall contribute to the evaluation
454 | process by providing access, consistent with s. 119.071(5)(a),
455 | to student and teacher information necessary to match against
456 | databases containing teacher professional development data and
457 | databases containing assessment data for the PSAT/NMSQT, SAT,
458 | ACT, PreACT, AP, and other appropriate measures. The department
459 | shall also provide student-level data on student progress from
460 | middle school through high school and into college and the
461 | workforce, if available, in order to support longitudinal
462 | studies. The partnership shall analyze and report student
463 | performance data in a manner that protects the rights of
464 | students and parents as required in 20 U.S.C. s. 1232g and s.
465 | 1002.22.

466 | Section 7. This act shall take effect July 1, 2018.