

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 732

INTRODUCER: Education Committee and Senator Baxley

SUBJECT: K-12 Education

DATE: January 24, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Graf	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 732 modifies requirements related to home education programs, school attendance, and the Florida Partnership for Minority and Underrepresented Student Achievement. Specifically, the bill:

- Modifies the home education program to:
 - Clarify the definition of a “parent,” consistent with Florida law.
 - Specify limits on information required by the school district from a parent unless the home education program student chooses to participate in a district program or service.
 - Authorize a school district to provide to home education program students access to career and technical education courses and programs.
 - Require industry certifications and national and statewide assessments offered by the school district to be made available to home education program students.
- Specifies that a home education program student must register intent to participate in an extracurricular activity before participation, rather than before the beginning date of the season for the activity.
- Modifies home education program students’ access to the dual enrollment program, to:
 - Specify that a high school grade point average (GPA) may not be required for home education program students who meet specified placement test scores.
 - Clarify that a home education program student must maintain a minimum GPA established by the postsecondary institution for continued enrollment in dual enrollment courses.
- Clarifies school attendance procedures, to:

- Specify that district school superintendents may not require evidence of a child's age if the child attends a school or program specified in law.
- Authorize the district school superintendent to refer instances of nonenrollment to a child study team for intervention.
- Require interventions for nonenrollment and nonattendance prior to criminal prosecution.
- Modifies the Florida Partnership for Minority and Underrepresented Student Achievement to:
 - Update the name of the preliminary ACT to the PreACT.
 - Add the ACT and the PreACT to specified assessments included in databases containing assessment data, to which the Department of Education must provide access for evaluation purposes.
 - Add dual enrollment to the types of college credit-bearing courses for which certified school counselors will use PSAT/NMSQT or PreACT data to identify students who are prepared to enroll in and be successful in advanced high school courses or college credit-bearing courses.

The bill takes effect July 1, 2018.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed in the Effect of Proposed Changes section of this bill analysis.

III. Effect of Proposed Changes:

Home Education Programs

Established by the Legislature as a school choice option in 1985, Florida is a long-time supporter of home education, and the number of families choosing this education option shows steady growth. For the 2016-2017 school year, 60,547 families and 87,462 students participated in home education programs.

Present Situation

A home education program is defined as the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements established in law.¹

To establish a home education program, a parent must:

- Submit a written and signed notice of intent to establish a home education program to the district school superintendent in the county of residence.² The notice must include the names, addresses, and birthdates of all children to be enrolled as students in the home education program.³

¹ Section 1002.01(1), F.S. The attendance requirements are established in ss 1002.41, 1003.01(13), and 1003.21(1), F.S.

² Section 1002.41(1)(a), F.S.

³ *Id.*

- Maintain a portfolio of records and materials, the contents of which are specified in law, and which must be preserved by the parent for two years and made available for inspection, if requested.⁴
- Select and provide for an annual educational evaluation to document the student's demonstration of educational progress.⁵ The parent must file a copy of the evaluation annually with the district school superintendent's office, and the district school superintendent must review and accept the results.⁶

If a parent terminates a home education program, the parent must file a written notice of termination in the district school superintendent's office.⁷

Although not required, some school districts provide opportunities for home education program students to enroll in specified courses in district schools.⁸ The public school district may report such home education program students for full-time equivalent funding through the Florida Education Finance Program.⁹

Effect of Proposed Changes

The bill specifies that a home education program is not a school district program and is registered with the district school superintendent only for the purpose of complying with attendance requirements specified under Florida law.

The bill clarifies the definition of a "parent," consistent with Florida law.¹⁰ A parent is defined as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. The bill requires the:

- Notice submitted by the parent to include the full legal names of all children who will be enrolled as students in the home education program.
- District school superintendent to accept the notice and immediately register the home education program.
- Parent to file a notice of termination upon completion of a home education program with the district school superintendent, and requires the notice to accompany the required annual educational evaluation.

Additionally, the bill specifies that a school district may not require any additional information or verification, assign a grade level to the home education program student, or include a social security number or any other personal information in any database unless the student chooses to participate in a school district program or service.

⁴ Section 1002.41(1)(b), F.S.

⁵ *Id.* at (c).

⁶ *Id.* at (2).

⁷ *Id.* at (a).

⁸ Florida Department of Education, Office of School Choice, *Frequently Asked Questions*, available at <http://www.fldoe.org/core/fileparse.php/7709/urlt/Home-Ed-FAQs-2017.pdf>, at 3.

⁹ Florida Department of Education, *FTE General Instructions, 2017-18*, available at <http://www.fldoe.org/core/fileparse.php/7508/urlt/1718FTE-GeneralInstructions.pdf>, at 29.

¹⁰ Section 1000.21(5), F.S.

The bill clarifies that the parent determines the content of a portfolio, and provides that a parent must make the portfolio available for inspection, if requested by the district school superintendent or agent. The bill also removes the requirement for a district school superintendent to review the annual educational evaluation. Accordingly, the bill provides that a district school superintendent must accept the results of an annual education evaluation without a review of such evaluation.

The bill provides to home education program students access to courses, programs, industry certifications and assessments. Specifically, the school district:

- May provide access to career and technical education courses and programs, and specifies that home education programs students who participate in such courses and programs may be reported as full-time equivalent students for funding through the Florida Education Finance Program.
- Must make available to home education program students industry certifications, national assessments, and statewide, standardized assessments offered by the school district. The school district must notify home education program students of available certifications, assessments, administrations, and deadlines for the student to notify the district of the student's intent to participate.

Finally, the bill specifies that the school district may not further regulate, exercise control over, or require documentation from parents of home education program students beyond the requirements of the law, unless the regulation, control, or documentation is necessary for participation in a school district program.

The modifications to the home education program are likely to expedite the establishment of home education programs, and may provide the student access to additional courses and programs.

Participation in Extracurricular Activities

Present Situation

An extracurricular activity is any school-authorized or education-related activity occurring during or outside the regular instructional school day.¹¹

An individual home education program student is eligible to participate¹² in extracurricular activities at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend under controlled open enrollment.¹³ The student may also develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school.

¹¹ Section 1006.15(2), F.S.

¹² "Eligible to participate" includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests; but does not require that a student be placed on any specific team for interscholastic or intrascholastic extracurricular activities.

¹³ Section 1006.15(3)(c), F.S. Beginning with the 2017-18 school year, each district school board and charter school must adopt a controlled open enrollment plan that allows a parent from any school district in the state to

A condition for participation in extracurricular activities includes, but is not limited to, a requirement that the home education program student must: register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate.¹⁴

Effect of Proposed Changes

The bill specifies that a student must register intent to participate in an extracurricular activity before participation, rather than before the beginning date of the season for the activity. Accordingly, the bill provides flexibility for a home education program student to begin participation in such activity.

Dual Enrollment

Present Situation

The dual enrollment program is the enrollment of an eligible secondary student or home education program student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree.¹⁵

Each postsecondary institution eligible to participate in the dual enrollment courses¹⁶ must enter into a home education articulation agreement with each home education program student seeking enrollment in a dual enrollment course and the student's parent. The home education articulation agreement includes, but is not limited to:¹⁷

- A delineation of courses and programs available to dually enrolled home education program students. Courses and programs may be added, revised, or deleted at any time by the postsecondary institution.
- The initial and continued eligibility requirements for home education program student participation, not to exceed those required of other dually enrolled students.

Effect of Proposed Changes

The bill modifies specified provisions in the home education articulation agreement, which may provide home education program students with greater access to dual enrollment courses. Specifically, the bill:

- Specifies that any limitations to courses and programs available to home education program students may not exceed the limitations for other dual enrollment students.
- Specifies that for initial eligibility a high school grade point average (GPA) may not be required for students who meet specified placement test scores.

enroll his or her child in and transport his or her child to any public school that has not reached capacity. Section 1002.31, F.S.

¹⁴ Section 1006.15(3)(c)5., F.S.

¹⁵ Section 1007.271(1), F.S.

¹⁶ Eligible institutions include public postsecondary institutions and independent colleges or universities, which are not for profit, accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confer postsecondary degrees. Section 1011.62(1)(i), F.S.

¹⁷ Section 1007.271(13)(b), F.S.

- Clarifies that a home education program student must meet postsecondary requirements for continued eligibility to participate in dual enrollment, which may include maintenance of a minimum postsecondary GPA.

School Attendance

Required School Attendance

Present Situation

Except as otherwise provided, children who are age 6 by February 1 of any school year, but who are not age 16, are required to attend school regularly during the entire school term.¹⁸

Additionally, children who are age 5 by September 1 of the school year are eligible for public kindergarten.¹⁹ A district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law.²⁰

Effect of Proposed Changes

The bill specifies that the district school superintendent may require evidence of the age of any child being enrolled in public school whom he or she believes to be within the limits of compulsory attendance.

The bill specifies, however, that the district school superintendent may not require evidence from any child who satisfies attendance requirements by attending a:²¹

- Parochial, religious, or denominational school;
- Private school supported in whole or in part by tuition charges or by endowments or gifts;
- Home education program that meets the requirements specified in law; or
- Private tutoring program that meets the requirements specified in law.

Enforcement of School Attendance

Present Situation

When there is no valid reason for a child to not be enrolled in school, a designated school representative must give written notice to the parent that requires enrollment or attendance within three days after the date of notice.²² If the notice and requirement are ignored, the designated school representative must report the case to the district school superintendent, and may refer the case to the case staffing committee.²³ The district school superintendent must then take steps that are necessary to bring criminal prosecution against the parent.²⁴

¹⁸ Section 1003.21(1)(a)1.

¹⁹ *Id.* at (a)2.

²⁰ *Id.* at (4).

²¹ Section 1003.01(13)(b)-(e), F.S.

²² Section 1003.26(1)(a), F.S.

²³ *Id.* at (2). The case staffing committee reviews the case of any family or child who the Department of Children and Families determines is in need of services or treatment. Section 984.12(1), F.S.

²⁴ Section 1003.26(2)(a), F.S.

Effect of Proposed Changes

The bill authorizes an intervention prior to the district school superintendent taking steps to initiate criminal prosecution. If a notice and requirement for enrollment or attendance is ignored, the district school superintendent may refer the case to a child study team²⁵ at the school that the student would be assigned according to district school board attendance policies.

The bill requires the child study team to be diligent in facilitating intervention services, and report the case to the district school superintendent only when all reasonable efforts to resolve the nonenrollment behavior are exhausted. The bill specifies that if the parent continues to refuse to cooperate or enroll the child in school, the district school superintendent must take the steps necessary to bring criminal prosecution against the parent.

Court Procedures and Penalties Related to School Attendance

Present Situation

Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law.²⁶ The absence of a student from school is evidence of a violation of compulsory attendance, but criminal prosecution may not be brought against a parent prior to compliance with provisions related to enforcement of school attendance.²⁷

In instances of nonenrollment or of nonattendance²⁸ upon the part of a student who is required to attend some school, when no valid reason for such nonenrollment or nonattendance is found, the district school superintendent must institute a criminal prosecution against the student's parent.²⁹

Effect of Proposed Changes

The bill clarifies that court procedures and penalties for nonenrollment or nonattendance may not be initiated against the student's parent until the school and school district have complied with the policies and procedures established to enforce school attendance.

²⁵ A child study team is also used for patterns of nonattendance, defined as five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period. Section 1003.26(1)(b), F.S. The school principal must refer the case to the school's child study team to determine if early patterns of truancy are developing. *Id.* The child study team must implement specified interventions, and may implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition. *Id.* at (b) and (c). The child study team must be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted. *Id.* at (d). District school boards are also authorized to establish policies that require referral to a school's child study team for students who have fewer absences than the established number. Section 1003.02(1)(b), F.S.

²⁶ Section 1003.24, F.S.

²⁷ *Id.*

²⁸ A district school superintendent may petition a circuit court to declare a student subject to compulsory school attendance is truant if the student has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, or has had more than 15 unexcused absences in a 90-calendar-day period. Section 984.03(54), F.S.

²⁹ Section 1003.27(2)(a), F.S.

In addition, the bill updates cross references to home education program portfolio specifications under provisions related to the enforcement of school attendance, and home education program annual evaluations under provisions related to participation in the Gardiner Scholarship Program.

Florida Partnership for Minority and Underrepresented Student Achievement

Present Situation

The Florida Partnership for Minority and Underrepresented Student Achievement (Florida partnership), was created in 2004³⁰ to prepare, inspire, and connect students to postsecondary success and opportunity, with a particular focus on minority students and students who are underrepresented in postsecondary education.³¹

The Florida partnership provides to students enrolled in grade 10 in public schools access to the preliminary ACT and another specified assessment.³² Test results will provide each high school with a database of student assessment data which certified school counselors will use to identify students who are prepared or who need additional work to be prepared to enroll and be successful in AP courses or other advanced high school courses.³³

The Florida partnership is required to provide information to students and other specified recipients regarding the preliminary ACT or PSAT/NMSQT administration and participation by 10th grade students.³⁴ The Florida partnership must also submit to the DOE a report that, among other items, evaluates the level of participation in the preliminary ACT.³⁵

Additionally, the DOE must contribute to the evaluation of the Florida partnership by providing access to student and teacher information necessary to match against databases containing teacher professional development data and databases containing assessment data for the PSAT/NMSQT, SAT, AP, and other appropriate measures.³⁶

Effect of Proposed Changes

The bill retains the requirements of the Florida partnership, but updates the name of the preliminary ACT to the PreACT consistent with the correct name of the assessment.³⁷ In addition the bill:

- Adds dual enrollment to the types of college credit-bearing courses for which certified school counselors will use PSAT/NMSQT or PreACT data to identify students who are prepared to enroll in and be successful in advanced high school courses or college credit-bearing courses.

³⁰ Section 1, ch. 2004-63, L.O.F.

³¹ Section 1007.35(4), F.S.

³² *Id.* at (5). Public high schools are required to provide for the administration of the Preliminary ACT or the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT). *Id.*

³³ *Id.* at (5)(a), F.S.

³⁴ *Id.* at (6)(j), F.S.

³⁵ *Id.* at (8)(a), F.S.

³⁶ *Id.*

³⁷ ACT, *PreACT*, <https://www.act.org/content/act/en/products-and-services/preact/preact-classroom.html> (last visited Jan. 23, 2018).

- Adds the ACT and the PreACT to specified assessments in databases for which the Department of Education must provide access for evaluation purposes.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.385, 1002.41, 1003.21, 1003.26, 1003.27, 1006.15, 1007.271, and 1007.35.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Education on January 22, 2018:**

The committee substitute modifies requirements in the bill regarding home education program students' enrollment in extracurricular courses and dual enrollment. The bill also modifies provisions relating to the Florida Partnership for Minority and Underrepresented Student Achievement. Specifically, the committee substitute:

- Removes from the bill, the bill provision that deemed home education program students as eligible to participate in extracurricular courses, which are exempted from maximum class size requirements, regardless of the school's capacity under controlled open enrollment; and deletes related conforming provisions and exemption from meeting school district residency requirements and standards for acceptance to extracurricular activities.
- Modifies the provision in the bill related to home education program students' participation in dual enrollment to clarify that such students must maintain the minimum postsecondary grade point average for continued enrollment in dual enrollment courses, not limited to only the college credit dual enrollment courses.
- Updates cross references to home education program portfolio specifications under provisions related to the enforcement of school attendance, and home education program annual evaluations under provisions related to participation in the Gardiner Scholarship Program.
- Modifies the Florida Partnership for Minority and Underrepresented Student Achievement to:
 - Update the name of the preliminary ACT to the PreACT.
 - Add the ACT and the PreACT to specified assessments included in databases containing assessment data, to which the Department of Education must provide access for evaluation purposes.
 - Add dual enrollment to the types of college credit-bearing courses for which certified school counselors will use PSAT/NMSQT or PreACT data to identify students who are prepared to enroll in and be successful in advanced high school courses or college credit-bearing courses.

B. Amendments:

None.