

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 732

INTRODUCER: Education Committee and Senator Baxley

SUBJECT: K-12 Education

DATE: March 1, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**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:
  - Limit the information a parent must provide to establish and maintain a home education program unless the home education program student chooses to participate in a district program or service.
  - Authorize school districts to provide home education program students access to career and technical education courses and programs.
  - Require school districts to make industry certifications and national and statewide assessments available to home education program students.
- Requires a home education program student to register his or her intent to participate in an extracurricular activity prior to participating in the activity.
- Clarifies the academic requirements that home education program students must meet in order to participate in dual enrollment programs by:
  - Exempting a home education program student from maintaining a specific high school grade point average if he or she has meets a minimum score on a common placement test.
  - Requiring a home education program student to maintain a minimum GPA established by the postsecondary institution for continued enrollment in a dual enrollment course.
- Clarifies school attendance procedures to:

- Prohibit the district school superintendent from requiring 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 school districts to implement 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 that certified school counselors must 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 does not affect state revenues or expenditures.

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 (Section 1)

Florida is a long-time supporter of home education, and the number of families choosing this education option has shown steady growth since the Legislature established it as a school choice option in 1985. 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.<sup>1</sup> 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.<sup>2</sup> The notice must include the names, addresses, and birthdates of all children to be enrolled as students in the home education program.<sup>3</sup>

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

<sup>2</sup> Section 1002.41(1)(a), F.S.

<sup>3</sup> *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.<sup>4</sup>
- Select and provide for an annual educational evaluation to document the student's educational progress.<sup>5</sup> 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.<sup>6</sup>

If a parent terminates a home education program, he or she must file a written notice of termination in the district school superintendent's office.<sup>7</sup>

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

### ***Effect of Proposed Changes***

Section 1 amends s. 1002.41, F.S., to specify 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.

This section clarifies the definition of a "parent," consistent with Florida law.<sup>10</sup> 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, this section 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.

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<sup>4</sup> Section 1002.41(1)(b), F.S.

<sup>5</sup> *Id.* at (c).

<sup>6</sup> *Id.* at (2).

<sup>7</sup> *Id.* at (a).

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> Section 1000.21(5), F.S.

This section 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.

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

- May provide home education program students access to career and technical education courses and may report participating students 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, this section 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 (Section 5)**

### ***Present Situation***

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

An individual home education program student is eligible to participate<sup>12</sup> 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.<sup>13</sup> The student may also develop an agreement to participate in interscholastic extracurricular activities at a private school.

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<sup>11</sup> Section 1006.15(2), F.S.

<sup>12</sup> "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.

<sup>13</sup> 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 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.

A home education program student who intends to participate in a public school's extracurricular activity must register with the school his or her intent to participate in the activity before the beginning date of the season for the activity in which he or she wishes to participate.<sup>14</sup>

### *Effect of Proposed Changes*

Section 5 amends s. 1006.15, F.S., to specify that a student must register his or her intent to participate in an extracurricular activity prior to participating in the activity 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 (Section 6)**

### *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.<sup>15</sup>

Each postsecondary institution eligible to participate in the dual enrollment courses<sup>16</sup> must enter into a home education articulation agreement with each home education program student seeking to enroll a dual enrollment course and the student's parent. The home education articulation agreement includes, but is not limited to:<sup>17</sup>

- 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*

Section 6 amends s. 1007.271, F.S., to modify specified provisions in the home education articulation agreement, which may provide home education program students with greater access to dual enrollment courses. Specifically, this section:

- Specifies that any limitations to courses and programs available to home education program students may not exceed the limitations for other dual enrollment students.
- Exempts a home education program student who meets a minimum score on a common placement test from maintaining a high school grade point average (GPA) in order to participate in dual enrollment.
- 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.

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<sup>14</sup> Section 1006.15(3)(c)5., F.S.

<sup>15</sup> Section 1007.271(1), F.S.

<sup>16</sup> 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.

<sup>17</sup> Section 1007.271(13)(b), F.S.

## **School Attendance**

### ***Required School Attendance (Section 2)***

#### *Present Situation*

Except as otherwise provided, children who are age 6 by February 1 of any school year but are not age 16, are required to attend school regularly during the entire school term.<sup>18</sup> Additionally, children who are age 5 by September 1 of the school year are eligible for public kindergarten.<sup>19</sup> 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.<sup>20</sup>

#### *Effect of Proposed Changes*

Section 2 amends s. 1003.21, F.S., to specify 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. However, the district school superintendent may not require evidence of age from any child who satisfies attendance requirements by attending a:<sup>21</sup>

- 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 (Section 3)***

#### *Present Situation*

When there is no valid reason for a child not to 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.<sup>22</sup> If the parent ignores the notice and requirement, the designated school representative must report the case to the district school superintendent and may refer the case to the case staffing committee.<sup>23</sup> The district school superintendent must then take steps necessary to bring criminal prosecution against the parent.<sup>24</sup>

#### *Effect of Proposed Changes*

Section 3 amends s. 1003.26, F.S., to authorize an intervention prior to the district school superintendent taking steps to initiate criminal prosecution. If the parent ignores a notice and requirement for enrollment or attendance, the district school superintendent may refer the case to

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<sup>18</sup> Section 1003.21(1)(a)1.

<sup>19</sup> *Id.* at (a)2.

<sup>20</sup> *Id.* at (4).

<sup>21</sup> Section 1003.01(13)(b)-(e), F.S.

<sup>22</sup> Section 1003.26(1)(a), F.S.

<sup>23</sup> *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.

<sup>24</sup> Section 1003.26(2)(a), F.S.

a child study team<sup>25</sup> at the school the student would be assigned to attend according to district school board's attendance policies.

This section requires the child study team to be diligent in facilitating intervention services and to report the case to the district school superintendent only when all reasonable efforts to resolve the nonenrollment behavior are exhausted. 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 (Section 4)**

##### *Present Situation*

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

When no valid reason for nonenrollment or nonattendance is found for a student who is required to attend a school, the district school superintendent must institute a criminal prosecution against the student's parent.<sup>28</sup>

##### *Effect of Proposed Changes*

Section 4 amends s. 1003.27, F.S., to clarify 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.

In addition, this section 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.

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<sup>25</sup> 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.

<sup>26</sup> Section 1003.24, F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 1003.27(2)(a), F.S.

## Florida Partnership for Minority and Underrepresented Student Achievement (Section 7)

### *Present Situation*

The Florida Partnership for Minority and Underrepresented Student Achievement (Florida partnership), was created in 2004<sup>29</sup> 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.<sup>30</sup>

The Florida partnership provides to students enrolled in grade 10 in public schools access to the preliminary ACT and another specified assessment.<sup>31</sup> Test results will provide each high school with a database of student assessment data that certified school counselors must 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.<sup>32</sup>

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 10<sup>th</sup> grade students.<sup>33</sup> The Florida partnership must also submit to the Florida Department of Education (DOE) a report that, among other items, evaluates the level of participation in the preliminary ACT.<sup>34</sup>

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 against databases containing assessment data for the PSAT/NMSQT, SAT, AP, and other appropriate measures.<sup>35</sup>

### *Effect of Proposed Changes*

Section 7 amends s. 1007.35, F.S., to retain the requirements of the Florida partnership but updates the name of the preliminary ACT to the PreACT to be consistent with the correct name of the assessment.<sup>36</sup> In addition this section:

- Adds dual enrollment to the types of college credit-bearing courses that certified school counselors must 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.
- Adds the ACT and the PreACT to specified assessments in databases for which the DOE must provide access for evaluation purposes.

The bill takes effect July 1, 2018.

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<sup>29</sup> Section 1, ch. 2004-63, L.O.F.

<sup>30</sup> Section 1007.35(4), F.S.

<sup>31</sup> *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.*

<sup>32</sup> *Id.* at (5)(a), F.S.

<sup>33</sup> *Id.* at (6)(j), F.S.

<sup>34</sup> *Id.* at (8)(a), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> ACT, *PreACT*, <https://www.act.org/content/act/en/products-and-services/preact/preact-classroom.html> (last visited Jan. 23, 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:

The bill has no fiscal impact on state revenues or expenditures.

**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 the bill's provision that deemed home education program students 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 exemptions 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.