

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: SB 732
 INTRODUCER: Senator Baxley
 SUBJECT: Home Education
 DATE: January 19, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Graf	ED	Pre-meeting
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

I. Summary:

SB 732 modifies requirements related to home education programs. 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.
- Modifies home education program students’ access to extracurricular activities, to:
 - Require access to extracurricular courses, regardless of the public school’s capacity.
 - Specify 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.
- 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.

In addition, the bill 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.

The bill takes effect July 1, 2018.

II. Present Situation:

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.¹ For the 2016-2017 school year, 60,547 families and 87,462 students participated in home education programs.²

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

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.³ 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.⁴ The notice must include the names, addresses, and birthdates of all children to be enrolled as students in the home education program.⁵
- 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.⁶
- Select and provide for an annual educational evaluation to document the student's demonstration of educational progress.⁷ 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.⁸

If a parent terminates a home education program, the parent must file a written notice of termination in the district school superintendent's office.⁹

¹ Florida Department of Education, *Home Education Program* (Sept. 2017), available at http://www.fldoe.org/core/fileparse.php/5606/urlt/HomeEd_Sept_2017.pdf

² *Id.*

³ Section 1002.01(1), F.S. The attendance requirements are established in ss 1002.41, 1003.01(13), and 1003.21(1), F.S.

⁴ Section 1002.41(1)(a), F.S.

⁵ *Id.*

⁶ Section 1002.41(1)(b), F.S.

⁷ *Id.* at (c).

⁸ *Id.* at (2).

⁹ *Id.* at (a).

Although not required, some school districts provide opportunities for home education program students to enroll in specified courses in district schools.¹⁰ The public school district may report such home education program students for full-time equivalent funding through the Florida Education Finance Program.¹¹

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.¹² 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.

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.

¹⁰ 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.

¹¹ 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.

¹² Section 1000.21(5), F.S.

- 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.¹³

An individual home education program student is eligible to participate¹⁴ 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.¹⁵ The student may also develop an agreement to participate at a private school, in the interscholastic extracurricular activities of that school.

The conditions for participation in extracurricular activities include, but are not limited to, requirements that the home education program student must:¹⁶

- Meet the same residency requirements as other students in the school at which he or she participates.
- Meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.
- 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.

¹³ Section 1006.15(2), F.S.

¹⁴ "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.

¹⁵ 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.

¹⁶ Section 1006.15(3)(c), F.S.

Effect of Proposed Changes

The bill facilitates the enrollment of home education program students in a public school extracurricular activity. The bill clarifies home education program student participation in such activities under the controlled open enrollment program¹⁷ to:

- Specify that, regardless of the school district's determination of school capacity,¹⁸ the home education program student must be permitted to enroll in extracurricular courses,¹⁹ which are excluded from maximum class size requirements.
- Remove the requirement that home education program students meet the same residency requirements as other students in the school at which he or she participates.
- Remove the requirement for acceptance in an extracurricular activity from the conditions for home education program students to participate in such activities.

Additionally, 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.²⁰

Each postsecondary institution eligible to participate in the dual enrollment courses²¹ 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:²²

¹⁷ Beginning by the 2017-2018 school year, as part of a school district's or charter school's controlled open enrollment process, each district school board or charter school must allow a parent from any school district in the state whose child is not subject to a current expulsion or suspension to enroll his or her child in and transport his or her child to any public school, including charter schools, that has not reached capacity in the district, subject to the requirements of maximum class size. Section 1002.31(2)(a), F.S.

¹⁸ *Id.* at (b).

¹⁹ "Extracurricular courses" means all courses that are not defined as "core-curricula courses," which may include, but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit. The term is limited in meaning and used for the sole purpose of designating classes that are not subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. Section 1003.01(15), F.S.

²⁰ Section 1007.271(1), F.S.

²¹ 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.

²² Section 1007.271(13)(b), F.S.

- 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.
- 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.²³

Additionally, children who are age 5 by September 1 of the school year are eligible for public kindergarten.²⁴ 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.²⁵

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:²⁶

- 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.

²³ Section 1003.21(1)(a)1.

²⁴ *Id.* at (a)2.

²⁵ *Id.* at (4).

²⁶ Section 1003.01(13)(b)-(e), F.S.

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.²⁷ 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.²⁸ The district school superintendent must then take steps that are necessary to bring criminal prosecution against the parent.²⁹

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 team³⁰ 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.³¹ 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.³²

²⁷ Section 1003.26(1)(a), F.S.

²⁸ *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.

²⁹ Section 1003.26(2)(a), F.S.

³⁰ 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.

³¹ Section 1003.24, F.S.

³² *Id.*

In instances of nonenrollment or of nonattendance³³ 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.³⁴

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.

In addition, the bill updates cross references modified in the bill relating to home education annual evaluations, portfolios as evidence of school attendance, and participation in the Gardiner Scholarship Program.

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.

³³ 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.

³⁴ Section 1003.27(2)(a), F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.