

CHAPTER 2018-134

Committee Substitute for Committee Substitute for House Bill No. 731

An act relating to home education; amending s. 1002.41, F.S.; specifying 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 the state's attendance requirements; revising the content requirements of a notice of enrollment of a student in a home education program; requiring the district school superintendent to immediately register a home education program upon receipt of the notice; prohibiting a school district from requiring additional information or verification of a home education student except in specified circumstances; authorizing a school district to provide home education program students with access to certain courses and programs offered by the school district; requiring reporting and funding through the Florida Education Finance Program; requiring home education program students be provided access to certain certifications and assessments offered by the school district; prohibiting a school district from taking certain actions against a home education program student's parent unless such action is necessary for a school district program; amending s. 1003.21, F.S.; prohibiting a district school superintendent from requiring certain evidence relating to a child's age from children enrolling in specified schools and programs; amending s. 1003.26, F.S.; authorizing a school district superintendent to refer certain cases relating to student non-enrollment to the child study team of certain schools; requiring the child study team to provide specified services in such instances; conforming cross-references; amending s. 1003.27, F.S.; requiring a school and school district to comply with specified provisions before instituting criminal prosecution against certain parents relating to compulsory school attendance; amending s. 1002.385, F.S.; conforming cross-references; amending s. 1007.35, F.S.; updating terminology; requiring the department to provide certain teacher and student ACT and PreACT information for the evaluation of certain services and activities; providing an effective date.

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

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

1002.41 Home education programs.—

(1) As used in this section, the term a "home education program" has the same meaning as is defined in s. 1002.01. A home education program is not a school district program and is registered with the district school superintendent only for the purpose of complying with the state's attendance

requirements under s. 1003.21(1). The parent is not required to hold a valid regular Florida teaching certificate.

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

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

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

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

1. A log of educational activities that is made contemporaneously with the instruction and that designates by title any reading materials used.
2. Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.

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

(f)(e) The parent shall provide for an annual educational evaluation in which is documented the student's demonstration of educational progress at a level commensurate with her or his ability. The parent shall select the method of evaluation and shall file a copy of the evaluation annually with the district school superintendent's office in the county in which the student

resides. The annual educational evaluation shall consist of one of the following:

- 1. A teacher selected by the parent shall evaluate the student’s educational progress upon review of the portfolio and discussion with the student. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level;
- 2. The student shall take any nationally normed student achievement test administered by a certified teacher;
- 3. The student shall take a state student assessment test used by the school district and administered by a certified teacher, at a location and under testing conditions approved by the school district;
- 4. The student shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(7) or (8); or
- 5. The student shall be evaluated with any other valid measurement tool as mutually agreed upon by the district school superintendent of the district in which the student resides and the student’s parent.

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

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

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

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

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

1003.21 School attendance.—

(4) Before admitting a child to kindergarten, the principal shall require evidence that the child has attained the age at which he or she should be admitted in accordance with the provisions of subparagraph (1)(a)2. The district school superintendent may require evidence of the age of any child who is being enrolled in public school and who the district school superintendent ~~whom he or she~~ believes to be within the limits of compulsory attendance as provided for by law; however, the district school superintendent may not require evidence from any child who meets regular attendance requirements by attending a school or program listed in s. 1003.01(13)(b)-(e). If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

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

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

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

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

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

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

(g) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if these are not available in the county, by a licensed practicing physician designated by the district school board, which states that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct. Children and youths who are experiencing homelessness and children who are known to the department, as defined in s. 39.0016, shall be given temporary exemption from this section for 30 school days.

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

1003.26 Enforcement of school attendance.—The Legislature finds that poor academic performance is associated with nonattendance and that school districts must take an active role in promoting and enforcing attendance as a means of improving student performance. It is the policy of the state that each district school superintendent be responsible for enforcing school attendance of all students subject to the compulsory school age in the school district and supporting enforcement of school attendance by local law enforcement agencies. The responsibility includes recommending policies and procedures to the district school board that require public schools to respond in a timely manner to every unexcused absence, and every absence for which the reason is unknown, of students enrolled in the schools. District school board policies shall require the parent of a student to justify each absence of the student, and that justification will be evaluated based on adopted district school board policies that define excused and unexcused absences. The policies must provide that public schools track excused and unexcused absences and contact the home in the case of an unexcused absence from school, or an absence from school for which the reason is unknown, to prevent the development of patterns of nonattendance. The Legislature finds that early intervention in school attendance is the most effective way of producing good attendance habits that will lead to improved student learning and achievement. Each public school shall implement the following steps to promote and enforce regular school attendance:

(1) CONTACT, REFER, AND ENFORCE.—

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

2. If the parent fails to provide a portfolio to the committee, the committee shall notify the district school superintendent. The district school superintendent shall then terminate the home education program and require the parent to enroll the child in an attendance option that meets the

definition of “regular school attendance” under s. 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon termination of a home education program pursuant to this subparagraph, the parent shall not be eligible to reenroll the child in a home education program for 180 calendar days. Failure of a parent to enroll the child in an attendance option as required by this subparagraph after termination of the home education program pursuant to this subparagraph shall constitute noncompliance with the compulsory attendance requirements of s. 1003.21 and may result in criminal prosecution under s. 1003.27(2). Nothing contained herein shall restrict the ability of the district school superintendent, or the ability of his or her designee, to review the portfolio pursuant to s. 1002.41(1)(e) ~~s. 1002.41(1)(b)~~.

(2) GIVE WRITTEN NOTICE.—

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

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

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

(2) NONENROLLMENT AND NONATTENDANCE CASES.—

(a) In each case of nonenrollment or of nonattendance 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 shall institute a criminal prosecution against the student’s parent. However, criminal prosecution may not be instituted against the student’s parent until the school and school district have complied with s. 1003.26.

(b) Each public school principal or the principal’s designee shall notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days. ~~Each~~

designee of the governing body of each private school, and each parent whose child is enrolled in a home education program, may provide the Department of Highway Safety and Motor Vehicles with the legal name, sex, date of birth, and social security number of each minor student under his or her jurisdiction who fails to satisfy relevant attendance requirements and who fails to otherwise satisfy the requirements of s. 322.091. The district school superintendent must provide the Department of Highway Safety and Motor Vehicles the legal name, sex, date of birth, and social security number of each minor student who has been reported under this paragraph and who fails to otherwise satisfy the requirements of s. 322.091. The Department of Highway Safety and Motor Vehicles may not issue a driver license or learner's driver license to, and shall suspend any previously issued driver license or learner's driver license of, any such minor student, pursuant to the provisions of s. 322.091.

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

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

1002.385 The Gardiner Scholarship.—

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

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

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

(11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her

child. The scholarship award for a student is based on a matrix that assigns the student to support Level III services. If a parent receives an IEP and a matrix of services from the school district pursuant to subsection (7), the amount of the payment shall be adjusted as needed, when the school district completes the matrix.

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

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

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

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

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

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

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

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

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

Section 6. Subsection (5), paragraph (j) of subsection (6), and subsection (8) of section 1007.35, Florida Statutes, are amended to read:

1007.35 Florida Partnership for Minority and Underrepresented Student Achievement.—

(5) Each public high school, including, but not limited to, schools and alternative sites and centers of the Department of Juvenile Justice, shall provide for the administration of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), or the PreACT preliminary ACT to all enrolled 10th grade students. However, a written notice shall be

provided to each parent which must include the opportunity to exempt his or her child from taking the PSAT/NMSQT or the PreACT ~~preliminary~~ ACT.

(a) 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.

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

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

(6) The partnership shall:

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

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

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

(b) The department shall contribute to the evaluation process by providing access, consistent with s. 119.071(5)(a), 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, ACT, PreACT, AP, and other appropriate

measures. The department shall also provide student-level data on student progress from middle school through high school and into college and the workforce, if available, in order to support longitudinal studies. The partnership shall analyze and report student performance data in a manner that protects the rights of students and parents as required in 20 U.S.C. s. 1232g and s. 1002.22.

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

Approved by the Governor March 30, 2018.

Filed in Office Secretary of State March 30, 2018.