

By Representative Stafford

1 A bill to be entitled
2 An act relating to education; amending s.
3 39.01, F.S.; revising provisions regarding
4 habitual truancy; amending s. 228.041, F.S.;
5 revising the definitions of the terms "habitual
6 truant" and "dropout"; amending s. 232.01,
7 F.S.; revising compulsory school attendance
8 requirements to require children over the age
9 of 16 to file a formal declaration of intent to
10 terminate school enrollment in order to be
11 exempt from compulsory school attendance
12 requirements; amending s. 232.17, F.S.;
13 revising procedures relating to habitual
14 truancy; amending s. 232.19, F.S.; revising
15 procedures relating to habitual truancy;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (12) and (73) of section 39.01,
21 Florida Statutes, 1996 Supplement, are amended to read:

22 39.01 Definitions.--When used in this chapter:
23 (12) "Child in need of services" means a child for
24 whom there is no pending investigation into an allegation or
25 suspicion of abuse, neglect, or abandonment; no pending
26 referral alleging the child is delinquent; or no current
27 supervision by the Department of Juvenile Justice or the
28 Department of Health and Rehabilitative Services for an
29 adjudication of dependency or delinquency. The child must
30 also, pursuant to this chapter, be found by the court:
31

1 (a) To have persistently run away from the child's
2 parents or legal custodians despite reasonable efforts of the
3 child, the parents or legal custodians, and appropriate
4 agencies to remedy the conditions contributing to the
5 behavior. Reasonable efforts shall include voluntary
6 participation by the child's parents or legal custodians and
7 the child in family mediation, services, and treatment offered
8 by the Department of Juvenile Justice or the Department of
9 Health and Rehabilitative Services;

10 (b) To be habitually truant from school, while subject
11 to compulsory school attendance, despite reasonable efforts to
12 remedy the situation pursuant to ss. 232.17 and 232.19 ~~ss.~~
13 ~~232.19~~ and through voluntary participation by the child's
14 parents or legal custodians and by the child in family
15 mediation, services, and treatment offered by the Department
16 of Juvenile Justice or the Department of Health and
17 Rehabilitative Services; or

18 (c) To have persistently disobeyed the reasonable and
19 lawful demands of the child's parents or legal custodians, and
20 to be beyond their control despite efforts by the child's
21 parents or legal custodians and appropriate agencies to remedy
22 the conditions contributing to the behavior. Reasonable
23 efforts may include such things as good faith participation in
24 family or individual counseling.

25
26 The State Attorney may file a child-in-need-of-services
27 petition after referring a child who is subject to compulsory
28 school attendance and who either has 15 unexcused absences
29 within 90 days or fails to enroll in school to the appropriate
30 agency for evaluation and after consulting with that agency.

31 (73) "To be habitually truant" means that:

1 (a) The child has 15 unexcused absences within 90 days
2 with or without the knowledge or justifiable consent of the
3 child's parent or legal guardian, is subject to compulsory
4 school attendance under s. 233.01, and is not exempt under
5 ~~from attendance by virtue of being over the age of compulsory~~
6 ~~school attendance or by meeting the criteria in s. 232.06, s.~~
7 232.09, or any other exemptions specified by law or the rules
8 of the State Board of Education;

9 (b) ~~In addition to the actions described in s. 232.17,~~
10 ~~the school administration has completed the following~~
11 Escalating activities to determine the cause, and to attempt
12 the remediation, of the child's truant behavior under ss.
13 232.17 and 232.19 have been completed.†

14 1. ~~After a minimum of 3 and prior to 15 unexcused~~
15 ~~absences within 90 days, one or more meetings have been held,~~
16 ~~either in person or by phone, between a school attendance~~
17 ~~assistant or school social worker, the child's parent or~~
18 ~~guardian, and the child, if necessary, to report and to~~
19 ~~attempt to solve the truancy problem. However, if the school~~
20 ~~attendance assistant or school social worker has documented~~
21 ~~the refusal of the parent or guardian to participate in the~~
22 ~~meetings, then this requirement has been met.~~†

23 2. ~~Educational counseling has been provided to~~
24 ~~determine whether curriculum changes would help solve the~~
25 ~~truancy problem, and, if any changes were indicated, such~~
26 ~~changes were instituted but proved unsuccessful in remedying~~
27 ~~the truancy behavior. Such curriculum changes may include~~
28 ~~enrollment of the child in an alternative education program~~
29 ~~that meets the specific educational and behavioral needs of~~
30 ~~the child, including a second chance school, as provided for~~
31 ~~in s. 230.2316, designed to resolve truant behavior.~~†

1 3. ~~Educational evaluation, pursuant to the~~
2 ~~requirements of s. 232.19(3)(b)3., has been provided; and~~
3 4. ~~The school social worker, the attendance assistant,~~
4 ~~or the school superintendent's designee if there is no school~~
5 ~~social worker or attendance assistant has referred the student~~
6 ~~and family to the children-in-need-of-services and~~
7 ~~families-in-need-of-services provider or the case staffing~~
8 ~~committee, established pursuant to s. 39.426, as determined by~~
9 ~~the cooperative agreement required in s. 232.19(3). The case~~
10 ~~staffing committee may request the department or its designee~~
11 ~~to file a child-in-need-of-services petition based upon the~~
12 ~~report and efforts of the school district or other community~~
13 ~~agency or may seek to resolve the truancy behavior through the~~
14 ~~school or community-based organizations or agencies.~~

15
16 If a child who is subject to ~~within the~~ compulsory school
17 attendance ~~age~~ is responsive to the interventions described in
18 ss. 232.17 and 232.19 ~~this paragraph~~ and has completed the
19 necessary requirements to pass the current grade as indicated
20 in the district pupil progression plan, the child shall not be
21 determined to be habitually truant and shall be passed; ~~If a~~
22 ~~child within the compulsory school attendance age has 15~~
23 ~~unexcused absences or fails to enroll in school, the State~~
24 ~~Attorney may file a child-in-need-of-services petition. Prior~~
25 ~~to filing a petition, the child must be referred to the~~
26 ~~appropriate agency for evaluation. After consulting with the~~
27 ~~evaluating agency, the State Attorney may elect to file a~~
28 ~~child-in-need-of-services petition.~~

29 (c) A school representative, designated according to
30 school board policy ~~school social worker or other person~~
31 ~~designated by the school administration, if the school does~~

1 ~~not have a school social worker~~, and an intake counselor or
2 case manager of the Department of Juvenile Justice have
3 jointly investigated the truancy problem or, if that was not
4 feasible, have performed separate investigations to identify
5 conditions which may be contributing to the truant behavior;
6 and if, after a joint staffing of the case to determine the
7 necessity for services, such services were determined to be
8 needed, the persons who performed the investigations met
9 jointly with the family and child to discuss any referral to
10 appropriate community agencies for economic services, family
11 or individual counseling, or other services required to remedy
12 the conditions that are contributing to the truant behavior;
13 and

14 (d) The failure or refusal of the parent or legal
15 guardian or the child to participate, or make a good faith
16 effort to participate, in the activities prescribed to remedy
17 the truant behavior, or the failure or refusal of the child to
18 return to school after participation in activities required by
19 this subsection, or the failure of the child to stop the
20 truant behavior after the school administration and the
21 Department of Juvenile Justice have worked with the child as
22 described in s. 232.19(3) shall be handled as prescribed in s.
23 232.19.

24 Section 2. Subsections (28) and (29) of section
25 228.041, Florida Statutes, 1996 Supplement, are amended to
26 read:

27 228.041 Definitions.--Specific definitions shall be as
28 follows, and wherever such defined words or terms are used in
29 the Florida School Code, they shall be used as follows:

30 (28) HABITUAL TRUANT.--A habitual truant is a student
31 who has 15 unexcused absences within 90 days with or without

1 the knowledge or consent of the student's parent or legal
2 guardian, is subject to compulsory school attendance under s.
3 232.01, and is not exempt under ~~and who is not exempt from~~
4 ~~attendance by virtue of being over the age of compulsory~~
5 ~~school attendance, by meeting the criteria in s. 232.06 or s.~~
6 232.09, or by meeting the criteria for any other exemption
7 specified by law or rules of the State Board of Education.
8 Such a student must have been the subject of the activities
9 specified in ss. 232.17 and 232.19, without resultant
10 successful remediation of the truancy problem before being
11 dealt with as a child in need of services according to the
12 provisions of chapter 39.

13 (29) DROPOUT.--A dropout is a student not subject to
14 ~~over the age of~~ compulsory school attendance, as defined in s.
15 232.01, who meets any one or more of the following criteria:

16 (a) The student has voluntarily removed himself or
17 herself from the school system before graduation for reasons
18 that include, but are not limited to, marriage or entrance
19 into the military, or the student has withdrawn from school
20 because he or she has failed the statewide student assessment
21 test and thereby does not receive any of the certificates of
22 completion;

23 (b) The student has not met the relevant attendance
24 requirements of the school district pursuant to State Board of
25 Education rules, or the student was expected to attend a
26 school but did not enter as expected for unknown reasons, or
27 the student's whereabouts are unknown;

28 (c) The student has withdrawn from school, but has not
29 transferred to another public or private school or enrolled in
30 any vocational, adult, or alternative educational program;

31

1 (d) The student has withdrawn from school due to
2 hardship, unless such withdrawal has been granted under the
3 provisions of s. 322.0601, court action, expulsion, medical
4 reasons, or pregnancy; or

5 (e) The student is not eligible to attend school
6 because of reaching the maximum age for an exceptional student
7 program in accordance with the district's policy.

8
9 Students not exempt from attendance pursuant to s. 232.06 and
10 who are subject to ~~under the age of~~ compulsory school
11 attendance under s. 232.01 and who stop attending school are
12 ~~shall be known as~~ habitual truants as defined in subsection
13 (28) and are not ~~to be~~ considered dropouts. The State Board
14 of Education may adopt rules to implement the provisions of
15 this subsection.

16 Section 3. Subsection (1) of section 232.01, Florida
17 Statutes, is amended to read:

18 232.01 Regular school attendance required between ages
19 of 6 and 16; permitted at age of 5; exceptions.--

20 (1)(a) All children who have attained the age of 6
21 years or who will have attained the age of 6 years by February
22 1 of any school year or who are older than 6 years of age but
23 who have not attained the age of 16 years, except as
24 hereinafter provided, are required to attend school regularly
25 during the entire school term.

26 (b) Any child who has attained the age of 6 years on
27 or before September 1 of the school year and who has been
28 enrolled in a public school or who has attained the age of 6
29 years on or before September 1 and has satisfactorily
30 completed the requirements for kindergarten in a nonpublic
31 school from which the district school board accepts transfer

1 of academic credit, or who otherwise meets the criteria for
2 admission or transfer in a manner similar to that applicable
3 to other grades, shall progress according to the district's
4 pupil progression plan. However, nothing in this section shall
5 authorize the state or any school district to oversee or
6 exercise control over the curricula or academic programs of
7 nonpublic schools.

8 (c) A child who attains the age of 16 years during the
9 school year ~~is shall~~ not subject to compulsory school
10 attendance be required to attend school beyond the date upon
11 which he or she attains that age if the child files a formal
12 declaration of intent to terminate school enrollment with the
13 district school board. The declaration must be signed by the
14 child and the child's parent or legal guardian. A child who
15 attains the age of 18 years during the school year is not
16 subject to compulsory school attendance beyond the date upon
17 which he or she attains that age.

18 (d) Students who become or have become married and
19 students who are pregnant shall not be prohibited from
20 attending school. These students and students who are parents
21 shall receive the same educational instruction or its
22 equivalent as other students, but may voluntarily be assigned
23 to a class or program suited to their special needs.
24 Consistent with s. 230.23166, pregnant or parenting teens
25 shall be entitled to participate in a teenage parent program.
26 Pregnant students may attend alternative education programs or
27 adult education programs, provided that the curriculum allows
28 the student to continue to work toward a high school diploma.

29 (e) Beginning with the 1991-1992 school year and
30 consistent with rules adopted by the state board, children
31 with disabilities who have attained the age of 3 years shall

1 be eligible for admission to public special education programs
2 and for related services under rules adopted by the school
3 board. Exceptional children who are deaf or hard of hearing,
4 visually impaired, dual sensory impaired, severely physically
5 handicapped, trainable mentally handicapped, or profoundly
6 handicapped, or who have established conditions, or exhibit
7 developmental delays, below age 3 may be eligible for special
8 programs; or, if enrolled in other prekindergarten or day care
9 programs, they may be eligible for supplemental instruction.
10 Rules for the identification of established conditions for
11 children birth through 2 years of age and developmental delays
12 for children birth through 5 years of age must be adopted by
13 the State Board of Education.

14 (f) Homeless children, as defined in s. 228.041, must
15 have access to a free public education and must be admitted to
16 school in the school district in which they or their families
17 live. School districts shall assist homeless children to meet
18 the requirements of ss. 232.03, 232.0315, and 232.032, as well
19 as local requirements for documentation.

20 Section 4. Section 232.17, Florida Statutes, 1996
21 Supplement, is amended to read:

22 232.17 Enforcement of school attendance ~~Attendance~~
23 ~~assistants; qualifications; compensation; duties.--Pursuant to~~
24 procedures established by the district school board, a
25 designated school representative must complete activities
26 designed to determine the cause and attempt the remediation of
27 truant behavior, as provided in this section. ~~Provisions for~~
28 ~~the employment, qualifications, compensation, and duties of~~
29 ~~attendance assistants shall be as follows:~~

30 (1) ~~EMPLOYMENT AND QUALIFICATIONS OF ATTENDANCE~~
31 ~~ASSISTANTS.--The school board, upon the recommendation of the~~

1 ~~superintendent, may employ and fix the compensation, including~~
2 ~~reimbursement for travel, of a sufficient number of qualified~~
3 ~~attendance assistants to guarantee regular attendance at~~
4 ~~school of all children of the district within compulsory~~
5 ~~school-age requirements who are not herein exempted from~~
6 ~~attendance.~~

7 ~~(2) DUTIES AND RESPONSIBILITIES OF ATTENDANCE~~

8 ~~ASSISTANTS.--The duties and responsibilities of the attendance~~
9 ~~assistant shall be exercised under the direction of the~~
10 ~~superintendent and shall be as follows:~~

11 ~~(a) Maintain records.--Pupil accounting records,~~
12 ~~unless maintained by others assigned by the superintendent,~~
13 ~~shall be kept by attendance assistants. These records shall~~
14 ~~be on forms approved pursuant to regulations of the state~~
15 ~~board.~~

16 ~~(1)(b) INVESTIGATE NONENROLLMENT AND UNEXCUSED~~

17 ~~ABSENCES.--A designated school representative in accordance~~
18 ~~with procedure established by the state board, attendance~~
19 ~~assistants shall investigate cases of nonenrollment and~~
20 ~~unexcused absences from school of all children subject to~~
21 ~~compulsory school attendance within the compulsory school age.~~

22 ~~(2)(c) GIVE WRITTEN NOTICE.--Under the direction of~~

23 ~~the superintendent, a designated school representative the~~
24 ~~attendance assistant shall give written notice, either in~~
25 ~~person or by return-receipt registered mail, to the parent,~~
26 ~~guardian, or other person having control when no valid reason~~
27 ~~is found for a child's nonenrollment in school or when the~~
28 ~~child has a minimum of 3 but fewer than 15 unexcused absences~~
29 ~~within 90 days, requiring enrollment or attendance within 3~~
30 ~~days after ~~from~~ the date of notice. If the ~~such~~ notice and~~
31 ~~requirement are ignored, the designated school representative~~

1 ~~attendance assistant~~ shall report the case to the
2 superintendent, and may refer the case to the case staffing
3 committee, established pursuant to s. 39.426, if the
4 conditions of s. 232.19(3) have been met. The superintendent
5 may take such steps as are necessary to bring criminal
6 prosecution against the parent, guardian, or other person
7 having control. ~~No further written notice of the child's~~
8 ~~absence from school is required to be given to the parent,~~
9 ~~guardian, or other person having control unless the child,~~
10 ~~upon his or her return to school, remains in attendance for 10~~
11 ~~consecutive days.~~

12 (3)(d) RETURN CHILD TO PARENT.--A designated school
13 representative ~~The attendance assistant~~ shall visit the home
14 or place of residence of a child and any other place in which
15 he or she is likely to find any child who is required to
16 attend school when such child is not enrolled or is absent
17 from school during school hours without an excuse, and, when
18 the such child is ~~has been~~ found, shall return the child to
19 his or her parent or to the principal or teacher in charge of
20 the school, or to the private tutor from whom absent.

21 ~~(e) Visit home.--The attendance assistant shall visit~~
22 ~~promptly the home of each child of school age in his or her~~
23 ~~attendance district not in attendance upon the school, and of~~
24 ~~any child who should attend the Florida State School for the~~
25 ~~Deaf and the Blind, and who is reported as not enrolled in~~
26 ~~that school or as absent without excuse.~~

27 (4) WRITTEN NOTICE.--If no valid reason is found for
28 such nonenrollment or absence, ~~from such school or schools~~ the
29 designated school representative ~~attendance assistant~~ shall
30 give written notice to the parent, requiring the child's
31 enrollment or attendance ~~as prescribed above~~. The designated

1 school representative attendance assistant shall secure the
2 written approval of the president of the Florida State School
3 for the Deaf and the Blind before he or she directs or
4 requests the parents of any child to take or send such child
5 to that school. Ten days' notice must be given in the case of
6 a child who is ordered sent to that school. On refusal or
7 failure of the parent to meet such requirement, the designated
8 school representative attendance assistant shall report the
9 same to the superintendent, and that official shall proceed to
10 take such action as is prescribed in s. 232.19(2).

11 (5)(f) REPORT TO THE DIVISION OF JOBS AND BENEFITS.--A
12 designated school representative ~~The attendance assistant~~
13 shall report to the Division of Jobs and Benefits of the
14 Department of Labor and Employment Security or to any person
15 acting in similar capacity who may be designated by law to
16 receive such notices, all violations of the Child Labor Law
17 that may come to his or her knowledge.

18 (6)(g) RIGHT TO INSPECT.--A designated school
19 representative ~~The attendance assistant~~ shall have the same
20 right of access to, and inspection of, establishments where
21 minors may be employed or detained as is given by law to the
22 Division of Jobs and Benefits only for the purpose of
23 ascertaining whether children of compulsory school age are
24 actually employed there and are actually working there
25 regularly. The designated school representative attendance
26 assistant shall, if he or she finds unsatisfactory working
27 conditions or violations of the Child Labor Law, report his or
28 her findings to the Division of Jobs and Benefits or its
29 agents.

30 (7)(h) RECORDS Record of visits.--Each designated
31 school representative who performs duties according to this

1 section ~~The attendance assistant~~ shall keep an accurate record
2 of all children returned to schools or homes, of all cases
3 prosecuted, and of all other service performed. A written
4 report of all such activities shall be made quarterly to the
5 school board and shall be filed in the office of the
6 superintendent. If a child repeats a pattern of nonattendance
7 within one school year, the designated school representative
8 shall resume the series of escalating activities at the point
9 at which he or she had previously left off.

10 Section 5. Subsection (3) of section 232.19, Florida
11 Statutes, 1996 Supplement, is amended to read:

12 232.19 Court procedure and penalties.--The court
13 procedure and penalties for the enforcement of the provisions
14 of this chapter, relating to compulsory school attendance,
15 shall be as follows:

16 (3) HABITUAL TRUANCY CASES.--In accordance with
17 procedures established by the district school board, a
18 designated school representative ~~The school social worker, the~~
19 ~~attendance assistant, or the school superintendent's designee~~
20 ~~if there is no school social worker or attendance assistant~~
21 shall refer a student who is habitually truant and the
22 student's family to the children-in-need-of-services and
23 families-in-need-of-services provider or the case staffing
24 committee, established pursuant to s. 39.426, as determined by
25 the cooperative agreement required in this section. The case
26 staffing committee may request the Department of Juvenile
27 Justice or its designee to file a child-in-need-of-services
28 petition based upon the report and efforts of the school
29 district or other community agency or may seek to resolve the
30 truancy behavior through the school or community-based
31 organizations or agencies. Prior to and subsequent to the

1 filing of a child-in-need-of-services petition due to habitual
2 truancy, the appropriate governmental agencies must allow a
3 reasonable time to complete actions required by this
4 subsection to remedy the conditions leading to the truant
5 behavior. The following criteria must be met and documented in
6 writing prior to the filing of a petition:

7 (a) The child must have 15 unexcused absences within
8 90 days with or without the knowledge or consent of the
9 child's parent or legal guardian, must be subject to
10 compulsory school attendance, and must not be exempt under ~~and~~
11 ~~must not be exempt from attendance by virtue of being over the~~
12 ~~age of compulsory school attendance or by meeting the criteria~~
13 ~~in s. 232.06, s. 232.09, or any other exemption specified by~~
14 law or the rules of the State Board of Education.

15 (b) In addition to the actions described in s. 232.17,
16 the school administration must have completed the following
17 activities to determine the cause, and to attempt the
18 remediation, of the child's truant behavior:

19 1. After a minimum of 3 and prior to 15 unexcused
20 absences within 90 days, one or more meetings must have been
21 held, either in person or by phone, between a school
22 attendance assistant or school social worker, the child's
23 parent or guardian, and the child, if necessary, to report and
24 to attempt to solve the truancy problem. However, if the
25 designated school representative ~~school attendance assistant~~
26 ~~or school social worker~~ has documented the refusal of the
27 parent or guardian to participate in the meetings, this
28 requirement has been met.

29 2. Educational counseling must have been provided to
30 determine whether curriculum changes would help solve the
31 truancy problem, and, if any changes were indicated, such

1 changes must have been instituted but proved unsuccessful in
2 remedying the truant behavior. Such curriculum changes may
3 include enrollment of the child in an alternative education
4 program that meets the specific educational and behavioral
5 needs of the child, including a second chance school, as
6 provided for in s. 230.2316, designed to resolve truant
7 behavior.

8 3. Educational evaluation, which may include
9 psychological evaluation, must have been provided to assist in
10 determining the specific condition, if any, that is
11 contributing to the child's nonattendance. The evaluation
12 must have been supplemented by specific efforts by the school
13 to remedy any diagnosed condition.

14
15 If a child who is subject to ~~within the~~ compulsory school
16 attendance ~~age~~ is responsive to the interventions described in
17 this paragraph and has completed the necessary requirements to
18 pass the current grade as indicated in the district pupil
19 progression plan, the child shall be passed.

20 (c) The district manager of the Department of Juvenile
21 Justice or the district manager's designee and the
22 superintendent of the local school district or the
23 superintendent's designee must have developed a cooperative
24 interagency agreement which clearly defines each department's
25 role, responsibility, and function in working with habitual
26 truants and their families. The interagency agreement shall
27 specify that the participants address issues of streamlining
28 service delivery, the appropriateness of legal intervention,
29 case management, the role and responsibility of the case
30 staffing committee, student and parental intervention and
31 involvement, and community action plans. The interagency

1 agreement shall delineate timeframes for implementation and
2 identify a mechanism for reporting results by the district
3 juvenile justice manager or the district manager's designee
4 and the superintendent of schools or the superintendent's
5 designee to the Department of Juvenile Justice and the
6 Department of Education and other governmental entities as
7 needed. The cooperative agreement may designate which agency
8 shall be responsible for the intervention steps in s.
9 39.01(73), or this section, if such designation shall yield
10 more effective and efficient intervention services.

11 Section 6. This act shall take effect July 1, 1997.

12 *****

13 HOUSE SUMMARY

14
15 Revises provisions relating to habitual truancy of
16 pupils. Requires children between the ages of 16 and 18
17 to file a formal declaration in order to be exempt from
18 compulsory school attendance laws. Revises procedures
19 related to the handling of habitual truants. See bill for
20 details.
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