

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 31, 1998 Revised: \_\_\_\_\_

Subject: School Attendance/Home Education

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Chasteen</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The committee substitute clarifies the definition of the phrase “home education program” as it concerns school attendance. It provides that nonpublic school survey requirements and certain attendance reporting requirements do not apply to home education programs. It clarifies provisions relating to state or school district control of home education programs. It requires that students age 16 to 18 who file a declaration of intent to drop out of school obtain the signature of a parent or guardian on the declaration. It requires that the school district notify the parent or guardian of receipt of the declaration. It provides that private tutoring may be used to meet regular school attendance requirements. It revises certain requirements relating to home education programs.

The committee substitute amends the following sections of the Florida Statutes: 228.041, 229.808, 232.01, 232.02, 232.0202, 232.021, 232.425, 240.116, 240.321, 240.40202, 240.40205, and 240.40206. It creates section 232.0202, Florida Statutes.

**II. Present Situation:**

Subsection (34) of s. 228.041, F.S. defines a “home education program” to be sequentially progressive instruction of a student in his or her home by his or her parent or guardian in order to satisfy the school attendance requirements prescribed in s. 232.01, F.S.

Section 229.808, F.S., requires that Florida nonpublic schools annually file a survey form with the Florida Department of Education (DOE). The annual survey is intended as confirmation of compliance with a requirement that owners of nonpublic schools file fingerprints with the Florida Department of Law Enforcement (FDLE) and be subject to a criminal background check. The results of the criminal background check must be forwarded to the owner, and must be made

available for public inspection in the school's office as soon as it is received. It is unlawful for persons convicted of a crime involving moral turpitude to own or operate a nonpublic school. School owners may require that their employees file a set of fingerprints with FDLE for the purpose of performing a background check. DOE is required to maintain a database of educational institutions that must comply with the section, and must make the data available to the public on an annual basis.

For the purposes of the section, a "nonpublic school" is defined as an individual, association, copartnership, or corporation, or department, division, or section of such organization, which designates itself as an educational center which includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization which provides instructional services which meet the intent of the school attendance requirements of s. 232.02, F.S., or which gives pre-employment or supplementary training in technology or in fields of trade or industry or which offers academic, literary, or vocational training below college level, or any combination of the above, including an institution which performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 246 (Nonpublic Postsecondary Institutions). "Owner" means any individual who is the chief administrative officer of a nonpublic school.

Failure to submit the annual survey form is a misdemeanor and can result in a fine not exceeding \$500. Submission of fraudulent information is deemed a second degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 232.01, F.S., requires that children between the ages of 6 and 16 attend school on a regular basis. It prescribes the age requirements for admission to public kindergartens and prekindergarten early intervention or preschool programs. A child who reaches the age of 16 during the school year is not subject to compulsory school attendance if he or she files a formal declaration of intent to terminate school enrollment. The declaration must acknowledge that leaving school is likely to reduce the student's earning potential and must be signed by the child. The school district is required to notify the child's parent or legal guardian of the child's declaration of intent. Children who reach age 18 during the school year are not subject to compulsory school attendance beyond that age. The section specifies that married or pregnant students must be afforded the same or equivalent instruction as other students. The section prescribes requirements for accommodating disabled, developmentally delayed, and homeless children.

Section 6A-1.0951, Florida Administrative Code (F.A.C.), prescribes the following requirements for persons who tutor children of compulsory school attendance age, when such tutoring is in lieu of school attendance:

- The tutor must hold a valid Florida certificate to teach the subjects or grades in which instruction is given.

- The tutor must maintain all records and make all reports required by the state and the school board, and must make regular attendance reports in accordance with s. 228.041(17), F.S.
- The tutor must require pupils to be in actual attendance for the minimum time prescribed in s. 228.041(17), F.S.

Private tutors who fail to meet these requirements are subject to prosecution under the provisions of the Compulsory Attendance Law.

When ch. 85-144, L.O.F, was enacted, existing language in s. 232.02(4), F.S., specifying that regular school attendance could be achieved “At home with a private tutor who meets all requirements prescribed by law and regulations of the state board for private tutors” was deleted.

Section 232.02, F.S., provides that attendance in a public school, a parochial, religious, or denominational school, a private school, or a home education program as defined in s. 228.041, F.S., is acceptable for the purposes of satisfying s. 231.01, F.S. A home education program is deemed acceptable if at least one of the following conditions is met:

- The parent holds a valid regular Florida certificate to teach the subjects or grades in which the instruction is given and complies with other state board requirements.
- The parent does not hold a valid regular Florida certificate, but notifies the school superintendent in writing of his or her intent to maintain a home education program. The parent must also maintain a portfolio of records and materials, including a log of reading materials, writing samples, workbooks, and creative materials used or developed by the student. The portfolio must be maintained for 2 years and be made available for inspection by the superintendent or his agent. The parent must provide for an annual educational evaluation which demonstrates acceptable progress. A copy of the evaluation must be filed with the school board. The evaluation may be accomplished via evaluation by a certified teacher, taking a nationally normed achievement test, a state assessment test, evaluation by a licensed psychologist, or by other measures as agreed to by the parent or legal guardian and the school superintendent. The superintendent must review and accept the annual evaluation, otherwise the parent or guardian is notified in writing of unacceptable progress, and is give one year to provide remedial instruction. Continuation in the home education program is contingent upon demonstration of acceptable progress at the end of the probationary period.

Section 232.021, F.S., requires that officials, teachers, and other employees in public, parochial, denominational, and private schools, including private tutors, maintain records of attendance. The records must be reported as required by law or regulation, must include attendance and absence data, and must be made available for inspection by a representative of the superintendent.

Violation of this provision is classed as a second-degree misdemeanor.

Section 232.425, F.S., prescribes standards for participation in interscholastic extracurricular student activities. Students entering grade nine during the 1997-98 school year and thereafter

must maintain a 2.0 grade point average (GPA) [on a 4.0 scale], in classes required for graduation, in order to participate in interscholastic extracurricular activities. Students entering grade nine prior to the 1997-98 school year must maintain a 2.0 GPA in courses required for graduation, or as an overall cumulative average, depending on when the courses are taken. Participation is also contingent upon satisfactory conduct. Students who are exempt from attending a full school day as required by s. 228.041(13), F.S., must maintain a 2.0 GPA and pass each class in which he or she is enrolled in order to maintain eligibility. The section allows a student in an acceptable home education program to participate in interscholastic extracurricular activities at a school if the student can demonstrate acceptable educational progress, i.e., maintenance of 2.0 GPA and passing each class in which the student is enrolled. Acceptable educational progress may be demonstrated by an evaluation which is mutually agreed to by the parent or guardian and the principal of the school, and may include: review of the student's work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a community college, university, or trade school; standardized test scores above the 35th percentile, or other method designated in s. 232.02(4), F.S. The student must also meet the residency requirements and standards of behavior established for other students. The student must register his or intent to participate with the school prior to the start date of the activity in which he or she wishes to participate. The section prescribes requirements concerning students who transfer between home education and public or nonpublic schools and organizations that govern interscholastic extracurricular activities.

Section 240.116, F.S., prescribes various articulated acceleration mechanisms designed to shorten the time necessary to achieve a college degree. Such mechanisms include dual enrollment, early admission, advanced placement, credit by examination, and the International Baccalaureate Program. The section requires that home education students be permitted access to dual enrollment, vocational dual enrollment, early admission, and credit by examination.

Section 240.321, F.S., prescribes standards governing admissions to community colleges. Admissions to associate degree programs for home education students require a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program in accordance with s. 232.02(4), F.S.

Section 240.40202, F.S., prescribes eligibility requirements for awards under the Florida Bright Futures Scholarship Program, a program funded by the lottery, and designed to award Florida high school graduates who demonstrate high academic achievement. The three types of awards available under the program are the Florida Academic Scholarship, The Florida Merit Scholarship, and the Florida Vocational Gold Seal Scholarship. Eligibility criteria include receipt of a standard Florida high school diploma, or its equivalent, enrollment in an early admission program, or completion of a home education program in accordance with s. 232.02(4), F.S.

Section 240.40205, F.S., as amended by ch. 97-379, Laws of Florida, prescribes specific eligibility requirements for a Florida Academic Scholars award. The student must achieve a 3.5 GPA on a 4.0 scale, or its equivalent, in college-preparatory classes, or have attended an acceptable home school program in grades 11 and 12, and must have attained a minimum prescribed score on any

of several aptitude or achievement tests. Students who have been awarded an International Baccalaureate Diploma or are national merit scholars or finalists are also eligible.

Section 240.50206, F.S., prescribes specific eligibility requirements for the Florida Merit Scholars award. The student must achieve a 3.0 GPA on a 4.0 scale, or its equivalent, in college-preparatory classes, or have attended an acceptable home school program in grades 11 and 12, and must have attained a minimum prescribed score on any of several aptitude or achievement tests.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 228.041(34), F.S., to clarify that a home education program is a program directed by the parent or guardian, but is not necessarily carried out in the home.

Section 2 amends s.229.808, F.S., to clarify that a home education program is not included in the definition of “nonpublic school” as it relates to fingerprinting and background checks of nonpublic school owners.

Section 3 amends s. 232.01(1)(b), F.S., to clarify that the attendance and progression provisions in the section do not authorize the state or the school district to oversee or control the curricula or academic programs of home education programs. A similar provision already exists for nonpublic schools. Section 3 also amends s. 232.01(1)(c), F.S., to require that a student age 16 to 18 who intends to file a declaration of intent to drop out of school obtain the signature of his or her parent or guardian on the declaration. It requires the school district to notify the parent or guardian of receipt of the declaration.

Section 4 amends s. 232.02, F.S., to include private tutoring programs that meet the requirements of a newly created s. 232.0202, F.S., as a means of meeting the school attendance requirements of s. 232.01, F.S. It rennumbers and amends subsection (4) regarding home education programs as s. 232.0201, F.S., and deletes an exception to the notification and record keeping requirements for home educators who are also certified teachers. It specifically states that the school superintendent is not required to inspect home school portfolios. It clarifies that the parent or legal guardian is responsible for selecting which of several approved methods are to be used in conducting annual evaluations of the student’s progress. It specifies that nationally normed achievement tests, whether or not the district uses those specific tests, are acceptable. It specifies that state student achievement tests used for evaluation must be those used by the school district, and must be administered by a certified teacher at a location and under testing conditions approved by the school district. It specifically excludes home education programs from the normal school day requirements prescribed in s. 228.041, F.S.

Section 5 creates s. 232.0202, F.S., which authorizes private tutoring programs to be used as a means of complying with school attendance requirements in s. 232.02, F.S., provided that: the tutor holds a valid Florida certificate to teach in the areas for which instruction is being offered; keeps all records and makes all reports as may be required by the state and school board; makes

regular reports on student attendance in accordance with s. 232.021, F.S.; and requires students to be in actual attendance for the minimum length of time prescribed by s. 228.041(16), F.S., as it regards the definition of “school year.” This language is comparable to what is currently prescribed only by rule ( s. 6A-1.0951, F.A.C.).

Section 6 amends s. 232.021, F.S., to specifically exempt home education programs conducted under s. 232.0201, F.S., from prescribed attendance records and reporting requirements that apply to public, parochial, denominational, and private schools, including private tutors.

Section 7 amends s. 232.425, F.S., regarding participation in interscholastic extracurricular activities to revise cross references changed in previous sections of the bill and to change a reference from “parent” to “parent or guardian.”

Section 8 amends s. 240.116(7)(b), F.S., to revise a cross reference changed in a previous section of the bill.

Section 9 amends s. 240.321(2)(a), F.S., to revise a cross reference changed in a previous section of the bill.

Section 10 amends s. 240.40202(1)(b), F.S., to revise a cross reference changed in a previous section of the bill.

Section 11 amends s. 240.40205(1), F.S., to revise a cross reference changed in a previous section of the bill.

Section 12 amends s. 240.40206(1)(c), F.S., to revise a cross reference changed in a previous section of the bill.

Section 13 specifies that the act will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The committee substitute will require certified teachers who are operating home education programs to comply with the same notification, record keeping, and reporting requirements as apply to home educators who are not certified. The fiscal impact of this requirement is expected to be negligible.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.