

By the Committee on Education/K-12 and Representative
Gottlieb

1 A bill to be entitled
2 An act relating to truancy; amending s. 232.17,
3 F.S.; providing legislative findings; placing
4 responsibility on school district
5 superintendents for enforcing attendance;
6 establishing requirements for school board
7 policies; revising the current steps for
8 enforcing regular school attendance; requiring
9 public schools to follow the steps;
10 establishing the requirements for school
11 principals, primary teachers, child study
12 teams, and parents; providing for parents to
13 appeal; allowing the superintendent to seek
14 criminal prosecution for parental
15 noncompliance; requiring the superintendent to
16 file certain petitions involving ungovernable
17 children in certain circumstances; requiring
18 the superintendent to provide the court with
19 certain evidence; allowing for court
20 enforcement for children who refuse to comply;
21 revising the notice requirements to parents,
22 guardians, or others; eliminating a current
23 condition for notice; eliminating the option
24 for referral to case staffing committees;
25 requiring the superintendent to take steps to
26 bring about criminal prosecution and requiring
27 related notice; authorizing superintendents to
28 file truancy petitions; allowing for the return
29 of absent children to additional locations;
30 requiring parental notification; deleting
31 certain provisions relating to escalating

1 series of truancy activities; amending s.
2 232.19, F.S., relating to habitual truancy;
3 authorizing superintendents to file truancy
4 petitions; requiring that a court order for
5 school attendance be obtained as a part of
6 services; revising the requirements that must
7 be met prior to filing a petition; amending s.
8 236.081, F.S.; amending procedures that must be
9 followed in determining the annual allocation
10 to each school district for operation;
11 requiring the average daily attendance of the
12 student membership to be calculated by school
13 and by district; requiring the district's FTE
14 membership to be adjusted by multiplying by the
15 average daily attendance factor; amending s.
16 984.03, F.S.; redefining the term "habitual
17 truant"; requiring the state attorney or
18 appropriate jurisdictional agency to file a
19 child-in-need-of-services petition in certain
20 circumstances; eliminating the requirement for
21 referral for evaluation; providing definitions
22 for "truancy court" and "truancy petition";
23 creating s. 984.151, F.S.; providing procedure
24 for truancy petitions; providing for truancy
25 hearings and penalties; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 232.17, Florida Statutes, 1998
31 Supplement, is amended to read:

1 232.17 Enforcement of school attendance.--~~The~~
2 Legislature finds that poor academic performance is associated
3 with nonattendance and that schools must take an active role
4 in enforcing attendance as a means of improving the
5 performance of many students. It is the policy of the state
6 that the superintendent of each school district be responsible
7 for enforcing school attendance of all children and youth
8 subject to the compulsory school age in the school district.
9 The responsibility includes recommending to the school board
10 policies and procedures to ensure that schools respond in a
11 timely manner to every unexcused absence, or absence for which
12 the reason is unknown, of students enrolled in the schools.
13 School board policies must require each parent or guardian of
14 a student to justify each absence of the student, and that
15 justification will be evaluated based on adopted school board
16 policies that define excused and unexcused absences. The
17 policies must provide that schools track excused and unexcused
18 absences and contact the home in the case of an unexcused
19 absence from school, or absence for which the reason is
20 unknown, to prevent the development of patterns of
21 nonattendance. The Legislature finds that early intervention
22 in school attendance matters is the most effective way of
23 producing good attendance habits that will lead to improved
24 student learning and achievement. Each public school shall
25 implement the following steps to enforce regular school
26 attendance:

27 (1) CONTACT, REFER, AND ENFORCE.--

28 (a) Upon each unexcused absence, or absence for which
29 the reason is unknown, the school principal or his or her
30 designee shall contact the home to determine the reason for
31 the absence. If the absence is an excused absence, as defined

1 by school board policy, the school shall provide opportunities
2 for the student to make up assigned work and not receive an
3 academic penalty unless the work is not made up within a
4 reasonable time.

5 (b) If a student has had at least five unexcused
6 absences, or absences for which the reason is unknown, within
7 a calendar month or ten unexcused absences, or absences for
8 which the reason is unknown, within a 90 calendar day period,
9 the student's primary teacher shall report to the school
10 principal or his or her designee that the student may be
11 exhibiting a pattern of nonattendance. The principal shall,
12 unless there is clear evidence that the absences are not a
13 pattern of nonattendance, refer the case to the school's child
14 study team to determine if early patterns of truancy are
15 developing. If the child study team finds that a pattern of
16 nonattendance is developing, whether the absences are excused
17 or not, a meeting with the parent must be scheduled to
18 identify potential remedies.

19 (c) If an initial meeting does not resolve the
20 problem, the child study team shall implement interventions
21 that best address the problem. The interventions may include,
22 but need not be limited to:

- 23 1. Frequent communication between the teacher and the
24 family;
- 25 2. Changes in the learning environment;
- 26 3. Mentoring;
- 27 4. Student counseling;
- 28 5. Tutoring, including peer tutoring;
- 29 6. Placement into different classes;
- 30 7. Evaluation for alternative education programs;
- 31 8. Attendance contracts;

1 9. Referral to other agencies for family services; or
2 10. Other interventions.

3 (d) The child study team shall be diligent in
4 facilitating intervention services and shall report the case
5 to the superintendent only when all reasonable efforts to
6 resolve the nonattendance behavior are exhausted.

7 (e) If the parent, guardian, or other person in charge
8 of the child refuses to participate in the remedial strategies
9 because he or she believes that those strategies are
10 unnecessary or inappropriate, the parent, guardian, or other
11 person in charge of the child may appeal to the school board.
12 The school board may provide a hearing officer and the hearing
13 officer shall make a recommendation for final action to the
14 board. If the board's final determination is that the
15 strategies of the child study team are appropriate, and the
16 parent, guardian, or other person in charge of the child still
17 refuses to participate or cooperate, the superintendent may
18 seek criminal prosecution for noncompliance with compulsory
19 school attendance.

20 (f) If the parent, guardian, or other person in charge
21 of the child reports to the child study team or other
22 designated school representative that the child subject to
23 compulsory school attendance is ungovernable and will not
24 comply with attempts to enforce school attendance, the parent
25 or guardian or the superintendent shall file a
26 child-in-need-of-services petition or
27 family-in-need-of-services petition seeking services from the
28 Department of Juvenile Justice and a court order to attend
29 school. The superintendent shall provide evidence to the court
30 that the school system is prepared to provide a learning
31 environment for the student that is responsive to the

1 student's learning needs and that all reasonable efforts to
2 resolve the nonattendance behavior have been exhausted. The
3 court may enforce a contempt of court order if the child
4 refuses to comply.~~Pursuant to procedures established by the~~
5 ~~district school board, a designated school representative must~~
6 ~~complete activities designed to determine the cause and~~
7 ~~attempt the remediation of truant behavior, as provided in~~
8 ~~this section.~~

9 ~~(1) INVESTIGATE NONENROLLMENT AND UNEXCUSED~~
10 ~~ABSENCES.--A designated school representative shall~~
11 ~~investigate cases of nonenrollment and unexcused absences from~~
12 ~~school of all children subject to compulsory school~~
13 ~~attendance.~~

14 (2) GIVE WRITTEN NOTICE.--

15 (a) Under the direction of the superintendent, a
16 designated school representative shall give written notice, in
17 person or by return-receipt mail, to the parent, guardian, or
18 other person having control when no valid reason is found for
19 a child's nonenrollment in school which requires ~~or when the~~
20 ~~child has a minimum of 3 but fewer than 6 unexcused absences~~
21 ~~within 90 calendar days, requiring enrollment and or~~
22 attendance within 3 days after the date of notice. If the
23 notice and requirement are ignored, the designated school
24 representative shall report the case to the superintendent,
25 and ~~may refer the case to the case staffing committee,~~
26 ~~established pursuant to s. 984.12, if the conditions of s.~~
27 ~~232.19(3) have been met.~~the superintendent shall ~~may~~ take
28 such steps as are necessary to bring criminal prosecution
29 against the parent, guardian, or other person having control.

30 (b) Subsequent to the activities required under
31 subsection (1), the superintendent or his or her designee

1 shall give written notice in person or by return-receipt mail
2 to the parent, guardian, or other person in charge of the
3 child that criminal prosecution is being sought for
4 nonattendance. The superintendent may file a truancy petition
5 in truancy court, as defined in s. 984.03, following the
6 procedures outlined in s. 984.151.

7 (3) RETURN CHILD TO PARENT.--A designated school
8 representative shall visit the home or place of residence of a
9 child and any other place in which he or she is likely to find
10 any child who is required to attend school when such child is
11 not enrolled or is absent from school during school hours
12 without an excuse, and, when the child is found, shall return
13 the child to his or her parent or to the principal or teacher
14 in charge of the school, or to the private tutor from whom
15 absent, or to the juvenile assessment center or other location
16 established by the school board to receive students who are
17 absent from school. Upon receipt of the student, the parent
18 shall be immediately notified.

19 (4) REPORT TO THE DIVISION OF JOBS AND BENEFITS.--A
20 designated school representative shall report to the Division
21 of Jobs and Benefits of the Department of Labor and Employment
22 Security or to any person acting in similar capacity who may
23 be designated by law to receive such notices, all violations
24 of the Child Labor Law that may come to his or her knowledge.

25 (5) RIGHT TO INSPECT.--A designated school
26 representative shall have the same right of access to, and
27 inspection of, establishments where minors may be employed or
28 detained as is given by law to the Division of Jobs and
29 Benefits only for the purpose of ascertaining whether children
30 of compulsory school age are actually employed there and are
31 actually working there regularly. The designated school

1 representative shall, if he or she finds unsatisfactory
2 working conditions or violations of the Child Labor Law,
3 report his or her findings to the Division of Jobs and
4 Benefits or its agents.

5 ~~(6) RESUMING SERIES.--If a child repeats a pattern of~~
6 ~~nonattendance within one school year, the designated school~~
7 ~~representative shall resume the series of escalating~~
8 ~~activities at the point at which he or she had previously left~~
9 ~~off.~~

10 Section 2. Subsection (3) of section 232.19, Florida
11 Statutes, 1998 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.--The superintendent is
17 authorized to file a truancy petition in truancy court, as
18 defined in s. 984.03, following the procedures outlined in s.
19 984.151. If the superintendent chooses not to file a truancy
20 petition, procedures for filing a child-in-need-of-services
21 petition shall be commenced pursuant to this subsection. In
22 accordance with procedures established by the district school
23 board, the designated school representative shall refer a
24 student who is habitually truant and the student's family to
25 the children-in-need-of-services and
26 families-in-need-of-services provider or the case staffing
27 committee, established pursuant to s. 984.12, as determined by
28 the cooperative agreement required in this section. The case
29 staffing committee may request the Department of Juvenile
30 Justice or its designee to file a child-in-need-of-services
31 petition based upon the report and efforts of the school

1 district or other community agency or may seek to resolve the
2 truant behavior through the school or community-based
3 organizations or agencies. Prior to and subsequent to the
4 filing of a child-in-need-of-services petition due to habitual
5 truancy, the appropriate governmental agencies must allow a
6 reasonable time to complete actions required by this
7 subsection to remedy the conditions leading to the truant
8 behavior. However, a court order requiring school attendance
9 shall be obtained as a necessary part of such services.~~The~~
10 ~~following criteria must be met and documented in writing~~ Prior
11 ~~to the filing of a petition, the school district must have~~
12 complied with the requirements of s. 232.17, and those efforts
13 must have been unsuccessful.+

14 ~~(a) The child must have 15 unexcused absences within~~
15 ~~90 calendar days with or without the knowledge or consent of~~
16 ~~the child's parent or legal guardian, must be subject to~~
17 ~~compulsory school attendance, and must not be exempt under s.~~
18 ~~232.06, s. 232.09, or any other exemption specified by law or~~
19 ~~the rules of the State Board of Education.~~

20 ~~(b) In addition to the actions described in s. 232.17,~~
21 ~~the school administration must have completed the following~~
22 ~~activities to determine the cause, and to attempt the~~
23 ~~remediation, of the child's truant behavior:~~

24 ~~1. After a minimum of 3 and prior to 6 unexcused~~
25 ~~absences within 90 calendar days, one or more meetings must~~
26 ~~have been held, either in person or by phone, between a~~
27 ~~designated school representative, the child's parent or~~
28 ~~guardian, and the child, if necessary, to report and to~~
29 ~~attempt to solve the truancy problem. However, if the~~
30 ~~designated school representative has documented the refusal of~~
31

1 ~~the parent or guardian to participate in the meetings, this~~
2 ~~requirement has been met.~~

3 ~~2. Educational counseling must have been provided to~~
4 ~~determine whether curriculum changes would help solve the~~
5 ~~truancy problem, and, if any changes were indicated, such~~
6 ~~changes must have been instituted but proved unsuccessful in~~
7 ~~remediating the truant behavior. Such curriculum changes may~~
8 ~~include enrollment of the child in a dropout prevention~~
9 ~~program that meets the specific educational and behavioral~~
10 ~~needs of the child, including a second chance school, as~~
11 ~~provided for in s. 230.2316, designed to resolve truant~~
12 ~~behavior.~~

13 ~~3. Educational evaluation, which may include~~
14 ~~psychological evaluation, must have been provided to assist in~~
15 ~~determining the specific condition, if any, that is~~
16 ~~contributing to the child's nonattendance. The evaluation~~
17 ~~must have been supplemented by specific efforts by the school~~
18 ~~to remedy any diagnosed condition.~~

19
20 ~~if a child who is subject to compulsory school attendance is~~
21 ~~responsive to the interventions described in this paragraph~~
22 ~~and has completed the necessary requirements to pass the~~
23 ~~current grade as indicated in the district pupil progression~~
24 ~~plan, the child shall be passed.~~

25 Section 3. Effective July 1, 1999, paragraph (a) of
26 subsection (1) of section 236.081, Florida Statutes, 1998
27 Supplement, is amended to read:

28 236.081 Funds for operation of schools.--If the annual
29 allocation from the Florida Education Finance Program to each
30 district for operation of schools is not determined in the
31 annual appropriations act or the substantive bill implementing

1 the annual appropriations act, it shall be determined as
2 follows:

3 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
4 OPERATION.--The following procedure shall be followed in
5 determining the annual allocation to each district for
6 operation:

7 (a) Determination of full-time equivalent
8 membership.--During each of several school weeks, including
9 scheduled intersessions of a year-round school program during
10 the fiscal year, a program membership survey of each school
11 shall be made by each district by aggregating the full-time
12 equivalent student membership of each program by school and by
13 district. The department shall establish the number and
14 interval of membership calculations, except that for basic and
15 special programs such calculations shall not exceed nine for
16 any fiscal year. The district's full-time equivalent
17 membership shall be computed and currently maintained in
18 accordance with regulations of the commissioner. Beginning
19 with school year 1999-2000, each school district shall also
20 document the daily attendance of each student in membership by
21 school and by district. An average daily attendance factor
22 shall be computed by dividing the total daily attendance of
23 all students by the total number of students in membership and
24 then by the number of days in the regular school year.
25 Beginning with school year 2001-2002, the district's full-time
26 equivalent membership shall be adjusted by multiplying by the
27 average daily attendance factor.

28 Section 4. Subsection (29) of section 984.03, Florida
29 Statutes, 1998 Supplement, is amended, subsection (57) of said
30 section is renumbered as subsection (59), and new subsections
31 (57) and (58) are added to said section, to read:

1 984.03 Definitions.--When used in this chapter, the
2 term:

3 (29) "Habitually truant" means that:

4 (a) The child has 15 unexcused absences within 90
5 calendar days with or without the knowledge or justifiable
6 consent of the child's parent or legal guardian, is subject to
7 compulsory school attendance under s. 232.01, and is not
8 exempt under s. 232.06, s. 232.09, or any other exemptions
9 specified by law or the rules of the State Board of Education.

10 (b) ~~Escalating~~ Activities to determine the cause, and
11 to attempt the remediation, of the child's truant behavior
12 under ss. 232.17 and 232.19 have been completed.

13
14 If a child who is subject to compulsory school attendance is
15 responsive to the interventions described in ss. 232.17 and
16 232.19 and has completed the necessary requirements to pass
17 the current grade as indicated in the district pupil
18 progression plan, the child shall not be determined to be
19 habitually truant and shall be passed. If a child within the
20 compulsory school attendance age has 15 unexcused absences
21 within 90 calendar days or fails to enroll in school, the
22 State Attorney or the appropriate jurisdictional agency shall
23 ~~may~~ file a child-in-need-of-services petition unless. ~~Prior~~
24 ~~to filing a petition, the child must be referred to the~~
25 ~~appropriate agency for evaluation. after consulting with the~~
26 ~~evaluating agency, the State Attorney~~ determines that another
27 alternative placement is preferable ~~may elect to file a~~
28 ~~child-in-need-of-services petition.~~

29 (c) A school representative, designated according to
30 school board policy, and a juvenile probation officer of the
31 Department of Juvenile Justice have jointly investigated the

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

11 (d) The failure or refusal of the parent or legal
12 guardian or the child to participate, or make a good faith
13 effort to participate, in the activities prescribed to remedy
14 the truant behavior, or the failure or refusal of the child to
15 return to school after participation in activities required by
16 this subsection, or the failure of the child to stop the
17 truant behavior after the school administration and the
18 Department of Juvenile Justice have worked with the child as
19 described in s. 232.19(3) and (4) shall be handled as
20 prescribed in s. 232.19.

21 (57) "Truancy court" means, with respect to any
22 truancy proceeding, the circuit court of the county in which
23 the truancy proceeding is pending, including any general or
24 special master appointed by the chief judge to preside over
25 all or any part of such proceeding.

26 (58) "Truancy petition" means a petition filed by the
27 school superintendent alleging that a student subject to
28 compulsory school attendance has had more than 15 unexcused
29 absences in a 90 calendar day period. A truancy petition is
30 filed in truancy court and processed under s. 984.151.

31

1 Section 5. Section 984.151, Florida Statutes, is
2 created to read:

3 984.151 Truancy court; petition; prosecution;
4 disposition.--

5 (1) If the school determines that a student subject to
6 compulsory school attendance has had more than 15 unexcused
7 absences in a 90 calendar day period, the superintendent may
8 file a truancy petition in truancy court.

9 (2) The petition shall be filed in the circuit where
10 the student is enrolled in school.

11 (3) Original jurisdiction to hear a truancy petition
12 shall be in the circuit court; however, the circuit court may
13 choose to delegate this authority to a general or special
14 master trained in truancy issues.

15 (4) The petition shall contain the following: name,
16 age, and address of the student; name and address of the
17 student's parent or guardian; school where the student is
18 enrolled; what efforts the school has made to get the student
19 to attend school; number of out-of-school contacts between the
20 school system and student's parent or guardian; and number of
21 days and dates of days the student has missed school. The
22 petition shall be sworn to by the superintendent or his or her
23 designee.

24 (5) Once the petition is filed, the truancy court
25 shall hear the petition within 30 days.

26 (6) The student and the student's parent or guardian
27 shall attend the hearing.

28 (7) If the court determines that the student did miss
29 any of the alleged days, the court shall order the student to
30 attend school and the parent to ensure that the student
31 attends school, and may order any of the following: the

1 student to participate in alternative sanctions to include
2 mandatory attendance at alternative classes to be followed by
3 mandatory community services hours for a period up to 6
4 months; the student and the student's parent or guardian to
5 participate in homemaker or parent aide services; the student
6 or the student's parent or guardian to participate in
7 intensive crisis counseling; the student or the student's
8 parent or guardian to participate in community mental health
9 services if available and applicable; the student and the
10 student's parent or guardian to participate in service
11 provided by voluntary or community agencies as available; or
12 the student or the student's parent or guardian to participate
13 in vocational, job training, or employment services.

14 (8) If the student, or the student's parent or
15 guardian, does not successfully complete the sanctions ordered
16 in subsection (7), the case shall be referred to the case
17 staffing committee under s. 984.12 with a recommendation to
18 file a child-in-need-of-services petition under s. 984.15.

19 Section 6. This act shall take effect July 1, 1999.
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