

By Senator Constantine

22-670-06

See HB

1                                   A bill to be entitled  
2           An act relating to school attendance; amending  
3           s. 1003.21, F.S.; authorizing district school  
4           board policy to raise the compulsory school  
5           attendance age; amending s. 1003.23, F.S.;  
6           requiring attendance records to include  
7           information relating to student tardiness;  
8           providing penalties; amending s. 1003.24, F.S.;  
9           providing that the parent is responsible for a  
10          student's accumulative record of tardiness;  
11          deleting parental exemption from responsibility  
12          for a student's nonattendance; providing  
13          penalties; amending s. 1003.26, F.S.; revising  
14          provisions relating to enforcement of school  
15          attendance; providing responsibility of  
16          superintendents, district school boards,  
17          schools, teachers, and parents with respect to  
18          accumulative tardinesses; revising provisions  
19          that specify absences for which intervention is  
20          initiated; authorizing a superintendent to file  
21          a truancy petition under certain circumstances;  
22          authorizing a home visit under certain  
23          circumstances; amending ss. 984.03, 985.03,  
24          1002.20, and 1003.01, F.S.; conforming  
25          provisions relating to compulsory school  
26          attendance; providing an effective date.

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

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30           Section 1. Paragraphs (a) and (c) of subsection (1) of  
31 section 1003.21, Florida Statutes, are amended to read:

1           1003.21 School attendance.--

2           (1)(a)1. All children who have attained the age of 6  
3 years or who will have attained the age of 6 years by February  
4 1 of any school year or who are older than 6 years of age but  
5 who have not attained the age of 16 years, except as otherwise  
6 provided, are required to attend school regularly during the  
7 entire school term. However, beginning with the 2006-2007  
8 school year, a district school board may adopt a policy that  
9 raises the compulsory school attendance age from 16 years up  
10 to 18 years for students in the school district who have not  
11 graduated from high school.

12           2. Children who will have attained the age of 5 years  
13 on or before September 1 of the school year are eligible for  
14 admission to public kindergartens during that school year  
15 under rules adopted by the district school board.

16           (c) A student who attains the age of 16 years during  
17 the school year is not subject to compulsory school attendance  
18 beyond the date upon which he or she attains that age if the  
19 student files a formal declaration of intent to terminate  
20 school enrollment with the district school board. ~~The~~  
21 ~~declaration must acknowledge that terminating school~~  
22 ~~enrollment is likely to reduce the student's earning potential~~  
23 ~~and must be signed by the student and the student's parent.~~  
24 The school district must notify the student's parent of  
25 receipt of the student's declaration of intent to terminate  
26 school enrollment. The declaration must acknowledge that  
27 terminating school enrollment is likely to reduce the  
28 student's earning potential and must be signed by the student  
29 and the student's parent.

30           Section 2. Section 1003.23, Florida Statutes, is  
31 amended to read:

1           1003.23 Attendance records and reports.--

2           (1) The attendance of all public K-12 school students  
3 shall be checked each school day in the manner prescribed by  
4 rules of the State Board of Education and recorded in the  
5 teacher's register or by some approved system of recording  
6 attendance. Students may be counted in attendance only if they  
7 are actually present at school or are away from school on a  
8 school day and are engaged in an educational activity which  
9 constitutes a part of the school-approved instructional  
10 program for the student. Attendance records shall include time  
11 missed during a school day due to a student's tardiness to any  
12 class to which a student is assigned provided that exceptions  
13 to the recording of tardiness may be established by a district  
14 school board.

15           (2) All officials, teachers, and other employees in  
16 public, parochial, religious, denominational, and private K-12  
17 schools, including private tutors, shall keep all records and  
18 shall prepare and submit promptly all reports that may be  
19 required by law and by rules of the State Board of Education  
20 and district school boards. Such records shall include a  
21 register of enrollment and attendance and all persons  
22 described above shall make these reports therefrom as may be  
23 required by the State Board of Education. The enrollment  
24 register shall show the absence or attendance of each student  
25 enrolled for each school day of the year in a manner  
26 prescribed by the State Board of Education. The register shall  
27 be open for the inspection by the designated school  
28 representative or the district school superintendent of the  
29 district in which the school is located.

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1           (3) Violation of the provisions of this section shall  
2 be a misdemeanor of the second degree, punishable as provided  
3 by law.

4           (4) This section shall not apply to home education  
5 programs provided in s. 1002.41.

6           Section 3. Section 1003.24, Florida Statutes, is  
7 amended to read:

8           1003.24 Parents responsible for attendance of  
9 children; attendance policy.--Each parent of a child within  
10 the compulsory attendance age is responsible for the child's  
11 school attendance as required by law. The absence of a student  
12 from school or an accumulative record of tardiness is prima  
13 facie evidence of a violation of this section; however,  
14 criminal prosecution under this chapter may not be brought  
15 against a parent until the provisions of s. 1003.26 have been  
16 complied with. A parent of a student is ~~not~~ responsible for  
17 the student's nonattendance at school under, but not limited  
18 to, any of the following conditions:

19           (1) WITH PERMISSION.--The absence was with permission  
20 of the head of the school;

21           (2) WITHOUT KNOWLEDGE.--The absence was without the  
22 parent's knowledge, consent, or connivance, in which case the  
23 student shall be dealt with as a dependent child;

24           (3) FINANCIAL INABILITY.--The parent was unable  
25 financially to provide necessary clothes for the student,  
26 which inability was reported in writing to the superintendent  
27 prior to the opening of school or immediately after the  
28 beginning of such inability, ~~provided that the validity of any~~  
29 ~~claim for exemption under this subsection shall be determined~~  
30 ~~by the district school superintendent subject to appeal to the~~  
31 ~~district school board; or~~

1           (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE  
2           CONDITION.--Attendance was impracticable or inadvisable on  
3           account of sickness or injury, attested to by a written  
4           statement of a licensed practicing physician, or was  
5           impracticable because of some other stated insurmountable  
6           condition as defined by rules of the State Board of Education.  
7           If a student is continually sick and repeatedly absent from  
8           school, he or she must be under the supervision of a physician  
9           in order to receive an excuse from attendance. Such excuse  
10          provides that a student's condition justifies absence for more  
11          than the number of days permitted by the district school  
12          board.

13  
14          Each district school board shall establish an attendance  
15          policy that includes, but is not limited to, the required  
16          number of days each school year that a student must be in  
17          attendance and the number of absences or ~~and~~ tardinesses after  
18          which a statement explaining such absences or ~~and~~ tardinesses  
19          must be on file at the school. Each school in the district  
20          must determine if an absence or tardiness is excused or  
21          unexcused according to criteria established by the district  
22          school board.

23                 Section 4. Section 1003.26, Florida Statutes, is  
24                 amended to read:

25                 1003.26 Enforcement of school attendance.--The  
26                 Legislature finds that poor academic performance is associated  
27                 with nonattendance and that schools must take an active role  
28                 in promoting regular school attendance and supporting law  
29                 enforcement agencies in the enforcement of compulsory school  
30                 ~~enforcing attendance as a means of improving the performance~~  
31                 ~~of many students. It is the policy of the state that each~~

1 ~~district school superintendent be responsible for enforcing~~  
2 ~~school attendance of all students subject to the compulsory~~  
3 ~~school age in the school district.~~ The responsibility of the  
4 district school superintendent includes recommending to the  
5 district school board policies and procedures to ensure that  
6 schools respond in a timely manner to every unexcused absence,  
7 every ~~or~~ absence for which the reason is unknown, or  
8 accumulative tardinesses of students enrolled in the schools.  
9 District school board policies must require each parent of a  
10 student to justify each absence or the accumulative  
11 tardinesses of the student, and that justification will be  
12 evaluated based on adopted district school board policies that  
13 define excused and unexcused absences and tardinesses. The  
14 policies must provide that schools track excused and unexcused  
15 absences and unexcused tardinesses and contact the home in the  
16 case of an unexcused absence from school, ~~or~~ an absence from  
17 school for which the reason is unknown, or accumulative  
18 tardinesses to prevent the development of patterns of  
19 nonattendance. The Legislature finds that early intervention  
20 in school attendance matters is the most effective way of  
21 producing good attendance habits that will lead to improved  
22 student learning and achievement. Each public school shall  
23 implement the following steps to promote ~~enforce~~ regular  
24 school attendance:  
25       (1) CONTACT, REFER, AND ENFORCE.--  
26       (a)1. Upon each unexcused absence, or absence for  
27 which the reason is unknown, the school principal or his or  
28 her designee shall contact the student's parent to determine  
29 the reason for the absence. If the absence is an excused  
30 absence, as defined by district school board policy, the  
31 school shall provide opportunities for the student to make up

1 assigned work and not receive an academic penalty unless the  
2 work is not made up within a reasonable time.

3 2. According to district school board policy, a school  
4 must notify a student's parent in writing of accumulative  
5 tardinesses. If accumulative tardinesses are excused, as  
6 defined by district school board policy, the school shall  
7 provide opportunities for the student to make up assigned work  
8 and not receive an academic penalty unless the work is not  
9 made up within a reasonable time. A parent shall be required  
10 to participate in the development of an individual attendance  
11 plan to improve his or her child's ability to meet the  
12 tardiness policy of the district school board.

13 (b) If a student has an accumulative record of  
14 tardiness or has had at least five unexcused absences, or  
15 absences for which the reasons are unknown, or a fewer number  
16 of unexcused absences or absences for which the reasons are  
17 unknown as established in district school board policy within  
18 ~~a calendar month or 10 unexcused absences, or absences for~~  
19 ~~which the reasons are unknown, within a 90 calendar day~~  
20 ~~period~~, the student's primary teacher shall report to the  
21 school principal or his or her designee that the student may  
22 be exhibiting a pattern of nonattendance. The principal shall,  
23 unless there is clear evidence that the tardinesses or  
24 absences are not a pattern of nonattendance, refer the case to  
25 the school's child study team to determine if early patterns  
26 of truancy are developing. If the child study team finds that  
27 a pattern of nonattendance is developing, whether the  
28 tardinesses or absences are excused or not, a meeting with the  
29 parent must be scheduled to identify potential remedies, and  
30 the principal shall notify the district school superintendent  
31 and the school district contact for home education programs

1 that the referred student is exhibiting a pattern of  
2 nonattendance.

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

- 7 1. Frequent communication between the teacher and the  
8 family;
- 9 2. Changes in the learning environment;
- 10 3. Mentoring;
- 11 4. Student counseling;
- 12 5. Tutoring, including peer tutoring;
- 13 6. Placement into different classes;
- 14 7. Evaluation for alternative education programs;
- 15 8. Attendance contracts;
- 16 9. Referral to other agencies for family services; or
- 17 10. Other interventions, including, but not limited  
18 to, a truancy petition pursuant to s. 984.151.

19 (d) The child study team shall be diligent in  
20 facilitating intervention services and shall report the case  
21 to the district school superintendent only when all reasonable  
22 efforts to resolve the nonattendance behavior are exhausted.

23 (e) If the parent refuses to participate in the  
24 remedial strategies because he or she believes that those  
25 strategies are unnecessary or inappropriate, the parent may  
26 appeal to the district school board. The district school board  
27 may provide a hearing officer, and the hearing officer shall  
28 make a recommendation for final action to the district school  
29 board. If the district school board's final determination is  
30 that the strategies of the child study team are appropriate,  
31 and the parent still refuses to participate or cooperate, the



1 district school superintendent may seek criminal prosecution  
2 for noncompliance with compulsory school attendance.

3 (f)1. If the parent of a child who has been identified  
4 as exhibiting a pattern of nonattendance enrolls the child in  
5 a home education program pursuant to chapter 1002, the  
6 district school superintendent shall provide the parent a copy  
7 of s. 1002.41 and the accountability requirements of this  
8 paragraph. The district school superintendent shall also refer  
9 the parent to a home education review committee composed of  
10 the district contact for home education programs and at least  
11 two home educators selected by the parent from a district list  
12 of all home educators who have conducted a home education  
13 program for at least 3 years and who have indicated a  
14 willingness to serve on the committee. The home education  
15 review committee shall review the portfolio of the student, as  
16 defined by s. 1002.41, every 30 days during the district's  
17 regular school terms until the committee is satisfied that the  
18 home education program is in compliance with s. 1002.41(1)(b).  
19 The first portfolio review must occur within the first 30  
20 calendar days of the establishment of the program. The  
21 provisions of subparagraph 2. do not apply once the committee  
22 determines the home education program is in compliance with s.  
23 1002.41(1)(b).

24 2. If the parent fails to provide a portfolio to the  
25 committee, the committee shall notify the district school  
26 superintendent. The district school superintendent shall then  
27 terminate the home education program and require the parent to  
28 enroll the child in an attendance option that meets the  
29 definition of "regular school attendance" under s.  
30 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon  
31 termination of a home education program pursuant to this

1 | subparagraph, the parent shall not be eligible to reenroll the  
2 | child in a home education program for 180 calendar days.  
3 | Failure of a parent to enroll the child in an attendance  
4 | option as required by this subparagraph after termination of  
5 | the home education program pursuant to this subparagraph shall  
6 | constitute noncompliance with the compulsory attendance  
7 | requirements of s. 1003.21 and may result in criminal  
8 | prosecution under s. 1003.27(2). Nothing contained herein  
9 | shall restrict the ability of the district school  
10 | superintendent, or the ability of his or her designee, to  
11 | review the portfolio pursuant to s. 1002.41(1)(b).

12 |         (g) If a student subject to compulsory school  
13 | attendance will not comply with attempts to enforce school  
14 | attendance, the parent or the district school superintendent  
15 | or his or her designee shall refer the case to the case  
16 | staffing committee pursuant to s. 984.12. In the event that  
17 | the implementation of a plan for services developed pursuant  
18 | to s. 984.12 is unsuccessful in correcting a student's  
19 | noncompliance with compulsory school attendance, and the  
20 | district school superintendent or his or her designee may file  
21 | a truancy petition pursuant to the procedures in s. 984.151.

22 |         (2) GIVE WRITTEN NOTICE.--

23 |         (a) Under the direction of the district school  
24 | superintendent, a designated school representative shall give  
25 | written notice that requires enrollment or attendance within 3  
26 | days after the date of notice, in person or by return-receipt  
27 | mail, to the parent when no valid reason is found for a  
28 | student's nonenrollment in school. If the notice and  
29 | requirement are ignored, the designated school representative  
30 | shall report the case to the district school superintendent,  
31 | and may refer the case to the case staffing committee,

1 established pursuant to s. 984.12. The district school  
2 superintendent shall take such steps as are necessary to bring  
3 criminal prosecution against the parent.

4 (b) Subsequent to the activities required under  
5 subsection (1), the district school superintendent or his or  
6 her designee shall give written notice in person or by  
7 return-receipt mail to the parent that criminal prosecution is  
8 being sought for nonattendance. The district school  
9 superintendent may file a truancy petition, as defined in s.  
10 984.03, following the procedures outlined in s. 984.151.

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

23 (4) REPORT TO APPROPRIATE AUTHORITY.--A designated  
24 school representative shall report to the appropriate  
25 authority designated by law to receive such notices, all  
26 violations of the Child Labor Law that may come to his or her  
27 knowledge.

28 (5) RIGHT TO INSPECT.--A designated school  
29 representative shall have the right of access to, and  
30 inspection of, establishments where minors may be employed or  
31 detained only for the purpose of ascertaining whether students

1 of compulsory school age are actually employed there and are  
2 actually working there regularly. The designated school  
3 representative shall, if he or she finds unsatisfactory  
4 working conditions or violations of the Child Labor Law,  
5 report his or her findings to the appropriate authority.

6 Section 5. Paragraph (a) of subsection (27) of section  
7 984.03, Florida Statutes, is amended to read:

8 984.03 Definitions.--When used in this chapter, the  
9 term:

10 (27) "Habitually truant" means that:

11 (a) The child has 15 unexcused absences within 90  
12 calendar days with or without the knowledge or justifiable  
13 consent of the child's parent or legal guardian, is subject to  
14 compulsory school attendance under s. 1003.21(1) and (2)(a),  
15 and is not exempt under s. 1003.21(3), ~~s. 1003.24~~, or any  
16 other exemptions specified by law or the rules of the State  
17 Board of Education.

18  
19 If a child who is subject to compulsory school attendance is  
20 responsive to the interventions described in ss. 1003.26 and  
21 1003.27(3) and has completed the necessary requirements to  
22 pass the current grade as indicated in the district pupil  
23 progression plan, the child shall not be determined to be  
24 habitually truant and shall be passed. If a child within the  
25 compulsory school attendance age has 15 unexcused absences  
26 within 90 calendar days or fails to enroll in school, the  
27 State Attorney may, or the appropriate jurisdictional agency  
28 shall, file a child-in-need-of-services petition if  
29 recommended by the case staffing committee, unless it is  
30 determined that another alternative action is preferable. The  
31 failure or refusal of the parent or legal guardian or the

1 child to participate, or make a good faith effort to  
2 participate, in the activities prescribed to remedy the truant  
3 behavior, or the failure or refusal of the child to return to  
4 school after participation in activities required by this  
5 subsection, or the failure of the child to stop the truant  
6 behavior after the school administration and the Department of  
7 Juvenile Justice have worked with the child as described in  
8 ss. 1003.26 and 1003.27(3) shall be handled as prescribed in  
9 s. 1003.27.

10 Section 6. Subsection (26) of section 985.03, Florida  
11 Statutes, is amended to read:

12 985.03 Definitions.--As used in this chapter, the  
13 term:

14 (26) "Habitually truant" means that:

15 (a)1. The child has 15 unexcused absences within 90  
16 calendar days with or without the knowledge or justifiable  
17 consent of the child's parent or legal guardian, is subject to  
18 compulsory school attendance under s. 1003.21(1) and (2)(a),  
19 and is not exempt under s. 1003.21(3),~~s. 1003.24,~~ or any  
20 other exemptions specified by law or the rules of the State  
21 Board of Education.

22 ~~2.(b)~~ Escalating activities to determine the cause,  
23 and to attempt the remediation, of the child's truant behavior  
24 under ss. 1003.26 and 1003.27 have been completed.

25  
26 If a child who is subject to compulsory school attendance is  
27 responsive to the interventions described in ss. 1003.26 and  
28 1003.27 and has completed the necessary requirements to pass  
29 the current grade as indicated in the district pupil  
30 progression plan, the child shall not be determined to be  
31 habitually truant and shall be passed. If a child within the

1 compulsory school attendance age has 15 unexcused absences  
2 within 90 calendar days or fails to enroll in school, the  
3 state attorney may file a child-in-need-of-services petition.  
4 Before filing a petition, the child must be referred to the  
5 appropriate agency for evaluation. After consulting with the  
6 evaluating agency, the state attorney may elect to file a  
7 child-in-need-of-services petition.

8       **(b)**~~(c)~~ A school representative, designated according  
9 to school board policy, and a juvenile probation officer of  
10 the department have jointly investigated the truancy problem  
11 or, if that was not feasible, have performed separate  
12 investigations to identify conditions that could be  
13 contributing to the truant behavior; and if, after a joint  
14 staffing of the case to determine the necessity for services,  
15 such services were determined to be needed, the persons who  
16 performed the investigations met jointly with the family and  
17 child to discuss any referral to appropriate community  
18 agencies for economic services, family or individual  
19 counseling, or other services required to remedy the  
20 conditions that are contributing to the truant behavior.

21       **(c)**~~(d)~~ The failure or refusal of the parent or legal  
22 guardian or the child to participate, or make a good faith  
23 effort to participate, in the activities prescribed to remedy  
24 the truant behavior, or the failure or refusal of the child to  
25 return to school after participation in activities required by  
26 this subsection, or the failure of the child to stop the  
27 truant behavior after the school administration and the  
28 department have worked with the child as described in s.  
29 1003.27(3) shall be handled as prescribed in s. 1003.27.

30       Section 7. Paragraphs (a) and (b) of subsection (2) of  
31 section 1002.20, Florida Statutes, are amended to read:

1           1002.20 K-12 student and parent rights.--Parents of  
2 public school students must receive accurate and timely  
3 information regarding their child's academic progress and must  
4 be informed of ways they can help their child to succeed in  
5 school. K-12 students and their parents are afforded numerous  
6 statutory rights including, but not limited to, the following:

7           (2) ATTENDANCE.--

8           (a) Compulsory school attendance.--The compulsory  
9 school attendance laws apply to all children between the ages  
10 ~~of 6 and 16 years, as~~ provided in s. 1003.21(1) and (2)(a),  
11 and, in accordance with the provisions of s. 1003.21(1) and  
12 (2)(a):

13           1. A student who attains the age of 16 years during  
14 the school year has the right to file a formal declaration of  
15 intent to terminate school enrollment if the declaration is  
16 signed by the parent. The parent has the right to be notified  
17 by the school district of the district's receipt of the  
18 student's declaration of intent to terminate school  
19 enrollment.

20           2. Students who become or have become married or who  
21 are pregnant and parenting have the right to attend school and  
22 receive the same or equivalent educational instruction as  
23 other students.

24           (b) Regular school attendance.--Parents of students  
25 who have attained the age of 6 years by February 1 of any  
26 school year but who have not attained the age of 16 years, or  
27 the age adopted by district school board policy pursuant to s.  
28 1003.21(1), must comply with the compulsory school attendance  
29 laws. Parents have the option to comply with the school  
30 attendance laws by attendance of the student in a public  
31 school; a parochial, religious, or denominational school; a

1 private school; a home education program; or a private  
2 tutoring program, in accordance with the provisions of s.  
3 1003.01(13).

4 Section 8. Subsection (8) of section 1003.01, Florida  
5 Statutes, is amended to read:

6 1003.01 Definitions.--As used in this chapter, the  
7 term:

8 (8) "Habitual truant" means a student who has 15  
9 unexcused absences within 90 calendar days with or without the  
10 knowledge or consent of the student's parent, is subject to  
11 compulsory school attendance under s. 1003.21(1) and (2)(a),  
12 and is not exempt under s. 1003.21(3) ~~or s. 1003.24~~, or by  
13 meeting the criteria for any other exemption specified by law  
14 or rules of the State Board of Education. Such a student must  
15 have been the subject of the activities specified in ss.  
16 1003.26 and 1003.27(3), without resultant successful  
17 remediation of the truancy problem before being dealt with as  
18 a child in need of services according to the provisions of  
19 chapter 984.

20 Section 9. This act shall take effect July 1, 2006.  
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