

By the Committee on Community Affairs; and Senator Hays

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1 A bill to be entitled
2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; revising criteria that
4 determine a hazardous walking condition for public
5 school students; revising procedures for inspection
6 and identification of hazardous walking conditions;
7 authorizing an administrative proceeding in certain
8 instances; authorizing a district school
9 superintendent to initiate a formal request for
10 correction of a hazardous walking condition under
11 certain circumstances; requiring a district school
12 board to provide transportation to students who would
13 be subjected to hazardous walking conditions;
14 requiring state or local governmental entities with
15 jurisdiction over a road with a hazardous walking
16 condition to correct the condition within a reasonable
17 period of time; providing requirements for a
18 governmental entity relating to its capital
19 improvements program; providing requirements relating
20 to a civil action for damages; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 1006.23, Florida Statutes, is reordered
26 and amended to read:

27 1006.23 Hazardous walking conditions.—

28 (1) DEFINITION.—As used in this section, "student" means
29 any public elementary school student whose grade level does not

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30 exceed grade 6.

31 (4)~~(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

32 (a) A district school board ~~It is intended that district~~
33 ~~school boards~~ and other governmental entities shall work
34 cooperatively to identify and correct conditions that are
35 hazardous along student walking routes to school, and a district
36 school board shall ~~that district school boards~~ provide
37 transportation to students who would be subjected to such
38 conditions. Additionally, ~~It is further intended that~~ state or
39 local governmental entities with having jurisdiction over a road
40 along which a hazardous walking condition is determined to exist
41 shall correct the condition ~~such hazardous conditions~~ within a
42 reasonable period of time.

43 (b) Upon a determination pursuant to subsection (3) ~~this~~
44 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
45 ~~to students,~~ the district school superintendent ~~board~~ shall
46 request a position statement with respect to correction of such
47 condition determination from the state or local governmental
48 entity with having jurisdiction over the road. Within 90 days
49 after receiving such request, the state or local governmental
50 entity shall inform the district school superintendent regarding
51 whether the entity will include correction of the hazardous
52 walking condition in its next annual 5-year capital improvements
53 program hazard will be corrected and, if so, when correction of
54 the condition will be completed. If the hazardous walking
55 condition will not be included in the state or local
56 governmental entity's next annual 5-year capital improvements
57 program, the factors justifying such conclusion must be stated
58 in writing to the district school superintendent and the

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59 Department of Education ~~regarding a projected completion date.~~

60 (c) State funds shall be allocated for the transportation
61 of students subjected to a hazardous walking condition. However,
62 ~~such hazards, provided that~~ such funding shall cease upon
63 correction of the hazardous walking condition ~~hazard~~ or upon the
64 projected completion date, whichever occurs first.

65 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.-

66 (a) When a request for review is made by ~~to~~ the district
67 school superintendent with respect to a road over which a state
68 or local governmental entity has jurisdiction ~~or the district~~
69 ~~school superintendent's designee~~ concerning a condition
70 perceived to be hazardous to students in that district who live
71 within the 2-mile limit and who walk to school, such condition
72 shall be inspected jointly by a representative of the school
73 district, ~~and~~ a representative of the state or local
74 governmental entity with that ~~has~~ jurisdiction over the
75 perceived hazardous location, and a representative of the
76 municipal police department for a municipal road, a
77 representative of the sheriff's office for a county road, or a
78 representative of the Department of Transportation for a state
79 road. If the jurisdiction is within an area for which there is a
80 metropolitan planning organization, a representative of that
81 organization shall also be included. The governmental
82 representatives shall determine whether the condition
83 constitutes a hazardous walking condition as provided in
84 subsection (2). If the governmental representatives concur that
85 a condition constitutes a hazardous walking condition as
86 provided in subsection (2), they shall report that determination
87 in writing to the district school superintendent who shall

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88 initiate a formal request for correction as provided in
89 subsection (4).

90 (b) If the governmental representatives are unable to reach
91 a consensus, the reasons for lack of consensus shall be reported
92 to the district school superintendent, who shall provide a
93 report and recommendation to the district school board. The
94 district school board may initiate an administrative proceeding
95 under chapter 120 seeking a determination as to whether the
96 condition constitutes a hazardous walking condition as provided
97 in subsection (2) after providing at least 30 days' notice in
98 writing to the local governmental entities having jurisdiction
99 over the road of its intent to do so, unless within 30 days
100 after such notice is provided, the local governmental entities
101 concur in writing that the condition is a hazardous walking
102 condition as provided in subsection (2) and provide the position
103 statement pursuant to subsection (4). If an administrative
104 proceeding is initiated under this paragraph, the district
105 school board has the burden of proving such condition by the
106 greater weight of evidence. If the district school board
107 prevails, the district school superintendent shall report the
108 outcome to the Department of Education and initiate a formal
109 request for correction of the hazardous walking condition as
110 provided in subsection (4). ~~The district school superintendent~~
111 ~~or his or her designee and the state or local governmental~~
112 ~~entity or its representative shall then make a final~~
113 ~~determination that is mutually agreed upon regarding whether the~~
114 ~~hazardous condition meets the state criteria pursuant to this~~
115 ~~section. The district school superintendent or his or her~~
116 ~~designee shall report this final determination to the~~

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117 ~~Department.~~

118 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
119 ~~CONDITIONS.-~~

120 (a) *Walkways parallel to the road.-*

121 1. It shall be considered a hazardous walking condition
122 with respect to any road along which students must walk in order
123 to walk to and from school if there is not an area at least 4
124 feet wide adjacent to the road, not including drainage ditches,
125 sluiceways, swales, or channels, having a surface upon which
126 students may walk without being required to walk on the road
127 surface. In addition, whenever the road along which students
128 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
129 miles per hour or greater, the area as described above for
130 students to walk upon shall be set off the road by no less than
131 3 feet from the edge of the road.

132 2. The provisions of subparagraph 1. do not apply when the
133 road along which students must walk:

134 ~~a. Is in a residential area which has little or no~~
135 ~~transient traffic;~~

136 ~~a.b.~~ Is a road on which the volume of traffic is less than
137 180 vehicles per hour, per direction, during the time students
138 walk to and from school; or

139 ~~b.e.~~ Is located in a residential area and has a posted
140 speed limit of 30 miles per hour or less.

141 (b) *Walkways perpendicular to the road.-*It shall be
142 considered a hazardous walking condition with respect to any
143 road across which students must walk in order to walk to and
144 from school if:

145 1. ~~If~~ The traffic volume on the road exceeds the rate of

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146 360 vehicles per hour, per direction (including all lanes),
147 during the time students walk to and from school and if the
148 crossing site is uncontrolled. For purposes of this subsection,
149 an "uncontrolled crossing site" is an intersection or other
150 designated crossing site where no crossing guard, traffic
151 enforcement officer, or stop sign or other traffic control
152 signal is present during the times students walk to and from
153 school.

154 2. ~~If~~ The total traffic volume on the road exceeds 4,000
155 vehicles per hour through an intersection or other crossing site
156 controlled by a stop sign or other traffic control signal,
157 unless crossing guards or other traffic enforcement officers are
158 also present during the times students walk to and from school.

159
160 Traffic volume shall be determined by the most current traffic
161 engineering study conducted by a state or local governmental
162 agency.

163 (c) Crossings over the road.—It shall be considered a
164 hazardous walking condition with respect to any road at any
165 uncontrolled crossing site if:

166 1. The road has a posted speed limit of 50 miles per hour
167 or greater; or

168 2. The road has six lanes or more, not including turn
169 lanes, regardless of the speed limit.

170 (5) CIVIL ACTION.—In a civil action for damages brought
171 against a governmental entity under s. 768.28, the designation
172 of a hazardous walking condition under this section is not
173 admissible in evidence.

174 Section 2. This act shall take effect July 1, 2014.