

By 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           requiring a district school superintendent to initiate  
8           a formal request for correction of a hazardous walking  
9           condition under certain circumstances; authorizing a  
10          district school board to initiate an administrative  
11          proceeding under certain circumstances and providing  
12          requirements therefor; deleting the requirement that  
13          the district school superintendent and specified  
14          governmental entities make a final determination that  
15          is mutually agreed upon regarding hazardous walking  
16          conditions; requiring a district school board to  
17          correct hazardous walking conditions and provide  
18          transportation to students who would be subjected to  
19          hazardous walking conditions; requiring state or local  
20          governmental entities with jurisdiction over a road  
21          with a hazardous walking condition to correct the  
22          condition within a reasonable period of time;  
23          providing requirements for a governmental entity  
24          relating to its capital improvements program;  
25          providing requirements relating to a civil action for  
26          damages; providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Section 1006.23, Florida Statutes, is reordered  
31 and amended to read:

32 1006.23 Hazardous walking conditions.—

33 (1) DEFINITION.—As used in this section, the term “student”  
34 means any public elementary school student whose grade level  
35 does not exceed grade 6.

36 ~~(4)(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

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

48 (b) Upon a determination pursuant to subsection (3) ~~this~~  
49 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~  
50 ~~to students~~, the district school superintendent ~~board~~ shall  
51 request a position statement with respect to correction of such  
52 condition ~~determination~~ from the state or local governmental  
53 entity with having jurisdiction over the road. Within 90 days  
54 after receiving such request, the state or local governmental  
55 entity shall inform the district school superintendent ~~regarding~~  
56 whether the entity will include correction of the hazardous  
57 walking condition in its next annual 5-year capital improvements  
58 program ~~hazard will be corrected~~ and, if so, when correction of

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59 the condition will be completed. If the hazardous walking  
60 condition will not be included in the state or local  
61 governmental entity's next annual 5-year capital improvements  
62 program, the factors justifying such conclusion must be stated  
63 in writing to the district school superintendent and the  
64 Department of Education regarding a projected completion date.

65 (c) State funds shall be allocated for the transportation  
66 of students subjected to a hazardous walking condition. However,  
67 ~~such hazards, provided that~~ such funding shall cease upon  
68 correction of the hazardous walking condition ~~hazard~~ or upon the  
69 projected completion date, whichever occurs first.

70 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

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

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88 constitutes a hazardous walking condition as provided in  
89 subsection (2). If the governmental representatives concur that  
90 a condition constitutes a hazardous walking condition as  
91 provided in subsection (2), they shall report that determination  
92 in writing to the district school superintendent, who shall  
93 initiate a formal request for correction as provided in  
94 subsection (4).

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

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117 ~~or its representative shall then make a final determination that~~  
118 ~~is mutually agreed upon regarding whether the hazardous~~  
119 ~~condition meets the state criteria pursuant to this section. The~~  
120 ~~district school superintendent or his or her designee shall~~  
121 ~~report this final determination to the Department.~~

122 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~  
123 ~~CONDITIONS.-~~

124 ~~(a) Walkways parallel to the road.-~~

125 1. It shall be considered a hazardous walking condition  
126 with respect to any road along which students must walk in order  
127 to walk to and from school if there is not an area at least 4  
128 feet wide adjacent to the road, not including drainage ditches,  
129 sluiceways, swales, or channels, having a surface upon which  
130 students may walk without being required to walk on the road  
131 surface. In addition, whenever the road along which students  
132 must walk is uncurbed and has a posted speed limit of 50 ~~55~~  
133 miles per hour or greater, the area as described above for  
134 students to walk upon shall be set off the road by no less than  
135 3 feet from the edge of the road.

136 2. ~~The provisions of Subparagraph 1. does~~ ~~de~~ not apply when  
137 the road along which students must walk:

138 ~~a. Is in a residential area which has little or no~~  
139 ~~transient traffic;~~

140 ~~a.b.~~ Is a road on which the volume of traffic is less than  
141 180 vehicles per hour, per direction, during the time students  
142 walk to and from school; or

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

145 (b) *Walkways perpendicular to the road.*-It shall be

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146 considered a hazardous walking condition with respect to any  
147 road across which students must walk in order to walk to and  
148 from school if:

149 1. ~~If~~ The traffic volume on the road exceeds the rate of  
150 360 vehicles per hour, per direction (including all lanes),  
151 during the time students walk to and from school and if the  
152 crossing site is uncontrolled. For purposes of this subsection,  
153 an "uncontrolled crossing site" is an intersection or other  
154 designated crossing site where no crossing guard, traffic  
155 enforcement officer, or stop sign or other traffic control  
156 signal is present during the times students walk to and from  
157 school.

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

163  
164 Traffic volume shall be determined by the most current traffic  
165 engineering study conducted by a state or local governmental  
166 agency.

167 (c) Crossings over the road.—It shall be considered a  
168 hazardous walking condition with respect to any road at any  
169 uncontrolled crossing site which students must walk in order to  
170 walk to and from school if:

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

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

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

179       Section 2. This act shall take effect July 1, 2015.