

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 229 Hazardous Walking Conditions for K-12 Students

SPONSOR(S): Early Learning & Elementary Education Subcommittee, Salzman and others

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	16 Y, 0 N, As CS	Sleap	Brink
2) Education & Employment Committee	20 Y, 0 N	Sleap	Hassell

SUMMARY ANALYSIS

To examine the safety of walking conditions for Florida's K-12 public school students, the bill creates the Safe Walkways to School Act. The bill requires the Department of Transportation (DOT) to conduct a study on the safety of walking conditions to and from public schools for K-12 students and submit a report to the Governor, the Legislature, and the State Board of Education by July 1, 2022, detailing the results of the study.

The bill requires the DOT report to determine the following:

- what constitutes a safe and suitable walkway parallel to the road;
- what constitutes a hazardous condition for walkways perpendicular to the road;
- whether railroad crossings, bridges, and overpasses that lack paved walkways designed for pedestrians are suitable walkways; and
- whether midblock crossings should be supplemented by special emphasis markings to identify the locations as pedestrian crossing sites.

The report must be developed with input from appropriate stakeholders and recommend criteria for identifying hazardous walking conditions.

The bill has an indeterminate fiscal impact. See Fiscal Comments.

This bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Student Transportation

Present Situation

District school boards, after considering recommendations of the district school superintendent, must provide transportation for each student in prekindergarten disability programs and in K-12 public schools when transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available.¹ School districts must also transport students whose homes are more than a reasonable walking distance from the nearest appropriate school.² Generally, school districts do not receive state funding to transport K-12 students living 2 miles or less from the schools they attend.³ However, state funds are allocated to transport any public elementary school student whose grade level does not exceed grade 6 and is subject to a hazardous walking condition.⁴ During the 2019-2020 school year, school districts reported 19,693 additional bus riders in K-6 due to hazardous walking locations.⁵ School districts may provide transportation for public school students in grades 7-12 who are subjected to a hazardous walking condition.⁶

Hazardous Walking Conditions

Hazardous walking conditions are classified according to statutory criteria for walkways, either parallel or perpendicular to or crossing a road, which a student must walk to and from school.⁷ For walkways that are parallel to a road, a hazardous walking condition exists if there is less than a 4-foot wide surface for students to walk adjacent to the road.⁸ Not only must the walking surface be at least 4-feet wide, but if the road is uncurbed with a posted speed limit of 50 miles per hour or greater, the walking surface adjacent to the road also must be at least 3-feet from the edge of the road or a hazardous walking condition will exist.⁹

An otherwise hazardous walking condition on a parallel walkway may not be designated as hazardous if:

- the volume of traffic¹⁰ on the road is less than 180 vehicles per hour, per direction, during the time when students walk to and from school;¹¹ or
- the road is located in a residential area with a posted speed limit of 30 miles per hour or less.¹²

For walkways perpendicular to a road, a hazardous walking condition exists if:

¹ Section 1006.21(3)(a), F.S.

² *Id.* Rule 6A-3.001(3), F.A.C. A reasonable walking distance for any student who is not otherwise eligible for transportation pursuant to Section 1011.68, F.S., is any distance not more than 2 miles between the home and school or 1 1/2 miles between the home and the assigned bus stop.

³ Section 1011.68(1)(a), F.S.

⁴ Section 1006.21(3)(b), F.S.; Section 1011.68(1)(e), F.S.

⁵ Florida Department of Education, Agency Analysis of 2021 Senate Bill 178, p. 5 (Dec. 9, 2020).

⁶ *Id.* Section 1006.23(2), F.S.

⁷ Section 1006.23(2)(a)-(c), F.S.

⁸ Section. 1006.23(2)(a)1., F.S.

⁹ *Id.* The 4 foot wide surface does not include drainage ditches, sluiceways, swales, or channels.

¹⁰ Section 1006.23(2), F.S. Traffic volume is determined by the most current traffic engineering study conducted by a state or local governmental agency.

¹¹ Section 1006.23(2)(a)2.a., F.S.

¹² Section 1006.23(2)(a)2.b., F.S.

- traffic volume on the road exceeds the rate of 360 vehicles per hour, per direction, during the time when students walk to and from school and the crossing site is uncontrolled, meaning it is an intersection or other designated crossing site where no crossing guard, traffic enforcement officer, stop sign, or other traffic control signal is present when students walk to and from school;¹³ or
- total traffic volume on the road exceeds 4,000 vehicles per hour through an intersection or other crossing site controlled by a stop sign or other traffic control signal and no crossing guards or other traffic enforcement officers are present during the time when students walk to and from school.¹⁴

For uncontrolled crosswalks over the road, a hazardous walking condition exists if the road has:

- a posted speed limit of 50 miles per hour or greater; or
- six lanes or more, not including turn lanes, regardless of speed limit.¹⁵

Inspecting, Determining, and Reporting Hazardous Walking Conditions

Identification of hazardous walking conditions begins when the superintendent or the superintendent's designee receives a request to review a condition perceived to be hazardous to students in the school district living within the 2-mile radius of a school and who walk to school.¹⁶

After the request for review is received, the perceived hazardous walking condition is jointly inspected by a representative of the:

- school district;
- state or local governmental entity with jurisdiction over the location; and
- municipal police department, the sheriff's office, or the Department of Transportation (DOT).¹⁷

Current law requires the governmental representatives to determine whether the condition constitutes a hazardous walking condition. If the governmental representatives concur that a condition constitutes a hazardous walking condition, the governmental entity with jurisdiction shall report that determination in writing to the superintendent, who initiates a formal request for correction.¹⁸

If the governmental representatives are unable to reach a consensus, the reasons for lack of consensus are reported to the superintendent, who must provide a report and recommendation to the district school board.¹⁹ The board may initiate a proceeding to determine whether the condition constitutes a hazardous walking condition after providing at least 30 days' notice to the state or local governmental entity having jurisdiction over the road.²⁰

Correcting Hazardous Walking Conditions

Currently, a district school board and other governmental entities work cooperatively to identify conditions that are hazardous along student walking routes to school, and the board provides transportation to students who would be subjected to such conditions.²¹ Additionally, state or local governmental entities with jurisdiction over a road along which a hazardous walking condition is determined to exist must correct the condition within a reasonable period of time.²² Upon a

¹³ Section 1006.23(2)(b)1., F.S.

¹⁴ Section 1006.23(2)(b)2., F.S.

¹⁵ Section 1006.23(2)(c), F.S.

¹⁶ Section 1006.23(3)(a), F.S.

¹⁷ Section 1006.23(3)(a), F.S. A representative of the municipal police department is required for a municipal road, a representative of the sheriff's office is required for a county road, and a representative of the Department of Transportation is required for a state road. If the jurisdiction is a metropolitan planning organization, a representative of that organization must also be included.

¹⁸ *Id.*

¹⁹ Section 1006.23(3)(b), F.S.

²⁰ Section 1006.23(3)(b), F.S. The proceedings continue unless, within 30 days after such notice is provided, the state or local governmental entity concurs in writing that the condition is a hazardous walking condition and provides a position statement.

²¹ Section 1006.23(4)(a), F.S.

²² *Id.*

determination that a hazardous walking condition exists, the superintendent must request a position statement with respect to correcting a hazardous condition from the state or local governmental entity with jurisdiction over the road.²³ Within 90 days after receiving such a request, the state or local governmental entity must inform the superintendent whether the entity will include correction of the hazardous walking condition in its next annual 5-year transportation work program.²⁴

State funds are allocated for the transportation of students subjected to a hazardous walking condition.²⁵ However, such funding ceases upon correction of the hazardous walking condition or upon the projected completion date, whichever occurs first.²⁶

Effect of Proposed Changes

The bill creates the Safe Walkways to School Act, requiring the DOT to conduct a study on the safety of walking conditions to and from public school for K-12 students.

The bill requires the DOT to submit a report detailing the results of the study by July 1, 2022, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Board of Education.

For K-12 students who walk between home and school, the bill requires the report to determine the following:

- What constitutes a safe and suitable walkway parallel to the road, particularly with respect to grade, composition, stability, and separation from the edge of the road and any paved shoulder.
- What constitutes a hazardous condition for walkways perpendicular to the road, particularly with respect to the presence of multiple lanes of traffic, and locations where it is likely that pedestrians crossing the roadway will encounter traffic turning from left turn lanes, lanes where a right turn on red is authorized, and free-flow right turn lanes.
- Whether railroad crossings, bridges, and overpasses that lack paved walkways designed for pedestrians are suitable walkways.
- Whether midblock crossings should be supplemented by special emphasis markings such as signals, signs, beacons, or enhanced overhead lighting that conspicuously identify the locations as pedestrian crossing sites.

The bill requires the DOT report to be developed with input from appropriate stakeholders, including, but not limited to, the Department of Education, school districts, counties, municipalities, metropolitan planning organizations, parents, and students and recommend criteria for identifying hazardous walking conditions.

B. SECTION DIRECTORY:

Section 1. Provides a short title.

Section 2. Requires the Department of Transportation to conduct a study on the safety of certain walking conditions; requires the department to submit a report to the Governor, Legislature, and State Board of Education by a specified date; provides requirements for the report.

Section 3. Provides an effective date upon becoming law.

²³ Section 1006.23(4)(b), F.S.

²⁴ *Id.* If the hazardous walking condition will be corrected, the state or local governmental entity informs the superintendent when correction of the condition will be completed. If the hazardous walking condition will not be included in the state or local governmental entity's next annual 5-year transportation work program, the factors justifying such conclusion must be stated in writing to the superintendent and the Department of Education.

²⁵ Section 1006.23(4)(c), F.S.

²⁶ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Transportation may incur indeterminate expenses to conduct the study.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 1, 2021, the Early Learning & Elementary Education Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from HB 229 by requiring the DOT to conduct a study on the safety of walking conditions to and from public schools for K-12 students and submit a report and by removing:

- the requirement for the DOT to develop and adopt standards and criteria to identify hazardous walking conditions;
- provisions amending hazardous walking conditions as those identified by the DOT;
- provisions for providing transportation to certain students;
- revisions to the definition of a “student” eligible for transportation due to hazardous walking conditions;

- the requirement for a district school superintendent to request a review of a road if he or she receives a written request from a parent of a student in the school district;
- the requirement for the DOT, in collaboration with district school boards, to establish the procedures a district school board must use to periodically review and update hazardous waking segments; and
- revisions related to the allocation of funds for student transportation.

The bill analysis is drafted to the committee substitute adopted by the Early Learning & Elementary Education Subcommittee.