

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 a district school superintendent to  
8 initiate a formal request for correction of a  
9 hazardous walking condition; authorizing a district  
10 school board to initiate a declaratory judgment  
11 proceeding under certain circumstances and providing  
12 requirements therefor; requiring a district school  
13 board to provide transportation to students who would  
14 be subjected to hazardous walking conditions;  
15 requiring state or local governmental entities with  
16 jurisdiction over a road with a hazardous walking  
17 condition to correct the condition within a reasonable  
18 period of time; providing requirements for a  
19 governmental entity relating to its transportation  
20 work program; providing requirements relating to a  
21 civil action for damages; providing that certain  
22 interlocal agreements that meet specified criteria are  
23 not prohibited under this section; providing an  
24 effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52

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

1006.23 Hazardous walking conditions.—

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

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

(a) Walkways parallel to the road.—

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

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

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

~~a.b.~~ Is a road on which the volume of traffic is less than

53 180 vehicles per hour, per direction, during the time students  
54 walk to and from school; or

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

57 (b) Walkways perpendicular to the road.—It shall be  
58 considered a hazardous walking condition with respect to any  
59 road across which students must walk in order to walk to and  
60 from school if:

61 1. ~~If~~ The traffic volume on the road exceeds the rate of  
62 360 vehicles per hour, per direction (including all lanes),  
63 during the time students walk to and from school and if the  
64 crossing site is uncontrolled. For purposes of this subsection,  
65 an "uncontrolled crossing site" is an intersection or other  
66 designated crossing site where no crossing guard, traffic  
67 enforcement officer, or stop sign or other traffic control  
68 signal is present during the times students walk to and from  
69 school.

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

75  
76 Traffic volume shall be determined by the most current traffic  
77 engineering study conducted by a state or local governmental  
78 agency.

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

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

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

87 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

88 (a) When a request for review is made by ~~to~~ the district  
 89 school superintendent with respect to a road over which a state  
 90 or local governmental entity has jurisdiction ~~or the district~~  
 91 ~~school superintendent's designee~~ concerning a condition  
 92 perceived to be hazardous to students in that district who live  
 93 within the 2-mile limit and who walk to school, such condition  
 94 shall be inspected jointly by a representative of the school  
 95 district, ~~and~~ a representative of the state or local  
 96 governmental entity with ~~that has~~ jurisdiction over the  
 97 perceived hazardous location, and a representative of the  
 98 municipal police department for a municipal road, a  
 99 representative of the sheriff's office for a county road, or a  
 100 representative of the Department of Transportation for a state  
 101 road. If the jurisdiction is within an area for which there is a  
 102 metropolitan planning organization, a representative of that  
 103 organization shall also be included. The governmental  
 104 representatives shall determine whether the condition

105 constitutes a hazardous walking condition as provided in  
106 subsection (2). If the governmental representatives concur that  
107 a condition constitutes a hazardous walking condition as  
108 provided in subsection (2), the governmental entity with  
109 jurisdiction shall report that determination in writing to the  
110 district school superintendent, who shall initiate a formal  
111 request for correction as provided in subsection (4).

112 (b) If the governmental representatives are unable to  
113 reach a consensus, the reasons for lack of consensus shall be  
114 reported to the district school superintendent, who shall  
115 provide a report and recommendation to the district school  
116 board. The district school board may initiate a proceeding under  
117 chapter 86 seeking a determination as to whether the condition  
118 constitutes a hazardous walking condition as provided in  
119 subsection (2) after providing at least 30 days' notice in  
120 writing to the local governmental entities having jurisdiction  
121 over the road of its intent to do so unless, within 30 days  
122 after such notice is provided, the local governmental entities  
123 concur in writing that the condition is a hazardous walking  
124 condition as provided in subsection (2) and provide the position  
125 statement pursuant to subsection (4). If a proceeding is  
126 initiated under this paragraph, the district school board has  
127 the burden of proving such condition by the greater weight of  
128 evidence. If the district school board prevails, the district  
129 school superintendent shall report the outcome to the Department  
130 of Education and initiate a formal request for correction of the

131 hazardous walking condition as provided in subsection (4). ~~The~~  
 132 ~~district school superintendent or his or her designee and the~~  
 133 ~~state or local governmental entity or its representative shall~~  
 134 ~~then make a final determination that is mutually agreed upon~~  
 135 ~~regarding whether the hazardous condition meets the state~~  
 136 ~~criteria pursuant to this section. The district school~~  
 137 ~~superintendent or his or her designee shall report this final~~  
 138 ~~determination to the Department.~~

139 (4)(2) ~~TRANSPORTATION; CORRECTION OF HAZARDS.-~~

140 (a) A district school board ~~It is intended that district~~  
 141 ~~school boards~~ and other governmental entities shall work  
 142 cooperatively to identify conditions that are hazardous along  
 143 student walking routes to school, and a district school board  
 144 shall ~~that district school boards~~ provide transportation to  
 145 students who would be subjected to such conditions.  
 146 Additionally, ~~It is further intended that~~ state or local  
 147 governmental entities with having jurisdiction over a road along  
 148 which a hazardous walking condition is determined to exist shall  
 149 correct the condition ~~such hazardous conditions~~ within a  
 150 reasonable period of time.

151 (b) Upon a determination pursuant to subsection (3) ~~this~~  
 152 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~  
 153 ~~to students,~~ the district school superintendent ~~board~~ shall  
 154 request a position statement with respect to correction of such  
 155 condition ~~determination~~ from the state or local governmental  
 156 entity with having jurisdiction over the road. Within 90 days

157 after receiving such request, the state or local governmental  
158 entity shall inform the district school superintendent ~~regarding~~  
159 whether the entity will include correction of the hazardous  
160 walking condition in its next annual 5-year transportation work  
161 program ~~hazard will be corrected~~ and, if so, when correction of  
162 the condition will be completed. If the hazardous walking  
163 condition will not be included in the state or local  
164 governmental entity's next annual 5-year transportation work  
165 program, the factors justifying such conclusion must be stated  
166 in writing to the district school superintendent and the  
167 Department of Education ~~regarding a projected completion date.~~

168 (c) State funds shall be allocated for the transportation  
169 of students subjected to a hazardous walking condition. However,  
170 such hazards, ~~provided that~~ such funding shall cease upon  
171 correction of the hazardous walking condition ~~hazard~~ or upon the  
172 projected completion date, whichever occurs first.

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

177 (6) INTERLOCAL AGREEMENTS.—This section does not prohibit  
178 a district school board and other governmental entities from  
179 entering into an interlocal agreement pursuant to s. 163.31777  
180 that addresses the identification and correction of hazardous  
181 walking conditions, if such agreement:

182 (a) Establishes the same or higher standards for the

CS/CS/HB 41

2015

183 safety of students walking to school as the standards provided  
184 in this section;

185 (b) Establishes the same or a more rigorous process for  
186 identifying hazardous walking conditions as the processes  
187 provided in this section; or

188 (c) Implements the Safe Paths to Schools Program as  
189 provided in s. 335.066.

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