

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 capital  
20 improvements program; providing requirements relating  
21 to a civil action for damages; providing an effective  
22 date.

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

25  
26 Section 1. Section 1006.23, Florida Statutes, is reordered

27 and amended to read:

28 1006.23 Hazardous walking conditions.—

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

32 ~~(2)-(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~  
 33 ~~CONDITIONS.—~~

34 (a) Walkways parallel to the road.—

35 1. It shall be considered a hazardous walking condition  
 36 with respect to any road along which students must walk in order  
 37 to walk to and from school if there is not an area at least 4  
 38 feet wide adjacent to the road, not including drainage ditches,  
 39 sluiceways, swales, or channels, having a surface upon which  
 40 students may walk without being required to walk on the road  
 41 surface. In addition, whenever the road along which students  
 42 must walk is uncurbed and has a posted speed limit of 50 ~~55~~  
 43 miles per hour or greater, the area as described above for  
 44 students to walk upon shall be set off the road by no less than  
 45 3 feet from the edge of the road.

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

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

50 ~~a.b.~~ Is a road on which the volume of traffic is less than  
 51 180 vehicles per hour, per direction, during the time students  
 52 walk to and from school; or

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

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

59 1. ~~If~~ The traffic volume on the road exceeds the rate of  
60 360 vehicles per hour, per direction (including all lanes),  
61 during the time students walk to and from school and if the  
62 crossing site is uncontrolled. For purposes of this subsection,  
63 an "uncontrolled crossing site" is an intersection or other  
64 designated crossing site where no crossing guard, traffic  
65 enforcement officer, or stop sign or other traffic control  
66 signal is present during the times students walk to and from  
67 school.

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

73  
74 Traffic volume shall be determined by the most current traffic  
75 engineering study conducted by a state or local governmental  
76 agency.

77 (c) Crossings over the road.—It shall be considered a  
78 hazardous walking condition with respect to any road at any

79 uncontrolled crossing site which students must walk in order to  
 80 walk to and from school if:  
 81 1. The road has a posted speed limit of 50 miles per hour  
 82 or greater; or  
 83 2. The road has six lanes or more, not including turn  
 84 lanes, regardless of the speed limit.  
 85 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—  
 86 (a) When a request for review is made by ~~to~~ the district  
 87 school superintendent with respect to a road over which a state  
 88 or local governmental entity has jurisdiction ~~or the district~~  
 89 ~~school superintendent's designee~~ concerning a condition  
 90 perceived to be hazardous to students in that district who live  
 91 within the 2-mile limit and who walk to school, such condition  
 92 shall be inspected jointly by a representative of the school  
 93 district, ~~and~~ a representative of the state or local  
 94 governmental entity with ~~that has~~ jurisdiction over the  
 95 perceived hazardous location, and a representative of the  
 96 municipal police department for a municipal road, a  
 97 representative of the sheriff's office for a county road, or a  
 98 representative of the Department of Transportation for a state  
 99 road. If the jurisdiction is within an area for which there is a  
 100 metropolitan planning organization, a representative of that  
 101 organization shall also be included. The governmental  
 102 representatives shall determine whether the condition  
 103 constitutes a hazardous walking condition as provided in  
 104 subsection (2). If the governmental representatives concur that

105 a condition constitutes a hazardous walking condition as  
106 provided in subsection (2), they shall report that determination  
107 in writing to the district school superintendent, who shall  
108 initiate a formal request for correction as provided in  
109 subsection (4).

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

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

137 (4)-(2) TRANSPORTATION; CORRECTION OF HAZARDS.-

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

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

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

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

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

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