

CHAPTER 98-272

House Bill No. 3951

An act relating to school attendance; amending s. 228.041, F.S.; clarifying definition of the term “home education program”; amending s. 229.808, F.S.; providing that definition of the term “nonpublic school” does not include home education program for purpose of survey requirements; amending s. 232.01, F.S., relating to school attendance; clarifying provisions relating to state or school district control of home education programs; revising provisions relating to compulsory school attendance; amending s. 232.02, F.S.; providing that private tutoring may be used to meet regular school attendance requirements; revising provisions relating to home education programs; clarifying inspection of portfolio; providing for parental selection of method of evaluation; revising process for reporting and submitting written evaluation and test results to superintendent; creating s. 232.0202, F.S.; providing requirements for private tutoring programs; amending s. 232.021, F.S.; providing that attendance reporting requirements do not apply to home education programs; amending ss. 232.425, 240.116, 240.321, 240.40202, 240.40205, and 240.40206, F.S.; correcting cross references and conforming provisions; providing an effective date.

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

Section 1. Subsection (34) of section 228.041, Florida Statutes, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows: shall be used as follows:

(34) HOME EDUCATION PROGRAM.—A home education program is sequentially progressive instruction of a student ~~directed in his or her home~~ by his or her parent or guardian in order to satisfy the requirements of ss. s. 232.01 and 232.0201.

Section 2. Subsection (2) of section 229.808, Florida Statutes, is amended to read:

229.808 Annual nonpublic school survey.—

(2) For the purpose of organizing, maintaining, and updating this database, each nonpublic school shall annually execute and file a database survey form on a date designated by the Department of Education which shall include a notarized statement ascertaining that the owner of the nonpublic school has complied with the provisions of subsection (3). For the purpose of this section, “owner” means any individual who is the chief administrative officer of a nonpublic school. For the purpose of this section, a “nonpublic school” is defined as an individual, association, copartnership, or corpora-

tion, or department, division, or section of such organization, which designates itself as an educational center which includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization which provides instructional services which meet the intent of s. 232.02 or which gives preemployment or supplementary training in technology or in fields of trade or industry or which offers academic, literary, or vocational training below college level, or any combination of the above, including an institution which performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 246. This definition shall not include home education programs conducted in accordance with s. 232.0201. ~~“Owner” means any individual who is the chief administrative officer of a nonpublic school.~~

Section 3. Paragraphs (b) and (c) of subsection (1) of section 232.01, Florida Statutes, are amended to read:

232.01 School attendance.—

(1)

(b) Any child who has attained the age of 6 years on or before September 1 of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before September 1 and has satisfactorily completed the requirements for kindergarten in a nonpublic school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's pupil progression plan. However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of nonpublic schools or home education programs.

(c) A child who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the child files a formal declaration of intent to terminate school enrollment with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the child and the child's parent or legal guardian. The school district must notify the child's parent or legal guardian of receipt of the child's declaration of intent to terminate school enrollment. A child who attains the age of 18 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age.

Section 4. Section 232.02, Florida Statutes, is amended, and subsection (4) of said section is renumbered as section 232.0201, Florida Statutes, and amended, to read:

232.02 Regular school attendance.—Regular attendance is the actual attendance of a pupil during the school day as defined by law and regulations of the state board. Regular attendance within the intent of s. 232.01 may be achieved by attendance in:

- (1) A public school supported by public funds;
- (2) A parochial, religious, or denominational school;
- (3) A private school supported in whole or in part by tuition charges or by endowments or gifts; ~~or~~
- (4) A home education program that meets the requirements of s. 232.0201; or
- (5) A private tutoring program that meets the requirements of s. 232.0202.

232.0201 Home education programs.—

(1)(4) Regular attendance as defined in s. 232.02 may be achieved by attendance in a home education program as defined in s. 228.041, provided that at least one of the following conditions is met:

~~(a) The parent holds a valid regular Florida certificate to teach the subjects or grades in which instruction is given and complies with any other requirements prescribed by law or rules of the state board; or~~

~~(b) The parent or guardian is not required to does not hold a valid regular Florida certificate to teach, and complies with the following requirements:~~

(a)1. The parent or guardian shall notify ~~Notifies~~ the superintendent of schools of the county in which the parent or guardian resides of her or his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent or guardian, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the superintendent's office within 30 days of said termination.

(b)2. The parent or guardian shall maintain ~~Maintains~~ a portfolio of records and materials. The portfolio shall consist of the following:

1. A log of educational activities which is, made contemporaneously with the instruction and, which designates by title any ~~the~~ reading materials used, and

2. Samples of any writings, worksheets, workbooks, or ~~and~~ creative materials used or developed by the student.

The portfolio shall be preserved by the parent or guardian for 2 years and shall be made available for inspection by the superintendent, or the superintendent's agent, upon 15 days' written notice. Nothing in this section shall require the superintendent to inspect the portfolio.

(c)3. The parent or guardian shall provide ~~Provides~~ for an annual educational evaluation in which is documented the pupil's demonstration of educational progress at a level commensurate with her or his ability. The parent

or guardian shall select the method of evaluation and shall file a copy of the evaluation ~~shall be filed annually with the superintendent's district school board office in the county in which the pupil resides. The annual educational evaluation shall consist of one of the following:~~

1.a. A teacher selected by the parent or guardian shall evaluate the pupil's educational progress upon review of the portfolio and discussion with the pupil. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. ~~The teacher shall submit a written evaluation to the school superintendent;~~

2.b. The pupil shall take any nationally normed student achievement test ~~used by the district and administered by a certified teacher. Such test results shall be reported to the school superintendent;~~

3.c. The pupil shall take a state student assessment test used by the school district and administered by a certified teacher, at a location and under testing conditions approved by the school district. ~~Such test results shall be reported to the school superintendent;~~

4.d. The pupil shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(7) or (8). ~~Such results shall be reported to the school superintendent; or~~

5.e. The pupil shall be evaluated with any other valid measurement tool as mutually agreed upon by the school superintendent of the district in which the pupil resides and the pupil's parent or guardian. ~~Such results shall be reported to the superintendent.~~

(2) The school superintendent shall review and accept the results of the annual educational evaluation of the pupil in a home education program. If the pupil does not demonstrate educational progress at a level commensurate with her or his ability, the superintendent shall notify the parent or guardian, in writing, that such progress has not been achieved. The parent or guardian shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the pupil. At the end of the 1-year probationary period, the pupil shall be reevaluated as specified in paragraph (1)(c) this subparagraph. Continuation in a home education program shall be contingent upon the pupil demonstrating educational progress commensurate with her or his ability at the end of the probationary period.

(3) A home education program shall be excluded from meeting the requirements of a school day as defined in s. 228.041.

Section 5. Section 232.0202, Florida Statutes, is created to read:

232.0202 Private tutoring programs.—Regular attendance as defined in s. 232.02 may be achieved by attendance in a private tutoring program if the person tutoring the student meets the following requirements:

(1) Holds a valid Florida certificate to teach the subjects or grades in which instruction is given.

(2) Keeps all records and makes all reports required by the state and district school board and makes regular reports on the attendance of students in accordance with the provisions of s. 232.021.

(3) Requires students to be in actual attendance for the minimum length of time prescribed by s. 228.041(16).

Section 6. Section 232.021, Florida Statutes, is amended to read:

232.021 Attendance records and reports required.—All officials, teachers, and other employees in public, parochial, denominational, and private schools, including private tutors, shall keep all records and shall prepare and submit promptly all reports that may be required by law and by regulations of state and district boards. Such records shall include a register of enrollment and attendance and all such persons named above shall make such reports therefrom as may be required by the state board. The enrollment register shall show the absence or attendance of each child enrolled for each school day of the year in a manner prescribed by the state board. The register shall be open for the inspection by the designated school representative or the superintendent of the district in which the school is located. Violation of the provisions of this section shall be a misdemeanor of the second degree, punishable as provided by law. This section shall not apply to home education programs provided in s. 232.0201.

Section 7. Paragraph (c) of subsection (3) and subsection (4) of section 232.425, Florida Statutes, are amended to read:

232.425 Student standards for participation in interscholastic extracurricular student activities; regulation.—

(3)

(c) An individual home education student is eligible to participate at a public school, and may develop an agreement to participate at a nonpublic school, in the interscholastic extracurricular activities of that school, provided the following conditions are met:

1. The home education student must meet the requirements of the home education program pursuant to s. ~~232.0201~~ 232.02(4).

2. During the period of participation at a school, the home education student must demonstrate educational progress as required in paragraph (b) in all subjects taken in the home education program by a method of evaluation agreed upon by the parent or guardian and the principal which may include: review of the student's work by a certified teacher chosen by the parent; grades earned through correspondence; grades earned in courses taken at a community college, university, or trade school; standardized test scores above the 35th percentile; or any other method designated in s. ~~232.0201~~ 232.02(4).

3. The home education student must meet the same residency requirements as other students in the school at which he or she participates.

4. The home education student must meet the same standards of acceptance, behavior, and performance as required of other students in extracurricular activities.

5. The student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate. A home education student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or nonpublic school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to subparagraph 2. to become eligible to participate as a home education student.

(4) The student standards for participation in interscholastic extracurricular activities must be applied beginning with the student's first semester of the 9th grade. Each student must meet such other requirements for participation as may be established by the school district; however, a school district may not establish requirements for participation in interscholastic extracurricular activities which make participation in such activities less accessible to home education students than to other students. Except as set forth in paragraph (3)(c), evaluation processes or requirements that are placed on home education student participants may not go beyond those that apply under s. 232.0201 ~~232.02~~ to home education students generally.

Section 8. Paragraph (b) of subsection (7) of section 240.116, Florida Statutes, is amended to read:

240.116 Articulated acceleration.—

(7)

(b) The dual enrollment program for home education students consists of the enrollment of an eligible home education secondary student in a postsecondary course creditable toward an associate degree, a vocational certificate, or a baccalaureate degree. To participate in the dual enrollment program, an eligible home education secondary student must:

1. Provide proof of enrollment in a home education program pursuant to s. 232.0201 ~~232.02~~(4).

2. Be responsible for his or her own instructional materials and transportation unless provided for otherwise.

Section 9. Paragraph (a) of subsection (2) of section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—The board of trustees shall make rules governing admissions of students. These rules shall include the following:

(2) Admission to associate degree programs is subject to minimum standards adopted by the State Board of Education and shall require:

(a) A high school diploma, a high school equivalency diploma as prescribed in s. 229.814, previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. ~~232.0201~~ 232.02(4). Students who are enrolled in a dual enrollment or early admission program pursuant to s. 240.116 and secondary students enrolled in college-level instruction creditable toward the associate degree, but not toward the high school diploma, shall be exempt from this requirement.

Section 10. Paragraph (b) of subsection (1) of section 240.40202, Florida Statutes, is amended to read:

240.40202 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.—

(1) To be eligible for an initial award from any of the three types of scholarships under the Florida Bright Futures Scholarship Program, a student must:

(b) Earn a standard Florida high school diploma or its equivalent as described in s. 232.246 or s. 229.814 unless:

1. The student is enrolled full time in the early admission program of an eligible postsecondary education institution or completes a home education program according to s. ~~232.0201~~ 232.02(4); or

2. The student earns a high school diploma from a non-Florida school while living with a parent or guardian who is on military or public service assignment away from Florida.

Section 11. Subsection (1) of section 240.40205, Florida Statutes, as amended by chapter 97-379, Laws of Florida, is amended to read:

240.40205 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) Has achieved a 3.5 weighted grade point average as calculated pursuant to s. 240.40202, or its equivalent, in high school courses that are adopted

by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses; and

(b) Has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(c) Has attended a home education program according to s. 232.0201 ~~232.02(4)~~ during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(d) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office; or

(e) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist.

Effective with the 1998-1999 school year, a student must complete a program of community service work, as approved by the district school board or the administrators of a nonpublic school, which shall include a minimum of 75 hours of service work and require the student to identify a social problem that interests him or her, develop a plan for his or her personal involvement in addressing the problem, and, through papers or other presentations, evaluate and reflect upon his or her experience.

Section 12. Paragraph (c) of subsection (1) of section 240.40206, Florida Statutes, as amended by chapter 97-379, Laws of Florida, is amended to read:

240.40206 Florida Merit Scholars award.—

(1) A student is eligible for a Florida Merit Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(c) Has attended a home education program according to s. 232.0201 ~~232.02(4)~~ during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program.

Section 13. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.