

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2640

54th Legislature
1996 Regular Session

Passed by the House March 2, 1996
Yeas 89 Nays 0

Speaker of the
House of Representatives

Passed by the Senate February 28, 1996
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2640** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 2640

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Education (originally sponsored by Representatives Clements, Brumsickle, Radcliff, Poulsen, Hatfield, Linville, Dickerson, Basich and Cole)

Read first time 02/02/96.

1 AN ACT Relating to school attendance; amending RCW 28A.225.010,
2 28A.225.020, 28A.225.030, 28A.225.035, 28A.225.151, 28A.225.090,
3 4.08.050, and 28A.225.025; adding a new section to chapter 2.56 RCW;
4 adding a new section to chapter 28A.225 RCW; creating a new section;
5 prescribing penalties; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 28A.225.010 and 1990 c 33 s 219 are each amended to
8 read as follows:

9 (1) All parents in this state of any child eight years of age and
10 under eighteen years of age shall cause such child to attend the public
11 school of the district in which the child resides and such child shall
12 have the responsibility to and therefore shall attend for the full time
13 when such school may be in session unless:

14 (a) The child is attending an approved private school for the same
15 time or is enrolled in an extension program as provided in RCW
16 28A.195.010(4);

17 (b) The child is receiving home-based instruction as provided in
18 subsection (4) of this section; (~~or~~)

1 (c) The child is attending an education center as provided in
2 chapter 28A.205 RCW;

3 (d) The school district superintendent of the district in which the
4 child resides shall have excused such child from attendance because the
5 child is physically or mentally unable to attend school, is attending
6 a residential school operated by the department of social and health
7 services, or has been temporarily excused upon the request of his or
8 her parents for purposes agreed upon by the school authorities and the
9 parent: PROVIDED, That such excused absences shall not be permitted if
10 deemed to cause a serious adverse effect upon the student's educational
11 progress: PROVIDED FURTHER, That students excused for such temporary
12 absences may be claimed as full time equivalent students to the extent
13 they would otherwise have been so claimed for the purposes of RCW
14 28A.150.250 and 28A.150.260 and shall not affect school district
15 compliance with the provisions of RCW 28A.150.220; or

16 (~~(d)~~) (e) The child is (~~(fifteen)~~) sixteen years of age or older
17 and:

18 (i) (~~The school district superintendent determines that such child~~
19 ~~has already attained a reasonable proficiency in the branches required~~
20 ~~by law to be taught in the first nine grades of the public schools of~~
21 ~~this state;~~

22 (~~ii~~) The child is regularly and lawfully (~~engaged in a useful or~~
23 ~~remunerative occupation~~) employed and either the parent agrees that
24 the child should not be required to attend school or the child is
25 emancipated in accordance with chapter 13.64 RCW;

26 (~~iii~~) (ii) The child has already met graduation requirements in
27 accordance with state board of education rules and regulations; or

28 (~~iv~~) (iii) The child has received a certificate of educational
29 competence under rules and regulations established by the state board
30 of education under RCW 28A.305.190.

31 (2) A parent for the purpose of this chapter means a parent,
32 guardian, or person having legal custody of a child.

33 (3) An approved private school for the purposes of this chapter and
34 chapter 28A.200 RCW shall be one approved under regulations established
35 by the state board of education pursuant to RCW 28A.305.130.

36 (4) For the purposes of this chapter and chapter 28A.200 RCW,
37 instruction shall be home-based if it consists of planned and
38 supervised instructional and related educational activities, including
39 a curriculum and instruction in the basic skills of occupational

1 education, science, mathematics, language, social studies, history,
2 health, reading, writing, spelling, and the development of an
3 appreciation of art and music, provided for a number of hours
4 equivalent to the total annual program hours per grade level
5 established for approved private schools under RCW 28A.195.010 and
6 28A.195.040 and if such activities are:

7 (a) Provided by a parent who is instructing his or her child only
8 and are supervised by a certificated person. A certificated person for
9 purposes of this chapter and chapter 28A.200 RCW shall be a person
10 certified under chapter 28A.410 RCW. For purposes of this section,
11 "supervised by a certificated person" means: The planning by the
12 certificated person and the parent of objectives consistent with this
13 subsection; a minimum each month of an average of one contact hour per
14 week with the child being supervised by the certificated person; and
15 evaluation of such child's progress by the certificated person. The
16 number of children supervised by the certificated person shall not
17 exceed thirty for purposes of this subsection; or

18 (b) Provided by a parent who is instructing his or her child only
19 and who has either earned forty-five college level quarter credit hours
20 or its equivalent in semester hours or has completed a course in home-
21 based instruction at a postsecondary institution or a vocational-
22 technical institute; or

23 (c) Provided by a parent who is deemed sufficiently qualified to
24 provide home-based instruction by the superintendent of the local
25 school district in which the child resides.

26 (5) The legislature recognizes that home-based instruction is less
27 structured and more experiential than the instruction normally provided
28 in a classroom setting. Therefore, the provisions of subsection (4) of
29 this section relating to the nature and quantity of instructional and
30 related educational activities shall be liberally construed.

31 **Sec. 2.** RCW 28A.225.020 and 1995 c 312 s 67 are each amended to
32 read as follows:

33 (1) If a child required to attend school under (~~the laws of the~~
34 ~~state of Washington~~) RCW 28A.225.010 fails to attend school without
35 valid justification, the (~~child's~~) public school in which the child
36 is enrolled shall:

37 (~~(1)~~) (a) Inform the child's custodial parent, parents, or
38 guardian by a notice in writing or by telephone whenever the child has

1 failed to attend school after one unexcused absence within any month
2 during the current school year. School officials shall inform the
3 parent of the potential consequences of additional unexcused absences;

4 ~~((+2))~~ (b) Schedule a conference or conferences with the custodial
5 parent, parents, or guardian and child at a time ~~((and place))~~
6 reasonably convenient for all persons included for the purpose of
7 analyzing the causes of the child's absences after two unexcused
8 absences within any month during the current school year. If a
9 regularly scheduled parent-teacher conference day is to take place
10 within thirty days of the second unexcused absence, then the school
11 district may schedule this conference on that day; and

12 ~~((+3))~~ (c) Take steps to eliminate or reduce the child's absences.
13 These steps shall include, where appropriate, adjusting the child's
14 school program or school or course assignment, providing more
15 individualized or remedial instruction, providing appropriate
16 vocational courses or work experience, ~~((or refer))~~ referring the child
17 to a community truancy board, requiring the child to attend an
18 alternative school or program, or assisting the parent or child to
19 obtain supplementary services that might eliminate or ameliorate the
20 cause or causes for the absence from school. If the child's parent
21 does not attend the scheduled conference, the conference may be
22 conducted with the student and school official. However, the parent
23 shall be notified of the steps to be taken to eliminate or reduce the
24 child's absence.

25 (2) For purposes of this chapter, an "unexcused absence" means that
26 a child:

27 (a) Has failed to attend the majority of hours or periods in an
28 average school day or has failed to comply with a more restrictive
29 school district policy; and

30 (b) Has failed to meet the school district's policy for excused
31 absences.

32 **Sec. 3.** RCW 28A.225.030 and 1995 c 312 s 68 are each amended to
33 read as follows:

34 (1) If a child is required to attend school under RCW 28A.225.010
35 and if the actions taken by a school district under RCW 28A.225.020 are
36 not successful in substantially reducing an enrolled student's absences
37 from public school, ~~((upon the fifth))~~ not later than the seventh
38 unexcused absence by a child within any month during the current school

1 year or (~~upon~~) not later than the tenth unexcused absence during the
2 current school year the school district shall file a petition and
3 supporting affidavit for a civil action with the juvenile court
4 alleging a violation of RCW 28A.225.010: (~~(+1)~~) (a) By the parent;
5 (~~(+2)~~) (b) by the child; or (~~(+3)~~) (c) by the parent and the child.
6 Except as provided in this subsection, no additional documents need be
7 filed with the petition.

8 (2) The district shall not later than the fifth unexcused absence
9 in a month:

10 (a) Enter into an agreement with a student and parent that
11 establishes school attendance requirements;

12 (b) Refer a student to a community truancy board as defined in RCW
13 28A.225.025. The community truancy board shall enter into an agreement
14 with the student and parent that establishes school attendance
15 requirements and take other appropriate actions to reduce the child's
16 absences; or

17 (c) File a petition under subsection (1) of this section.

18 (3) The petition may be filed by a school district employee who is
19 not an attorney.

20 (4) If the school district fails to file a petition under this
21 section, the parent of a child with five or more unexcused absences in
22 any month during the current school year or upon the tenth unexcused
23 absence during the current school year may file a petition with the
24 juvenile court alleging a violation of RCW 28A.225.010.

25 **Sec. 4.** RCW 28A.225.035 and 1995 c 312 s 69 are each amended to
26 read as follows:

27 (1) A petition for a civil action under RCW 28A.225.030 shall
28 consist of a written notification to the court alleging that:

29 (a) The child has (~~five or more~~) unexcused absences (~~within any~~
30 ~~month~~) during the current school year (~~or ten or more unexcused~~
31 ~~absences in the current school year~~);

32 (b) Actions taken by the school district have not been successful
33 in substantially reducing the child's absences from school; and

34 (c) Court intervention and supervision are necessary to assist the
35 school district or parent to reduce the child's absences from school.

36 (2) The petition shall set forth the name, age, school, and
37 residence of the child and the names and residence of the child's
38 parents.

1 (3) The petition shall set forth facts that support the allegations
2 in this section and shall generally request relief available under this
3 chapter.

4 (4) When a petition is filed under RCW 28A.225.030, the juvenile
5 court (~~may~~

6 ~~(a))~~ shall schedule a (~~fact-finding~~) hearing at which the court
7 shall consider the petition(~~+~~). However, a hearing shall not be
8 required if other actions by the court would substantially reduce the
9 child's unexcused absences.

10 (~~(b))~~ When a hearing is held, the court shall:

11 (a) Separately notify the child, the parent of the child, and the
12 school district of the (~~fact-finding~~) hearing;

13 (~~(c))~~ (b) Notify the parent and the child of their rights to
14 present evidence at the (~~fact-finding~~) hearing; and

15 (~~(d))~~ (c) Notify the parent and the child of the options and
16 rights available under chapter 13.32A RCW.

17 (5) The court may require the attendance of both the child and the
18 parents at any hearing on a petition filed under RCW 28A.225.030.

19 (6) The court may permit the first hearing to be held without
20 requiring that either party be represented by legal counsel, and to be
21 held without a guardian ad litem for the child under RCW 4.08.050. At
22 the request of the school district, the court may permit a school
23 district representative who is not an attorney to represent the school
24 district at any future hearings.

25 (7) The court shall grant the petition and enter an order assuming
26 jurisdiction to intervene for the remainder of the school year, if the
27 allegations in the petition are established by a preponderance of the
28 evidence.

29 (~~(7))~~ (8) If the court assumes jurisdiction, the school district
30 shall regularly report to the court any additional unexcused absences
31 by the child.

32 (9) Community truancy boards and the courts shall coordinate, to
33 the extent possible, proceedings and actions pertaining to children who
34 are subject to truancy petitions and at-risk youth petitions in RCW
35 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

36 **Sec. 5.** RCW 28A.225.151 and 1995 c 312 s 72 are each amended to
37 read as follows:

1 (1) As required under subsection (2) of this section, each school
2 shall document the actions taken under RCW ((28A.225.020—and))
3 28A.225.030 and report this information ((at the end of each grading
4 period)) to the school district superintendent who shall compile the
5 data for all the schools in the district and prepare an annual school
6 district report for each school year and submit the report to the
7 superintendent of public instruction. The reports shall be made upon
8 forms furnished by the superintendent of public instruction and shall
9 be transmitted as determined by the superintendent of public
10 instruction.

11 (2) The reports under subsection (1) of this section shall include:

12 (a) The number of enrolled students and the number of ((excused
13 and)) unexcused absences;

14 (b) Documentation of the steps taken by the school district under
15 each subsection of RCW 28A.225.020 at the request of the superintendent
16 of public instruction. Each year, by May 1st, the superintendent of
17 public instruction shall select ten school districts to submit the
18 report at the end of the following school year. The ten districts
19 shall represent different areas of the state and be of varied sizes.
20 In addition, the superintendent of public instruction shall require any
21 district that fails to keep appropriate records to submit a full report
22 to the superintendent of public instruction under this subsection. All
23 school districts shall document steps taken under RCW 28A.225.020 in
24 each student's record, and make those records available upon request
25 consistent with the laws governing student records;

26 (c) The number of enrolled students with ten or more unexcused
27 absences in a school year or five or more unexcused absences in a month
28 during a school year;

29 (d) ~~((Documentation of success by the school district in~~
30 ~~substantially reducing enrolled student absences for students with five~~
31 ~~or more absences in any month or ten or more unexcused absences in any~~
32 ~~school year)) A description of any programs or schools developed to
33 serve students who have had five or more unexcused absences in a month
34 or ten in a year including information about the number of students in
35 the program or school and the number of unexcused absences of students
36 during and after participation in the program. The school district
37 shall also describe any placements in an approved private nonsectarian
38 school or program or certified program under a court order under RCW
39 28A.225.090; and~~

1 (e) The number of petitions filed by a school district ((or a
2 parent)) with the juvenile court((; and

3 ~~(f) The disposition of cases filed with the juvenile court,~~
4 ~~including the frequency of contempt orders issued to enforce a court's~~
5 ~~order under RCW 28A.225.090)).~~

6 (3) A report required under this section shall not disclose the
7 name or other identification of a child or parent.

8 (4) The superintendent of public instruction shall collect these
9 reports from all school districts and prepare an annual report for each
10 school year to be submitted to the legislature no later than December
11 15th of each year.

12 **Sec. 6.** RCW 28A.225.090 and 1995 c 312 s 74 are each amended to
13 read as follows:

14 ~~((Any person violating any of the provisions of either RCW~~
15 ~~28A.225.010 or 28A.225.080 shall be fined not more than twenty five~~
16 ~~dollars for each day of unexcused absence from school. However, a~~
17 ~~child found to be in violation of RCW 28A.225.010 shall be required to~~
18 ~~attend school and shall not be fined. If the child fails to comply~~
19 ~~with the court order to attend school, the)) (1) A court may(((: (1)~~
20 ~~Order the child be punished by detention; or (2) impose alternatives to~~
21 ~~detention such as community service hours or participation in)) order~~
22 a child subject to a petition under RCW 28A.225.035 to:

23 (a) Attend the child's current school;

24 (b) If there is space available and the program can provide
25 educational services appropriate for the child, order the child to
26 attend another public school, an alternative education program, center,
27 a skill center, dropout prevention program((s or referral)), or another
28 public educational program;

29 (c) Attend a private nonsectarian school or program including an
30 education center. Before ordering a child to attend an approved or
31 certified private nonsectarian school or program, the court shall: (i)
32 Consider the public and private programs available; (ii) find that
33 placement is in the best interest of the child; and (iii) find that the
34 private school or program is willing to accept the child and will not
35 charge any fees in addition to those established by contract with the
36 student's school district. If the court orders the child to enroll in
37 a private school or program, the child's school district shall contract
38 with the school or program to provide educational services for the

1 child. The school district shall not be required to contract for a
2 weekly rate that exceeds the state general apportionment dollars
3 calculated on a weekly basis generated by the child and received by the
4 district. A school district shall not be required to enter into a
5 contract that is longer than the remainder of the school year. A
6 school district shall not be required to enter into or continue a
7 contract if the child is no longer enrolled in the district; or

8 (d) Be referred to a community truancy board, if available.

9 (2) If the child fails to comply with the court order, the court
10 may order the child to be punished by detention or may impose
11 alternatives to detention such as community service. Failure by a
12 child to comply with an order issued under this ((section)) subsection
13 shall not be punishable by detention for a period greater than that
14 permitted pursuant to a contempt proceeding against a child under
15 chapter 13.32A RCW.

16 (3) Any parent violating any of the provisions of either RCW
17 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
18 dollars for each day of unexcused absence from school. It shall be a
19 defense for a parent charged with violating RCW 28A.225.010 to show
20 that he or she exercised reasonable diligence in attempting to cause a
21 child in his or her custody to attend school or that the child's school
22 did not perform its duties as required in RCW 28A.225.020. The court
23 may order the parent to provide community service ((at the child's
24 school)) instead of imposing a fine. Any fine imposed pursuant to this
25 section may be suspended upon the condition that a parent charged with
26 violating RCW 28A.225.010 shall participate with the school and the
27 child in a supervised plan for the child's attendance at school or upon
28 condition that the parent attend a conference or conferences scheduled
29 by a school for the purpose of analyzing the causes of a child's
30 absence.

31 ((School districts shall make complaint for violation of the
32 provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the
33 juvenile court.))

34 **Sec. 7.** RCW 4.08.050 and 1992 c 111 s 9 are each amended to read
35 as follows:

36 Except as provided under RCW 26.50.020 and 28A.225.035, when an
37 infant is a party he or she shall appear by guardian, or if he or she
38 has no guardian, or in the opinion of the court the guardian is an

1 improper person, the court shall appoint one to act. Said guardian
2 shall be appointed as follows:

3 (1) When the infant is plaintiff, upon the application of the
4 infant, if he or she be of the age of fourteen years, or if under that
5 age, upon the application of a relative or friend of the infant.

6 (2) When the infant is defendant, upon the application of the
7 infant, if he or she be of the age of fourteen years, and applies
8 within thirty days after the service of the summons; if he or she be
9 under the age of fourteen, or neglects to apply, then upon the
10 application of any other party to the action, or of a relative or
11 friend of the infant.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 2.56 RCW
13 to read as follows:

14 The administrator for the courts shall prepare a report for each
15 school year to be submitted to the legislature no later than December
16 15th of each year that summarizes the disposition of petitions filed
17 with the juvenile court under RCW 28A.225.030, including the number of
18 contempt orders issued to enforce a court's order under RCW
19 28A.225.030.

20 **Sec. 9.** RCW 28A.225.025 and 1995 c 312 s 66 are each amended to
21 read as follows:

22 For purposes of this chapter, "community truancy board" means a
23 board composed of members of the local community in which the child
24 attends school. The local school district boards of directors may
25 create a community truancy board or may use other boards that exist or
26 are created, such as diversion boards. However, a diversion or other
27 existing board must agree before it is used as a truancy board.
28 Members of the board shall be selected from representatives of the
29 community. Duties of a community truancy board shall include, but not
30 be limited to, recommending methods for improving school attendance
31 such as assisting the parent or the child to obtain supplementary
32 services that might eliminate or ameliorate the causes for the absences
33 or suggesting to the school district that the child enroll in another
34 school, an alternative education program, an education center, a skill
35 center, a dropout prevention program, or another public or private
36 educational program.

1 NEW SECTION. **Sec. 10.** (1) The superintendent of public
2 instruction, subject to available funding, shall establish an incentive
3 program to encourage the creation of alternative learning schools and
4 programs for students who have been truant, suspended, expelled, or who
5 are subject to other disciplinary actions. Grants may be awarded to
6 individual school districts, school district consortiums, and
7 educational service districts. Funds for the grants may be used for
8 planning and initial program development. Grants shall be awarded no
9 later than November 1, 1996.

10 (2) This section expires June 30, 1997.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.225
12 RCW to read as follows:

13 The superintendent of public instruction, subject to available
14 funding, shall allocate funds to provide educational services for
15 children who have been referred to a community truancy board or to the
16 courts under RCW 28A.225.030. The funds shall be used on behalf of
17 such children for enrollment in skill centers, education centers,
18 alternative programs, and in other public or private educational
19 programs. Decisions regarding the expenditure of the funds shall be
20 made by the community truancy board or the courts, whichever is
21 applicable. The amount of the assistance for each child shall be
22 determined in accordance with the omnibus appropriations act. These
23 funds shall be in excess of any other funds provided through RCW
24 28A.150.260 as basic education and other state, federal, or local
25 sources.

--- END ---