

HOUSE BILL ANALYSIS

HB 3054

Title: *An act relating to truant, expelled, and suspended students.*

Brief Description: *Augmenting provisions affecting truant, expelled and suspended students.*

Sponsors: *Representatives Clements, Huff and Delvin.*

HOUSE COMMITTEE ON EDUCATION

Meeting Date: *February 4, 1998.*

Bill Analysis Prepared by: *Jim Morishima (786-7191).*

Background: *Children between the ages of 8 and 17 are required to attend school. If a child fails to attend school without valid justification, the school must take certain actions, including notifying the parent, scheduling a parent conference, and other steps to reduce the child's absences. No later than the 5th unexcused absence, the school must enter into an agreement with the student and parent requiring school attendance, refer the student to the community truancy board, or file a truancy petition with the juvenile court.*

If the efforts of the school and the parents do not reduce the child's absences, the school district must file a truancy petition with the juvenile court no later than the 7th unexcused absence in a month or the 10th unexcused absence during a school year. The petition may be filed against the child, the parent, or both. If the juvenile court schedules a hearing on the petition, it must notify the child and the parent that the hearing will take place, that the child and parent can present evidence at the hearing, and that the child and parent have options under the Family Reconciliation Act.

If the court finds that actions of the school district have not reduced the child's absences and that court intervention is necessary to reduce the absences, the court must grant the petition and assume jurisdiction over the child for the remainder of the school year. The court may order the child to attend school or an alternative school or education program. The law also authorizes a court to order a student to submit to testing for the use of controlled substances or alcohol. If the child fails to comply with the court order, the court may impose a sanction of detention or community service. If the court finds that a parent failed to exercise reasonable diligence in requiring the child to attend school, the court may fine the parent up to \$25 for each day of unexcused absences, or may impose a requirement of community service.

In August of 1997, the Washington Court of Appeals ruled that the Family Reconciliation Act requires the filing of an information by the prosecutor in order for the juvenile court to impose a determinate punitive sanction. Since the sanctions in the common school truancy provisions could also be construed as determinate punitive sanctions, there is some concern that the Court of Appeals' decision will apply to the common school truancy provisions as well.

Summary of Bill: *Children between the ages of 6 and 17 are required to attend school. Truancy petitions must be served on the child or parent in any manner reasonably likely to provide adequate notice of the filing. If this service is unsuccessful, service shall be by personal service.*

Once the court has assumed jurisdiction over the child for the remainder of the school year, it can order the child to attend a replacement school program provided by a school district for suspended or expelled students or an alternative educational service program. After the child has undergone testing or evaluation for alcohol or controlled substances, the court can order the child to participate in a substance abuse treatment program, provided that the parents agree to pay for such treatment. Also, the court can order the child to refrain from actions which may result in suspension or expulsion and to submit to an assessment for the purpose of identifying the cause of the child's truancy.

If the child does not comply with the court's order, it can find the child in contempt and order detention or community service. As part of the child's detention, the court can order the electronic monitoring of the child. The court must specify the agency that will conduct the monitoring and the rules the child must observe while being monitored. The court cannot order electronic monitoring for more than five days.

Contempt motions must be filed either as remedial or punitive under Washington's contempt statute. A contempt issue can be raised in the original truancy action or in a separate proceeding commenced by a prosecutor or city attorney. Contempt issues can be heard by the judge who presided over the original truancy proceeding or by another judge. A motion for contempt sanctions can be made by a prosecutor, city attorney, parent, juvenile court personnel, or any public agency, organization or person having custody of the child. A motion for punitive sanctions can be made by a prosecutor or city attorney. When making such a motion, the prosecutor or city attorney does not have to file a complaint or information against the child as required in the Washington contempt statute.

In addition to contempt, if a child disobeys the court's order, the court can take away the child's driver's license for 90 days. The department of licensing must list the reason for this suspension on the student's driving record. The department no longer must list an explanation of the reason for suspension when a driver's license is revoked for nonpayment of child support.

Also, the court can order the department of social and health services to file a child in need of services petition under the Family Reconciliation Act.

Appropriation: *\$230,000 for the purposes of section 8 of the act. \$20,000 for the purposes of section 9 of the act.*

Fiscal Note: *Requested on January 29, 1998.*

Effective Date: *Sections 2 through 5 of the act take effect immediately. The rest of the act takes effect ninety days after adjournment of session in which bill is passed.*