
HOUSE BILL 3054

State of Washington 55th Legislature 1998 Regular Session

By Representatives Clements, Huff and Delvin

Read first time 01/28/98. Referred to Committee on Education.

1 AN ACT Relating to truant, expelled, and suspended students;
2 amending RCW 28A.225.010, 28A.225.030, 28A.225.090, 7.21.040,
3 46.20.291, 48.22.140, and 13.32A.140; adding new sections to chapter
4 28A.225 RCW; creating a new section; making appropriations; and
5 declaring an emergency.

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

7 **Sec. 1.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to
8 read as follows:

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

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 (e) The child is sixteen years of age or older and:

17 (i) The child is regularly and lawfully employed and either the
18 parent agrees that the child should not be required to attend school or
19 the child is emancipated in accordance with chapter 13.64 RCW;

20 (ii) The child has already met graduation requirements in
21 accordance with state board of education rules and regulations; or

22 (iii) The child has received a certificate of educational
23 competence under rules and regulations established by the state board
24 of education under RCW 28A.305.190.

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

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

30 (4) For the purposes of this chapter and chapter 28A.200 RCW,
31 instruction shall be home-based if it consists of planned and
32 supervised instructional and related educational activities, including
33 a curriculum and instruction in the basic skills of occupational
34 education, science, mathematics, language, social studies, history,
35 health, reading, writing, spelling, and the development of an
36 appreciation of art and music, provided for a number of hours
37 equivalent to the total annual program hours per grade level
38 established for approved private schools under RCW 28A.195.010 and
39 28A.195.040 and if such activities are:

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

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

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

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

25 **Sec. 2.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to
26 read as follows:

27 (1) If a child is required to attend school under RCW 28A.225.010
28 and if the actions taken by a school district under RCW 28A.225.020 are
29 not successful in substantially reducing an enrolled student's absences
30 from public school, not later than the seventh unexcused absence by a
31 child within any month during the current school year or not later than
32 the tenth unexcused absence during the current school year the school
33 district shall file a petition and supporting affidavit for a civil
34 action with the juvenile court alleging a violation of RCW 28A.225.010:
35 (a) By the parent; (b) by the child; or (c) by the parent and the
36 child. Except as provided in this subsection, no additional documents
37 need be filed with the petition. The petition may be served on the
38 child or parent in any manner reasonably likely to provide adequate

1 notice of the filing. If service is unsuccessful, service shall be by
2 personal service.

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

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

7 (b) Refer a student to a community truancy board as defined in RCW
8 28A.225.025. The community truancy board shall enter into an agreement
9 with the student and parent that establishes school attendance
10 requirements and take other appropriate actions to reduce the child's
11 absences; or

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

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

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

20 **Sec. 3.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to read
21 as follows:

22 (1) A court may order a child subject to a petition under RCW
23 28A.225.035 to:

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

25 (b) If there is space available and the program can provide
26 educational services appropriate for the child, order the child to
27 attend another public school, an alternative education program, center,
28 a skill center, dropout prevention program, a replacement school
29 program provided by a school district for suspended or expelled
30 students, an alternative educational service program authorized by
31 chapter 28A.150 RCW, or another public educational program;

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

1 student's school district. If the court orders the child to enroll in
2 a private school or program, the child's school district shall contract
3 with the school or program to provide educational services for the
4 child. The school district shall not be required to contract for a
5 weekly rate that exceeds the state general apportionment dollars
6 calculated on a weekly basis generated by the child and received by the
7 district. A school district shall not be required to enter into a
8 contract that is longer than the remainder of the school year. A
9 school district shall not be required to enter into or continue a
10 contract if the child is no longer enrolled in the district;

11 (d) Be referred to a community truancy board, if available; ~~((or))~~

12 (e) Submit to testing or evaluation for the use of controlled
13 substances or alcohol based on a determination that such testing or
14 evaluation is appropriate to the circumstances and behavior of the
15 child and will facilitate the child's compliance with the mandatory
16 attendance law. After considering the results of the testing or
17 evaluation, and if the child's parents agree to pay for treatment, the
18 court may require the student to participate in any recommended
19 services or outpatient substance abuse treatment program;

20 (f) Refrain from actions which may result in suspension or
21 expulsion from school; or

22 (g) Submit to an assessment by the court administrator, school
23 district, or other public entity, if available, for the purpose of
24 identifying the cause of the child's truancy.

25 (2) If the child fails to comply with ~~((the))~~ a court order, the
26 court may:

27 (a) Find the child in contempt of court and order the child to be
28 punished by detention, including electronic monitoring, or ~~((may))~~
29 impose alternatives to detention such as community service. When
30 ordering electronic monitoring under this section, the court shall
31 specify the agency which will provide the electronic monitoring
32 services, the terms the child must obey while on electronic monitoring,
33 and the duration of the electronic monitoring. Under this section, the
34 court is not authorized, based upon any single contempt petition, or at
35 any single disposition hearing addressing multiple contempt petitions,
36 to place a child on electronic monitoring for a term exceeding five
37 days. A motion for contempt may be filed either as remedial sanctions
38 under RCW 7.21.030 or as punitive sanctions under RCW 7.21.040.
39 However, failure by a child to comply with an order issued under this

1 subsection shall not be punishable by detention for a period greater
2 than that permitted pursuant to a civil contempt proceeding against a
3 child under chapter 13.32A RCW. Contempt issues may be raised in a
4 separate action commenced by a prosecuting attorney or city attorney,
5 or may be considered in the original truancy action, and may be heard
6 by the judge who presided over the original truancy action or by
7 another judge. Notwithstanding the procedural requirements of chapter
8 7.21 RCW, a motion for contempt sanctions may be made by a prosecutor,
9 city attorney, parent, juvenile court personnel, or any public agency,
10 organization, or person having custody of the child. A motion for
11 punitive sanctions may be made by a prosecuting or city attorney.
12 However, the filing of a complaint or information by a prosecuting or
13 city attorney is not required to commence an action for contempt of
14 court;

15 (b) Order the department of licensing, under RCW 46.20.291, to
16 suspend the child's driver's license for ninety days. Whenever such an
17 order is entered, the court shall secure the immediate forfeiture of
18 the driver's license of the child and immediately forward the license
19 to the department of licensing. If the child fails to deliver the
20 license to the judge, the judge may find the child in contempt of court
21 pursuant to (a) of this subsection; and

22 (c) If the court has reasonable cause to believe that the child is
23 a child in need of services as defined in RCW 13.32A.030(4), order the
24 department of social and health services to file a child in need of
25 services petition pursuant to RCW 13.32A.140.

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

1 **Sec. 4.** RCW 7.21.040 and 1989 c 373 s 4 are each amended to read
2 as follows:

3 (1) Except as otherwise provided in RCW 7.21.050 and 28A.225.090,
4 a punitive sanction for contempt of court may be imposed only pursuant
5 to this section.

6 (2) (a) An action to impose a punitive sanction for contempt of
7 court shall be commenced by a complaint or information filed by the
8 prosecuting attorney or city attorney charging a person with contempt
9 of court and reciting the punitive sanction sought to be imposed.

10 (b) If there is probable cause to believe that a contempt has been
11 committed, the prosecuting attorney or city attorney may file the
12 information or complaint on his or her own initiative or at the request
13 of a person aggrieved by the contempt.

14 (c) A request that the prosecuting attorney or the city attorney
15 commence an action under this section may be made by a judge presiding
16 in an action or proceeding to which a contempt relates. If required
17 for the administration of justice, the judge making the request may
18 appoint a special counsel to prosecute an action to impose a punitive
19 sanction for contempt of court.

20 A judge making a request pursuant to this subsection shall be
21 disqualified from presiding at the trial.

22 (d) If the alleged contempt involves disrespect to or criticism of
23 a judge, that judge is disqualified from presiding at the trial of the
24 contempt unless the person charged consents to the judge presiding at
25 the trial.

26 (3) The court may hold a hearing on a motion for a remedial
27 sanction jointly with a trial on an information or complaint seeking a
28 punitive sanction.

29 (4) A punitive sanction may be imposed for past conduct that was a
30 contempt of court even though similar present conduct is a continuing
31 contempt of court.

32 (5) If the defendant is found guilty of contempt of court under
33 this section, the court may impose for each separate contempt of court
34 a fine of not more than five thousand dollars or imprisonment in the
35 county jail for not more than one year, or both.

36 **Sec. 5.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to read
37 as follows:

1 The department is authorized to suspend the license of a driver
2 upon a showing by its records or other sufficient evidence that the
3 licensee:

4 (1) Has committed an offense for which mandatory revocation or
5 suspension of license is provided by law;

6 (2) Has, by reckless or unlawful operation of a motor vehicle,
7 caused or contributed to an accident resulting in death or injury to
8 any person or serious property damage;

9 (3) Has been convicted of offenses against traffic regulations
10 governing the movement of vehicles, or found to have committed traffic
11 infractions, with such frequency as to indicate a disrespect for
12 traffic laws or a disregard for the safety of other persons on the
13 highways;

14 (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

15 (5) Has failed to respond to a notice of traffic infraction, failed
16 to appear at a requested hearing, violated a written promise to appear
17 in court, or has failed to comply with the terms of a notice of traffic
18 infraction or citation, as provided in RCW 46.20.289;

19 (6) Has committed one of the prohibited practices relating to
20 drivers' licenses defined in RCW 46.20.336; ((or))

21 (7) Has been certified by the department of social and health
22 services as a person who is not in compliance with a child support
23 order or a residential or visitation order as provided in RCW
24 74.20A.320; or

25 (8) Has been found in contempt of court as provided in RCW
26 28A.225.090(2) and is the subject of a court order directing the
27 department to suspend the license of the licensee.

28 **Sec. 6.** RCW 48.22.140 and 1997 c 58 s 808 are each amended to read
29 as follows:

30 In the event that the department of licensing suspends a driver's
31 license solely for the nonpayment of child support as provided in
32 chapter 74.20A RCW or for ~~((noncompliance with a residential or~~
33 ~~visitation order as provided in chapter 26.09 RCW)) failing to comply
34 with a court order as provided in RCW 28A.225.090(2), any provision in
35 the driver's motor vehicle liability insurance policy excluding
36 insurance coverage for an unlicensed driver shall not apply to the
37 driver for ninety days from the date of suspension. When a driver's
38 license is suspended under chapter ~~((74.20A))~~ 28A.225 RCW, the driving~~

1 record for the suspended driver shall include a notation that
2 (~~explains~~) indicates the reason for the suspension.

3 **Sec. 7.** RCW 13.32A.140 and 1997 c 146 s 5 are each amended to read
4 as follows:

5 Unless the department files a dependency petition, the department
6 shall file a child in need of services petition to approve an out-of-
7 home placement on behalf of a child under any of the following sets of
8 circumstances:

9 (1) The child has been admitted to a crisis residential center or
10 has been placed by the department in an out-of-home placement, and:

11 (a) The parent has been notified that the child was so admitted or
12 placed;

13 (b) The child cannot return home, and legal authorization is needed
14 for out-of-home placement beyond seventy-two hours;

15 (c) No agreement between the parent and the child as to where the
16 child shall live has been reached;

17 (d) No child in need of services petition has been filed by either
18 the child or parent;

19 (e) The parent has not filed an at-risk youth petition; and

20 (f) The child has no suitable place to live other than the home of
21 his or her parent.

22 (2) The child has been admitted to a crisis residential center and:

23 (a) Seventy-two hours, including Saturdays, Sundays, and holidays,
24 have passed since such placement;

25 (b) The staff, after searching with due diligence, have been unable
26 to contact the parent of such child; and

27 (c) The child has no suitable place to live other than the home of
28 his or her parent.

29 (3) An agreement between parent and child made pursuant to RCW
30 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer
31 acceptable to parent or child, and:

32 (a) The party to whom the arrangement is no longer acceptable has
33 so notified the department;

34 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
35 have passed since such notification;

36 (c) No new agreement between parent and child as to where the child
37 shall live has been reached;

1 (d) No child in need of services petition has been filed by either
2 the child or the parent;

3 (e) The parent has not filed an at-risk youth petition; and

4 (f) The child has no suitable place to live other than the home of
5 his or her parent.

6 (4) A court in a contempt action under RCW 28A.225.090(2) orders
7 the department to file a petition.

8 Under the circumstances of subsections (1), (2), or (3) of this
9 section, the child shall remain in an out-of-home placement until a
10 child in need of services petition filed by the department on behalf of
11 the child is reviewed by the juvenile court and is resolved by the
12 court. The department may authorize emergency medical or dental care
13 for a child admitted to a crisis residential center or placed in an
14 out-of-home placement by the department. The state, when the
15 department files a child in need of services petition under this
16 section, shall be represented as provided for in RCW 13.04.093.

17 NEW SECTION. Sec. 8. A new section is added to chapter 28A.225
18 RCW to read as follows:

19 The juvenile rehabilitation administration within the department of
20 social and health services may contract with counties to operate a
21 pilot project to conduct electronic monitoring of truant minors ordered
22 detained under RCW 28A.225.010. The pilot project shall be operated in
23 three counties. One of the counties selected shall be Yakima and
24 another shall be located west of the Cascade crest. If a pilot county
25 is not currently offering electronic monitoring, that county may
26 contract with another county, the state juvenile rehabilitation
27 administration, or any other entity for the provision of monitoring
28 equipment and services. Funds provided to counties under section 10 of
29 this act may be used to purchase, lease, or set up electronic
30 monitoring equipment, or to fund agency supervision of children placed
31 on, and children who violate the terms of, electronic monitoring.

32 NEW SECTION. Sec. 9. A new section is added to chapter 28A.225
33 RCW to read as follows:

34 The juvenile rehabilitation administration shall contract with the
35 institute for public policy or a similar agency to obtain an evaluation
36 of any pilot program instituted under section 8 of this act, ensuring
37 that each commissioned evaluation includes: A comparison of school

1 attendance outcomes for children subject to electronic monitoring with
2 those of similarly situated children in similar nonpilot counties;
3 identification of any issues or factors that limit effective
4 implementation of electronic monitoring in the pilot county; and any
5 other issue the evaluating agency considers relevant.

6 NEW SECTION. **Sec. 10.** The sum of two hundred thirty thousand
7 dollars, or as much thereof as may be necessary, is appropriated for
8 the fiscal year ending June 30, 1999, from the general fund to the
9 juvenile rehabilitation administration within the department of social
10 and health services for the purposes of section 8 of this act.
11 Appropriated funds not expended for lack of county participation lapse.

12 NEW SECTION. **Sec. 11.** The sum of twenty thousand dollars, or as
13 much thereof as may be necessary, is appropriated for the fiscal year
14 ending June 30, 1999, from the general fund to the juvenile
15 rehabilitation administration within the department of social and
16 health services for the purposes of section 9 of this act.
17 Appropriated funds not expended for lack of county participation lapse.

18 NEW SECTION. **Sec. 12.** Sections 2 through 5 of this act are
19 necessary for the immediate preservation of the public peace, health,
20 or safety, or support of the state government and its existing public
21 institutions, and take effect immediately.

22 NEW SECTION. **Sec. 13.** Sections 2 through 5 of this act apply to
23 all causes of action commenced on or after the effective date of
24 sections 2 through 5 of this act, regardless of when the cause of
25 action arose. To this extent, these sections apply retrospectively,
26 but in all other respects they apply prospectively.

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