

1 **ESSB 5988** - H COMM AMD **NOT ADOPTED 04/12/99**

2 By Committee on Education

3 Strike everything after the enacting clause and insert the
4 following:

5 **Sec. 1.** RCW 28A.225.010 and 1998 c 244 s 14 are each amended to
6 read as follows:

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

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

15 (b) The child is receiving home-based instruction as provided in
16 subsection ~~((4))~~ (5) of this section;

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

19 (d) The school district superintendent of the district in which
20 the child resides shall have excused such child from attendance because
21 the child is physically or mentally unable to attend school, is
22 attending a residential school operated by the department of social and
23 health services, is incarcerated in an adult correctional facility, or
24 has been temporarily excused upon the request of his or her parents for
25 purposes agreed upon by the school authorities and the parent:
26 PROVIDED, That such excused absences shall not be permitted if deemed
27 to cause a serious adverse effect upon the student's educational
28 progress: PROVIDED FURTHER, That students excused for such temporary
29 absences may be claimed as full time equivalent students to the extent
30 they would otherwise have been so claimed for the purposes of RCW
31 28A.150.250 and 28A.150.260 and shall not affect school district
32 compliance with the provisions of RCW 28A.150.220; or

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

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

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

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

6 (2) If a parent enrolls a child six years of age and under eight
7 years of age in the public school of the district in which the child
8 resides, that parent has the responsibility to ensure the child
9 attends, and the child has the responsibility to attend, for the full
10 time when that school is in session, unless one of the exceptions in
11 subsection (1) of this section is met. This subsection does not apply
12 to a child enrolled in a public school part-time for the purpose of
13 receiving ancillary services. An exception shall be made to this
14 requirement for children whose parents formally remove them from
15 enrollment in kindergarten if the child is less than eight years old.

16 (3) A parent for the purpose of this chapter means a parent,
17 guardian, or person having legal custody of a child.

18 ~~((+3+))~~ (4) An approved private school for the purposes of this
19 chapter and chapter 28A.200 RCW shall be one approved under regulations
20 established by the state board of education pursuant to RCW
21 28A.305.130.

22 ~~((+4+))~~ (5) For the purposes of this chapter and chapter 28A.200
23 RCW, instruction shall be home-based if it consists of planned and
24 supervised instructional and related educational activities, including
25 a curriculum and instruction in the basic skills of occupational
26 education, science, mathematics, language, social studies, history,
27 health, reading, writing, spelling, and the development of an
28 appreciation of art and music, provided for a number of hours
29 equivalent to the total annual program hours per grade level
30 established for approved private schools under RCW 28A.195.010 and
31 28A.195.040 and if such activities are:

32 (a) Provided by a parent who is instructing his or her child only
33 and are supervised by a certificated person. A certificated person for
34 purposes of this chapter and chapter 28A.200 RCW shall be a person
35 certified under chapter 28A.410 RCW. For purposes of this section,
36 "supervised by a certificated person" means: The planning by the
37 certificated person and the parent of objectives consistent with this
38 subsection; a minimum each month of an average of one contact hour per

1 week with the child being supervised by the certificated person; and
2 evaluation of such child's progress by the certificated person. The
3 number of children supervised by the certificated person shall not
4 exceed thirty for purposes of this subsection; or

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

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

13 ~~((+5))~~ (6) The legislature recognizes that home-based instruction
14 is less structured and more experiential than the instruction normally
15 provided in a classroom setting. Therefore, the provisions of
16 subsection ~~((+4))~~ (5) of this section relating to the nature and
17 quantity of instructional and related educational activities shall be
18 liberally construed.

19 **Sec. 2.** RCW 28A.225.020 and 1996 c 134 s 2 are each amended to
20 read as follows:

21 (1) If a child required to attend school under RCW 28A.225.010
22 fails to attend school without valid justification, the public school
23 in which the child is enrolled shall:

24 (a) Inform the child's custodial parent, parents, or guardian by
25 a notice in writing or by telephone whenever the child has failed to
26 attend school after one unexcused absence within any month during the
27 current school year. School officials shall inform the parent of the
28 potential consequences of additional unexcused absences;

29 (b) Schedule a conference or conferences with the custodial
30 parent, parents, or guardian and child at a time reasonably convenient
31 for all persons included for the purpose of analyzing the causes of the
32 child's absences after two unexcused absences within any month during
33 the current school year. If a regularly scheduled parent-teacher
34 conference day is to take place within thirty days of the second
35 unexcused absence, then the school district may schedule this
36 conference on that day; and

1 (c) Take steps to eliminate or reduce the child's absences. These
2 steps shall include, where appropriate, adjusting the child's school
3 program or school or course assignment, providing more individualized
4 or remedial instruction, providing appropriate vocational courses or
5 work experience, referring the child to a community truancy board,
6 requiring the child to attend an alternative school or program, or
7 assisting the parent or child to obtain supplementary services that
8 might eliminate or ameliorate the cause or causes for the absence from
9 school. If the child's parent does not attend the scheduled
10 conference, the conference may be conducted with the student and school
11 official. However, the parent shall be notified of the steps to be
12 taken to eliminate or reduce the child's absence.

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

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

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

20 (3) If a child transfers from one school district to another, the
21 receiving school or school district shall honor the attendance record
22 including the unexcused absences accumulated at the previous school or
23 from the previous school district.

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

26 (1) If a child is required to attend school under RCW 28A.225.010
27 and if the actions taken by a school district under RCW 28A.225.020 are
28 not successful in substantially reducing an enrolled student's absences
29 from public school, not later than the seventh unexcused absence by a
30 child within any month during the current school year or not later than
31 the tenth unexcused absence during the current school year the school
32 district shall file a petition and supporting affidavit for a civil
33 action with the juvenile court alleging a violation of RCW 28A.225.010:
34 (a) By the parent; (b) by the child; or (c) by the parent and the
35 child. However, if the petition alleges a violation of RCW
36 28A.225.010(2), the petition shall only allege a violation by the

1 parent. Except as provided in this subsection, no additional documents
2 need be filed with the petition.

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 (5) Petitions filed under this section may be served by certified
21 mail, return receipt requested. If such service is unsuccessful, or
22 the return receipt is not signed by the addressee, personal service is
23 required.

24 **Sec. 4.** RCW 28A.225.035 and 1997 c 68 s 1 are each amended to
25 read as follows:

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

28 (a) The child has unexcused absences during the current school
29 year;

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

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

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

1 (3) The petition shall set forth facts that support the
2 allegations in this section and shall generally request relief
3 available under this chapter and provide information about what the
4 court might order under RCW 28A.225.090.

5 ~~((When a petition is filed under RCW 28A.225.030))~~ Upon
6 receipt of a petition and supporting affidavit from a school district
7 alleging a violation of RCW 28A.225.010 by a child subject to this
8 chapter, the juvenile court shall require that the child, if age eight
9 or older, a parent, and a school representative appear before a truancy
10 board as defined in RCW 28A.225.025, unless the respondent requests a
11 hearing before the court.

12 (5) Within thirty days of receipt of the truancy referral, the
13 truancy board shall meet with the child, a parent, and the school
14 representative, and enter into an agreement regarding expectations and
15 any actions necessary to address the truancy. The agreement shall be
16 presented to the court for its approval. The court may approve the
17 agreement without a separate hearing. The court shall approve the
18 agreement by order or shall schedule a hearing. The court may, if the
19 school district and community truancy board agree, permit the truancy
20 board to provide continued supervision over the student and report on
21 compliance with the agreement.

22 (6) Notwithstanding the provisions in subsection (4) of this
23 section, if the juvenile court finds that a truancy board would not be
24 the most effective means of addressing the underlying truancy due to
25 extenuating circumstances, the juvenile court shall schedule a hearing
26 at which the court shall consider the petition. However, a hearing
27 shall not be required if other actions by the court would substantially
28 reduce the child's unexcused absences. When a hearing is held, the
29 court shall:

30 (a) Separately notify the child, the parent of the child, and the
31 school district of the hearing;

32 (b) Notify the parent and the child of their rights to present
33 evidence at the hearing; and

34 (c) Notify the parent and the child of the options and rights
35 available under chapter 13.32A RCW.

36 ~~((+5))~~ (7) Except as provided in RCW 28A.225.030(1), the court
37 may require the attendance of both the child and the parents at any
38 hearing on a petition filed under RCW 28A.225.030.

1 ~~((+6))~~ (8) A school district is responsible for determining who
2 shall represent the school district at hearings on a petition filed
3 under RCW 28A.225.030.

4 (9) The court may permit the first hearing to be held without
5 requiring that either party be represented by legal counsel, and to be
6 held without a guardian ad litem for the child under RCW 4.08.050. At
7 the request of the school district, the court ~~((may))~~ shall permit a
8 school district representative who is not an attorney to represent the
9 school district at any future hearings.

10 ~~((+7))~~ (10) If the allegations in the petition are established by
11 a preponderance of the evidence, the court shall grant the petition and
12 enter an order assuming jurisdiction to intervene for the period of
13 time determined by the court, after considering the facts alleged in
14 the petition and the circumstances of the juvenile, to most likely
15 cause the juvenile to return to and remain in school while the juvenile
16 is subject to this chapter. In no case may the order expire before the
17 end of the school year in which it is entered.

18 ~~((+8))~~ (11) If the court assumes jurisdiction, the school
19 district shall regularly report to the court any additional unexcused
20 absences by the child.

21 ~~((+9))~~ (12) Community truancy boards and the courts shall
22 coordinate, to the extent possible, proceedings and actions pertaining
23 to children who are subject to truancy petitions and at-risk youth
24 petitions in RCW 13.32A.191 or child in need of services petitions in
25 RCW 13.32A.140.

26 (13) If after a juvenile court assumes jurisdiction in one county
27 the child relocates to another county, the juvenile court in the
28 receiving county shall, upon the request of a school district or
29 parent, assume jurisdiction of the petition filed in the previous
30 county.

31 **Sec. 5.** RCW 28A.225.090 and 1998 c 296 s 39 are each amended to
32 read as follows:

33 (1) A court may order a child subject to a petition under RCW
34 28A.225.035 to:

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

36 (b) If there is space available and the program can provide
37 educational services appropriate for the child, order the child to

1 attend another public school, an alternative education program, center,
2 a skill center, dropout prevention program, or another public
3 educational program;

4 (c) Attend a private nonsectarian school or program including an
5 education center. Before ordering a child to attend an approved or
6 certified private nonsectarian school or program, the court shall: (i)
7 Consider the public and private programs available; (ii) find that
8 placement is in the best interest of the child; and (iii) find that the
9 private school or program is willing to accept the child and will not
10 charge any fees in addition to those established by contract with the
11 student's school district. If the court orders the child to enroll in
12 a private school or program, the child's school district shall contract
13 with the school or program to provide educational services for the
14 child. The school district shall not be required to contract for a
15 weekly rate that exceeds the state general apportionment dollars
16 calculated on a weekly basis generated by the child and received by the
17 district. A school district shall not be required to enter into a
18 contract that is longer than the remainder of the school year. A
19 school district shall not be required to enter into or continue a
20 contract if the child is no longer enrolled in the district;

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

22 (e) Submit to testing for the use of controlled substances or
23 alcohol based on a determination that such testing is appropriate to
24 the circumstances and behavior of the child and will facilitate the
25 child's compliance with the mandatory attendance law.

26 (2) If the child fails to comply with the court order, the court
27 may order the child to be punished by detention, as provided in RCW
28 7.21.030(2)(e), or may impose alternatives to detention such as
29 community service. Failure by a child to comply with an order issued
30 under this subsection shall not be punishable by detention for a period
31 greater than that permitted pursuant to a civil contempt proceeding
32 against a child under chapter 13.32A RCW.

33 (3) If the child continues to be truant after entering into a
34 court-approved agreement with the truancy board under RCW 28A.225.035,
35 or if the child fails to enter into an agreement with the truancy
36 board, the truancy board shall return the matter to the juvenile court
37 for a hearing. If upon entering an order the child continues to be
38 truant, the juvenile court shall find the child in contempt and impose

1 a remedial sanction in accordance with chapter 7.21 RCW designed to
2 immediately return the child to school, including the actual imposition
3 of detention. The court shall consider the fact that the child was
4 provided ample opportunity to attend school with assistance from the
5 truancy board.

6 (4) Any parent violating any of the provisions of either RCW
7 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
8 dollars for each day of unexcused absence from school. It shall be a
9 defense for a parent charged with violating RCW 28A.225.010 to show
10 that he or she exercised reasonable diligence in attempting to cause a
11 child in his or her custody to attend school or that the child's school
12 did not perform its duties as required in RCW 28A.225.020. The court
13 may order the parent to provide community service instead of imposing
14 a fine. Any fine imposed pursuant to this section may be suspended
15 upon the condition that a parent charged with violating RCW 28A.225.010
16 shall participate with the school and the child in a supervised plan
17 for the child's attendance at school or upon condition that the parent
18 attend a conference or conferences scheduled by a school for the
19 purpose of analyzing the causes of a child's absence.

20 **Sec. 6.** RCW 28A.225.025 and 1996 c 134 s 9 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. Juvenile courts shall establish and operate community
25 truancy boards. However, establishment and operation of community
26 truancy boards may be delegated to school districts with the agreement
27 of both the court and the school district. The ((local school district
28 boards of directors may create a community truancy board or)) juvenile
29 courts may use other ((boards)) entities that exist or are created,
30 such as diversion ((boards)) units. However, a diversion unit or other
31 existing ((board)) entity must agree before it is used as a truancy
32 board. ((Members of the board shall be selected from representatives
33 of the community.)) Duties of a community truancy board shall include,
34 but not be limited to, recommending methods for improving school
35 attendance such as assisting the parent or the child to obtain
36 supplementary services that might eliminate or ameliorate the causes
37 for the absences or suggesting to the school district that the child

1 enroll in another school, an alternative education program, an
2 education center, a skill center, a dropout prevention program, or
3 another public or private educational program.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.300
5 RCW to read as follows:

6 The superintendent of public instruction shall provide, to the
7 extent funds are appropriated, start-up grants for alternative programs
8 and services that provide instruction and learning for truant, at-risk,
9 and expelled students. Each grant application shall contain proposed
10 performance indicators and an evaluation plan to measure the success of
11 the program and its impact on improved student learning. Applications
12 shall contain the applicant's plan for maintaining the program and
13 services after the grant period.

14 NEW SECTION. **Sec. 8.** If funds are appropriated by the
15 legislature for this specific purpose the superintendent of public
16 instruction shall contract with the institute of public policy or a
17 similar agency to: Evaluate the effectiveness of the petition process
18 and community truancy boards in chapter 28A.225 RCW in reducing
19 truancy; determine whether students who do return to school after being
20 subject to court action have disciplinary actions such as suspensions
21 or expulsions, establish patterns of improved attendance, are
22 successful in their classes, and successfully complete their education
23 program; and determine the costs imposed on school districts by the
24 petition process and other truancy-related procedural requirements
25 required by the legislature in 1992 and thereafter.

26 The cost determination shall be submitted to the appropriate
27 committees of the legislature by December 15, 1999. The evaluation
28 shall be submitted to the appropriate committees of the legislature by
29 December 15, 2000.

1 (4) This section expires December 31, 2000.

2 NEW SECTION. **Sec. 9.** If any provision of this act or its
3 application to any person or circumstance is held invalid, the
4 remainder of the act or the application of the provision to other
5 persons or circumstances is not affected.-

6 Correct the title.

EFFECT: The striking amendment: (1) adds a requirement that if a 6 or 7 year-old child enrolls full-time in public school, unless an exception applies, the child is required to attend school regularly and the truancy provisions apply if the child does not attend regularly (if a 6 or 7 year-old becomes truant, any petitions are to be filed against the parent, not the student); (2) adds a requirement that juvenile courts establish community truancy boards and the court may delegate that responsibility to a school district if the district agrees to operate a truancy board; (3) amends and clarifies the truancy petition process and the roles of the court and the truancy board; (4) provides that when a child transfers from one school district to another, attendance records follow; when a child moves from one county to another, the truancy petition can be transferred to the new county; (5) provides for a study of truancy issues by SPI and an alternative education grant program if funds are appropriated for them; and (6) restores the exception to the compulsory attendance law for those who work, are emancipated, meet graduation requirements, or have a GED to those at least 16 years old (current law), rather than 15.