
SECOND SUBSTITUTE HOUSE BILL 1818

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Clements, Quall, Talcott, Carlson, Keiser and Carrell)

Read first time 03/08/1999.

1 AN ACT Relating to school attendance; amending RCW 28A.225.010,
2 28A.225.020, 28A.225.030, 28A.225.035, 28A.225.090, and 28A.225.025;
3 adding a new section to chapter 28A.300 RCW; creating a new section;
4 and providing an expiration date.

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

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

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

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

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

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

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

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

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

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

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

24 (2) If a parent enrolls a child six years of age and under eight
25 years of age in the public school of the district in which the child
26 resides, that parent has the responsibility to ensure the child
27 attends, and the child has the responsibility to attend, for the full
28 time when that school is in session, unless one of the exceptions in
29 subsection (1) of this section is met. This subsection does not apply
30 to a child enrolled in a public school part-time for the purpose of
31 receiving ancillary services. An exception shall be made to this
32 requirement for children whose parents formally remove them from
33 enrollment in kindergarten if the child is less than eight years old.

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

36 (~~(+3)~~) (4) An approved private school for the purposes of this
37 chapter and chapter 28A.200 RCW shall be one approved under regulations
38 established by the state board of education pursuant to RCW
39 28A.305.130.

1 (~~(4)~~) (5) For the purposes of this chapter and chapter 28A.200
2 RCW, instruction shall be home-based if it consists of planned and
3 supervised instructional and related educational activities, including
4 a curriculum and instruction in the basic skills of occupational
5 education, science, mathematics, language, social studies, history,
6 health, reading, writing, spelling, and the development of an
7 appreciation of art and music, provided for a number of hours
8 equivalent to the total annual program hours per grade level
9 established for approved private schools under RCW 28A.195.010 and
10 28A.195.040 and if such activities are:

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

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

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

30 (~~(5)~~) (6) The legislature recognizes that home-based instruction
31 is less structured and more experiential than the instruction normally
32 provided in a classroom setting. Therefore, the provisions of
33 subsection (~~(4)~~) (5) of this section relating to the nature and
34 quantity of instructional and related educational activities shall be
35 liberally construed.

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

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

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

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

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

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

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

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

36 (3) If a child transfers from one school district to another, the
37 receiving school or school district shall honor the attendance record
38 including the unexcused absences accumulated at the previous school or
39 from the previous school district.

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

3 (1) If a child is required to attend school under RCW 28A.225.010
4 and if the actions taken by a school district under RCW 28A.225.020 are
5 not successful in substantially reducing an enrolled student's absences
6 from public school, not later than the seventh unexcused absence by a
7 child within any month during the current school year or not later than
8 the tenth unexcused absence during the current school year the school
9 district shall file a petition and supporting affidavit for a civil
10 action with the juvenile court alleging a violation of RCW 28A.225.010:
11 (a) By the parent; (b) by the child; or (c) by the parent and the
12 child. However, if the petition alleges a violation of RCW
13 28A.225.010, the petition shall only allege a violation by the parent.
14 Except as provided in this subsection, no additional documents need be
15 filed with the petition.

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

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

20 (b) Refer a student to a community truancy board as defined in RCW
21 28A.225.025. The community truancy board shall enter into an agreement
22 with the student and parent that establishes school attendance
23 requirements and take other appropriate actions to reduce the child's
24 absences; or

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

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

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

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

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

37 (a) The child has unexcused absences during the current school
38 year;

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

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

5 (2) The petition shall set forth the name, age, school, and
6 residence of the child and the names and residence of the child's
7 parents.

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

12 (4) (~~When a petition is filed under RCW 28A.225.030~~) Upon receipt
13 of a petition and supporting affidavit from a school district alleging
14 a violation of RCW 28A.225.010 by a child subject to this chapter, the
15 juvenile court shall require that the child, a parent, and a school
16 representative appear before a truancy board as defined in RCW
17 28A.225.025.

18 (5) Within thirty days of receipt of the truancy referral, the
19 truancy board shall meet with the child, a parent, and the school
20 representative, and enter into an agreement regarding expectations and
21 any actions necessary to address the truancy. The agreement shall be
22 presented to the court for its approval. The court may approve the
23 agreement without a separate hearing.

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

32 (a) Separately notify the child, the parent of the child, and the
33 school district of the hearing;

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

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

1 (~~(5)~~) (7) The court may require the attendance of both the child
2 and the parents at any hearing on a petition filed under RCW
3 28A.225.030.

4 (~~(6)~~) (8) A school district is responsible for determining who
5 shall represent the school district at hearings on a petition filed
6 under RCW 28A.225.030.

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

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

21 (~~(8)~~) (11) If the court assumes jurisdiction, the school district
22 shall regularly report to the court any additional unexcused absences
23 by the child.

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

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

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

36 (1) A court may order a child subject to a petition under RCW
37 28A.225.035 to:

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

1 (b) If there is space available and the program can provide
2 educational services appropriate for the child, order the child to
3 attend another public school, an alternative education program, center,
4 a skill center, dropout prevention program, or another public
5 educational program;

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

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

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

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

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

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

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

21 **Sec. 6.** RCW 28A.225.025 and 1996 c 134 s 9 are each amended to
22 read as follows:

23 For purposes of this chapter, "community truancy board" means a
24 board composed of members of the local community in which the child
25 attends school. Juvenile courts shall establish and operate community
26 truancy boards. However, this responsibility may be delegated to
27 school districts with the agreement of both the courts and the school
28 district. The ((local school district boards of directors)) juvenile
29 courts may create a community truancy board or may use other boards
30 that exist or are created, such as diversion boards. However, a
31 diversion or other existing board must agree before it is used as a
32 truancy board. ((Members of the board shall be selected from
33 representatives of the community.)) Duties of a community truancy
34 board shall include, but not be limited to, recommending methods for
35 improving school attendance such as assisting the parent or the child
36 to obtain supplementary services that might eliminate or ameliorate the
37 causes for the absences or suggesting to the school district that the
38 child enroll in another school, an alternative education program, an

1 education center, a skill center, a dropout prevention program, or
2 another public or private educational program.

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

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

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

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

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

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