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**ENGROSSED SUBSTITUTE SENATE BILL 5988**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators McAuliffe, Eide, Long, Finkbeiner, Goings, Zarelli, Patterson, Hargrove, Gardner, Kline, Franklin, Kohl-Welles, B. Sheldon, Winsley and Rasmussen)

Read first time 03/03/1999.

1       AN ACT Relating to revising judicial truancy provisions; and  
2 amending RCW 28A.225.010, 28A.225.030, and 28A.225.035.

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

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

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

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

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

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

18       (d) The school district superintendent of the district in which the  
19 child resides shall have excused such child from attendance because the

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

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

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

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

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

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

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

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

37 (a) Provided by a parent who is instructing his or her child only  
38 and are supervised by a certificated person. A certificated person for  
39 purposes of this chapter and chapter 28A.200 RCW shall be a person

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

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

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

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

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

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

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

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

1 (b) Refer a student to a community truancy board as defined in RCW  
2 28A.225.025. The community truancy board shall enter into an agreement  
3 with the student and parent that establishes school attendance  
4 requirements and take other appropriate actions to reduce the child's  
5 absences; or

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

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

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

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

18 **Sec. 3.** RCW 28A.225.035 and 1997 c 68 s 1 are each amended to read  
19 as follows:

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

22 (a) The child has unexcused absences during the current school  
23 year;

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

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

28 (2) The petition shall set forth the name, age, school, and  
29 residence of the child and the names and residence of the child's  
30 parents.

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

35 (4) When a petition is filed under RCW 28A.225.030, the juvenile  
36 court shall schedule a hearing at which the court shall consider the  
37 petition. However, a hearing shall not be required if other actions by  
38 the court would substantially reduce the child's unexcused absences.

1 When a hearing is held, the court, not the school district or parent of  
2 the child, shall:

3 (a) Separately notify the child, the parent of the child, and the  
4 school district of the hearing;

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

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

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

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

17 (7) If the allegations in the petition are established by a  
18 preponderance of the evidence, the court shall grant the petition and  
19 enter an order assuming jurisdiction to intervene for the period of  
20 time determined by the court, after considering the facts alleged in  
21 the petition and the circumstances of the juvenile, to most likely  
22 cause the juvenile to return to and remain in school while the juvenile  
23 is subject to this chapter. In no case may the order expire before the  
24 end of the school year in which it is entered. The order entered by  
25 the court may consist, entirely or in part, of adoption of an agreement  
26 previously entered into between a community truancy board and the  
27 student under RCW 28A.225.030(2)(b). The court may, if the school  
28 district and community truancy board agree, permit the truancy board to  
29 provide continued supervision over the student and report on compliance  
30 with the order.

31 (8) If the court assumes jurisdiction, the school district shall  
32 regularly report to the court any additional unexcused absences by the  
33 child.

34 (9) Community truancy boards and the courts shall coordinate, to  
35 the extent possible, proceedings and actions pertaining to children who

1 are subject to truancy petitions and at-risk youth petitions in RCW  
2 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

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

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