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SENATE BILL 5881

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State of Washington

61st Legislature

2009 Regular Session

By Senators McAuliffe, Hargrove, Regala, Jarrett, and King

Read first time 02/05/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to truancy; and amending RCW 28A.225.020,  
2 28A.225.025, 28A.225.035, and 28A.225.090.

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

4 **Sec. 1.** RCW 28A.225.020 and 1999 c 319 s 1 are each amended to  
5 read as follows:

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

9 (a) Inform the child's custodial parent, parents, or guardian by a  
10 notice in writing or by telephone whenever the child has failed to  
11 attend school after one unexcused absence within any month during the  
12 current school year. School officials shall inform the parent of the  
13 potential consequences of additional unexcused absences. If the  
14 custodial parent, parents, or guardian is not fluent in English, notice  
15 shall be provided in a language in which the custodial parent, parents,  
16 or guardian is fluent;

17 (b) Schedule a conference or conferences with the custodial parent,  
18 parents, or guardian and child at a time reasonably convenient for all  
19 persons included for the purpose of analyzing the causes of the child's

1 absences after two unexcused absences within any month during the  
2 current school year. If a regularly scheduled parent-teacher  
3 conference day is to take place within thirty days of the second  
4 unexcused absence, then the school district may schedule this  
5 conference on that day; and

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

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

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

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

25 (3) If a child transfers from one school district to another during  
26 the school year, the receiving school or school district shall include  
27 the unexcused absences accumulated at the previous school or from the  
28 previous school district for purposes of this section, RCW 28A.225.030,  
29 and 28A.225.015.

30 **Sec. 2.** RCW 28A.225.025 and 1999 c 319 s 5 are each amended to  
31 read as follows:

32 (1) For purposes of this chapter, "community truancy board" means  
33 a board composed of members of the local community in which the child  
34 attends school. Juvenile courts may establish and operate community  
35 truancy boards. If the juvenile court and the school district agree,  
36 a school district may establish and operate a community truancy board  
37 under the jurisdiction of the juvenile court. Juvenile courts may

1 create a community truancy board or may use other entities that exist  
2 or are created, such as diversion units. However, a diversion unit or  
3 other existing entity must agree before it is used as a truancy board.  
4 Duties of a community truancy board shall include, but not be limited  
5 to, recommending methods for improving school attendance such as  
6 assisting the parent or the child to obtain supplementary services that  
7 might eliminate or ameliorate the causes for the absences or suggesting  
8 to the school district that the child enroll in another school, an  
9 alternative education program, an education center, a skill center, a  
10 dropout prevention program, or another public or private educational  
11 program.

12 (2) The legislature finds that utilization of community truancy  
13 boards, or other diversion units that fulfill a similar function, is  
14 the preferred means of intervention when preliminary methods of notice  
15 and parent conferences have not been effective in securing the child's  
16 attendance at school, and before the filing of a petition is required  
17 under RCW 28A.225.015(3). The legislature intends to encourage and  
18 support the development and expansion of community truancy boards and  
19 other diversion programs which are effective in promoting school  
20 attendance and preventing the need for more intrusive intervention by  
21 the court.

22 **Sec. 3.** RCW 28A.225.035 and 2001 c 162 s 1 are each amended to  
23 read as follows:

24 (1) A petition for a civil action under RCW 28A.225.030 or  
25 28A.225.015 shall consist of a written notification to the court  
26 alleging that:

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

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

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

33 (2) The petition shall set forth the name, date of birth, school,  
34 address, gender, race, and ethnicity of the child and the names and  
35 addresses of the child's parents, and shall set forth whether the child  
36 and parent are fluent in English and whether there is an existing  
37 individualized education program.

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

5 (4) When a petition is filed under RCW 28A.225.030 or 28A.225.015,  
6 the juvenile court shall schedule a hearing at which the court shall  
7 consider the petition, or if the court determines that a referral to an  
8 available community truancy board would substantially reduce the  
9 child's unexcused absences, the court may refer the case to a community  
10 truancy board under the jurisdiction of the juvenile court.

11 (5) If a referral is made to a community truancy board, the truancy  
12 board must meet with the child, a parent, and the school district  
13 representative and enter into an agreement with the petitioner and  
14 respondent regarding expectations and any actions necessary to address  
15 the child's truancy within thirty days of the referral. If the  
16 petition is based on RCW 28A.225.015, the child shall not be required  
17 to attend and the agreement under this subsection shall be between the  
18 truancy board, the school district, and the child's parent. The  
19 agreement shall be presented to the juvenile court for its approval.

20 (6) The court shall approve the agreement by order or schedule a  
21 hearing. The court may, if the school district and community truancy  
22 board agree, permit the truancy board to provide continued supervision  
23 over the student, or parent if the petition is based on RCW  
24 28A.225.015, and report on compliance with the order.

25 (7) If the truancy board fails to reach an agreement, the truancy  
26 board shall return the case to the juvenile court for a hearing.

27 (8)(a) Notwithstanding the provisions in subsection (4) of this  
28 section, a hearing shall not be required if other actions by the court  
29 would substantially reduce the child's unexcused absences. When a  
30 juvenile court hearing is held, the court shall:

31 ~~((a))~~ (i) Separately notify the child, the parent of the child,  
32 and the school district of the hearing. If the child or parent is not  
33 fluent in English, notice shall be provided in a language in which the  
34 parent or child is fluent;

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

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

1        (b) If the child is not provided with counsel, the advisement of  
2 rights must take place in court by means of a colloquy between the  
3 court, the child if eight years old or older, and the parent.

4        (9) The court may require the attendance of the child if eight  
5 years old or older, the parents, and the school district at any hearing  
6 on a petition filed under RCW 28A.225.030.

7        (10) A school district is responsible for determining who shall  
8 represent the school district at hearings on a petition filed under RCW  
9 28A.225.030 or 28A.225.015.

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

16       (12) If the child is in a special education program or has a  
17 diagnosed mental or emotional disorder, the court shall inquire as to  
18 what efforts the school district has made to assist the child in  
19 attending school.

20       (13) If the allegations in the petition are established by a  
21 preponderance of the evidence, the court shall grant the petition and  
22 enter an order assuming jurisdiction to intervene for the period of  
23 time determined by the court, after considering the facts alleged in  
24 the petition and the circumstances of the juvenile, to most likely  
25 cause the juvenile to return to and remain in school while the juvenile  
26 is subject to this chapter. In no case may the order expire before the  
27 end of the school year in which it is entered.

28       ~~((13))~~ (14) If the court assumes jurisdiction, the school  
29 district shall regularly report to the court any additional unexcused  
30 absences by the child.

31       ~~((14))~~ (15) Community truancy boards and the courts shall  
32 coordinate, to the extent possible, proceedings and actions pertaining  
33 to children who are subject to truancy petitions and at-risk youth  
34 petitions in RCW 13.32A.191 or child in need of services petitions in  
35 RCW 13.32A.140.

36       ~~((15))~~ (16) If after a juvenile court assumes jurisdiction in one  
37 county the child relocates to another county, the juvenile court in the

1 receiving county shall, upon the request of a school district or  
2 parent, assume jurisdiction of the petition filed in the previous  
3 county.

4 **Sec. 4.** RCW 28A.225.090 and 2008 c 171 s 1 are each amended to  
5 read as follows:

6 (1) A court may order a child subject to a petition under RCW  
7 28A.225.035 to do one or more of the following:

8 (a) Attend the child's current school, and set forth minimum  
9 attendance requirements, including suspensions;

10 (b) If there is space available and the program can provide  
11 educational services appropriate for the child, order the child to  
12 attend another public school, an alternative education program, center,  
13 a skill center, dropout prevention program, or another public  
14 educational program;

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

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

33 (e) Submit to testing for the use of controlled substances or  
34 alcohol based on a determination that such testing is appropriate to  
35 the circumstances and behavior of the child and will facilitate the  
36 child's compliance with the mandatory attendance law and, if any test  
37 ordered under this subsection indicates the use of controlled

1 substances or alcohol, order the minor to abstain from the unlawful  
2 consumption of controlled substances or alcohol and adhere to the  
3 recommendations of the drug assessment at no expense to the school.

4 (2) If the child fails to comply with the court order, the court  
5 may order the child to be subject to detention, as provided in RCW  
6 7.21.030(2)(e), or may impose alternatives to detention such as  
7 community restitution. Failure by a child to comply with an order  
8 issued under this subsection shall not be subject to detention for a  
9 period greater than that permitted pursuant to a civil contempt  
10 proceeding against a child under chapter 13.32A RCW. The legislature  
11 encourages courts to order detention under this subsection as a last  
12 resort after finding that alternatives have been unsuccessful in  
13 improving the child's attendance in school. Detention ordered under  
14 this subsection shall be for no longer than three days. No warrant of  
15 arrest for a child under this subsection shall be served on a child if  
16 the child is in school, and the officer shall report this information  
17 back to the court which issued the warrant.

18 (3) Any parent violating any of the provisions of either RCW  
19 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
20 twenty-five dollars for each day of unexcused absence from school. The  
21 court shall remit fifty percent of the fine collected under this  
22 section to the child's school district. It shall be a defense for a  
23 parent charged with violating RCW 28A.225.010 to show that he or she  
24 exercised reasonable diligence in attempting to cause a child in his or  
25 her custody to attend school or that the child's school did not perform  
26 its duties as required in RCW 28A.225.020. The court may order the  
27 parent to provide community restitution instead of imposing a fine.  
28 Any fine imposed pursuant to this section may be suspended upon the  
29 condition that a parent charged with violating RCW 28A.225.010 shall  
30 participate with the school and the child in a supervised plan for the  
31 child's attendance at school or upon condition that the parent attend  
32 a conference or conferences scheduled by a school for the purpose of  
33 analyzing the causes of a child's absence.

34 (4) If a child continues to be truant after entering into a court-  
35 approved order with the truancy board under RCW 28A.225.035, the  
36 juvenile court shall find the child in contempt, and the court may  
37 order the child to be subject to detention, as provided in RCW  
38 7.21.030(2)(e), or may impose alternatives to detention such as

1 meaningful community restitution. Failure by a child to comply with an  
2 order issued under this subsection may not subject a child to detention  
3 for a period greater than that permitted under a civil contempt  
4 proceeding against a child under chapter 13.32A RCW.

5 (5) Subsections (1), (2), and (4) of this section shall not apply  
6 to a six or seven year-old child required to attend public school under  
7 RCW 28A.225.015.

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