
HOUSE BILL 1064

State of Washington

62nd Legislature

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By Representatives Appleton and Roberts

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Judiciary.

1 AN ACT Relating to school truancy; and amending RCW 28A.225.030,
2 28A.225.035, and 28A.225.090.

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

4 **Sec. 1.** RCW 28A.225.030 and 1999 c 319 s 2 are each amended to
5 read as follows:

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

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

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

3 (b) Refer a student to a community truancy board, if available, as
4 defined in RCW 28A.225.025. The community truancy board shall enter
5 into an agreement with the student and parent that establishes school
6 attendance requirements and take other appropriate actions to reduce
7 the child's absences, including use of truancy diversion and school
8 reengagement programs referenced in RCW 28A.225.025(2); or

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

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

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

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

21 **Sec. 2.** RCW 28A.225.035 and 2009 c 266 s 3 are each amended to
22 read as follows:

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

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

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

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

32 (2) The petition shall set forth the name, date of birth, school,
33 address, gender, race, and ethnicity of the child and the names and
34 addresses of the child's parents, and shall set forth whether the child
35 and parent are fluent in English and whether there is an existing
36 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 twenty 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 court
19 may permit the truancy board or truancy prevention counselor to provide
20 continued supervision over the student, or parent if the petition is
21 based on RCW 28A.225.015.

22 (6) If the truancy board fails to reach an agreement, or the parent
23 or student does not comply with the agreement, the truancy board shall
24 return the case to the juvenile court for a hearing.

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

29 ~~((i))~~ (a) Separately notify the child, the parent of the child,
30 and the school district of the hearing. If the parent is not fluent in
31 English, the preferred practice is for notice to be provided in a
32 language in which the parent is fluent;

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

35 ~~((iii))~~ (c) Notify the parent and the child of the options and
36 rights available under chapter 13.32A RCW;

37 (d) Not accept agreed orders by the parties other than one of

1 dismissal without a full colloquy in court with the parent and the
2 child concerning their rights to a contested hearing on the issue of
3 truancy; and

4 (e) Determine after an in-court hearing whether the parent and the
5 child understand the elements of the petition and understand their
6 rights and the terms of any order that the court may issue.

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

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

13 (9) A school district is responsible for determining who shall
14 represent the school district at hearings on a petition filed under RCW
15 28A.225.030 or 28A.225.015.

16 (10)(a) The court may permit the first hearing to be held without
17 requiring that ~~((either party))~~ the school district be represented by
18 legal counsel ~~(, and to be held without a guardian ad litem for the~~
19 ~~child under RCW 4.08.050))~~. If the child has a disability, the court
20 shall appoint counsel for the child as required by Washington state
21 rules of court, general rule 33.

22 (b) At the request of the school district made upon a written
23 motion in the individual case, the court shall permit a school district
24 representative who is not an attorney to represent the school district
25 at any future hearings.

26 (11) If the child is in a special education program or has a
27 diagnosed mental or emotional disorder, the court shall inquire as to
28 what efforts the school district has made to assist the child in
29 attending school.

30 (12) If the allegations in the petition are established by a
31 preponderance of the evidence, the court shall grant the petition and
32 enter an order assuming jurisdiction to intervene for the period of
33 time determined by the court, after considering the facts alleged in
34 the petition and the circumstances of the juvenile, to most likely
35 cause the juvenile to return to and remain in school while the juvenile
36 is subject to this chapter. In no case may the order expire before the
37 end of the school year in which it is entered.

1 (13) If the court assumes jurisdiction, the school district shall
2 regularly report to the court any additional unexcused absences by the
3 child.

4 (14) Community truancy boards and the courts shall coordinate, to
5 the extent possible, proceedings and actions pertaining to children who
6 are subject to truancy petitions and at-risk youth petitions in RCW
7 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

8 (15) If after a juvenile court assumes jurisdiction in one county
9 the child relocates to another county, the juvenile court in the
10 receiving county shall, upon the request of a school district or
11 parent, assume jurisdiction of the petition filed in the previous
12 county.

13 **Sec. 3.** RCW 28A.225.090 and 2009 c 266 s 4 are each amended to
14 read as follows:

15 (1) A court may order a child subject to a petition under RCW
16 28A.225.035 to do one or more of the following:

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

19 (b) If there is space available and the program can provide
20 educational services appropriate for the child, order the child to
21 attend another public school, an alternative education program, center,
22 a skill center, dropout prevention program, or another public
23 educational program;

24 (c) Attend a private nonsectarian school or program including an
25 education center. Before ordering a child to attend an approved or
26 certified private nonsectarian school or program, the court shall: (i)
27 Consider the public and private programs available; (ii) find that
28 placement is in the best interest of the child; and (iii) find that the
29 private school or program is willing to accept the child and will not
30 charge any fees in addition to those established by contract with the
31 student's school district. If the court orders the child to enroll in
32 a private school or program, the child's school district shall contract
33 with the school or program to provide educational services for the
34 child. The school district shall not be required to contract for a
35 weekly rate that exceeds the state general apportionment dollars
36 calculated on a weekly basis generated by the child and received by the
37 district. A school district shall not be required to enter into a

1 contract that is longer than the remainder of the school year. A
2 school district shall not be required to enter into or continue a
3 contract if the child is no longer enrolled in the district;

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

5 (e) Submit to testing for the use of controlled substances or
6 alcohol based on a determination that such testing is appropriate to
7 the circumstances and behavior of the child and will facilitate the
8 child's compliance with the mandatory attendance law and, if any test
9 ordered under this subsection indicates the use of controlled
10 substances or alcohol, order the minor to abstain from the unlawful
11 consumption of controlled substances or alcohol and adhere to the
12 recommendations of the drug assessment at no expense to the school.

13 ~~(2) ((If the child fails to comply with the court order, the court
14 may order the child to be subject to detention, as provided in RCW
15 7.21.030(2)(e), or may impose alternatives to detention such as
16 community restitution. Failure by a child to comply with an order
17 issued under this subsection shall not be subject to detention for a
18 period greater than that permitted pursuant to a civil contempt
19 proceeding against a child under chapter 13.32A RCW. Detention ordered
20 under this subsection may be for no longer than seven days. A warrant
21 of arrest for a child under this subsection may not be served on a
22 child inside of school during school hours in a location where other
23 students are present.))~~ The court may not issue a warrant for arrest
24 of the child for failure to attend a court hearing unless there is
25 proof that the child had notice of the hearing and the ability to have
26 transportation to the hearing and there is proof that the child is not
27 in school at the time of the hearing. No warrant of arrest for a child
28 may be served on the child if the child is in school during school
29 hours. If a law enforcement officer attempting to serve a warrant
30 discovers that the child is in school, the officer must report that to
31 the court and the court must quash the warrant.

32 (3) Any parent violating any of the provisions of either RCW
33 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than
34 twenty-five dollars for each day of unexcused absence from school. The
35 court shall remit fifty percent of the fine collected under this
36 section to the child's school district. It shall be a defense for a
37 parent charged with violating RCW 28A.225.010 to show that he or she
38 exercised reasonable diligence in attempting to cause a child in his or

1 her custody to attend school or that the child's school did not perform
2 its duties as required in RCW 28A.225.020. The court may order the
3 parent to provide community restitution instead of imposing a fine.
4 Any fine imposed pursuant to this section may be suspended upon the
5 condition that a parent charged with violating RCW 28A.225.010 shall
6 participate with the school and the child in a supervised plan for the
7 child's attendance at school or upon condition that the parent attend
8 a conference or conferences scheduled by a school for the purpose of
9 analyzing the causes of a child's absence.

10 (4) If a child continues to be truant after entering into a court-
11 approved order with the truancy board under RCW 28A.225.035, the
12 juvenile court shall ~~((find))~~ make a finding as to whether the child is
13 in contempt, and if the child is in contempt the court may order the
14 child to ~~((be subject to detention, as provided in RCW 7.21.030(2)(e),~~
15 ~~or may impose alternatives to detention such as meaningful community~~
16 ~~restitution. Failure by a child to comply with an order issued under~~
17 ~~this subsection may not subject a child to detention for a period~~
18 ~~greater than that permitted under a civil contempt proceeding against~~
19 ~~a child under chapter 13.32A RCW))):~~

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

22 (b) If there is space available and the program can provide
23 educational services appropriate for the child, attend another public
24 school, an alternative education program, center, a skill center,
25 dropout prevention program, or another public educational program;

26 (c) Attend a private nonsectarian school or program including an
27 education center. Before ordering a child to attend an approved or
28 certified private nonsectarian school or program, the court shall: (i)
29 Consider the public and private programs available; (ii) find that
30 placement is in the best interest of the child; and (iii) find that the
31 private school or program is willing to accept the child and will not
32 charge any fees in addition to those established by contract with the
33 student's school district. If the court orders the child to enroll in
34 a private school or program, the child's school district shall contract
35 with the school or program to provide educational services for the
36 child. The school district may not be required to contract for a
37 weekly rate that exceeds the state general apportionment dollars
38 calculated on a weekly basis generated by the child and received by the

1 district. A school district may not be required to enter into a
2 contract that is longer than the remainder of the school year. A
3 school district may not be required to enter into or continue a
4 contract if the child is no longer enrolled in the district;

5 (d) Submit to testing for the use of controlled substances or
6 alcohol based on a determination that such testing is appropriate to
7 the circumstances and behavior of the child and will facilitate the
8 child's compliance with the mandatory attendance law and, if any test
9 ordered under this subsection indicates the use of controlled
10 substances or alcohol, order the minor to abstain from the unlawful
11 consumption of controlled substances or alcohol and adhere to the
12 recommendations of the drug assessment at no expense to the school.

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

16 (6) Before finding a child in contempt under this chapter, the
17 court shall determine and make written findings whether the child has
18 adequate and affordable transportation available to get to and from
19 school and whether the child or another family member has health issues
20 that affect the child's ability to attend school.

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