

HOUSE BILL REPORT

2SHB 1170

As Passed House:
March 6, 2017

Title: An act relating to maintaining and facilitating court-based and school-based efforts to promote attendance and reduce truancy.

Brief Description: Maintaining and facilitating court-based and school-based efforts to promote attendance and reduce truancy.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Orwall, Goodman, Kilduff, Rodne, Muri, Jinkins, Fey, Pollet and Santos).

Brief History:

Committee Activity:

Judiciary: 1/19/17, 2/9/17 [DPS];
Appropriations: 2/23/17 [DP2S(w/o sub JUDI)].

Floor Activity:

Passed House: 3/6/17, 95-3.

Brief Summary of Second Substitute Bill

- Makes a variety of changes with respect to school and court processes regarding truancy.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Hansen, Kirby, Klippert and Orwall.

Minority Report: Do not pass. Signed by 2 members: Representatives Haler and Shea.

Staff: Cece Clynch (786-7195).

HOUSE COMMITTEE ON APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 25 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Caldier, Cody, Fitzgibbon, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Senn, Springer, Sullivan, Tharinger and Wilcox.

Minority Report: Do not pass. Signed by 7 members: Representatives Buys, Condotta, Haler, Schmick, Taylor, Vick and Volz.

Staff: Jessica Harrell (786-7349).

Background:

Compulsory School Attendance.

Children 8 years of age and under 18 years of age must attend public school unless they fall within certain exceptions, such as attending private school or receiving home-based instruction. If a parent enrolls a 6-year-old or 7-year-old child in school, the child is required to attend school, and the parent is responsible for ensuring the child attends.

When a child who is 8 years of age and under 18 years of age has unexcused absences, schools and school districts must take certain steps to eliminate or reduce the child's absences:

1. After one unexcused absence in one month, the school must inform parents in writing or by phone of potential consequences of continued absences.
2. After two unexcused absences in one month, the school must schedule a conference with the parents and take steps to reduce absences. Such steps must be data-informed, include the use of the Washington Assessment of the Risks and Needs of Students (WARNS) and, where appropriate, provide an available approved best practice or research-based intervention, or both, consistent with the WARNS.
3. After five unexcused absences in one month, the district must enter into an attendance agreement with the student and parent, refer the student to a community truancy board (CTB), or file a truancy petition with the court.
4. After seven unexcused absences in one month or 10 unexcused absences in one year, the district must file a truancy petition with the court if the student is under the age of 17. A petition may be filed with respect to a student who is 17 years of age.

Similar requirements are in place with respect to 6-year-old and 7-year-old children who are enrolled in school, except that the third step set forth above does not apply.

All districts must designate, and identify to the local juvenile court, a person or persons to coordinate district efforts to address excessive absenteeism and truancy.

Truancy Petitions.

If a CTB or other coordinated means of intervention is in place pursuant to a memorandum of understanding (MOU) between the court and the district, the court must initially stay the petition and so refer the child and the child's parent. The CTB must provide to the court a

description of the intervention and prevention efforts to be employed to substantially reduce the child's unexcused absences, along with a timeline for completion. If the CTB fails to reach an agreement or there is noncompliance, the CTB must return the case to the court, the stay must be lifted, and the court must schedule a hearing to consider the petition.

If no CTB or coordinated means of intervention is in place pursuant to an MOU between the court and the district, upon filing of the petition the court must schedule a hearing. At the hearing on the petition, a court may order a child to attend school, change schools, or submit to a substance abuse assessment or mental health evaluation. Additionally, the court may order the child to submit to a temporary placement in a crisis residential center (CRC) or HOPE center if the court determines there is an immediate health and safety concern or family conflict needing mediation.

In the event that a child is ordered detained for contempt of court for failure to adhere to a court order, preference is expressed that the child serve detention in a secure CRC near the child's home rather than in a juvenile detention facility.

Crisis Residential Centers.

Crisis residential centers are short-term, semi-secure and secure facilities for runaway youth and adolescents in conflict with their families. Counselors at a CRC work with the family to resolve the immediate conflict and develop better ways of dealing with conflict in the future. The stated goal of CRCs is to reunite the family and youth whenever possible.

HOPE Centers.

HOPE Centers provide temporary residential placements for street youth. Youth may self-refer to a HOPE Center for services, and entering a center is voluntary. While residing in a HOPE Center, youth undergo a comprehensive assessment in order to develop the best plan for the youth, with the focus on finding a permanent and stable home. The assessment includes gathering information on the youth's legal status and conducting a physical examination, a mental health and chemical abuse evaluation, and an educational evaluation of basic skills, any learning disabilities, or special needs.

Summary of Second Substitute Bill:

Revisions to school processes with respect to truancy are made as follows:

- School conferences with parents are required after three unexcused absences rather than two.
- Application of the Washington Assessment of the Risks and Needs of Students (WARNS) or other assessment is only required for middle and high school students.
- New steps are required with respect to students with individualized education plans (IEP) or 504 plans.
- School districts must provide the Office of the Superintendent of Public Instruction (OSPI) with the same information that they are required to provide to the local juvenile court concerning the identity of the person or persons designated to coordinate district excessive absenteeism and truancy efforts.

Revisions with respect to Community Truancy Boards (CTBs) are made as follows:

- The CTBs must include members who receive a variety of training, rather than require that all CTB members receive all of the various types of training.
- The size threshold for school districts that are not required to operate a CTB is raised from 200 to 300 students.

Revisions to court process are made as follows:

- Rather than filing a copy with each court petition of the most recent attendance/truancy information signed by the parent and the child, a school is required to provide a copy of the information provided to the parent.
- Language is stricken that allowed a court, on the hearing of the petition, to order the child to a temporary placement in a HOPE bed or CRC.
- If a child fails to comply with a court order, the court may impose community restitution, nonresidential programs with intensive wraparound services, a requirement that a child meet with a mentor, or other services and interventions that a court deems appropriate. If the child continues to fail to comply, and the court makes a finding that other measures to secure compliance have been tried but not been successful, and no less restrictive alternative is available, then the court may order detention.

Changes are made to current school district and OSPI reporting requirements regarding truancy. The OSPI must collect and school districts must submit student-level truancy data. The OSPI must prepare an annual report to the Legislature by December 15 of each year. These must include a variety of data, disaggregated by student group.

The OSPI is given rulemaking authority to bring consistency and uniformity to attendance and truancy definitions in the Alternative Learning Experience (ALE) setting, establish procedures for addressing truancy in all ALE courses, leverage existing systems to facilitate truancy actions between school districts and courts when the student has transferred out of his or her resident district to enroll in an ALE course, and clarify the responsibility of districts in the event a student transfer is rescinded.

A section enacted in 1996 is repealed. This section pertains to appropriations for educational services for children referred to CTBs or to the courts. It is subject to available funding, and funding for purposes of this section has not been appropriated for several years.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Judiciary):

(In support) There have been a number of stakeholders working on this. The intent is to support kids, educate families, and bring in more resources for schools. The bill last year was very large and complex. This bill is a fix bill. There still may be parts added. Some of the feedback has been that Washington Assessment of the Risks and Needs of Students

(WARNS) is not appropriate at the elementary level. Another issue was that the OSPI, in addition to the courts, should receive notification as to the name of the coordinator. There is no intent to require a court to mandate placement in a crisis residential center (CRC) or a HOPE bed.

HOPE centers are temporary placements and are voluntary. They have a good reputation on the streets among young people, and this stems from their voluntary nature. They must not be used for mandatory incarceration. A young person can just say that he or she wants a HOPE bed. They don't first have to have social worker approval. A mental health counselor working in the arena several years ago saw first-hand the difficulties that arose if a young person first had to have social worker approval. Because this approval process caused delay, pimps would get these kids before the approval came through. The institution of HOPE beds came as a result of the social worker's first advocacy effort. There are both secure and unsecure CRCs. Some are colocated with juvenile detention. The CRCs are more equipped to take kids that are ordered there by the courts.

(Opposed) None.

(Other) Expansion of community truancy boards (CTBs) is a good thing. Language in section 3(2) is concerning in that the language unintentionally paints HOPE beds and CRCs as alternatives to detention. They shouldn't be viewed as punitive. Detention for status offenses should be ended. It rarely contributes to a change in behavior. Rather, community services are much more cost effective. The ultimate mission is to keep kids in school and out of the juvenile justice system. Due to diversity of membership on the Becca Taskforce, there is not always consensus. In 2011, there were recommendations issued by the taskforce. Many of these recommendations aligned with last session's bill, including expanded use of CTBs and the use of tools like WARNs. While there is general understanding and support of this bill, some do want to preserve mandatory assessments and not make their use optional. Courts need these tools. Perhaps there could be a different assessment if WARNs is not appropriate for certain grade levels. Regarding the notice to OSPI, there is general support, but there is a desire for more information relative to this. Don't make HOPE centers mandatory. There is also concern by some with the concept of ever putting truant kids in detention. If there is a possibility of detention, the child must be afforded a lawyer. It would be a good idea to provide for a lawyer at all stages. As to the repealer, there is not opposition but a desire for more information.

Staff Summary of Public Testimony (Appropriations):

(In support) Washington State University will be taking over the administration of the Washington Assessment of the Risks and Needs of Students (WARNS) and providing online access for all. There will also be work done to refine the WARNS for elementary students. The changes being made will benefit school retention and completion by students. Administration of the WARNS will provide information that will allow interventions to be tailored to the student's needs. This comprehensive approach aligns with the research and is supported. It takes into account students, their families, and the capacity of schools.

The substitute bill is consistent with the recommendations made by the Becca Taskforce a few years ago. It will contribute to fulfillment of the constitutional requirement to provide basic education, and it will save money over time. There is concern that adequate funding be provided. Since the passage of House Bill 2449 last year, there has been work done with the Office of the Superintendent of Public Instruction to make recommendations to the Legislature as to how to handle truancy issues in the context of Alternative Learning Experience (ALE) courses. This bill incorporates the recommendations and is supported. It makes the fixes needed for ALE courses. It is disappointing that detention is still permitted at all, but the bill does take a smart step forward insofar as it cuts down on instances in which detention may be ordered. Washington has one of the highest rates in the nation for incarcerating youth for status offenses.

(Opposed) None.

Persons Testifying (Judiciary): (In support) Representative Orwall, prime sponsor; and Jim Theofelis, A Way Home Washington.

(Opposed) None.

(Other) Kimberly Ong, Washington State Becca Task Force; Annie Blackledge, The Mockingbird Society; and Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Testifying (Appropriations): Nicholas Lovrich, Washington State University; Kimberly Ong, Washington State Becca Task Force and Center for Children and Youth Justice; Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defenders Association; Carolyn Logue, K12, Inc.; and Dixie Grunenfelder, Office of Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.