

H. B. 2764

(By Delegates Lawrence, M. Poling and Stowers)
[Introduced February 28, 2013; referred to the
Committee on Education.]

A BILL to amend and reenact §18-8-4 of the code of West Virginia,
1931, as amended, relating to compulsory school attendance;
and extending the authority and duties of attendance directors
to assistant attendance directors.

Be it enacted by the Legislature of West Virginia:

That §18-8-4 of the code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

**§18-8-4. Duties of attendance director and assistant directors;
complaints, warrants and hearings.**

(a) The county attendance director and the assistants shall
diligently promote regular school attendance. The director and
assistants shall:

(1) Ascertain reasons for inexcusable absences from school of

1 students of compulsory school age and students who remain enrolled
2 beyond the compulsory school age as defined under section one-a of
3 this article; and

4 (2) Take such steps as are, in their discretion, best
5 calculated to correct attitudes of parents and students which
6 result in absences from school even though not clearly in violation
7 of law.

8 (b) In the case of five total unexcused absences of a student
9 during a school year, the attendance director or assistant shall:

10 ~~(1)~~ Serve written notice to the parent, guardian or custodian
11 of the student that the attendance of the student at school is
12 required and that within ten days of receipt of the notice the
13 parent, guardian or custodian, accompanied by the student, shall
14 report in person to the school the student attends for a conference
15 with the principal or other designated representative of the school
16 in order to discuss and correct the circumstances causing the
17 inexcusable absences of the student; and if the parent, guardian or
18 custodian does not comply with the provisions of this article, then
19 the attendance director or assistant shall make complaint against
20 the parent, guardian or custodian before a magistrate of the
21 county. If it appears from the complaint that there is probable
22 cause to believe that an offense has been committed and that the
23 accused has committed it, a summons or a warrant for the arrest of
24 the accused shall issue to any officer authorized by law to serve

1 the summons or to arrest persons charged with offenses against the
2 state. More than one parent, guardian or custodian may be charged
3 in a complaint. Initial service of a summons or warrant issued
4 pursuant to the provisions of this section shall be attempted
5 within ten calendar days of receipt of the summons or warrant and
6 subsequent attempts at service shall continue until the summons or
7 warrant is executed or until the end of the school term during
8 which the complaint is made, whichever is later.

9 (c) The magistrate court clerk, or the clerk of the circuit
10 court performing the duties of the magistrate court as authorized
11 in section eight, article one, chapter fifty of this code, shall
12 assign the case to a magistrate within ten days of execution of the
13 summons or warrant. The hearing shall be held within twenty days
14 of the assignment to the magistrate, subject to lawful continuance.
15 The magistrate shall provide to the accused at least ten days'
16 advance notice of the date, time and place of the hearing.

17 (d) When any doubt exists as to the age of a student absent
18 from school, the attendance director and assistants have ~~has~~
19 authority to require a properly attested birth certificate or an
20 affidavit from the parent, guardian or custodian of the student,
21 stating age of the student. In the performance of his or her
22 duties, the county attendance director and assistants have ~~has~~
23 authority to take without warrant any student absent from school in
24 violation of the provisions of this article and to place the

1 student in the school in which he or she is or should be enrolled.

2 (e) The county attendance director and assistants shall devote
3 such time as is required by section three of this article to the
4 duties of attendance director in accordance with this section
5 during the instructional term and at such other times as the duties
6 of an attendance director are required. All attendance directors
7 and assistants hired for more than two hundred days may be assigned
8 other duties determined by the superintendent during the period in
9 excess of two hundred days. The county attendance director is
10 responsible under direction of the county superintendent for
11 efficiently administering school attendance in the county.

12 (f) In addition to those duties directly relating to the
13 administration of attendance, the county attendance director and
14 assistant directors also shall perform the following duties:

15 (1) Assist in directing the taking of the school census to see
16 that it is taken at the time and in the manner provided by law;

17 (2) Confer with principals and teachers on the comparison of
18 school census and enrollment for the detection of possible
19 nonenrollees;

20 (3) Cooperate with existing state and federal agencies charged
21 with enforcing child labor laws;

22 (4) Prepare a report for submission by the county
23 superintendent to the State Superintendent of Schools on school
24 attendance, at such times and in such detail as may be required.

1 The state board shall promulgate a legislative rule pursuant to
2 article three-b, chapter twenty-nine-a of this code that sets forth
3 student absences that are excluded for accountability purposes.
4 The absences that are excluded by the rule include, but are not be
5 limited to, excused student absences, students not in attendance
6 due to disciplinary measures and absent students for whom the
7 attendance director has pursued judicial remedies to compel
8 attendance to the extent of his or her authority. The attendance
9 director shall file with the county superintendent and county board
10 at the close of each month a report showing activities of the
11 school attendance office and the status of attendance in the county
12 at the time;

13 (5) Promote attendance in the county by compiling data for
14 schools and by furnishing suggestions and recommendations for
15 publication through school bulletins and the press, or in such
16 manner as the county superintendent may direct;

17 (6) Participate in school teachers' conferences with parents
18 and students;

19 (7) Assist in such other ways as the county superintendent may
20 direct for improving school attendance;

21 (8) Make home visits of students who have excessive unexcused
22 absences, as provided above, or if requested by the chief
23 administrator, principal or assistant principal; and

24 (9) Serve as the liaison for homeless children and youth.

NOTE: The purpose of this bill is to extend additional authority and duties for attendance, currently given to directors, to assistant attendance directors.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.