

# E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

## H. B. 2764

---

(BY DELEGATE(S) LAWRENCE, M. POLING AND STOWERS)

---

[Passed April 13, 2013; in effect ninety days from passage.]

---

AN ACT 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.**

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

4 (1) Ascertain reasons for inexcusable absences from school  
5 of students of compulsory school age and students who remain  
6 enrolled beyond the compulsory school age as defined under  
7 section one-a of this article; and

8 (2) Take such steps as are, in their discretion, best calculated  
9 to encourage the attendance of students and to impart upon the  
10 parents and guardians the importance of attendance and the  
11 seriousness of failing to do so.

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

14 Serve written notice to the parent, guardian or custodian of  
15 the student that the attendance of the student at school is required  
16 and that within ten days of receipt of the notice the parent,  
17 guardian or custodian, accompanied by the student, shall report  
18 in person to the school the student attends for a conference with  
19 the principal or other designated representative of the school in  
20 order to discuss and correct the circumstances causing the  
21 inexcusable absences of the student; and if the parent, guardian  
22 or custodian does not comply with the provisions of this article,  
23 then the attendance director or assistant shall make complaint  
24 against the parent, guardian or custodian before a magistrate of  
25 the county. If it appears from the complaint that there is probable  
26 cause to believe that an offense has been committed and that the  
27 accused has committed it, a summons or a warrant for the arrest  
28 of the accused shall issue to any officer authorized by law to  
29 serve the summons or to arrest persons charged with offenses  
30 against the state. More than one parent, guardian or custodian  
31 may be charged in a complaint. Initial service of a summons or  
32 warrant issued pursuant to the provisions of this section shall be  
33 attempted within ten calendar days of receipt of the summons or  
34 warrant and subsequent attempts at service shall continue until  
35 the summons or warrant is executed or until the end of the  
36 school term during which the complaint is made, whichever is  
37 later.

38 (c) The magistrate court clerk, or the clerk of the circuit  
39 court performing the duties of the magistrate court as authorized  
40 in section eight, article one, chapter fifty of this code, shall  
41 assign the case to a magistrate within ten days of execution of  
42 the summons or warrant. The hearing shall be held within twenty  
43 days of the assignment to the magistrate, subject to lawful  
44 continuance. The magistrate shall provide to the accused at least  
45 ten days' advance notice of the date, time and place of the  
46 hearing.

47 (d) When any doubt exists as to the age of a student absent  
48 from school, the attendance director and assistants have  
49 authority to require a properly attested birth certificate or an  
50 affidavit from the parent, guardian or custodian of the student,  
51 stating age of the student. In the performance of his or her duties,  
52 the county attendance director and assistants have authority to  
53 take without warrant any student absent from school in violation  
54 of the provisions of this article and to place the student in the  
55 school in which he or she is or should be enrolled.

56 (e) The county attendance director and assistants shall  
57 devote such time as is required by section three of this article to  
58 the duties of attendance director in accordance with this section  
59 during the instructional term and at such other times as the duties  
60 of an attendance director are required. All attendance directors  
61 and assistants hired for more than two hundred days may be  
62 assigned other duties determined by the superintendent during  
63 the period in excess of two hundred days. The county attendance  
64 director is responsible under direction of the county superinten-  
65 dent for efficiently administering school attendance in the  
66 county.

67 (f) In addition to those duties directly relating to the admin-  
68 istration of attendance, the county attendance director and  
69 assistant directors also shall perform the following duties:

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

72 (2) Confer with principals and teachers on the comparison of  
73 school census and enrollment for the detection of possible  
74 nonenrollees;

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

77 (4) Prepare a report for submission by the county superinten-  
78 dent to the State Superintendent of Schools on school attendance,  
79 at such times and in such detail as may be required. The state  
80 board shall promulgate a legislative rule pursuant to article  
81 three-b, chapter twenty-nine-a of this code that sets forth student  
82 absences that are excluded for accountability purposes. The  
83 absences that are excluded by the rule include, but are not be  
84 limited to, excused student absences, students not in attendance  
85 due to disciplinary measures and absent students for whom the  
86 attendance director has pursued judicial remedies to compel  
87 attendance to the extent of his or her authority. The attendance  
88 director shall file with the county superintendent and county  
89 board at the close of each month a report showing activities of  
90 the school attendance office and the status of attendance in the  
91 county at the time;

92 (5) Promote attendance in the county by compiling data for  
93 schools and by furnishing suggestions and recommendations for  
94 publication through school bulletins and the press, or in such  
95 manner as the county superintendent may direct;

96 (6) Participate in school teachers' conferences with parents  
97 and students;

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

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

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

---

*Chairman, House Committee*

---

*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

---

*Clerk of the House of Delegates*

---

*Clerk of the Senate*

---

*Speaker of the House of Delegates*

---

*President of the Senate*

---

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2013.

---

*Governor*





