

COMMITTEE SUBSTITUTE

FOR

H. B. 2764

(BY DELEGATES LAWRENCE, M. POLING AND STOWERS)

[Originating in the Committee on Education.]

(March 4, 2013)

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.

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 ~~correct attitudes of parents and students which result in~~
10 ~~absences from school even though not clearly in violation of law~~
11 encourage the attendance of students and to impart upon the
12 parents and guardians the importance of attendance and the
13 seriousness of failing to do so.

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

16 (†) Serve written notice to the parent, guardian or custodian
17 of the student that the attendance of the student at school is
18 required and that within ten days of receipt of the notice the

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

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

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

58 (e) The county attendance director and assistants shall
59 devote such time as is required by section three of this article to

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

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

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

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

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

79 (4) Prepare a report for submission by the county superinten-
80 dent to the State Superintendent of Schools on school attendance,

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

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

98 (6) Participate in school teachers' conferences with parents
99 and students;

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

- 102 (8) Make home visits of students who have excessive
103 unexcused absences, as provided above, or if requested by the
104 chief administrator, principal or assistant principal; and
105 (9) Serve as the liaison for homeless children and youth.

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

