

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2550

(By Delegates Cowles, Miller, Householder, Moffatt, McGeehan, Sponaugle, H. White,
Campbell, Skinner, Rowe and Perry)

[Passed March 12, 2015; 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 truancy intervention; defining excused and unexcused absences; providing that notice of a student’s three unexcused absences be given to parent, guardian or custodian; providing that a parent, guardian or custodian have a mandatory conference with the principal or other designated representative of the school when the student has five unexcused absences; and increasing number of unexcused absences by a student before a complaint must be made against the parent, guardian or custodian of the student.

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

1 school attendance. The director and assistants shall:

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

5 (2) Take such steps as are, in their discretion, best calculated to encourage the attendance
6 of students and to impart upon the parents and guardians the importance of attendance and the
7 seriousness of failing to do so; and

8 (3) For the purposes of this article, the following definitions shall apply:

9 (A) "Excused absence" shall be defined to include:

10 (i) Personal illness or injury of the student or in the family;

11 (ii) Medical or dental appointment with written excuse from physician or dentist;

12 (iii) Chronic medical condition or disability that impacts attendance;

13 (iv) Participation in home or hospital instruction due to an illness or injury or other
14 extraordinary circumstance that warrants home or hospital confinement;

15 (v) Calamity, such as a fire or flood;

16 (vi) Death in the family;

17 (vii) School-approved or county-approved curricular or extra-curricular activities;

18 (viii) Judicial obligation or court appearance involving the student;

19 (ix) Military requirement for students enlisted or enlisting in the military;

20 (x) Personal or academic circumstances approved by the principal; and

21 (xi) Such other situations as may be further determined by the county board:

1 *Provided*, That absences of students with disabilities shall be in accordance with the Individuals
2 with Disabilities Education Improvement Act of 2004 and the federal and state regulations
3 adopted in compliance therewith.

4 (B) “Unexcused absence” shall be any absence not specifically included in the definition
5 of “excused absence”.

6 (b) In the case of three total unexcused absences of a student during a school year, the
7 attendance director or assistant shall serve written notice to the parent, guardian or custodian of
8 the student that the attendance of the student at school is required and that if the student has five
9 unexcused absences, a conference with the principal or other designated representative will be
10 required.

11 (c) In the case of five total unexcused absences, the attendance director or assistant shall
12 serve written notice to the parent, guardian or custodian of the student that within five days of
13 receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in
14 person to the school the student attends for a conference with the principal or other designated
15 representative of the school in order to discuss and correct the circumstances causing the
16 unexcused absences of the student, including the adjustment of unexcused absences based upon
17 such meeting.

18 (d) In the case of ten total unexcused absences of a student during a school year, the
19 attendance director or assistant shall make complaint against the parent, guardian or custodian
20 before a magistrate of the county. If it appears from the complaint that there is probable cause to
21 believe that an offense has been committed and that the accused has committed it, a summons or
22 a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the

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

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

13 (f) When any doubt exists as to the age of a student absent from school, the attendance
14 director and assistants have authority to require a properly attested birth certificate or an affidavit
15 from the parent, guardian or custodian of the student, stating age of the student. In the
16 performance of his or her duties, the county attendance director and assistants have authority to
17 take without warrant any student absent from school in violation of the provisions of this article
18 and to place the student in the school in which he or she is or should be enrolled.

19 (g) The county attendance director and assistants shall devote such time as is required by
20 section three of this article to the duties of attendance director in accordance with this section
21 during the instructional term and at such other times as the duties of an attendance director are
22 required. All attendance directors and assistants hired for more than two hundred days may be

1 assigned other duties determined by the superintendent during the period in excess of two
2 hundred days. The county attendance director is responsible under direction of the county
3 superintendent for efficiently administering school attendance in the county.

4 (h) In addition to those duties directly relating to the administration of attendance, the
5 county attendance director and assistant directors also shall perform the following duties:

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

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

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

12 (4) Prepare a report for submission by the county superintendent to the State
13 Superintendent of Schools on school attendance, at such times and in such detail as may be
14 required. The state board shall promulgate a legislative rule pursuant to article three-b, chapter
15 twenty-nine-a of this code that sets forth student absences that are excluded for accountability
16 purposes. The absences that are excluded by the rule include, but are not limited to, excused
17 student absences, students not in attendance due to disciplinary measures and absent students for
18 whom the attendance director has pursued judicial remedies to compel attendance to the extent of
19 his or her authority. The attendance director shall file with the county superintendent and county
20 board at the close of each month a report showing activities of the school attendance office and
21 the status of attendance in the county at the time;

22 (5) Promote attendance in the county by compiling data for schools and by furnishing

- 1 suggestions and recommendations for publication through school bulletins and the press, or in
- 2 such manner as the county superintendent may direct;
- 3 (6) Participate in school teachers' conferences with parents and students;
- 4 (7) Assist in such other ways as the county superintendent may direct for improving
- 5 school attendance;
- 6 (8) Make home visits of students who have excessive unexcused absences, as provided
- 7 above, or if requested by the chief administrator, principal or assistant principal; and
- 8 (9) Serve as the liaison for homeless children and youth.