

1 COMMITTEE SUBSTITUTE

2 FOR

3 H. B. 2550

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

6
7 (Originating in the Committee on the Judiciary.)

8 (February 26, 2015)

9
10 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating
11 to promoting regular school attendance; providing timely notice that five unexcused
12 absences will require a conference meeting with designated school representatives;
13 providing for written notice of a conference in the case of five unexcused absences to
14 discuss circumstances related to unexcused absences including an adjustment of
15 unexcused absences; and increasing the number of unexcused student absences during a
16 school year to ten before an attendance director or assistant shall make complaint against
17 a parent, guardian or custodian before a magistrate.

18 *Be it enacted by the Legislature of West Virginia:*

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

21 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

22 **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and**
23 **hearings.**

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

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

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

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

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

21 (d) In the case of ten total unexcused absences of a student during a school year, ~~if the~~
22 parent, guardian or custodian does not comply with the provisions of this article, then the

1 attendance director or assistant shall make complaint against the parent, guardian or custodian
2 before a magistrate of the county. If it appears from the complaint that there is probable cause to
3 believe that an offense has been committed and that the accused has committed it, a summons or
4 a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the
5 summons or to arrest persons charged with offenses against the state. More than one parent,
6 guardian or custodian may be charged in a complaint. Initial service of a summons or warrant
7 issued pursuant to the provisions of this section shall be attempted within ten calendar days of
8 receipt of the summons or warrant and subsequent attempts at service shall continue until the
9 summons or warrant is executed or until the end of the school term during which the complaint is
10 made, whichever is later.

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

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

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

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

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

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

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

16 (4) Prepare a report for submission by the county superintendent to the State
17 Superintendent of Schools on school attendance, at such times and in such detail as may be
18 required. The state board shall promulgate a legislative rule pursuant to article three-b, chapter
19 twenty-nine-a of this code that sets forth student absences that are excluded for accountability
20 purposes. The absences that are excluded by the rule include, but are not ~~be~~ limited to, excused
21 student absences, students not in attendance due to disciplinary measures and absent students for
22 whom the attendance director has pursued judicial remedies to compel attendance to the extent of

1 his or her authority. The attendance director shall file with the county superintendent and county
2 board at the close of each month a report showing activities of the school attendance office and
3 the status of attendance in the county at the time;

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

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

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

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

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