

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 256**

4 (By Senators Walters and Nohe)

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6 [Originating in the Committee on Education;

7 reported February 13, 2015.]
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11 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to
12 defining excused and unexcused absences; providing notice of student's three unexcused
13 absences be given to parent, guardian or custodian; providing parent, guardian or custodian
14 have mandatory conference with principal or other designated school representative when
15 student has six unexcused absences; and increasing number of unexcused absences by
16 student before complaint must be made against parent, guardian or custodian of student.

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

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

20 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

21 **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and**
22 **hearings.**

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

1 attendance. The director and assistants shall:

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

5 (2) Take such steps as are, in their discretion, best calculated to encourage the attendance of
6 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; and

20 (x) Such other situations as may be further determined by the county board.

21 (xi) *Provided* that absences of students with disabilities shall be in accordance with the

22 Individuals with Disabilities Education Improvement Act of 2004 and the federal and state

1 regulations adopted in compliance therewith.

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

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

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

16 (d) In the case of nine total unexcused absences of a student during a school year, if the
17 parent, guardian or custodian does not comply with the provisions of this article, then the attendance
18 director or assistant shall make complaint against the parent, guardian or custodian before a
19 magistrate of the county. If it appears from the complaint that there is probable cause to believe that
20 an offense has been committed and that the accused has committed it, a summons or a warrant for
21 the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest
22 persons charged with offenses against the state. More than one parent, guardian or custodian may
23 be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions

1 of this section shall be attempted within ten calendar days of receipt of the summons or warrant and
2 subsequent attempts at service shall continue until the summons or warrant is executed or until the
3 end of the school term during which the complaint is made, whichever is later.

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

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

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

23 ~~(f)~~ (h) In addition to those duties directly relating to the administration of attendance, the

1 county attendance director and assistant directors also shall perform the following duties:

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to revise and define the procedure for reporting unexcused absences of a student to a parent, guardian or custodian and to revise the time period for taking action against the parent, guardian or custodian of the student.

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