

**H. B. 2550**

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

[Introduced February 2, 2015; referred to the  
Committee on Education then the Judiciary.]

A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to increasing the number of unexcused absences of a student before action may be taken 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 school attendance. The director and assistants shall:

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

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

4 (b) In the case of ~~five~~ ten total unexcused absences of a student during a school year, the  
5 attendance director or assistant shall take the following steps against the parent, guardian or  
6 custodian of the student:

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

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

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

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

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

22 (1) Assist in directing the taking of the school census to see that it is taken at the time and

1 in the manner provided by law;

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

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

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

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

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

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

22 (8) Make home visits of students who have excessive unexcused absences, as provided

- 1 above, or if requested by the chief administrator, principal or assistant principal; and
- 2 (9) Serve as the liaison for homeless children and youth.

NOTE: The purpose of this bill is to increase the number of unexcused absences from five to ten of a student before action may be taken 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.