

Senate Bill No. 256

(By Senators Walters and Nohe)

[Introduced January 20, 2015; referred to the Committee on Education; and then to the
Committee on the Judiciary.]

A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to increasing number of unexcused absences by a student before action may be taken against 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

1 one-a of this article; and

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

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

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

1 be referred to court before ten unexcused absences during an entire school year.

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

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

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

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

- 1 (1) Assist in directing the taking of the school census to see that it is taken at the time and
2 in the manner provided by law;
- 3 (2) Confer with principals and teachers on the comparison of school census and enrollment
4 for the detection of possible nonenrollees;
- 5 (3) Cooperate with existing state and federal agencies charged with enforcing child labor
6 laws;
- 7 (4) Prepare a report for submission by the county superintendent to the State Superintendent
8 of Schools on school attendance, at such times and in such detail as may be required. The state
9 board shall promulgate a legislative rule pursuant to article three-b, chapter twenty-nine-a of this
10 code that sets forth student absences that are excluded for accountability purposes. The absences that
11 are excluded by the rule include, but are not ~~be~~ limited to, excused student absences, students not
12 in attendance due to disciplinary measures and absent students for whom the attendance director has
13 pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance
14 director shall file with the county superintendent and county board at the close of each month a
15 report showing activities of the school attendance office and the status of attendance in the county
16 at the time;
- 17 (5) Promote attendance in the county by compiling data for schools and by furnishing
18 suggestions and recommendations for publication through school bulletins and the press, or in such
19 manner as the county superintendent may direct;
- 20 (6) Participate in school teachers' conferences with parents and students;
- 21 (7) Assist in such other ways as the county superintendent may direct for improving school
22 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 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.