

COMMITTEE SUBSTITUTE

for

H. B. 2550

(BY DELEGATE(S) COWLES, MILLER,
HOUSEHOLDER, MOFFATT, MCGEEHAN, SPONAUGLE, H. WHITE,
CAMPBELL, SKINNER, ROWE AND PERRY)

(Originating in the Committee on the Judiciary.)
(February 26, 2015)

A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to promoting regular school attendance; providing timely notice that five unexcused absences will require a conference meeting with designated school representatives; providing for written notice of a conference in the case of five unexcused absences to discuss circumstances related to unexcused absences including an adjustment of unexcused absences; and increasing the number of unexcused student absences during a

school year to ten before an attendance director or assistant shall make complaint against a parent, guardian or custodian before a magistrate.

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.

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

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

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

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

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

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

32 attendance director or assistant shall make complaint against the
33 parent, guardian or custodian before a magistrate of the county.
34 If it appears from the complaint that there is probable cause to
35 believe that an offense has been committed and that the accused
36 has committed it, a summons or a warrant for the arrest of the
37 accused shall issue to any officer authorized by law to serve the
38 summons or to arrest persons charged with offenses against the
39 state. More than one parent, guardian or custodian may be
40 charged in a complaint. Initial service of a summons or warrant
41 issued pursuant to the provisions of this section shall be
42 attempted within ten calendar days of receipt of the summons or
43 warrant and subsequent attempts at service shall continue until
44 the summons or warrant is executed or until the end of the
45 school term during which the complaint is made, whichever is
46 later.

47 (↻) (e) The magistrate court clerk, or the clerk of the circuit
48 court performing the duties of the magistrate court as authorized
49 in section eight, article one, chapter fifty of this code, shall
50 assign the case to a magistrate within ten days of execution of
51 the summons or warrant. The hearing shall be held within twenty

52 days of the assignment to the magistrate, subject to lawful
53 continuance. The magistrate shall provide to the accused at least
54 ten days' advance notice of the date, time and place of the
55 hearing.

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

65 ~~(e)~~ (g) The county attendance director and assistants shall
66 devote such time as is required by section three of this article to
67 the duties of attendance director in accordance with this section
68 during the instructional term and at such other times as the duties
69 of an attendance director are required. All attendance directors
70 and assistants hired for more than two hundred days may be
71 assigned other duties determined by the superintendent during
72 the period in excess of two hundred days. The county attendance

73 director is responsible under direction of the county
74 superintendent for efficiently administering school attendance in
75 the county.

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

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

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

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

86 (4) Prepare a report for submission by the county
87 superintendent to the State Superintendent of Schools on school
88 attendance, at such times and in such detail as may be required.

89 The state board shall promulgate a legislative rule pursuant to
90 article three-b, chapter twenty-nine-a of this code that sets forth
91 student absences that are excluded for accountability purposes.

92 The absences that are excluded by the rule include, but are not ~~be~~
93 limited to, excused student absences, students not in attendance

94 due to disciplinary measures and absent students for whom the
95 attendance director has pursued judicial remedies to compel
96 attendance to the extent of his or her authority. The attendance
97 director shall file with the county superintendent and county
98 board at the close of each month a report showing activities of
99 the school attendance office and the status of attendance in the
100 county at the time;

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

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

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

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

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

