

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2213**

BY DELEGATE GEARHEART

[Introduced February 8, 2017; Referred  
to the Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to compulsory school attendance; and providing that five unexcused occasions on which  
 3 a student is tardy for school may equal one unexcused absence.

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

1 That §18-8-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
 2 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 diligently promote regular  
 2 school attendance. The director and assistants shall:

3 (1) Ascertain reasons for inexcusable absences from school of students of compulsory  
 4 school age and students who remain enrolled beyond the compulsory school age as defined  
 5 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) (1) In the case of five total unexcused absences of a student during a school year, the  
 10 attendance director or assistant shall ~~serve~~ serve written notice to the parent, guardian or  
 11 custodian of the student that the attendance of the student at school is required and that within  
 12 ten days of receipt of the notice the parent, guardian or custodian, accompanied by the student,  
 13 shall report in person to the school the student attends for a conference with the principal or other  
 14 designated representative of the school in order to discuss and correct the circumstances causing  
 15 the inexcusable absences of the student; and if the parent, guardian or custodian does not comply  
 16 with ~~the provisions of~~ this article, then the attendance director or assistant shall make complaint

17 against the parent, guardian or custodian before a magistrate of the county. If it appears from the  
18 complaint that there is probable cause to believe that an offense has been committed and that  
19 the accused has committed it, a summons or a warrant for the arrest of the accused shall issue  
20 to any officer authorized by law to serve the summons or to arrest persons charged with offenses  
21 against the state. More than one parent, guardian or custodian may be charged in a complaint.  
22 Initial service of a summons or warrant issued pursuant to ~~the provisions of~~ this section shall be  
23 attempted within ten calendar days of receipt of the summons or warrant and subsequent  
24 attempts at service shall continue until the summons or warrant is executed or until the end of the  
25 school term during which the complaint is made, whichever is later.

26 (2) For purposes of this section five unexcused occasions on which the student is tardy  
27 for school may equal one unexcused absence.

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

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

40 (e) The county attendance director and assistants shall devote such time as is required  
41 by section three of this article to the duties of attendance director in accordance with this section  
42 during the instructional term and at such other times as the duties of an attendance director are

43 required. All attendance directors and assistants hired for more than two hundred days may be  
44 assigned other duties determined by the superintendent during the period in excess of two  
45 hundred days. The county attendance director is responsible under direction of the county  
46 superintendent for efficiently administering school attendance in the county.

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to provide that five unexcused occasions on which a student is tardy for school may equal one unexcused absence.

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