

Representative Duane Bourdeaux proposes to substitute the following bill:

TRUANCY AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Duane Bourdeaux

Loretta Baca

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE TRACKING OF STUDENT ATTENDANCE AT PUBLIC AND PRIVATE ELEMENTARY AND SECONDARY SCHOOLS; PROVIDING FOR THE ISSUANCE OF TRUANCY CITATIONS; PROVIDING JUSTICE COURTS WITH JURISDICTION OVER THE DISPOSITION OF TRUANCY CITATIONS; PROVIDING PENALTIES FOR TRUANCY VIOLATIONS; PROVIDING FOR A WAIVER OF FINES; MAKING CERTAIN TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53A-11-101, as last amended by Chapter 78, Laws of Utah 1990

53A-11-102, as last amended by Chapter 302, Laws of Utah 1995

53A-11-103, as last amended by Chapter 1, Laws of Utah 1996

53A-11-105, as last amended by Chapter 329, Laws of Utah 1997

REPEALS AND REENACTS:

53A-11-104, as enacted by Chapter 2, Laws of Utah 1988

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-11-101** is amended to read:

53A-11-101. Responsibility for minor required to attend school -- Penalty for violation.

1 (1) ~~(a)~~ A ~~[person having control]~~ parent of a minor between six and 18 years of age shall
2 send the minor to a public or regularly established private school during the school year of the
3 district in which the minor resides.

4 (b) For purposes of this chapter, "parent" means a parent, guardian, or other person having
5 custody of the minor or with whom the minor resides.

6 (2) ~~[It]~~ Except as otherwise provided in Subsection 53A-11-104(4)(b), it is a class B
7 misdemeanor for a [person having control of a minor] parent under Subsection (1) to willfully fail
8 to comply with the requirements of this chapter.

9 (3) A local board of education shall report cases of willful noncompliance to the
10 appropriate juvenile court.

11 (4) Officers of the juvenile court shall immediately take appropriate action as provided
12 under this chapter.

13 Section 2. Section **53A-11-102** is amended to read:

14 **53A-11-102. Minors exempt from school attendance.**

15 (1) A ~~[person having control]~~ parent of a minor between six and 18 years of age is exempt
16 from Section 53A-11-101 if the minor is excused from attendance by the local board of education
17 for one of the following reasons:

18 (a) a minor over age 16 may receive a partial release from school to enter employment if
19 the minor has completed the eighth grade~~[- Minors]~~, but a minor excused under this Subsection
20 (1) [are] is required to attend part-time schooling or home schooling as prescribed by the board;
21 or

22 (b) on an annual basis, a minor may receive a full release from attending a public~~[-]~~ or
23 regularly established private[-, or part-time] school [or class] if:

24 (i) the minor has already completed the work required for graduation from high school,
25 or has demonstrated mastery of required skills and competencies in accordance with Subsection
26 53A-15-102(1);

27 (ii) the minor is taught at home in the subjects prescribed by the State Board of Education
28 in accordance with the law for the same length of time as minors are required by law to be taught
29 in the district schools;

30 (iii) the minor is in a physical or mental condition, certified by a competent physician if
31 required by the ~~[district]~~ local board, which renders attendance inexpedient and impracticable;

1 (iv) proper influences and adequate opportunities for education are provided in
2 connection with the minor's employment; or

3 (v) the district superintendent has determined that a minor over the age of 16 is unable to
4 profit from attendance at school because of inability or a continuing negative attitude toward
5 school regulations and discipline.

6 (2) In each case, evidence of reasons for granting an exemption must be sufficient to
7 satisfy the local board.

8 (3) [~~Boards~~] A school board excusing [~~minors~~] a minor from attendance shall issue a
9 certificate stating that the minor is excused from attendance during the time specified on the
10 certificate.

11 Section 3. Section **53A-11-103** is amended to read:

12 **53A-11-103. Duties of boards of education in resolving child's attendance problems**
13 **-- Parental involvement -- Issuance of truancy citations -- Procedure for contesting citations**
14 **-- Liability not imposed.**

15 (1) Each local school board shall make earnest and persistent efforts to resolve a student's
16 attendance problems. Those efforts shall include, as reasonably feasible:

17 (a) counseling of the student by school authorities;

18 (b) enlisting parental support for attendance by the student;

19 (c) meeting with the student and the student's parents [~~or guardian~~];

20 (d) adjusting the student's curriculum and schedule, if necessary, to meet special needs of
21 the student;

22 (e) monitoring of the student's attendance by parents and school authorities; and

23 (f) enlisting the assistance of community and law enforcement agencies as appropriate.

24 (2) (a) (i) The parents [~~, guardian, or person having control~~] of a [~~truancy~~] student with an
25 attendance problem shall cooperate with school authorities in resolving the [~~attendance~~] problem.

26 (ii) If the [~~behavior~~] problem is not corrected after earnest and persistent efforts are made
27 by those parties or, if the parents [~~, guardian, or person having control~~] refuse to cooperate,
28 after earnest and persistent efforts are made by school authorities, the school board may:

29 (A) take action under Section 53A-11-104;

30 (B) refer the matter to the juvenile court; or

31 (C) release the student from school as provided in Section 53A-11-102.

1 (b) At least 14 days prior to referring a [person] student to juvenile court based upon
2 educational neglect, as defined in Section 78-3a-103, the school district shall provide written
3 notice to the parent [or guardian] by first class mail or other reasonable means, setting forth the
4 district's intention to refer the [person] student to juvenile court, and the corrective action that may
5 be taken to avoid that referral.

6 [~~(3) A local school board may authorize the issuance of truancy citations by school
7 administrators. Recipients of truancy citations may be subjected to administrative penalties, and
8 to a fee assessed in accordance with a uniform fee schedule adopted by the State Board of
9 Education.~~]

10 [~~(4) A local school board that authorizes the issuance of truancy citations shall establish
11 a procedure for students to contest citations which the affected students believe to be unwarranted.~~]

12 [~~(5)~~] (3) This section [shall] may not impose any civil liability on boards of education or
13 their employees.

14 Section 4. Section **53A-11-104** is repealed and reenacted to read:

15 **53A-11-104. Student attendance records -- Notification of absences -- Issuance of**
16 **truancy citations -- truant officers -- Justice court jurisdiction -- Fines -- Waiver of fines --**
17 **Other options in dealing with truants.**

18 (1) The principal or designated administrator at each public ~~h~~ [and private] ~~h~~ elementary or
19 secondary school in the state shall:

20 (a) keep a complete attendance record of each student at the school;

21 (b) notify the attendance officer of the school district in which the school is located, as
22 designated by the district superintendent, of the absence of each student from the school, together
23 with the reason for the absence, if known; and

24 (c) notify the student's parent of the student's absence, unless the parent has previously
25 notified the school of the reason for the student's absence.

26 (2) (a) A parent of a minor of compulsory attendance age shall notify the minor's school
27 concerning the reason for the absence of the minor from school.

28 (b) Each school district shall establish notification timelines for Subsections (1)(b), (1)(c),
29 and (2)(a), consistent with rules adopted by the State Board of Education.

30 (3) (a) If a student is absent without a valid reason four times within a four-week period
31 or ten times within a semester or equivalent time frame, the school of attendance shall notify the

1 parent of the student by certified mail that the student's attendance is required at a public
 1a h [or-private] h
 2 school pursuant to this chapter.

3 (b) If within five days after receipt of the notice , the parent of the student does not comply
 4 with this chapter, then the school shall issue a truancy citation to the parent, either through a
 5 designated administrator or truant officer appointed under Subsection 53A-11-104(3)(c).

6 (c) A local school board shall authorize the issuance of truancy citations by school
 7 administrators and truant officers and may appoint and fix the compensation of a truant officer to
 8 assist in enforcing laws related to school attendance under this chapter.

9 (4) (a) Justice courts have exclusive jurisdiction over the disposition of truancy citations
 10 issued under this section.

11 (b) A parent who is found guilty of violating this section is guilty of an infraction
 12 punishable by a fine of:

13 (i) not less than \$50 nor more than \$100 for the first offense;

14 (ii) not less than \$100 nor more than \$150 for the second offense; and

15 (iii) not less than \$200 nor more than \$250 for each subsequent offense.

16 (5) h [(a)] h The court may waive the fine required under Subsection (4)(b) if the parent who
 17 was issued the citation appears before the court within h [one month after issuance of] THE TIME
 17a PERIOD STATED IN h the citation with
 18 evidence of one or more of the following:

19 h [(i)] (a) h a record from the school of the student's perfect attendance for the preceding
 19a month;

20 h [(ii)] (b) h a referral of the student to and cooperation with the FACT Local Interagency
 20a Council

21 in resolving the truancy problem;

22 h [(iii)] (c) h a referral to and cooperation with the school district's truancy support center
 23 authorized under Section 53A-11-106, with an accompanying record of attendance at the center;

24 h [(iv)] (d) h a referral to and cooperation with an alternative school placement;

25 h [(v)] (e) h the student's appearance at a peer court established by the local school board or the
 26 school of attendance and evidence of following the recommendations of that court; or

27 h [(vi)] (f) h a referral to a Human Services Agency.

28 h [(b) Court costs may not be waived.] h

29 Section 5. Section 53A-11-105 is amended to read:

30 **53A-11-105. Taking custody of person believed to be a truant or issuing truancy**
 31 **citation -- Disposition -- Receiving centers -- Reports -- Immunity from liability.**

1 (1) (a) A peace officer, truant officer, or public school administrator may take a person into
2 temporary custody, issue a truancy citation to the person, or do both if there is reason to believe
3 the person is a [child] minor:

4 (i) subject to the state's compulsory education law; and [that the child is]

5 (ii) absent from school without a legitimate or valid excuse h , **which includes home school,**
5a **private school and dual enrollment.** h .

6 h [~~(b) If a person is operating a motor vehicle at the time of the alleged truancy, the vehicle~~
7 ~~may be impounded.~~] h

8 (c) (i) A minor who is found guilty of truancy under Subsection (1)(a) is guilty of an
9 infraction, punishable by a fine of not less than \$10 nor more than \$25.

10 (ii) If the minor has a valid driver's license, the court may also order the suspension of the
11 license for 30 days.

12 h [~~(d) A certified copy of the attendance records of the alleged truant student is admissible~~
13 ~~before the court to validate a citation issued under this section.~~

14 ~~——(e)]~~ (d) h (i) Justice courts have concurrent jurisdiction over truancy citations issued under this
15 section as an exception to the exclusive jurisdiction of the juvenile court h , **BUT IN THOSE**
15a **GEOGRAPHICAL AREAS OF THE STATE WITHOUT JUSTICE COURTS, THE JUVENILE COURTS**
SHALL

15b **ASSUME EXCLUSIVE JURISDICTION** h .

16 (ii) A justice court may refer a truancy citation matter to the appropriate juvenile court if h
16a **THE TRUANT STUDENT FAILS TO APPEAR OR IF** h
17 the fine is not paid within a reasonable time by the truant student.

17a h (f) **JUSTICE COURTS SHALL REPORT THE DISPOSITION OF TRUANCY CITATIONS THEY**
17b **DEAL WITH UNDER THIS SECTION TO THE APPROPRIATE JUVENILE COURT.** h

18 (2) An individual taking a [child] minor into custody under Subsection (1) shall, without
19 unnecessary delay, release the [child] minor to:

20 (a) the principal of the [child's] minor's school;

21 (b) a person who has been designated by the local school board to receive the [child] minor
22 and return him to school; or

23 (c) a receiving center established under Subsection (5).

24 (3) If the [child] minor refuses to return to school or go to the receiving center, the officer

25 or administrator shall, without unnecessary delay, notify the [child's] minor's parents, guardian,
26 or custodian and release the [child] minor to their custody.

27 (4) If the parents, guardian, or custodian cannot be reached or are unable or unwilling to
28 accept custody, the [child] minor shall be referred to the Division of Child and Family Services.

29 (5) (a) (i) A local school board, singly or jointly with another school board, may establish
30 or designate receiving centers within existing school buildings and staff the centers with existing
31 teachers or staff to provide educational guidance and counseling for [~~truant children~~] truants.

1 (ii) Upon receipt of a truant [child], the center shall, without unnecessary delay, notify and
2 direct the [child's] truant's parents, guardian, or custodian to come to the center, pick up the [child]
3 truant, and return the [child] truant minor to school.

4 (b) (i) If the parents, guardian, or custodian cannot be reached or are unable or unwilling
5 to comply with the request within a reasonable time, the center shall take such steps as are
6 reasonably necessary to insure the safety and well being of the [child] minor, including, when
7 appropriate, returning the [child] minor to school or referring the [child] minor to the Division of
8 Child and Family Services.

9 (ii) A [child] minor taken into custody under this section may not be placed in a detention
10 center or other secure confinement facility.

11 (6) (a) Action taken under this section shall be reported to the appropriate school district
12 and the attendance officer at the minor's school.

13 (b) The [district] attendance officer shall promptly notify the [child's] minor's parents or
14 legal guardian of the action taken.

15 (7) The Utah Governmental Immunity Act applies to all actions taken under this [section]
16 part.

17 (8) Nothing in this section may be construed to grant authority to a public school
18 administrator or truant officer to place a child in the custody of the Division of Child and Family
19 Services, without complying with the provisions of Title 62A, Chapter 4a, Parts 2 and 2A, and of
20 Title 78, Chapter 3a, Parts 3 and 3A.

21 ~~h [(9) (a) **The State Board of Education shall work with local school boards, the courts, and**~~
22 ~~**other interested parties to develop and implement an identification process and instrument for**~~
23 ~~**students who have a legitimate or valid excuse for being absent from school.**~~

24 ~~—— (b) **This would include students in home schools, students in dual enrollment programs,**~~
25 ~~**year-round school students who are off track, and secondary students in concurrent enrollment**~~
26 ~~**programs, apprenticeship programs, school-work programs, or other programs of a similar nature.] h**~~

27 Section 6. **Effective date.**

28 This act takes effect on July 1, 1998.