

1 **EDUCATIONAL NEGLECT AND TRUANCY**

2 **AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Duane E. Bourdeaux**

6 **This act simplifies provisions concerning educational neglect by making specific guidelines**
7 **for parents, educators, and prosecutors, as well as listing specific exemptions. The act also**
8 **clarifies the provision concerning parental response in truancy situations.**

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

10 AMENDS:

11 **53A-11-101**, as last amended by Chapter 99, Laws of Utah 1999

12 REPEALS AND REENACTS:

13 **78-3a-316**, as enacted by Chapter 302, Laws of Utah 1995

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

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

16 **53A-11-101. Responsibility for minor required to attend school -- Penalty for**
17 **violation.**

18 (1) For purposes of this part:

19 (a) "Habitual truant" is a school-age minor who has received more than two truancy
20 citations within one school year from the school in which the minor is or should be enrolled and
21 eight absences without a legitimate or valid excuse or who, in defiance of efforts on the part of
22 school authorities to resolve a student's attendance problem as required under Section 53A-11-103,
23 refuses to regularly attend school or any scheduled period of the school day.

24 (b) "Minor" means a person under the age of 18 years.

25 (c) "Parent" includes:

26 (i) a custodial parent of the minor;

27 (ii) a legally appointed guardian of a minor; or



28 (iii) any other person purporting to exercise any authority over the minor which could be
29 exercised by persons listed under Subsections (1)(c)(i) and (ii) above.

30 (d) "School-age minor" means a minor who has reached the age of six years but has not
31 reached the age of eighteen years, but does not include a minor emancipated by marriage.

32 (e) "Truancy citation" is an administrative notice to a truant minor requiring an appearance
33 before the school truancy control officer or body from which the minor is truant.

34 (f) "Truant minor" is any school-age minor who is subject to the state's compulsory
35 education law and who is absent from school without a legitimate or valid excuse.

36 (2) A parent shall enroll and send a school-age minor to a public or regularly established
37 private school during the school year of the district in which the minor resides.

38 (3) It is a class B misdemeanor for a parent to knowingly:

39 (a) fail to enroll a school-age minor in school; or

40 (b) refuse to ~~respond~~ cooperate with school authorities in response to a written request
41 which is delivered to the parent pursuant to the provisions of Subsection 53A-11-103(1)(b) by a
42 local school board or school district.

43 (4) The provisions of this section do not apply to a parent of a school-age minor who has
44 been declared by the local school board to be exempt from school attendance in conformity with
45 Section 53A-11-102.

46 (5) A local board of education or school district shall report violations of Subsection (3)
47 to the appropriate city, county, or district attorney.

48 Section 2. Section **78-3a-316** is repealed and reenacted to read:

49 **78-3a-316. Educational neglect of a child -- Procedures -- Defenses.**

50 (1) An allegation of educational neglect may not be sustained, solely on a child's absence
51 from school, unless the child has been absent from school or from any given class, without good
52 cause, for more than ten consecutive school days or more than 25% of the applicable school term
53 and school officials have complied with the requirements of Section 53A-11-103.

54 (2) A child may not be considered to be educationally neglected, for purposes of this
55 chapter if:

56 (a) the parent, guardian, or other person in control of the child has made a good faith effort
57 to secure the child's regular attendance in school;

58 (b) the child is exempt from school attendance pursuant to Subsection

59 53A-11-102(1)(b)(ii):

60 (c) the child is not required to attend school pursuant to court order or is exempt under
61 other applicable state or federal law; or

62 (d) other good cause or a valid excuse exists for the child's absence from school.

63 (3) With regard to a child exempt from school attendance pursuant to Subsection
64 53A-11-102(1)(b)(ii) if the allegations of educational neglect includes failure of a child to make
65 adequate educational progress, it is a defense that:

66 (a) the child has made educational progress at a level commensurate with the child's ability
67 based upon any of the criteria used in granting school credit, in accordance with Section
68 53A-11-102.5, or based upon other documentation of the child's educational progress;

69 (b) the child is not significantly behind the local public school's age group expectations
70 in any basic skill, or, if behind, is receiving special educational services or systematic remediation
71 efforts designed to correct the problem; or

72 (c) the student scores above the 25th percentile of the local public school's age group
73 expectations in all basic skills, as measured by a standardized academic achievement test
74 administered by the school district where the student resides.

Legislative Review Note
as of 2-8-01 4:04 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel