

**COMPULSORY EDUCATION REVISIONS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Alvin B. Jackson**

House Sponsor: Jacob L. Anderegg

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**LONG TITLE**

**General Description:**

This bill eliminates criminal penalties for a parent of a truant school-age child.

**Highlighted Provisions:**

This bill:

- ▶ eliminates criminal penalties for a parent of a truant school-age child; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-11-101.5**, as last amended by Laws of Utah 2012, Chapter 203

**53A-11-102**, as last amended by Laws of Utah 2014, Chapter 374

**78A-6-1001**, as last amended by Laws of Utah 2010, Chapter 276

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

Section 1. Section **53A-11-101.5** is amended to read:

**53A-11-101.5. Compulsory education.**

~~[(1) For purposes of this section:]~~



28 ~~[(a) "Intentionally" is as defined in Section 76-2-103.]~~

29 ~~[(b) "Recklessly" is as defined in Section 76-2-103.]~~

30 (1) As used in this section:

31 ~~[(c)]~~ (a) "Remainder of the school year" means the portion of the school year beginning  
32 on the day after the day on which the notice of compulsory education violation described in  
33 Subsection (3) is served and ending on the last day of the school year.

34 ~~[(d)]~~ (b) "School-age child" means a school-age minor under the age of 14.

35 (2) Except as provided in Section 53A-11-102 or 53A-11-102.5, the parent of a  
36 school-age minor shall enroll and send the school-age minor to a public or regularly established  
37 private school.

38 (3) A school administrator, a designee of a school administrator, a law enforcement  
39 officer acting as a school resource officer, or a truancy specialist may issue a notice of  
40 compulsory education violation to a parent of a school-age child if the school-age child is  
41 absent without a valid excuse at least five times during the school year.

42 (4) The notice of compulsory education violation, described in Subsection (3):

43 (a) shall ~~direct~~ request that the parent of the school-age child ~~to~~:

44 (i) meet with school authorities to discuss the school-age child's school attendance  
45 problems; and

46 (ii) cooperate with the school board, local charter board, or school district in securing  
47 regular attendance by the school-age child;

48 (b) shall designate the school authorities with whom the parent is required to meet;

49 ~~[(c) shall state that it is a class B misdemeanor for the parent of the school-age child to~~  
50 ~~intentionally or recklessly:]~~

51 ~~[(i) fail to meet with the designated school authorities to discuss the school-age child's~~  
52 ~~school attendance problems; or]~~

53 ~~[(ii) fail to prevent the school-age child from being absent without a valid excuse five~~  
54 ~~or more times during the remainder of the school year;]~~

55 ~~[(d)]~~ (c) shall be served on the school-age child's parent by personal service or certified  
56 mail; and

57 ~~[(e)]~~ (d) may not be issued unless the school-age child has been truant at least five  
58 times during the school year.

59 ~~[(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or~~  
60 ~~recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt~~  
61 ~~from enrollment under Section 53A-11-102 or 53A-11-102.5.]~~

62 ~~[(6) It is a class B misdemeanor for a parent of a school-age child to, after being served~~  
63 ~~with a notice of compulsory education violation in accordance with Subsections (3) and (4),~~  
64 ~~intentionally or recklessly:]~~

65 ~~[(a) fail to meet with the school authorities designated in the notice of compulsory~~  
66 ~~education violation to discuss the school-age child's school attendance problems; or]~~

67 ~~[(b) fail to prevent the school-age child from being absent without a valid excuse five~~  
68 ~~or more times during the remainder of the school year.]~~

69 ~~[(7) A local school board, local charter board, or school district shall report violations~~  
70 ~~of this section to the appropriate county or district attorney.]~~

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

72 **53A-11-102. Minors exempt from school attendance.**

73 (1) (a) A local school board or charter school governing board may excuse a school-age  
74 minor from attendance for any of the following reasons:

75 (i) a school-age minor over age 16 may receive a partial release from school to enter  
76 employment, or attend a trade school, if the school-age minor has completed the eighth grade;  
77 or

78 (ii) on an annual basis, a school-age minor may receive a full release from attending a  
79 public, regularly established private, or part-time school or class if:

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

83 (B) the school-age minor is in a physical or mental condition, certified by a competent  
84 physician if required by the local school board or charter school governing board, which  
85 renders attendance inexpedient and impracticable;

86 (C) proper influences and adequate opportunities for education are provided in  
87 connection with the school-age minor's employment; or

88 (D) the district superintendent or charter school governing board has determined that a  
89 school-age minor over the age of 16 is unable to profit from attendance at school because of

90 inability or a continuing negative attitude toward school regulations and discipline.

91 (b) A school-age minor receiving a partial release from school under Subsection  
92 (1)(a)(i) is required to attend:

93 (i) school part time as prescribed by the local school board or charter school governing  
94 board; or

95 (ii) a home school part time.

96 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)  
97 must be sufficient to satisfy the local school board or charter school governing board.

98 (d) A local school board or charter school governing board that excuses a school-age  
99 minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor  
100 is excused from attendance during the time specified on the certificate.

101 (2) (a) A local school board shall excuse a school-age minor from attendance, if the  
102 school-age minor's parent files a signed and notarized affidavit with the school-age minor's  
103 school district of residence, as defined in Section 53A-2-201, that:

104 (i) the school-age minor will attend a home school; and

105 (ii) the parent assumes sole responsibility for the education of the school-age minor,  
106 except to the extent the school-age minor is dual enrolled in a public school as provided in  
107 Section 53A-11-102.5.

108 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall  
109 remain in effect as long as:

110 (i) the school-age minor attends a home school; and

111 (ii) the school district where the affidavit was filed remains the school-age minor's  
112 district of residence.

113 (c) A parent of a school-age minor who attends a home school is solely responsible for:

114 (i) the selection of instructional materials and textbooks;

115 (ii) the time, place, and method of instruction; and

116 (iii) the evaluation of the home school instruction.

117 (d) A local school board may not:

118 (i) require a parent of a school-age minor who attends a home school to maintain  
119 records of instruction or attendance;

120 (ii) require credentials for individuals providing home school instruction;

121 (iii) inspect home school facilities; or  
122 (iv) require standardized or other testing of home school students.

123 (e) Upon the request of a parent, a local school board shall identify the knowledge,  
124 skills, and competencies a student is recommended to attain by grade level and subject area to  
125 assist the parent in achieving college and career readiness through home schooling.

126 (f) A local school board that excuses a school-age minor from attendance as provided  
127 by this Subsection (2) shall annually issue a certificate stating that the school-age minor is  
128 excused from attendance for the specified school year.

129 (g) A local school board shall issue a certificate excusing a school-age minor from  
130 attendance:

131 (i) within 30 days after receipt of a signed and notarized affidavit filed by the  
132 school-age minor's parent pursuant to Subsection (2); and

133 (ii) on or before August 1 each year thereafter unless:

134 (A) the school-age minor enrolls in a school within the school district;

135 (B) the school-age minor's parent or guardian notifies the school district that the  
136 school-age minor no longer attends a home school; or

137 (C) the school-age minor's parent or guardian notifies the school district that the  
138 school-age minor's school district of residence has changed.

139 (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a)  
140 is exempt from the [~~application of Subsections 53A-11-101.5(2), (5), and (6)] requirements  
141 described in Section 53A-11-101.5.~~

142 (4) Nothing in this section may be construed to prohibit or discourage voluntary  
143 cooperation, resource sharing, or testing opportunities between a school or school district and a  
144 parent or guardian of a minor attending a home school.

145 Section 3. Section **78A-6-1001** is amended to read:

146 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**  
147 **delinquency not required for conviction.**

148 (1) The court shall have jurisdiction, concurrent with the district court or justice court  
149 otherwise having subject matter jurisdiction, to try adults for the following offenses committed  
150 against minors:

151 (a) unlawful sale or furnishing of an alcoholic product to minors in violation of Section

152 [32B-4-403](#);

153 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,  
154 Child Abuse or Neglect Reporting Requirements;

155 (c) harboring a runaway in violation of Section [62A-4a-501](#);

156 (d) misdemeanor custodial interference in violation of Section [76-5-303](#); and

157 (e) contributing to the delinquency of a minor in violation of Section [76-10-2301](#);

158 and].

159 [~~(f) failure to comply with compulsory education requirements in violation of Section~~

160 [53A-11-101.5](#).]

161 (2) It is not necessary for the minor to be found to be delinquent or to have committed  
162 a delinquent act for the court to exercise jurisdiction under Subsection (1).

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**