

Representative Eric K. Hutchings proposes the following substitute bill:

COMPULSORY EDUCATION REVISIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Alvin B. Jackson

House Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions related to compulsory education.

Highlighted Provisions:

This bill:

- ▶ amends penalties for a parent of a truant school-age child;
- ▶ amends provisions related to a violation of a court order by a habitual truant; and
- ▶ makes technical and conforming 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

78A-6-117, as last amended by Laws of Utah 2015, Chapter 274

78A-6-1101, as renumbered and amended by Laws of Utah 2008, Chapter 3

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



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

27 **53A-11-101.5. Compulsory education.**

28 (1) ~~[For purposes of]~~ As used in this section:

29 (a) "Intentionally" ~~[is as]~~ means the same as that term is defined in Section 76-2-103.

30 (b) "Recklessly" ~~[is as]~~ means the same as that term is defined in Section 76-2-103.

31 (c) "Remainder of the school year" means the portion of the school year beginning on
32 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) "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 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:

50 (i) it is ~~[a class B misdemeanor]~~ an infraction for the parent of the school-age child to
51 intentionally or recklessly fail to:

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

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

56 (ii) it is a class C misdemeanor for an individual who is convicted of an infraction

57 described in Subsection (4)(c)(i), if, after receiving an additional notice of compulsory
58 education violation for the same child in the same school year, the individual intentionally or
59 recklessly fails to:

60 (A) meet with the designated school authorities to discuss the school-age child's school
61 attendance problems; or

62 (B) prevent the school-age child from being absent without a valid excuse five or more
63 times during the remainder of the school year;

64 (d) shall be served on the school-age child's parent by personal service or certified
65 mail; and

66 (e) may not be issued unless the school-age child has been truant at least five times
67 during the school year.

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

71 ~~[(6) It is a class B misdemeanor]~~

72 (5) Except as provided in Subsection (6), it is an infraction for a parent of a school-age
73 child to, after being served with a notice of compulsory education violation in accordance with
74 Subsections (3) and (4), intentionally or recklessly fail to:

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

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

79 (6) It is a class C misdemeanor for an individual who is found guilty of an infraction
80 described in Subsection (5) if, after receiving an additional notice of compulsory education
81 violation for the same child in the same school year, the individual intentionally or recklessly
82 fails to:

83 (a) meet with the designated school authorities to discuss the school-age child's school
84 attendance problems; or

85 (b) prevent the school-age child from being absent without a valid excuse five or more
86 times during the remainder of the school year.

87 (7) It is a class C misdemeanor for a parent of a school-age minor to intentionally or

88 recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt
89 from enrollment under Section 53A-11-102 or 53A-11-102.5.

90 [(7)] (8) A local school board, local charter board, or school district shall report
91 violations of this section to the appropriate county or district attorney.

92 Section 2. Section 78A-6-117 is amended to read:

93 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
94 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
95 **sample.**

96 (1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the
97 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
98 jurisdiction over the minor. However, in cases within the provisions of Subsection
99 78A-6-103(1), findings of fact are not necessary.

100 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
101 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
102 to the school superintendent of the district in which the minor resides or attends school. Notice
103 shall be made to the district superintendent within three days of the adjudication and shall
104 include:

105 (i) the specific offenses for which the minor was adjudicated; and

106 (ii) if available, if the victim:

107 (A) resides in the same school district as the minor; or

108 (B) attends the same school as the minor.

109 (2) Upon adjudication the court may make the following dispositions by court order:

110 (a) (i) The court may place the minor on probation or under protective supervision in
111 the minor's own home and upon conditions determined by the court, including compensatory
112 service as provided in Subsection (2)(m)(iii).

113 (ii) The court may place the minor in state supervision with the probation department
114 of the court, under the legal custody of:

115 (A) the minor's parent or guardian;

116 (B) the Division of Juvenile Justice Services; or

117 (C) the Division of Child and Family Services.

118 (iii) If the court orders probation or state supervision, the court shall direct that notice

119 of its order be provided to designated persons in the local law enforcement agency and the
120 school or transferee school, if applicable, that the minor attends. The designated persons may
121 receive the information for purposes of the minor's supervision and student safety.

122 (iv) Any employee of the local law enforcement agency and the school that the minor
123 attends who discloses the court's order of probation is not:

124 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
125 provided in Section 63G-7-202; and

126 (B) civilly or criminally liable except when the disclosure constitutes a knowing
127 violation of Section 63G-2-801.

128 (b) The court may place the minor in the legal custody of a relative or other suitable
129 person, with or without probation or protective supervision, but the juvenile court may not
130 assume the function of developing foster home services.

131 (c) (i) The court may:

132 (A) vest legal custody of the minor in the Division of Child and Family Services,
133 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
134 and

135 (B) order the Department of Human Services to provide dispositional
136 recommendations and services.

137 (ii) For minors who may qualify for services from two or more divisions within the
138 Department of Human Services, the court may vest legal custody with the department.

139 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
140 Services on grounds other than abuse or neglect is subject to the provisions of Title 78A,
141 Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A,
142 Chapter 4a, Part 2a, Minors in Custody on Grounds other than Abuse or Neglect.

143 (B) Before the court entering an order to place a minor in the custody of the Division of
144 Child and Family Services on grounds other than abuse or neglect, the court shall provide the
145 division with notice of the hearing no later than five days before the time specified for the
146 hearing so the division may attend the hearing.

147 (C) Before committing a child to the custody of the Division of Child and Family
148 Services, the court shall make a finding as to what reasonable efforts have been attempted to
149 prevent the child's removal from the child's home.

150 (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for
151 secure confinement.

152 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
153 or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of
154 Juvenile Justice Services.

155 (e) The court may commit a minor, subject to the court retaining continuing
156 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
157 Services for observation and evaluation for a period not to exceed 45 days, which period may
158 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
159 Services.

160 (f) (i) The court may commit a minor to a place of detention or an alternative to
161 detention for a period not to exceed 30 days subject to the court retaining continuing
162 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
163 ordered by the court.

164 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

165 (A) an act which if committed by an adult would be a criminal offense; or

166 (B) except as provided in Subsection 78A-6-1101(3), contempt of court under Section
167 78A-6-1101.

168 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
169 the Division of Child and Family Services or any other appropriate person in accordance with
170 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
171 Dependency Proceedings.

172 (h) The court may place a minor on a ranch or forestry camp, or similar facility for care
173 and also for work, if possible, if the person, agency, or association operating the facility has
174 been approved or has otherwise complied with all applicable state and local laws. A minor
175 placed in a forestry camp or similar facility may be required to work on fire prevention,
176 forestation and reforestation, recreational works, forest roads, and on other works on or off the
177 grounds of the facility and may be paid wages, subject to the approval of and under conditions
178 set by the court.

179 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
180 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in

181 Section 78A-6-321 and impose fines in limited amounts.

182 (ii) The court may also require a minor to reimburse an individual, entity, or
183 governmental agency who offered and paid a reward to a person or persons for providing
184 information resulting in a court adjudication that the minor is within the jurisdiction of the
185 juvenile court due to the commission of a criminal offense.

186 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
187 court may order the minor to make restitution for costs expended by any governmental entity
188 for the return.

189 (j) The court may issue orders necessary for the collection of restitution and fines
190 ordered by the court, including garnishments, wage withholdings, and executions.

191 (k) (i) The court may through its probation department encourage the development of
192 employment or work programs to enable minors to fulfill their obligations under Subsection
193 (2)(i) and for other purposes considered desirable by the court.

194 (ii) Consistent with the order of the court, the probation officer may permit a minor
195 found to be within the jurisdiction of the court to participate in a program of work restitution or
196 compensatory service in lieu of paying part or all of the fine imposed by the court.

197 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
198 addition to any other disposition authorized by this section:

199 (A) restrain the minor from driving for periods of time the court considers necessary;
200 and

201 (B) take possession of the minor's driver license.

202 (ii) The court may enter any other disposition under Subsection (2)(l)(i). However, the
203 suspension of driving privileges for an offense under Section 78A-6-606 is governed only by
204 Section 78A-6-606.

205 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
206 Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
207 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
208 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
209 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
210 completion of an approved substance abuse prevention or treatment program may be credited
211 by the court as compensatory service hours.

212 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
213 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court
214 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
215 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
216 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
217 approved substance abuse prevention or treatment program may be credited by the court as
218 compensatory service hours.

219 (iii) When a minor is found within the jurisdiction of the juvenile court under Section
220 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may
221 order the minor to clean up graffiti created by the minor or any other person at a time and place
222 within the jurisdiction of the court. Compensatory service required under this section may be
223 performed in the presence and under the direct supervision of the minor's parent or legal
224 guardian. The parent or legal guardian shall report completion of the order to the court. The
225 minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal
226 costs as determined under Section 76-6-107, unless waived by the court for good cause. The
227 court may also require the minor to perform other alternative forms of restitution or repair to
228 the damaged property pursuant to Subsection 77-18-1(8).

229 (A) For a first adjudication, the court may require the minor to clean up graffiti for not
230 less than eight hours.

231 (B) For a second adjudication, the court may require the minor to clean up graffiti for
232 not less than 16 hours.

233 (C) For a third adjudication, the court may require the minor to clean up graffiti for not
234 less than 24 hours.

235 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

236 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

237 (B) receive other special care.

238 (ii) For purposes of receiving the examination, treatment, or care described in
239 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

240 (iii) In determining whether to order the examination, treatment, or care described in
241 Subsection (2)(n)(i), the court shall consider:

242 (A) the desires of the minor;

243 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
244 minor; and

245 (C) whether the potential benefits of the examination, treatment, or care outweigh the
246 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
247 function impairment, or emotional or physical harm resulting from the compulsory nature of
248 the examination, treatment, or care.

249 (iv) The Division of Child and Family Services shall take reasonable measures to
250 notify a parent or guardian of any non-emergency health treatment or care scheduled for a
251 child, shall include the parent or guardian as fully as possible in making health care decisions
252 for the child, and shall defer to the parent's or guardian's reasonable and informed decisions
253 regarding the child's health care to the extent that the child's health and well being are not
254 unreasonably compromised by the parent's or guardian's decision.

255 (v) The Division of Child and Family Services shall notify the parent or guardian of a
256 child within five business days after a child in the custody of the Division of Child and Family
257 Services receives emergency health care or treatment.

258 (vi) The Division of Child and Family Services shall use the least restrictive means to
259 accomplish a compelling interest in the care and treatment of a child described in this
260 Subsection (2)(n).

261 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
262 interest of the minor, and may appoint as guardian a public or private institution or agency in
263 which legal custody of the minor is vested.

264 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
265 private agency or institution, the court shall give primary consideration to the welfare of the
266 minor. When practicable, the court may take into consideration the religious preferences of the
267 minor and of a child's parents.

268 (p) (i) In support of a decree under Section [78A-6-103](#), the court may order reasonable
269 conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian,
270 or any other person who has been made a party to the proceedings. Conditions may include:

271 (A) parent-time by the parents or one parent;

272 (B) restrictions on the minor's associates;

273 (C) restrictions on the minor's occupation and other activities; and

274 (D) requirements to be observed by the parents or custodian.

275 (ii) A minor whose parents or guardians successfully complete a family or other
276 counseling program may be credited by the court for detention, confinement, or probation time.

277 (q) The court may order the child to be committed to the physical custody of a local
278 mental health authority, in accordance with the procedures and requirements of Title 62A,
279 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
280 Mental Health.

281 (r) (i) The court may make an order committing a minor within the court's jurisdiction
282 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
283 with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility
284 for People with an Intellectual Disability.

285 (ii) The court shall follow the procedure applicable in the district courts with respect to
286 judicial commitments to the Utah State Developmental Center when ordering a commitment
287 under Subsection (2)(r)(i).

288 (s) The court may terminate all parental rights upon a finding of compliance with the
289 provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

290 (t) The court may make any other reasonable orders for the best interest of the minor or
291 as required for the protection of the public, except that a child may not be committed to jail or
292 prison.

293 (u) The court may combine the dispositions listed in this section if they are compatible.

294 (v) Before depriving any parent of custody, the court shall give due consideration to the
295 rights of parents concerning their child. The court may transfer custody of a minor to another
296 person, agency, or institution in accordance with the requirements and procedures of Title 78A,
297 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

298 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
299 probation or placement of a minor with an individual or an agency shall include a date certain
300 for a review of the case by the court. A new date shall be set upon each review.

301 (x) In reviewing foster home placements, special attention shall be given to making
302 adoptable children available for adoption without delay.

303 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
304 with an individual or relative of a child where the court has previously acquired jurisdiction as

305 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
306 order for child support on behalf of the child against the natural or adoptive parents of the
307 child.

308 (ii) Orders under Subsection (2)(y)(i):

309 (A) shall remain in effect until the child reaches majority;

310 (B) are not subject to review under Section 78A-6-118; and

311 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

312 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
313 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
314 of the juvenile court.

315 (3) In addition to the dispositions described in Subsection (2), when a minor comes
316 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
317 National Guard in lieu of other sanctions, provided:

318 (a) the minor meets the current entrance qualifications for service in the National
319 Guard as determined by a recruiter, whose determination is final;

320 (b) the minor is not under the jurisdiction of the court for any act that:

321 (i) would be a felony if committed by an adult;

322 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

323 (iii) was committed with a weapon; and

324 (c) the court retains jurisdiction over the minor under conditions set by the court and
325 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

326 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
327 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
328 designated employees of the court or, if the minor is in the legal custody of the Division of
329 Juvenile Justice Services, then by designated employees of the division under Subsection
330 53-10-404(5)(b).

331 (b) The responsible agency shall ensure that employees designated to collect the saliva
332 DNA specimens receive appropriate training and that the specimens are obtained in accordance
333 with accepted protocol.

334 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
335 Specimen Restricted Account created in Section 53-10-407.

336 (d) Payment of the reimbursement is second in priority to payments the minor is
337 ordered to make for restitution under this section and treatment under Section 78A-6-321.

338 Section 3. Section 78A-6-1101 is amended to read:

339 **78A-6-1101. Violation of order of court -- Contempt -- Penalty.**

340 (1) Any person who willfully violates or refuses to obey any order of the court may be
341 proceeded against for contempt of court.

342 (2) Any person 18 years of age or older found in contempt of court may be punished in
343 accordance with Section 78B-6-310.

344 (3) (a) ~~Any~~ Except as provided in Subsection (3)(c), a person younger than 18 years
345 of age found in contempt of court may be punished by any disposition permitted under Section
346 78A-6-117, except for commitment to a secure facility.

347 (b) The court may stay or suspend all or part of the punishment upon compliance with
348 conditions imposed by the court.

349 (c) The court may not order detention for, or place in state custody, a minor found in
350 contempt of court based on a violation of orders directly related to a citation for habitual
351 truancy.

352 (4) The court may enforce orders of fines, fees, or restitution through garnishments,
353 wage withholdings, supplementary proceedings, or executions.