

**SCHOOL ABSENTEEISM AND TRUANCY AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill amends provisions related to truancy.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes which absences from school are considered in determining if a minor is truant;
- ▶ replaces ages to which certain provisions related to truancy apply with grade levels to which the provisions apply;
- ▶ limits the conditions under which a school district or charter school may impose administrative penalties on a school-age minor who is truant;
- ▶ requires local education agencies to report certain data to the State Board of Education; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 53G-6-201**, as last amended by Laws of Utah 2019, Chapter 293
- 53G-6-202**, as last amended by Laws of Utah 2019, Chapter 293
- 53G-6-203**, as last amended by Laws of Utah 2019, Chapter 293
- 53G-6-205**, as last amended by Laws of Utah 2019, Chapter 293
- 53G-6-206**, as last amended by Laws of Utah 2019, Chapter 293
- 53G-8-211**, as last amended by Laws of Utah 2019, Chapter 293

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

34 Section 1. Section **53G-6-201** is amended to read:

35 **53G-6-201. Definitions.**

36 [~~For purposes of this part:~~]

37 [~~(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a~~  
38 ~~school-age minor assigned to a class or class period to attend the entire class or class period.]~~

39 [~~(b) A school-age minor may not be considered absent under this part more than one~~  
40 ~~time during one day.]~~

41 [(2) "Habitual truant" means a school-age minor who:]

42 [(a) is at least 12 years old;]

43 [(b) is subject to the requirements of Section 53G-6-202; and]

44 [(c) (i) is truant at least 10 times during one school year; or]

45 [(ii) fails to cooperate with efforts on the part of school authorities to resolve the  
46 minor's attendance problem as required under Section 53G-6-206.]

47 As used in this part:

48 [~~(3)~~] (1) "Minor" means a person under the age of 18 years.

49 [~~(4)~~] (2) "Parent" includes:

50 (a) a custodial parent of the minor;

51 (b) a legally appointed guardian of a minor; or

52 (c) any other person purporting to exercise any authority over the minor which could be  
53 exercised by a person described in Subsection [~~(4)(a)~~] (2)(a) or (b).

54 (3) "School day" means the portion of a day that school is in session in which a  
55 school-age minor is required to be in school for purposes of receiving instruction.

56 [~~(5) "School-age minor" means a minor who:]~~

57 [(a) is at least six years old, but younger than 18 years old; and]

58 [(b) is not emancipated.]

59 [~~(6)~~] (4) "School year" means the period of time designated by a local school board or  
60 charter school governing board as the school year for the school where the school-age minor:

61 (a) is enrolled; or

62 (b) should be enrolled, if the school-age minor is not enrolled in school.

63 (5) "School-age minor" means a minor who:

64 (a) is at least six years old but younger than 18 years old; and

65 (b) is not emancipated.

66 ~~[(7)]~~ (6) (a) "Truant" means [absent without a valid excuse.] a condition in which a  
 67 school-age minor, without a valid excuse, and subject to Subsection (6)(b), is:

68 (i) absent for at least half of the school day; or

69 (ii) is at least 30 minutes late for a class or the school day for a total of five separate  
 70 times per semester or semester equivalent.

71 (b) A school-age minor may not be considered truant under this part more than one  
 72 time during one day.

73 ~~[(8)]~~ (7) "Truant minor" means a school-age minor who:

74 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

75 (b) is truant.

76 ~~[(9)]~~ (8) (a) "Valid excuse" means:

77 ~~[(a)]~~ (i) an illness, which may be either mental or physical;

78 ~~[(b)]~~ (ii) a family death;

79 ~~[(c)]~~ (iii) an approved school activity;

80 ~~[(d)]~~ (iv) an absence permitted by a school-age minor's:

81 ~~[(i)]~~ (A) individualized education program[~~-, developed pursuant to the Individuals with~~  
 82 Disabilities Education Improvement Act of 2004, as amended]; or

83 ~~[(ii)]~~ (B) Section 504 accommodation plan[~~-, developed pursuant to Section 504 of the~~  
 84 Rehabilitation Act of 1973, as amended; or];

85 (v) an absence permitted in accordance with Subsection 53G-6-803(5); or

86 ~~[(e)]~~ (vi) any other excuse established as valid by a local school board, charter school  
 87 governing board, or school district.

88 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason  
 89 other than a reason described in Subsection (8)(a)(i) through (v), unless specifically permitted  
 90 by the local school board, charter school governing board, or school district under Subsection  
 91 (8)(a)(vi).

92 Section 2. Section **53G-6-202** is amended to read:

93 **53G-6-202. Compulsory education.**

94 (1) For purposes of this section:

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

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

97 (b) "Notice of compulsory education violation" means a notice issued in accordance  
98 with Subsections (3) and (4).

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

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

103 (2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age  
104 minor shall enroll and send the school-age minor to a public or regularly established private  
105 school.

106 (3) A school administrator, a designee of a school administrator, a law enforcement  
107 officer acting as a school resource officer, or a truancy specialist may only issue a notice of  
108 compulsory education violation to a parent of a school-age ~~[child]~~ minor if the school-age  
109 ~~[child]~~ minor is:

110 (a) in grade 1 through 6; and

111 (b) ~~[absent without a valid excuse]~~ truant at least five times during the school year.

112 (4) ~~[The]~~ A notice of compulsory education violation~~[- described in Subsection (3)]~~  
113 issued to a parent:

114 (a) shall direct the parent ~~[of the school-age child]~~ to:

115 (i) meet with school authorities to discuss the school-age ~~[child's]~~ minor's school  
116 attendance problems; and

117 (ii) cooperate with the local school board, charter school governing board, or school  
118 district in securing regular attendance by the school-age ~~[child]~~ minor;

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

120 (c) shall state that it is a class B misdemeanor for the parent ~~[of the school-age child]~~ to  
121 intentionally or ~~[recklessly]~~ without good cause:

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

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

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

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

130 (5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or  
131 [~~recklessly~~] without good cause fail to enroll the school-age minor in school, unless the  
132 school-age minor is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

133 (6) It is a class B misdemeanor for a parent of a school-age [~~child~~] minor who is in  
134 grade 1 through 6 to, after being served with a notice of compulsory education violation [~~in~~  
135 ~~accordance with Subsections (3) and (4)~~], intentionally or [~~recklessly~~] without good cause:

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

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

140 (7) A local school board, charter school governing board, or school district shall report  
141 violations of this section to the appropriate county or district attorney.

142 (8) If school personnel have reason to believe that, after a notice of compulsory  
143 education violation is issued, the parent has failed to make a good faith effort to ensure that the  
144 [~~child~~] school-age minor receives an appropriate education, the issuer of the compulsory  
145 education violation shall report to the Division of Child and Family Services:

146 (a) identifying information of the [~~child~~] school-age minor and the [~~child's~~] parent who  
147 received the notice of compulsory education violation;

148 (b) information regarding the longest number of consecutive school days the  
149 school-age minor has been absent from school and the percentage of school days the [~~child~~]  
150 school-age minor has been absent during each relevant school term;

151 (c) whether the [~~child~~] school-age minor has made adequate educational progress;

152 (d) whether the requirements of Section 53G-6-206 have been met;

153 (e) whether the [~~child~~] school-age minor is two or more years behind the local public  
154 school's age group expectations in one or more basic skills; and

155 (f) whether the [~~child~~] school-age minor is receiving special education services or  
156 systematic remediation efforts.

157 Section 3. Section **53G-6-203** is amended to read:

158 **53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school**  
159 **authorities.**

160 (1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is  
161 enrolled in a public school shall attend the public school in which the school-age minor is  
162 enrolled.

163 (2) ~~[A]~~ In accordance with Section 53G-8-211, a local school board, charter school  
164 governing board, or school district may impose administrative penalties on a school-age minor  
165 ~~[in accordance with Section 53G-8-211]~~ who is:

166 (a) in grade 7 or above; and

167 (b) truant.

168 (3) A local school board or charter school governing board:

169 (a) may authorize a school administrator, a designee of a school administrator, a law  
170 enforcement officer acting as a school resource officer, or a truancy specialist to issue ~~[notices]~~  
171 a notice of truancy [to school-age minors who are at least 12 years old] in accordance with  
172 Subsection (4); and

173 (b) shall establish a procedure for a school-age minor, or the school-age minor's  
174 parents, to contest a notice of truancy.

175 (4) ~~[The]~~ A notice of truancy described in Subsection (3):

176 (a) may not be issued until ~~[the]~~ a school-age minor has been truant at least five times  
177 during the school year;

178 (b) may not be issued to a school-age minor who is ~~[less than 12 years old]~~ in a grade  
179 below grade 7;

180 (c) may not be issued to a school-age minor exempt from school attendance as  
181 provided in Section 53G-6-204 or 53G-6-702;

182 (d) shall direct the school-age minor who receives the notice of truancy and the parent  
183 of the school-age minor to:

184 (i) meet with school authorities to discuss the school-age minor's trancies; and

185 (ii) cooperate with the local school board, charter school governing board, or school  
186 district in securing regular attendance by the school-age minor; and

187 (e) shall be mailed to, or served on, the school-age minor's parent.

188 (5) Nothing in this part prohibits a local school board, charter school governing board,  
 189 or school district from taking action to resolve a truancy problem with a school-age minor who  
 190 has been truant [~~less~~] fewer than five times, provided that the action does not conflict with the  
 191 requirements of this part.

192 Section 4. Section **53G-6-205** is amended to read:

193 **53G-6-205. Preapproval of extended absence.**

194 In determining whether to preapprove an extended absence of a school-age minor as a  
 195 valid excuse [~~under Subsection 53G-6-201(9)(e)~~], a local school board, charter school  
 196 governing board, or school district shall approve the absence if the local school board, charter  
 197 school governing board, or school district determines that the extended absence will not  
 198 adversely impact the school-age minor's education.

199 Section 5. Section **53G-6-206** is amended to read:

200 **53G-6-206. Duties of a local school board, charter school governing board, or**  
 201 **school district in resolving attendance problems -- Parental involvement -- Liability not**  
 202 **imposed -- Report to state board.**

203 (1) (a) [~~Except as provided in~~] Subject to Subsection (1)(b), a local school board,  
 204 charter school governing board, or school district shall make efforts to resolve the school  
 205 attendance problems of each school-age minor who is, or should be, enrolled in the school  
 206 district.

207 (b) A school-age minor exempt from school attendance under Section 53G-6-204 or  
 208 53G-6-702 is not considered to be a school-age minor who is or should be enrolled in a school  
 209 district or charter school under Subsection (1)(a).

210 (2) The efforts described in Subsection (1) shall include, as reasonably feasible:

211 (a) counseling of the school-age minor by school authorities;

212 (b) (i) issuing a notice of truancy to [~~a~~] the school-age minor [~~who is at least 12 years~~  
 213 ~~old,~~] in accordance with Section 53G-6-203; or

214 [~~(c)~~] (ii) issuing a notice of compulsory education violation to [~~a~~] the school-age  
 215 minor's parent [~~of a school-age child,~~] in accordance with Section 53G-6-202;

216 [~~(d)~~] (c) making any necessary adjustment [~~to the curriculum and schedule to meet~~  
 217 special needs of the school-age minor;

218 [~~(e)~~] (d) considering alternatives proposed by [~~a~~] the school-age minor's parent;

219           ~~[(f)]~~ (e) monitoring school attendance of the school-age minor;  
 220           ~~[(g)]~~ (f) voluntary participation in truancy mediation, if available; and  
 221           ~~[(h)]~~ (g) providing ~~[(a)]~~ the school-age minor's parent, upon request, with a list of  
 222 resources available to assist the parent in resolving the school-age minor's attendance problems.

223           (3) In addition to the efforts described in Subsection (2), the local school board, charter  
 224 school governing board, or school district may enlist the assistance of community and law  
 225 enforcement agencies as appropriate and reasonably feasible in accordance with Section  
 226 53G-8-211.

227           (4) This section does not impose civil liability on boards of education, local school  
 228 boards, charter school governing boards, school districts, or their employees.

229           (5) Proceedings initiated under this part do not obligate or preclude action by the  
 230 Division of Child and Family Services under Section 78A-6-319.

231           (6) Each LEA shall annually report data to the state board regarding absences, both  
 232 with and without a valid excuse.

233           Section 6. Section **53G-8-211** is amended to read:

234           **53G-8-211. Responses to school-based behavior.**

235           (1) As used in this section:

236           (a) "Evidence-based" means a program or practice that has:

237           (i) had multiple randomized control studies or a meta-analysis demonstrating that the  
 238 program or practice is effective for a specific population;

239           (ii) been rated as effective by a standardized program evaluation tool; or

240           (iii) been approved by the state board.

241           (b) "Habitual truant" means a school-age minor who:

242           (i) is in grade 7 or above;

243           (ii) is subject to the requirements of Section 53G-6-202; and

244           (iii) (A) is truant at least 10 times during one school year; or

245           (B) fails to cooperate with efforts on the part of school authorities to resolve the  
 246 school-age minor's attendance problem as required under Section 53G-6-206.

247           ~~[(b)]~~ (c) "Mobile crisis outreach team" means the same as that term is defined in  
 248 Section 78A-6-105.

249           ~~[(c)]~~ (d) "Restorative justice program" means a school-based program or a program



250 used or adopted by a local education agency that is designed to enhance school safety, reduce  
251 school suspensions, and limit referrals to court, and is designed to help minors take  
252 responsibility for and repair the harm of behavior that occurs in school.

253 ~~[(d)]~~ (e) "School administrator" means a principal of a school.

254 ~~[(e)]~~ (f) "School is in session" means a day during which the school conducts  
255 instruction for which student attendance is counted toward calculating average daily  
256 membership.

257 ~~[(f)]~~ (g) "School resource officer" means a law enforcement officer, as defined in  
258 Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency  
259 contracts with a local education agency to provide law enforcement services for the local  
260 education agency.

261 (h) "School-age minor" means the same as that term is defined in Section 53G-6-201.

262 ~~[(g)]~~ (i) "School-sponsored activity" means an activity, fundraising event, club,  
263 camp, clinic, or other event or activity that is authorized by a specific local education agency or  
264 public school, according to LEA governing board policy, and satisfies at least one of the  
265 following conditions:

266 (A) the activity is managed or supervised by a local education agency or public school,  
267 or local education agency or public school employee;

268 (B) the activity uses the local education agency or public school's facilities, equipment,  
269 or other school resources; or

270 (C) the activity is supported or subsidized, more than inconsequentially, by public  
271 funds, including the public school's activity funds or Minimum School Program dollars.

272 (ii) "School-sponsored activity" includes preparation for and involvement in a public  
273 performance, contest, athletic competition, demonstration, display, or club activity.

274 ~~[(h)]~~ (j) (i) "Status offense" means a violation of the law that would not be a violation  
275 but for the age of the offender.

276 (ii) Notwithstanding Subsection (1)~~[(h)]~~(j)(i), a status offense does not include a  
277 violation that by statute is made a misdemeanor or felony.

278 (2) This section applies to a minor enrolled in school who is alleged to have committed  
279 an offense at the school where the student is enrolled:

280 (a) on school property where the student is enrolled:

- 281 (i) when school is in session; or  
282 (ii) during a school-sponsored activity; or  
283 (b) that is truancy.
- 284 (3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense  
285 on school property, or truancy, the minor may not be referred to law enforcement or court but  
286 may be referred to evidence-based alternative interventions, including:
- 287 (i) a mobile crisis outreach team, as defined in Section 78A-6-105;  
288 (ii) a receiving center operated by the Division of Juvenile Justice Services in  
289 accordance with Section 62A-7-104;  
290 (iii) a youth court or comparable restorative justice program;  
291 (iv) evidence-based interventions created and developed by the school or school  
292 district; and  
293 (v) other evidence-based interventions that may be jointly created and developed by a  
294 local education agency, the state board, the juvenile court, local counties and municipalities,  
295 the Department of Health, or the Department of Human Services.
- 296 (b) Notwithstanding Subsection (3)(a), a school resource officer may:
- 297 (i) investigate possible criminal offenses and conduct, including conducting probable  
298 cause searches;  
299 (ii) consult with school administration about the conduct of a minor enrolled in a  
300 school;  
301 (iii) transport a minor enrolled in a school to a location if the location is permitted by  
302 law;  
303 (iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or  
304 (v) protect the safety of students and the school community, including the use of  
305 reasonable and necessary physical force when appropriate based on the totality of the  
306 circumstances.
- 307 (c) Notwithstanding other provisions of this section, a law enforcement officer who has  
308 cause to believe a minor has committed an offense on school property when school is not in  
309 session nor during a school-sponsored activity, the law enforcement officer may refer the minor  
310 to court or may refer the minor to evidence-based alternative interventions at the discretion of  
311 the law enforcement officer.

312 (4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this  
313 Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor  
314 committed on school property or for being a habitual truant~~[, as defined in Section 53G-6-201,]~~  
315 if the minor refuses to participate in an evidence-based alternative intervention described in  
316 Subsection (3)(a).

317 (b) (i) When a minor is referred to court under Subsection (4)(a), the school shall  
318 appoint a school representative to continue to engage with the minor and the minor's family  
319 through the court process.

320 (ii) A school representative appointed under this Subsection (4)(b) may not be a school  
321 resource officer.

322 (c) A school district or school shall include the following in its referral to the court:

323 (i) attendance records for the minor;

324 (ii) a report of evidence-based alternative interventions used by the school before  
325 referral, including outcomes;

326 (iii) the name and contact information of the school representative assigned to actively  
327 participate in the court process with the minor and the minor's family; and

328 (iv) any other information the school district or school considers relevant.

329 (d) A minor referred to court under this Subsection (4), may not be ordered to or placed  
330 in secure detention, including for a contempt charge or violation of a valid court order under  
331 Section 78A-6-1101 when the underlying offense is a class C misdemeanor occurring on  
332 school property or habitual truancy.

333 (e) If a minor is referred to court under this Subsection (4), the court may use, when  
334 available, the resources of the Division of Juvenile Justice Services or the Division of  
335 Substance Abuse and Mental Health to address the minor.

336 (5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the  
337 minor may be referred directly to the juvenile court by the school administrator, the school  
338 administrator's designee, or a school resource officer, or the minor may be referred to the  
339 evidence-based alternative interventions in Subsection (3)(a).