

1 **TRUANCY AMENDMENTS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Duane Bourdeaux**

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

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

13 AMENDS:

14 **53A-11-101**, as last amended by Chapter 78, Laws of Utah 1990

15 **53A-11-102**, as last amended by Chapter 302, Laws of Utah 1995

16 **53A-11-103**, as last amended by Chapter 1, Laws of Utah 1996

17 **53A-11-105**, as last amended by Chapter 329, Laws of Utah 1997

18 **78-3a-104**, as last amended by Chapters 329 and 365, Laws of Utah 1997

19 REPEALS AND REENACTS:

20 **53A-11-104**, as enacted by Chapter 2, Laws of Utah 1988

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

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

23 **53A-11-101. Responsibility for minor required to attend school -- Penalty for**
24 **violation.**

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

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

3 (2) It is a class B misdemeanor for a [~~person having control of a minor~~] parent under
4 Subsection (1) to willfully fail to comply with the requirements of this chapter.

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

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

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

10 **53A-11-102. Minors exempt from school attendance.**

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

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

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

20 (i) the minor has already completed the work required for graduation from high school,
21 or has demonstrated mastery of required skills and competencies in accordance with Subsection
22 53A-15-102(1);

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

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

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

30 (v) the district superintendent has determined that a minor over the age of 16 is unable to
31 profit from attendance at school because of inability or a continuing negative attitude toward

1 school regulations and discipline.

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

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

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

8 **53A-11-103. Duties of boards of education in resolving child's attendance problems**
9 **-- Parental involvement -- Issuance of truancy citations -- Procedure for contesting citations**
10 **-- Liability not imposed.**

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

- 13 (a) counseling of the student by school authorities;
- 14 (b) enlisting parental support for attendance by the student;
- 15 (c) meeting with the student and the student's parents [~~or guardian~~];
- 16 (d) adjusting the student's curriculum and schedule, if necessary, to meet special needs of
17 the student;
- 18 (e) monitoring of the student's attendance by parents and school authorities; and
- 19 (f) enlisting the assistance of community and law enforcement agencies as appropriate.

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

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

- 25 (A) take action under Section 53A-11-104;
- 26 (B) refer the matter to the juvenile court; or
- 27 (C) release the student from school as provided in Section 53A-11-102.

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

1 be taken to avoid that referral.

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

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

8 ~~[(5)]~~ (3) This section ~~[shall]~~ may not impose any civil liability on boards of education or
9 their employees.

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

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

14 (1) The principal or designated administrator at each public and private elementary or
15 secondary school in the state shall:

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

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

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

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

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

26 (3) (a) If a student is absent without a valid reason four times within a four-week period
27 or ten times within a semester or equivalent time frame, the school of attendance shall notify the
28 parent of the student by certified mail that the student's attendance is required at a public or private
29 school pursuant to this chapter.

30 (b) If within five days after receipt of the notice, the parent of the student does not comply
31 with this chapter, then the school shall issue a truancy citation to the parent, either through a

1 designated administrator or truant officer appointed under Subsection 53A-11-104(3)(c).

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

5 (4) (a) Justice courts have jurisdiction over the disposition of truancy citations issued
6 under this section.

7 (b) A parent who is found guilty of violating this section is guilty of a class B
8 misdemeanor, punishable only by a fine of:

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

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

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

12 (c) A certified copy of the attendance records of the alleged truant student is admissible
13 at the court hearing required under this section to validate the issuance of the citation.

14 (5) (a) The court may waive the fine required under Subsection (4)(b) if the parent who
15 was issued the citation appears before the court within one month after issuance of the citation with
16 evidence of one or more of the following:

17 (i) a record from the school of the student's perfect attendance for the preceding month;

18 (ii) a referral of the student to and cooperation with the FACT Local Interagency Council
19 in resolving the truancy problem;

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

22 (iv) a referral to and cooperation with an alternative school placement;

23 (v) the student's appearance at a peer court established by the local school board or the
24 school of attendance and evidence of following the recommendations of that court; or

25 (vi) a referral to a Human Services Agency.

26 (b) Court costs may not be waived.

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

28 **53A-11-105. Taking custody of person believed to be a truant or issuing truancy**
29 **citation -- Disposition -- Receiving centers -- Reports -- Immunity from liability.**

30 (1) (a) A peace officer, truant officer, or public school administrator may take a person into
31 temporary custody, issue a truancy citation to the person, or do both if there is reason to believe

1 the person is a [child] minor:

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

3 (ii) absent from school without a legitimate or valid excuse.

4 (b) If a person is operating a motor vehicle at the time of the alleged truancy, the vehicle
5 may be impounded.

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

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

10 (d) A certified copy of the attendance records of the alleged truant student is admissible
11 before the court to validate a citation issued under this section.

12 (e) (i) Justice courts have jurisdiction over truancy citations issued under this section as
13 an exception to the exclusive jurisdiction of the juvenile court.

14 (ii) A justice court may refer a truancy citation matter to the appropriate juvenile court if
15 the fine is not paid within a reasonable time by the truant student.

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

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

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

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

22 (3) If the [child] minor refuses to return to school or go to the receiving center, the officer
23 or administrator shall, without unnecessary delay, notify the [child's] minor's parents, guardian,
24 or custodian and release the [child] minor to their custody.

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

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

30 (ii) Upon receipt of a truant [child], the center shall, without unnecessary delay, notify and
31 direct the [child's] truant's parents, guardian, or custodian to come to the center, pick up the [child]

1 truant, and return the [child] truant minor to school.

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

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

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

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

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

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

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

22 (b) This would include students in home schools, students in dual enrollment programs,
23 year-round school students who are off track, and secondary students in concurrent enrollment
24 programs, apprenticeship programs, school-work programs, or other programs of a similar nature.

25 Section 6. Section **78-3a-104** is amended to read:

26 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

27 (1) Except as otherwise provided by law, the juvenile court has exclusive original
28 jurisdiction in proceedings concerning:

29 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
30 person younger than 21 years of age who has violated any law or ordinance before becoming 18
31 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

1 (b) a person 21 years of age or older who has failed or refused to comply with an order of
2 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st
3 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
4 orders;

5 (c) a minor who is abused, neglected, or dependent, as those terms are defined in Section
6 78-3a-103;

7 (d) the determination of the custody of a minor or to appoint a guardian of the person or
8 other guardian of a minor who comes within the court's jurisdiction under other provisions of this
9 section;

10 (e) the termination of the legal parent-child relationship in accordance with Part 4,
11 Termination of Parental Rights Act, including termination of residual parental rights and duties;

12 (f) the treatment or commitment of a mentally retarded minor;

13 (g) a minor who, in defiance of earnest and persistent efforts on the part of his parents and
14 school authorities as required under Section 53A-11-103, is a habitual truant from school,
15 excluding a minor who receives a truancy citation under Section 53A-11-103;

16 (h) the judicial consent to the marriage of a minor under age 16 upon a determination of
17 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
18 consent is required by law;

19 (i) any parent or parents of a minor committed to a secure youth corrections facility, to
20 order, at the discretion of the court and on the recommendation of a secure youth corrections
21 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
22 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
23 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
24 therapist the court may direct, for a period directed by the court as recommended by a secure youth
25 corrections facility;

26 (j) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

27 (k) the treatment or commitment of a mentally ill child. The court may commit a child to
28 the physical custody of a local mental health authority or to the legal custody of the Division of
29 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
30 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
31 commit a child directly to the Utah State Hospital; and

1 (1) the commitment of a minor in accordance with Section 62A-8-501.

2 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
3 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent
4 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except
5 that the court shall have exclusive jurisdiction over the following traffic offenses committed by
6 a minor under 18 years of age:

7 (a) Section 76-5-207, automobile homicide;

8 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

9 (c) Section 41-6-45, reckless driving;

10 (d) Section 41-1a-1311, unauthorized control over a motor vehicle, trailer, or semitrailer;

11 (e) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer
12 for an extended period of time; and

13 (f) Section 41-6-13.5, fleeing a peace officer.

14 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal
15 episode filed in a petition that contains an offense over which the court has jurisdiction.

16 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation
17 certified to it by the district court pursuant to Section 78-3a-105.

18 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
19 referred to it by the Division of Child and Family Services or by public or private agencies that
20 contract with the division to provide services to that minor where, despite earnest and persistent
21 efforts by the division or agency, the minor has demonstrated that he:

22 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
23 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

24 (b) has run away from home.

25 (6) This section does not restrict the right of access to the juvenile court by private
26 agencies or other persons.

27 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
28 under Section 78-3a-602.

29 **Section 7. Effective date.**

30 This act takes effect on July 1, 1998.

Legislative Review Note
as of 1-22-98 9:57 PM

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

Office of Legislative Research and General Counsel