

1 **SCHOOL TRUANCY AND COMPULSORY**
2 **EDUCATION AMENDMENTS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Carlene M. Walker

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to compulsory education and truancy.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ directs a local school board, local charter board, or school district to preapprove an
15 extended absence of a school-age minor if it is determined that the absence will not
16 adversely impact the school-age minor's education;
- 17 ▶ describes compulsory education requirements relating to school-age minors;
- 18 ▶ provides for the service of a notice of compulsory education violation on a parent or
19 guardian of a school-age child who is less than 14 years old if the child has been
20 absent without a valid excuse at least five times during the school year;
- 21 ▶ makes it a class B misdemeanor for a parent or guardian to intentionally or
22 recklessly:
- 23 • fail to enroll the parent's school-age minor in school, unless the school-age
24 minor is exempt from enrollment; or
- 25 • after being served with a notice of compulsory education violation, fail to meet
26 and discuss a school-age child's school attendance problems with school
27 authorities or fail to prevent a school-age child from being truant five or more



- 28 times during the remainder of the school year;
- 29 ▶ provides for juvenile court jurisdiction of habitual truant proceedings and
- 30 compulsory education violations;
- 31 ▶ establishes school attendance requirements for a school-age minor;
- 32 ▶ provides for the issuance of a notice of truancy to a school-age minor who is at least
- 33 12 years old and has been truant at least five times during the school year;
- 34 ▶ establishes a procedure for resolving truancy problems of a school-age minor who is
- 35 at least 12 years old;
- 36 ▶ modifies and describes requirements for proceedings on, and the issuance of,
- 37 citations and notices relating to truancy;
- 38 ▶ removes provisions permitting the issuance of a truancy citation, except for a
- 39 habitual truant citation;
- 40 ▶ provides that a notice of truancy or a habitual truant citation may only be issued by a
- 41 school administrator or truancy specialist authorized by a local school board, local
- 42 charter board, or by the school administrator's designee;
- 43 ▶ modifies and describes the duties of a local school board, local charter board, or
- 44 school district for attempting to resolve a minor's school attendance problems;
- 45 ▶ clarifies civil liability limitations relating to compulsory education and truancy;
- 46 ▶ changes the term "truancy officer" to "truancy specialist"; and
- 47 ▶ makes technical changes.

48 **Monies Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 None

52 **Utah Code Sections Affected:**

53 AMENDS:

- 54 **35A-3-304**, as last amended by Chapter 29, Laws of Utah 2004
- 55 **53A-11-101**, as last amended by Chapter 99, Laws of Utah 1999
- 56 **53A-11-102**, as last amended by Chapter 253, Laws of Utah 2005
- 57 **53A-11-102.5**, as last amended by Chapter 221, Laws of Utah 2003
- 58 **53A-11-103**, as last amended by Chapter 221, Laws of Utah 2003

- 59 **53A-11-104**, as enacted by Chapter 2, Laws of Utah 1988
- 60 **53A-11-105**, as last amended by Chapter 99, Laws of Utah 1999
- 61 **53A-11-106**, as enacted by Chapter 337, Laws of Utah 1997
- 62 **62A-2-108.1**, as last amended by Chapter 188, Laws of Utah 2005
- 63 **62A-4a-606**, as last amended by Chapter 10, Laws of Utah 1997
- 64 **78-3a-801**, as last amended by Chapter 249, Laws of Utah 1999

65 ENACTS:

- 66 **53A-11-101.3**, Utah Code Annotated 1953
- 67 **53A-11-101.5**, Utah Code Annotated 1953
- 68 **53A-11-101.7**, Utah Code Annotated 1953



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

71 Section 1. Section **35A-3-304** is amended to read:

72 **35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

73 (1) (a) Within 20 business days of the date of enrollment, a parent client shall:

- 74 (i) be assigned an employment counselor; and
- 75 (ii) complete an assessment provided by the division regarding the parent client's:
 - 76 (A) family circumstances;
 - 77 (B) education;
 - 78 (C) work history;
 - 79 (D) skills; and
 - 80 (E) ability to become self-sufficient.

81 (b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be
82 completed by the parent client with the assistance of the division.

83 (2) (a) Within 15 business days of a parent client completing an assessment, the
84 division and the parent client shall enter into an employment plan.

- 85 (b) The employment plan shall have a target date for entry into employment.
- 86 (c) The division shall provide a copy of the employment plan to the parent client.
- 87 (d) As to the parent client, the plan may include:
 - 88 (i) job searching requirements;
 - 89 (ii) if the parent client does not have a high school diploma, participation in an

90 educational program to obtain a high school diploma, or its equivalent;

91 (iii) education or training necessary to obtain employment;

92 (iv) a combination of work and education or training;

93 (v) assisting the Office of Recovery Services in good faith to:

94 (A) establish the paternity of a minor child; and

95 (B) establish or enforce a child support order; and

96 (vi) if the parent client is a drug dependent person as defined in Section 58-37-2,

97 participation in available treatment for drug dependency and progress toward overcoming that

98 dependency.

99 (e) As to the division, the plan may include:

100 (i) providing cash and other types of public and employment assistance, including child
101 care;

102 (ii) assisting the parent client to obtain education or training necessary for employment;

103 (iii) assisting the parent client to set up and follow a household budget; and

104 (iv) assisting the parent client to obtain employment.

105 (f) The division may amend the employment plan to reflect new information or
106 changed circumstances.

107 (g) If immediate employment is an activity contained in the employment plan the
108 parent client shall:

109 (i) promptly commence a search for a specified number of hours each week for
110 employment; and

111 (ii) regularly submit a report to the division on:

112 (A) how time was spent in search for a job;

113 (B) the number of job applications completed;

114 (C) the interviews attended;

115 (D) the offers of employment extended; and

116 (E) other related information required by the division.

117 (h) (i) If full-time education or training to secure employment is an activity contained
118 in an employment plan, the parent client shall promptly undertake a full-time education or
119 training program.

120 (ii) The employment plan may describe courses, education or training goals, and

121 classroom hours.

122 (i) (i) As a condition of receiving cash assistance under this part, a parent client shall
123 agree to make a good faith effort to comply with the employment plan.

124 (ii) If a parent client consistently fails to show good faith in complying with the
125 employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of
126 the cash assistance services provided under this part.

127 (iii) The division shall establish a process to reconcile disputes between a client and the
128 division as to whether:

129 (A) the parent client has made a good faith effort to comply with the employment plan;
130 or

131 (B) the division has complied with the employment plan.

132 (3) (a) Except as provided in Subsection (3)(b), a parent client's participation in
133 education or training beyond that required to obtain a high school diploma or its equivalent is
134 limited to the lesser of:

135 (i) 24 months; or

136 (ii) the completion of the education and training requirements of the employment plan.

137 (b) A parent client may participate in education or training for up to six months beyond
138 the 24-month limit of Subsection (3)(a)(i) if:

139 (i) the parent client is employed for 80 or more hours a month; and

140 (ii) the extension is for good cause shown and approved by the director.

141 (c) A parent client who receives an extension under Subsection (3)(b) remains subject
142 to Subsection (4).

143 (4) (a) A parent client with a high school diploma or equivalent who has received 24
144 months of education or training shall participate in full-time work activities.

145 (b) The 24 months need not be continuous and the department may define "full-time
146 work activities" by rule.

147 (5) As a condition for receiving cash assistance on behalf of a minor child under this
148 part, the minor child must be:

149 (a) enrolled in and attending school in compliance with [~~Section 53A-11-101~~] Sections
150 53A-11-101.5 and 53A-11-101.7; or

151 (b) exempt from school attendance under Section 53A-11-102.

152 (6) This section does not apply to a person who has received diversion assistance under
153 Section 35A-3-303.

154 (7) (a) The division shall recruit and train volunteers to serve as mentors for parent
155 clients.

156 (b) A mentor may advocate on behalf of a parent client and help a parent client:

157 (i) develop life skills;

158 (ii) implement an employment plan; or

159 (iii) obtain services and supports from:

160 (A) the volunteer mentor;

161 (B) the division; or

162 (C) civic organizations.

163 Section 2. Section **53A-11-101** is amended to read:

164 **53A-11-101. Definitions.**

165 ~~[(+)]~~ For purposes of this part:

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

168 (b) A school-age minor may not be considered absent under this part more than one
169 time during one day.

170 ~~[(a)]~~ (2) "Habitual truant" [is] means a school-age minor who ~~[has received more than~~
171 ~~two truancy citations within one school year from the school in which the minor is or should be~~
172 ~~enrolled and eight absences without a legitimate or valid excuse or who, in defiance of]~~:

173 (a) is at least 12 years old;

174 (b) is subject to the requirements of Section 53A-11-101.5; and

175 (c) (i) is truant at least ten times during one school year; or

176 (ii) fails to cooperate with efforts on the part of school authorities to resolve [a
177 student's] the minor's attendance problem as required under Section 53A-11-103[; refuses to
178 regularly attend school or any scheduled period of the school day].

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

180 ~~[(c)]~~ (4) "Parent" includes:

181 ~~[(+)]~~ (a) a custodial parent of the minor;

182 ~~[(+)]~~ (b) a legally appointed guardian of a minor; or

183 ~~[(iii)]~~ (c) any other person purporting to exercise any authority over the minor which
184 could be exercised by ~~[persons listed under Subsections (1)(c)(i) and (ii) above]~~ a person
185 described in Subsection (4)(a) or (b).

186 ~~[(d)]~~ (5) "School-age minor" means a minor who ~~[has reached the age of]~~:

187 (a) is at least six years old, but [has not reached the age of eighteen] younger than 18
188 years[; but does not include a minor] old; and

189 (b) is not emancipated [by marriage].

190 ~~[(e)]~~ "Truancy citation" is an administrative notice to a truant minor requiring an
191 appearance before the school truancy control officer or body from which the minor is truant.]

192 (6) "School year" means the period of time designated by a local school board or local
193 charter board as the school year for the school where the school-age minor:

194 (a) is enrolled; or

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

196 (7) "Truant" means absent without a valid excuse.

197 ~~[(f)]~~ (8) "Truant minor" [is any] means a school-age minor who:

198 (a) is subject to the [state's compulsory education law] requirements of Section
199 53A-11-101.5 or 53A-11-101.7; and [who is absent from school without a legitimate or valid
200 excuse.]

201 (b) is truant.

202 (9) "Valid excuse" means:

203 (a) an illness;

204 (b) a family death;

205 (c) an approved school activity;

206 (d) an absence permitted by a school-age minor's:

207 (i) individualized education program, developed pursuant to the Individuals with
208 Disabilities Education Improvement Act of 2004, as amended; or

209 (ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act
210 of 1973, as amended; or

211 (e) any other excuse established as valid by a local school board, local charter board, or
212 school district.

213 ~~[(2)]~~ A parent shall enroll and send a school-age minor to a public or regularly

214 established private school during the school year of the district in which the minor resides.]

215 [~~(3) It is a class B misdemeanor for a parent to knowingly:]~~

216 [~~(a) fail to enroll a school-age minor in school; or]~~

217 [~~(b) refuse to respond to a written request which is delivered to the parent pursuant to~~

218 ~~the provisions of Subsection 53A-11-103(1)(b) by a local school board or school district.]~~

219 [~~(4) The provisions of this section do not apply to a parent of a school-age minor who~~

220 ~~has been declared by the local school board to be exempt from school attendance in conformity~~

221 ~~with Section 53A-11-102.]~~

222 [~~(5) A local board of education or school district shall report violations of Subsection~~

223 ~~(3) to the appropriate city, county, or district attorney.]~~

224 Section 3. Section **53A-11-101.3** is enacted to read:

225 **53A-11-101.3. Preapproval of extended absence.**

226 In determining whether to preapprove an extended absence of a school-age minor as a

227 valid excuse under Subsection 53A-11-101(9)(e), a local school board, local charter board, or

228 school district shall approve the absence if the local school board, local charter board, or school

229 district determines that the extended absence will not adversely impact the school-age minor's

230 education.

231 Section 4. Section **53A-11-101.5** is enacted to read:

232 **53A-11-101.5. Compulsory education.**

233 (1) For purposes of this section:

234 (a) "intentionally" is as defined in Section 76-2-103;

235 (b) "recklessly" is as defined in Section 76-2-103;

236 (c) "remainder of the school year" means the portion of the school year beginning on

237 the day after the day on which the notice of compulsory education violation described in

238 Subsection (3) is served and ending on the last day of the school year; and

239 (d) "school-age child" means a school-age minor under the age of 14.

240 (2) Except as provided in Section 53A-11-102 or 53A-11-102.5, the parent of a

241 school-age minor shall enroll and send the school-age minor to a public or regularly established

242 private school during the school year of the district in which the school-age minor resides.

243 (3) A school administrator, a designee of a school administrator, or a truancy specialist

244 may issue a notice of compulsory education violation to a parent of a school-age child if the

245 school-age child is absent without a valid excuse at least five times during the school year.

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

247 (a) shall direct the parent of the school-age child to:

248 (i) meet with school authorities to discuss the school-age child's school attendance

249 problems; and

250 (ii) cooperate with the school board, local charter board, or school district in securing

251 regular attendance by the school-age child;

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

253 (c) shall state that it is a class B misdemeanor for the parent of the school-age child to
254 intentionally or recklessly:

255 (i) fail to meet with the designated school authorities to discuss the school-age child's
256 school attendance problems; or

257 (ii) fail to prevent the school-age child from being absent without a valid excuse five or
258 more times during the remainder of the school year;

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

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

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

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

269 (a) fail to meet with the school authorities designated in the notice of compulsory
270 education violation to discuss the school-age child's school attendance problems; or

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

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

275 (8) The juvenile court has jurisdiction over an action filed under this section.

276 Section 5. Section **53A-11-101.7** is enacted to read:

277 **53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school**
278 **authorities -- Habitual truant citation.**

279 (1) Except as provided in Section 53A-11-102 or 53A-11-102.5, a school-age minor
280 who is enrolled in a public school shall attend the public school in which the school-age minor
281 is enrolled.

282 (2) A local school board, local charter board, or school district may impose
283 administrative penalties on a school-age minor who is truant.

284 (3) A local school board or local charter board:

285 (a) may authorize a school administrator, a designee of a school administrator, or a
286 truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old;
287 and

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

290 (4) The notice of truancy described in Subsection (3):

291 (a) may not be issued until the school-age minor has been truant at least five times
292 during the school year;

293 (b) may not be issued to a school-age minor who is less than 12 years old;

294 (c) shall direct the school-age minor and the parent of the school-age minor to:

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

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

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

299 (5) A habitual truant citation may be issued to a habitual truant if:

300 (a) the local school board, local charter board, or school district has made reasonable
301 efforts, under Section 53A-11-103, to resolve the school attendance problems of the habitual
302 truant; and

303 (b) the efforts to resolve the school attendance problems, described in Subsection
304 (5)(a), have not been successful.

305 (6) A habitual truant to whom a habitual truant citation is issued under Subsection (5):

306 (a) shall be referred to the juvenile court for violation of Subsection (1); and

- 307 (b) is subject to the jurisdiction of the juvenile court.
- 308 (7) A notice of truancy or a habitual truant citation may only be issued by:
- 309 (a) a school administrator, or a truancy specialist, who is authorized by a local school
- 310 board or local charter board; or
- 311 (b) a designee of a school administrator described in Subsection (7)(a).
- 312 (8) Nothing in this part prohibits a local school board, local charter board, or school
- 313 district from taking action to resolve a truancy problem with a school-age minor who has been
- 314 truant less than five times, provided that the action does not conflict with the requirements of
- 315 this part.

316 Section 6. Section **53A-11-102** is amended to read:

317 **53A-11-102. Minors exempt from school attendance.**

318 (1) (a) A school-age minor may be excused from attendance by the local board of
319 education and a parent exempted from application of Subsections [~~53A-11-101(2) and (3)~~]
320 53A-11-101.5(2), (5), and (6) for any of the following reasons:

321 (i) a minor over age 16 may receive a partial release from school to enter employment
322 if the minor has completed the eighth grade; or

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

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

328 (B) the minor is in a physical or mental condition, certified by a competent physician if
329 required by the district board, which renders attendance inexpedient and impracticable;

330 (C) proper influences and adequate opportunities for education are provided in
331 connection with the minor's employment; or

332 (D) the district superintendent has determined that a minor over the age of 16 is unable
333 to profit from attendance at school because of inability or a continuing negative attitude toward
334 school regulations and discipline.

335 (b) Minors receiving a partial release from school under Subsection (1)(a)(i) are
336 required to attend:

337 (i) school part-time as prescribed by the local school board; or

338 (ii) a home school part-time.

339 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
340 must be sufficient to satisfy the local board.

341 (2) (a) On an annual basis, a school-age minor shall be excused from attendance by a
342 local board of education and a parent exempted from application of Subsections
343 [~~53A-11-101(2) and (3)~~] 53A-11-101.5(2), (5), and (6), if the minor's parent files a signed
344 affidavit with the minor's school district of residence, as defined in Section 53A-2-201, that the
345 minor will attend a home school and receive instruction as required by Subsection (2)(b).

346 (b) Each minor who attends a home school shall receive instruction:

347 (i) in the subjects the State Board of Education requires to be taught in public schools
348 in accordance with the law; and

349 (ii) for the same length of time as minors are required by law to receive instruction in
350 public schools, as provided by rules of the State Board of Education.

351 (c) Subject to the requirements of Subsection (2)(b), a parent of a minor who attends a
352 home school is solely responsible for:

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

354 (ii) the time, place, and method of instruction, and

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

356 (d) A local school board may not:

357 (i) require a parent of a minor who attends a home school to maintain records of
358 instruction or attendance;

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

360 (iii) inspect home school facilities; or

361 (iv) require standardized or other testing of home school students.

362 (3) Boards excusing minors from attendance as provided by Subsections (1) and (2)
363 shall issue a certificate stating that the minor is excused from attendance during the time
364 specified on the certificate.

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

368 Section 7. Section **53A-11-102.5** is amended to read:

369 **53A-11-102.5. Dual enrollment.**

370 (1) A person having control of a minor under this part who is enrolled in a regularly
 371 established private school or a home school may also enroll the minor in a public school for
 372 dual enrollment purposes.

373 (2) The minor may participate in any academic activity in the public school available to
 374 students in the minor's grade or age group, subject to compliance with the same rules and
 375 requirements that apply to a full-time student's participation in the activity.

376 (3) Except as otherwise provided in Sections [~~53A-11-101~~] 53A-11-101.5 and
 377 53A-11-102, a student enrolled in a public school may also be enrolled in a private school or a
 378 home school for dual enrollment purposes.

379 (4) A student enrolled in a dual enrollment program is considered a student of the
 380 district in which the public school of attendance is located for purposes of state funding to the
 381 extent of the student's participation in the public school programs.

382 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 383 State Board of Education shall make rules for purposes of dual enrollment to govern and
 384 regulate the transferability of credits toward graduation that are earned in a private or home
 385 school.

386 (6) The State Board of Education shall determine the policies and procedures necessary
 387 to permit students enrolled under Subsection (1) to participate in public school extracurricular
 388 activities.

389 Section 8. Section **53A-11-103** is amended to read:

390 **53A-11-103. Duties of a school board, local charter board, or school district in**
 391 **resolving attendance problems -- Parental involvement -- Liability not imposed.**

392 (1) [~~For each school-age minor who is or should be enrolled within that school district,~~
 393 ~~the~~] A local school board, local charter board, or school district shall make efforts to resolve [a
 394 minor's] the school attendance problems[. ~~Those efforts~~] of each school-age minor who is, or
 395 should be, enrolled in the school district.

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

397 (a) counseling of the minor by school authorities;

398 [~~(b) a written request for parental support in securing regular attendance by the minor~~
 399 ~~delivered by certified mail, containing notice of the requirements of this section and stating that~~

400 refusal to respond to the notice is a class B misdemeanor;]

401 [~~(e)~~ at least one meeting with the minor and the parents;]

402 (b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in
403 accordance with Section 53A-11-101.7;

404 (c) issuing a notice of compulsory education violation to a parent of a school-age child,
405 in accordance with Section 53A-11-101.5;

406 (d) making any necessary adjustment to the curriculum and schedule to meet special
407 needs of the minor; [~~and~~]

408 (e) considering alternatives proposed by a parent;

409 [~~(e)~~] (f) monitoring school attendance of the minor [for a period not to exceed 30
410 days.];

411 (g) voluntary participation in truancy mediation, if available; and

412 (h) providing a school-age minor's parent, upon request, with a list of resources
413 available to assist the parent in resolving the school-age minor's attendance problems.

414 [~~(2)~~] (3) In addition to the efforts [listed] described in Subsection [1] (2), the local
415 school board, local charter board, or school district may enlist the assistance of community and
416 law enforcement agencies as appropriate and reasonably feasible.

417 [~~(3)~~ In the event that the minor's school attendance problem cannot be resolved by the
418 efforts of the local school board or school district, the local school board or school district shall
419 refer the school-age minor to the appropriate district or county attorney or juvenile court as a
420 habitual truant.]

421 [~~(4)~~ Any parent of a school-age minor shall, upon written request from a local school
422 board or school district, cooperate with school authorities in resolving the minor's school
423 attendance problem.]

424 [~~(5)~~ A local school board may authorize the issuance of truancy citations by school
425 administrators and appointed truancy specialists. Recipients of truancy citations may be
426 subjected to administrative penalties.]

427 [~~(6)~~ A local school board that authorizes the issuance of truancy citations shall
428 establish a procedure for students to contest citations. Any minor having received three prior
429 truancy citations within a single school year and for whom reasonable efforts to resolve the
430 attendance problem have failed, shall be issued a habitual truancy citation and referred by the

431 ~~local school board or school district to the appropriate county or district attorney or juvenile~~
 432 ~~court as a habitual truant. Proceedings for habitual truancy shall be expedited by the court.]~~

433 ~~[(7)]~~ (4) This section shall not impose any civil liability on boards of education, local
 434 school boards, local charter boards, school districts, or their employees.

435 (5) Proceedings initiated under this part do not obligate or preclude action by the
 436 Division of Child and Family Services under Section 78-3a-316.

437 Section 9. Section **53A-11-104** is amended to read:

438 **53A-11-104. Truant specialists.**

439 A local school board or local charter board may appoint and fix the compensation of a
 440 ~~[truant officer]~~ truancy specialist to assist in enforcing laws related to school attendance and to
 441 perform other duties prescribed by law or the board.

442 Section 10. Section **53A-11-105** is amended to read:

443 **53A-11-105. Taking custody of a person believed to be a truant minor --**
 444 **Disposition -- Receiving centers -- Reports -- Immunity from liability.**

445 (1) A peace officer~~[-truant officer,]~~ or public school administrator may take a minor
 446 into temporary custody ~~[or issue a truancy citation, or both,]~~ if there is reason to believe the
 447 minor is a truant minor. ~~[A truancy citation issued by a truant officer shall be approved by the~~
 448 ~~school administrator.]~~

449 (2) An individual taking a school-age minor into custody under Subsection (1) shall,
 450 without unnecessary delay, release the minor to:

451 (a) the principal of the minor's school;

452 (b) a person who has been designated by the local school board or local charter board
 453 to receive and return the minor to school; or

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

455 (3) If the minor refuses to return to school or go to the receiving center, the officer or
 456 administrator shall, without unnecessary delay, notify the minor's parents and release the minor
 457 to their custody.

458 (4) If the parents cannot be reached or are unable or unwilling to accept custody, the
 459 minor shall be referred to the Division of Child and Family Services.

460 (5) (a) A local school board or local charter board, singly or jointly with another school
 461 board, may establish or designate receiving centers within existing school buildings and staff

462 the centers with existing teachers or staff to provide educational guidance and counseling for
463 truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay,
464 notify and direct the minor's parents to come to the center, pick up the minor, and return the
465 minor to the school in which ~~[he]~~ the minor is enrolled.

466 (b) If the parents cannot be reached or are unable or unwilling to comply with the
467 request within a reasonable time, the center shall take such steps as are reasonably necessary to
468 insure the safety and well being of the minor, including, when appropriate, returning the minor
469 to school or referring the minor to the Division of Child and Family Services. A minor taken
470 into custody under this section may not be placed in a detention center or other secure
471 confinement facility.

472 (6) Action taken under this section shall be reported to the appropriate school district.
473 The district shall promptly notify the minor's parents of the action taken.

474 (7) The Utah Governmental Immunity Act applies to all actions taken under this
475 section.

476 (8) Nothing in this section may be construed to grant authority to a public school
477 administrator ~~[or truant officer]~~ to place a minor in the custody of the Division of Child and
478 Family Services, without complying with the provisions of Title 62A, Chapter 4a, Parts 2,
479 Child Welfare Services, and 2A, Minors in Custody on Grounds Other Than Abuse or Neglect,
480 and of Title 78, Chapter 3a, Parts 3, Abuse, Neglect, and Dependency Hearings, and 3A,
481 Minors in Custody on Grounds Other Than Abuse or Neglect.

482 Section 11. Section **53A-11-106** is amended to read:

483 **53A-11-106. Truancy support centers.**

484 (1) A school district may establish one or more truancy support centers for:

485 (a) truant ~~[students]~~ minors taken into custody under Section 53A-11-105; or

486 (b) students suspended or expelled from school.

487 (2) A truancy support center shall provide ~~[a wide spectrum of]~~ services to the truant
488 ~~[student]~~ minor and the ~~[student's]~~ truant minor's family, including:

489 (a) assessments of the ~~[student's]~~ truant minor's needs and abilities;

490 (b) support for the parents and ~~[student]~~ truant minor through counseling and
491 community programs; and

492 (c) tutoring for the ~~[student]~~ truant minor during the time spent at the center.

493 (3) For the suspended or expelled student, the truancy support center shall provide an
 494 educational setting, staffed with certified teachers and aides, to provide the student with
 495 ongoing educational programming appropriate to ~~[their]~~ the student's grade level.

496 (4) In a district with a truancy support center, all students suspended or expelled from
 497 school shall be referred to the center. A parent or guardian shall appear with the student at the
 498 center within 48 hours of the suspension or expulsion, not including weekends or holidays.
 499 The student shall register and attend classes at the truancy support center for the duration of the
 500 suspension or expulsion unless the parent or guardian demonstrates that alternative
 501 arrangements have been made for the education or supervision of the student during the time of
 502 suspension or expulsion.

503 (5) The truancy support center may provide counseling and other support programming
 504 for students suspended or expelled from school and their parents or guardian.

505 Section 12. Section **62A-2-108.1** is amended to read:

506 **62A-2-108.1. Coordination of human services and educational services --**

507 **Licensing of programs -- Procedures.**

508 (1) For purposes of this section:

509 (a) "accredited private school" means a private school that is accredited by an
 510 accrediting entity recognized by the Utah State Board of Education; and

511 (b) "education entitled children" means children:

512 (i) subject to compulsory education under Section ~~[53A-11-101]~~ 53A-11-101.5; ~~[or]~~

513 (ii) subject to the school attendance requirements of Section 53A-11-101.7; or

514 ~~[(ii)]~~ (iii) entitled to educational services under Section 53A-15-301.

515 (2) Subject to Subsection (8) or (9), a human services program may not be licensed to
 516 serve education entitled children unless the human services program presents an educational
 517 service plan that includes evidence:

518 (a) satisfactory to:

519 (i) the office; and

520 (ii) (A) the local school board of the school district in which the human services
 521 program will be operated; or

522 (B) the school district superintendent of the school district in which the human services
 523 program will be operated; and

524 (b) that children served by the human services program shall receive appropriate
525 educational services satisfying the requirements of applicable law.

526 (3) Subject to Subsection (8) or (9), if a human services program serves any education
527 entitled children whose custodial parents or legal guardians reside outside the state, then the
528 program shall also provide an educational funding plan that includes evidence:

529 (a) satisfactory to:

530 (i) the office; and

531 (ii) (A) the local school board of the school district in which the human services
532 program will be operated; or

533 (B) the school district superintendent of the school district in which the human services
534 program will be operated; and

535 (b) that all costs for educational services to be provided to the education entitled
536 children, including tuition, and school fees approved by the local school board, shall be borne
537 by the human services program.

538 (4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human
539 services program shall obtain and provide the office with a letter:

540 (a) from the entity referred to in Subsection (2)(a)(ii):

541 (i) approving the educational service plan referred to in Subsection (2); or

542 (ii) (A) disapproving the educational service plan referred to in Subsection (2); and

543 (B) listing the specific requirements the human services program must meet before
544 approval is granted; and

545 (b) from the entity referred to in Subsection (3)(a)(ii):

546 (i) approving the educational funding plan, referred to in Subsection (3); or

547 (ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and

548 (B) listing the specific requirements the human services program must meet before
549 approval is granted.

550 (5) Subject to Subsection (8), failure of a local school board or school district
551 superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent
552 to approval of the plan by the local school board or school district superintendent if the human
553 services program provides to the office:

554 (a) proof that:

555 (i) the human services program submitted the proposed plan to the local school board
556 or school district superintendent; and

557 (ii) more than 45 days have passed from the day on which the plan was submitted; and

558 (b) an affidavit, on a form produced by the office, stating:

559 (i) the date that the human services program submitted the proposed plan to the local
560 school board or school district superintendent;

561 (ii) that more than 45 days have passed from the day on which the plan was submitted;
562 and

563 (iii) that the local school board or school district superintendent described in
564 Subsection (5)(b)(i) failed to respond to the proposed plan within 45 days from the day on
565 which the plan was submitted.

566 (6) If a licensee that is licensed to serve an education entitled child fails to comply with
567 its approved educational service plan or educational funding plan, then:

568 (a) the office shall give the licensee notice of intent to revoke the licensee's license; and

569 (b) if the licensee continues its noncompliance for more than 30 days after receipt of
570 the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

571 (7) If an education entitled child whose custodial parent or legal guardian resides
572 within the state is provided with educational services by a school district other than the school
573 district in which the custodial parent or legal guardian resides, then the funding provisions of
574 Section 53A-2-210 apply.

575 (8) A human services program that is an accredited private school:

576 (a) for purposes of Subsection (2):

577 (i) is only required to submit proof to the office that the accreditation of the private
578 school is current; and

579 (ii) is not required to submit an educational service plan for approval by an entity
580 described in Subsection (2)(a)(ii);

581 (b) for purposes of Subsection (3):

582 (i) is only required to submit proof to the office that all costs for educational services
583 provided to education entitled children will be borne by the human services program; and

584 (ii) is not required to submit an educational funding plan for approval by an entity
585 described in Subsection (3)(a)(ii); and

586 (c) is not required to comply with Subsections (4) and (5).

587 (9) Except for Subsection (7), the provisions of this section do not apply to a human
588 services program that is:

589 (a) a foster home; and

590 (b) required to be licensed by the office.

591 Section 13. Section **62A-4a-606** is amended to read:

592 **62A-4a-606. Child placing agency responsibility for educational services --**
593 **Payment of costs.**

594 (1) A child placing agency shall ensure that the requirements of [~~Section 53A-11-101~~]
595 Subsections 53A-11-101.5(2) and 53A-11-101.7(1) are met through the provision of
596 appropriate educational services for all children served in the state by the agency.

597 (2) If the educational services are to be provided through a public school, and:

598 (a) the custodial parent or legal guardian resides outside the state, then the child
599 placing agency shall pay all educational costs required under Sections 53A-2-205 and
600 53A-12-102; or

601 (b) the custodial parent or legal guardian resides within the state, then the child placing
602 agency shall pay all educational costs required under Section 53A-12-102.

603 (3) Children in the custody or under the care of a Utah state agency are exempt from
604 the payment of fees required under Subsection (2).

605 (4) A public school shall admit any child living within its school boundaries who is
606 under the supervision of a child placing agency upon payment by the agency of the tuition and
607 fees required under Subsection (2).

608 Section 14. Section **78-3a-801** is amended to read:

609 **78-3a-801. Jurisdiction over adults for offenses against minors -- Proof of**
610 **delinquency not required for conviction.**

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

614 (a) unlawful sale or supply of alcohol beverage or product to minors in violation of
615 Section 32A-12-203;

616 (b) failure to report child abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,

617 Child Abuse or Neglect Reporting Requirements;
618 (c) harboring a minor in violation of Section 62A-4a-501;
619 (d) misdemeanor custodial interference in violation of Section 76-5-303;
620 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and
621 (f) failure to comply with compulsory education requirements in violation of Section
622 ~~[53A-11-101]~~ 53A-11-101.5.
623 (2) It is not necessary for the minor to be found to be delinquent or to have committed
624 a delinquent act for the court to exercise jurisdiction under Subsection (1).

Legislative Review Note
as of 11-27-06 1:06 PM

Office of Legislative Research and General Counsel

H.B. 207 - School Truancy and Compulsory Education Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/15/2007, 8:57:37 AM, Lead Analyst: Leishman, B.

Office of the Legislative Fiscal Analyst