

1 **ACCOUNTABILITY FOR SCHOOL ATTENDANCE**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jerry W. Stevenson**

5 House Sponsor: Kay L. McIff

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to habitual truants.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ allows a law enforcement officer acting as a school resource officer to issue notices
13 of compulsory education violation, notices of truancy, and habitual truant notices;

14 ▶ specifically exempts a student who attends school at home from truancy violation
15 provisions;

16 ▶ removes exclusive jurisdiction of certain truancy violations from the juvenile court;
17 and

18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25 **53A-11-101.5**, as last amended by Laws of Utah 2009, Chapter 161

26 **53A-11-101.7**, as enacted by Laws of Utah 2007, Chapter 81

27 **53A-11-103**, as last amended by Laws of Utah 2008, Chapter 3

28
29 *Be it enacted by the Legislature of the state of Utah:*

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

31 **53A-11-101.5. Compulsory education.**

32 (1) For purposes of this section:

33 (a) "Intentionally" is as defined in Section 76-2-103.

34 (b) "Recklessly" is as defined in Section 76-2-103.

35 (c) "Remainder of the school year" means the portion of the school year beginning on
36 the day after the day on which the notice of compulsory education violation described in
37 Subsection (3) is served and ending on the last day of the school year.

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

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

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

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

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

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

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

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

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

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

57 (ii) fail to prevent the school-age child from being absent without a valid excuse five or

58 more times during the remainder of the school year;

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

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

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

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

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

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

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

75 ~~[(8) The juvenile court has jurisdiction over an action filed under this section.]~~

76 Section 2. Section **53A-11-101.7** is amended to read:

77 **53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school**
78 **authorities -- Habitual truant citation.**

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

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

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

85 (a) may authorize a school administrator, a designee of a school administrator, a law

86 enforcement officer acting as a school resource officer, or a truancy specialist to issue notices
87 of truancy to school-age minors who are at least 12 years old; and

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

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

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

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

94 (c) may not be issued to a minor exempt from school attendance as provided in Section
95 53A-11-102 or 53A-11-102.5;

96 [~~(c)~~] (d) shall direct the school-age minor and the parent of the school-age minor to:

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

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

100 [~~(d)~~] (e) shall be mailed to, or served on, the school-age minor's parent.

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

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

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

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

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

109 (b) is subject to the jurisdiction of the juvenile court.

110 (7) A notice of truancy or a habitual truant citation may only be issued by:

111 (a) a school administrator, or a truancy specialist, who is authorized by a local school
112 board or local charter board; [~~or~~]

113 (b) a designee of a school administrator described in Subsection (7)(a)[~~]; or~~

114 (c) a law enforcement officer acting as a school resource officer.

115 (8) Nothing in this part prohibits a local school board, local charter board, or school
116 district from taking action to resolve a truancy problem with a school-age minor who has been
117 truant less than five times, provided that the action does not conflict with the requirements of
118 this part.

119 (9) Nothing in this part allows a local school board or charter school governing board
120 to issue a citation pursuant to this section if the minor is exempt from school attendance as
121 provided in Section 53A-11-102 or 53A-11-102.5.

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

123 **53A-11-103. Duties of a school board, local charter board, or school district in**
124 **resolving attendance problems -- Parental involvement -- Liability not imposed.**

125 (1) (a) ~~[A]~~ Except as provided in Subsection (1)(b), a local school board, local charter
126 board, or school district shall make efforts to resolve the school attendance problems of each
127 school-age minor who is, or should be, enrolled in the school district.

128 (b) A minor exempt from school attendance under Section 53A-11-102 or
129 53A-11-102.5 is not considered to be a minor who is or should be enrolled in a school district
130 or charter school under Subsection (1)(a).

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

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

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

135 (c) issuing a habitual truant citation, in accordance with Section 53A-11-101.7;

136 ~~[(e)]~~ (d) issuing a notice of compulsory education violation to a parent of a school-age
137 child, in accordance with Section 53A-11-101.5;

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

140 ~~[(e)]~~ (f) considering alternatives proposed by a parent;

141 ~~[(f)]~~ (g) monitoring school attendance of the minor;

142 [~~g~~] (h) voluntary participation in truancy mediation, if available; and

143 [~~h~~] (i) providing a school-age minor's parent, upon request, with a list of resources
144 available to assist the parent in resolving the school-age minor's attendance problems.

145 (3) In addition to the efforts described in Subsection (2), the local school board, local
146 charter board, or school district may enlist the assistance of community and law enforcement
147 agencies as appropriate and reasonably feasible.

148 (4) This section shall not impose any civil liability on boards of education, local school
149 boards, local charter boards, school districts, or their employees.

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