

1 **SCHOOL ABSENTEEISM AND TRUANCY AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: V. Lowry Snow**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Education Interim Committee recommended this bill.

10 Legislative Vote: 10 voting for 3 voting against 6 absent

11 **General Description:**

12 This bill amends provisions related to truancy.

13 **Highlighted Provisions:**

14 This bill:

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

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53G-6-201**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-6-202**, as last amended by Laws of Utah 2019, Chapter 293

33 **53G-6-203**, as last amended by Laws of Utah 2019, Chapter 293

34 **53G-6-205**, as last amended by Laws of Utah 2019, Chapter 293

35 **53G-6-206**, as last amended by Laws of Utah 2019, Chapter 293

36 **53G-8-211**, as last amended by Laws of Utah 2019, Chapter 293



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

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

40 **53G-6-201. Definitions.**

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

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

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

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

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

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

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

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

52 As used in this part:

53 [~~(3)~~] (1) "Minor" means a person under the age of 18 years.

54 [~~(4)~~] (2) "Parent" includes:

55 (a) a custodial parent of the minor;

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

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

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

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

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

63 [~~(b) is not emancipated.~~]

64 [~~(6)~~] (4) "School year" means the period of time designated by a local school board or
 65 charter school governing board as the school year for the school where the school-age minor:

66 (a) is enrolled; or

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

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

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

70 (b) is not emancipated.

71 [~~(7)~~] (6) (a) "Truant" means [absent without a valid excuse.] a condition in which a
 72 school-age minor, without a valid excuse, and subject to Subsection (6)(b), is:

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

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

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

78 [~~(8)~~] (7) "Truant minor" means a school-age minor who:

79 (a) is subject to the requirements of Section [53G-6-202](#) or [53G-6-203](#); and

80 (b) is truant.

81 [~~(9)~~] (8) (a) "Valid excuse" means:

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

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

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

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

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

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

90 (v) an absence permitted in accordance with Subsection 53G-6-803(5); or
 91 ~~[(e)]~~ (vi) any other excuse established as valid by a local school board, charter school
 92 governing board, or school district.

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

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

98 **53G-6-202. Compulsory education.**

99 (1) For purposes of this section:

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

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

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

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

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

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

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

115 (a) in grade 1 through 6; and

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

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

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

120 (i) meet with school authorities to discuss the school-age ~~[child's]~~ minor's school

121 attendance problems; and

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (a) identifying information of the ~~[child]~~ school-age minor and the ~~[child's]~~ parent who

152 received the notice of compulsory education violation;

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

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

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

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

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

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

163 **53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school**
164 **authorities.**

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

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

171 (a) in grade 7 or above; and

172 (b) truant.

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

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

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

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

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

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

185 (c) may not be issued to a school-age minor exempt from school attendance as
186 provided in Section [53G-6-204](#) or [53G-6-702](#);

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

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

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

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

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

197 Section 4. Section [53G-6-205](#) is amended to read:

198 **53G-6-205. Preapproval of extended absence.**

199 In determining whether to preapprove an extended absence of a school-age minor as a
200 valid excuse [~~under Subsection [53G-6-201\(9\)\(c\)](#)~~], a local school board, charter school
201 governing board, or school district shall approve the absence if the local school board, charter
202 school governing board, or school district determines that the extended absence will not
203 adversely impact the school-age minor's education.

204 Section 5. Section [53G-6-206](#) is amended to read:

205 **53G-6-206. Duties of a local school board, charter school governing board, or**
206 **school district in resolving attendance problems -- Parental involvement -- Liability not**
207 **imposed -- Report to state board.**

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

212 (b) A school-age minor exempt from school attendance under Section [53G-6-204](#) or
213 [53G-6-702](#) is not considered to be a school-age minor who is or should be enrolled in a school

214 district or charter school under Subsection (1)(a).

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

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

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

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

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

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

224 ~~[(f)]~~ ~~(e)~~ monitoring school attendance of the school-age minor;

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

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

228 (3) In addition to the efforts described in Subsection (2), the local school board, charter
229 school governing board, or school district may enlist the assistance of community and law
230 enforcement agencies as appropriate and reasonably feasible in accordance with Section
231 [53G-8-211](#).

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

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

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

238 Section 6. Section [53G-8-211](#) is amended to read:

239 **[53G-8-211. Responses to school-based behavior.](#)**

240 (1) As used in this section:

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

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

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

245 (iii) been approved by the state board.

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

247 (i) is in grade 7 or above;

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

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

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

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

254 [~~(c)~~] (d) "Restorative justice program" means a school-based program or a program
255 used or adopted by a local education agency that is designed to enhance school safety, reduce
256 school suspensions, and limit referrals to court, and is designed to help minors take
257 responsibility for and repair the harm of behavior that occurs in school.

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

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

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

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

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

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

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

275 (C) the activity is supported or subsidized, more than inconsequentially, by public

276 funds, including the public school's activity funds or Minimum School Program dollars.

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

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

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

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

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

286 (i) when school is in session; or

287 (ii) during a school-sponsored activity; or

288 (b) that is truancy.

289 (3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense
290 on school property, or truancy, the minor may not be referred to law enforcement or court but
291 may be referred to evidence-based alternative interventions, including:

292 (i) a mobile crisis outreach team, as defined in Section [78A-6-105](#);

293 (ii) a receiving center operated by the Division of Juvenile Justice Services in
294 accordance with Section [62A-7-104](#);

295 (iii) a youth court or comparable restorative justice program;

296 (iv) evidence-based interventions created and developed by the school or school
297 district; and

298 (v) other evidence-based interventions that may be jointly created and developed by a
299 local education agency, the state board, the juvenile court, local counties and municipalities,
300 the Department of Health, or the Department of Human Services.

301 (b) Notwithstanding Subsection (3)(a), a school resource officer may:

302 (i) investigate possible criminal offenses and conduct, including conducting probable
303 cause searches;

304 (ii) consult with school administration about the conduct of a minor enrolled in a
305 school;

306 (iii) transport a minor enrolled in a school to a location if the location is permitted by

307 law;

308 (iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or

309 (v) protect the safety of students and the school community, including the use of

310 reasonable and necessary physical force when appropriate based on the totality of the

311 circumstances.

312 (c) Notwithstanding other provisions of this section, a law enforcement officer who has

313 cause to believe a minor has committed an offense on school property when school is not in

314 session nor during a school-sponsored activity, the law enforcement officer may refer the minor

315 to court or may refer the minor to evidence-based alternative interventions at the discretion of

316 the law enforcement officer.

317 (4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this

318 Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor

319 committed on school property or for being a habitual truant~~[, as defined in Section 53G-6-201,]~~

320 if the minor refuses to participate in an evidence-based alternative intervention described in

321 Subsection (3)(a).

322 (b) (i) When a minor is referred to court under Subsection (4)(a), the school shall

323 appoint a school representative to continue to engage with the minor and the minor's family

324 through the court process.

325 (ii) A school representative appointed under this Subsection (4)(b) may not be a school

326 resource officer.

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

328 (i) attendance records for the minor;

329 (ii) a report of evidence-based alternative interventions used by the school before

330 referral, including outcomes;

331 (iii) the name and contact information of the school representative assigned to actively

332 participate in the court process with the minor and the minor's family; and

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

334 (d) A minor referred to court under this Subsection (4), may not be ordered to or placed

335 in secure detention, including for a contempt charge or violation of a valid court order under

336 Section 78A-6-1101 when the underlying offense is a class C misdemeanor occurring on

337 school property or habitual truancy.

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

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