

Representative V. Lowry Snow proposes the following substitute bill:

SCHOOL ABSENTEEISM AND TRUANCY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to truancy.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53G-6-201**, as last amended by Laws of Utah 2019, Chapter 293

29 **53G-6-202**, as last amended by Laws of Utah 2019, Chapter 293

30 **53G-6-203**, as last amended by Laws of Utah 2019, Chapter 293

31 **53G-6-204**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-6-205**, as last amended by Laws of Utah 2019, Chapter 293

33 **53G-6-206**, as last amended by Laws of Utah 2019, Chapter 293

34 **53G-6-208**, as last amended by Laws of Utah 2019, Chapter 293

35 **53G-8-210**, 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~~] As used in this part:

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

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

47 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
48 for the sake of a truancy.

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

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

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

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

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

55 [~~(3)~~] (2) "Minor" means a person under the age of 18 years.

56 [~~(4)~~] (3) "Parent" includes:

- 57 (a) a custodial parent of the minor;
- 58 (b) a legally appointed guardian of a minor; or
- 59 (c) any other person purporting to exercise any authority over the minor which could be
- 60 exercised by a person described in Subsection ~~[(4)(a)]~~ (3)(a) or (b).

61 (4) "School day" means the portion of a day that school is in session in which a
 62 school-age child is required to be in school for purposes of receiving instruction.

63 ~~[(5) "School-age minor" means a minor who:]~~
 64 ~~[(a) is at least six years old, but younger than 18 years old; and]~~
 65 ~~[(b) is not emancipated.]~~

66 ~~[(6)]~~ (5) "School year" means the period of time designated by a local school board or
 67 charter school governing board as the school year for the school where the school-age [minor]
 68 child:

- 69 (a) is enrolled; or
- 70 (b) should be enrolled, if the school-age [minor] child is not enrolled in school.

71 (6) "School-age child" means a minor who:
 72 (a) is at least six years old but younger than 18 years old; and
 73 (b) is not emancipated.

74 (7) (a) "Truant" means [absent without a valid excuse:] a condition in which a
 75 school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least
 76 half of the school day.

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

79 (8) "Truant minor" means a school-age [minor] child who:
 80 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and
 81 (b) is truant.

82 (9) (a) "Valid excuse" means:
 83 ~~[(a)]~~ (i) an illness, which may be either mental or physical;
 84 ~~[(b)]~~ (ii) a family death;
 85 ~~[(c)]~~ (iii) an approved school activity;
 86 ~~[(d)]~~ (iv) an absence permitted by a school-age [minor's] child's;

87 ~~[(i)]~~ (A) individualized education program[,- developed pursuant to the Individuals with

88 ~~Disabilities Education Improvement Act of 2004, as amended]; or~~

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

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

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

94 ~~(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason~~
95 ~~other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted~~
96 ~~by the local school board, charter school governing board, or school district under Subsection~~
97 ~~(9)(a)(vi).~~

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

99 **53G-6-202. Compulsory education.**

100 (1) For purposes of this section:

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

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

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

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

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

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

112 (3) A school administrator, a designee of a school administrator, a law enforcement
113 officer acting as a school resource officer, or a truancy specialist may only issue a notice of
114 compulsory education violation to a parent of a school-age child if the school-age child 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 school attendance
- 121 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;
- 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 school attendance problems; or
- 129 (ii) fail to prevent the school-age child from being [~~absent without a valid excuse~~]
- 130 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 has been truant at least five times
- 134 during the school year.
- 135 (5) It is a class B misdemeanor for a parent of a school-age [~~minor~~] child to
- 136 intentionally or [~~recklessly~~] without good cause fail to enroll the school-age [~~minor~~] child in
- 137 school, unless the school-age [~~minor~~] child is exempt from enrollment under Section
- 138 [53G-6-204](#) or [53G-6-702](#).
- 139 (6) It is a class B misdemeanor for a parent of a school-age child who is in grade 1
- 140 through 6 to, after being served with a notice of compulsory education violation [~~in accordance~~
- 141 ~~with Subsections (3) and (4)~~], intentionally or [~~recklessly~~] without good cause:
- 142 (a) fail to meet with the school authorities designated in the notice of compulsory
- 143 education violation to discuss the school-age child's school attendance problems; or
- 144 (b) fail to prevent the school-age child from being absent without a valid excuse five or
- 145 more times during the remainder of the school year.
- 146 (7) A local school board, charter school governing board, or school district shall report
- 147 violations of this section to the appropriate county or district attorney.
- 148 (8) If school personnel have reason to believe that, after a notice of compulsory
- 149 education violation is issued, the parent has failed to make a good faith effort to ensure that the

150 school-age child receives an appropriate education, the issuer of the compulsory education
151 violation shall report to the Division of Child and Family Services:

- 152 (a) identifying information of the school-age child and the [~~child's~~] parent who
153 received the notice of compulsory education violation;
- 154 (b) information regarding the longest number of consecutive school days the
155 school-age [~~minor~~] child has been absent or truant from school and the percentage of school
156 days the school-age child has been absent or truant during each relevant school term;
- 157 (c) whether the school-age child has made adequate educational progress;
- 158 (d) whether the requirements of Section 53G-6-206 have been met;
- 159 (e) whether the school-age child is two or more years behind the local public school's
160 age group expectations in one or more basic skills; and
- 161 (f) whether the school-age child is receiving special education services or systematic
162 remediation efforts.

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

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

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

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

- 172 (a) in grade 7 or above, unless the school-age child is less than 12 years old; and
173 (b) truant.

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

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

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

- 181 (4) ~~[The]~~ A notice of truancy described in Subsection (3):
- 182 (a) may not be issued until ~~[the]~~ a school-age ~~[minor]~~ child has been truant at least five
- 183 times during the school year;
- 184 (b) may not be issued to a school-age ~~[minor]~~ child who is less than 12 years old or in a
- 185 grade below grade 7;
- 186 (c) may not be issued to a ~~[minor]~~ school-age child exempt from school attendance as
- 187 provided in Section [53G-6-204](#) or [53G-6-702](#);
- 188 (d) shall direct the school-age ~~[minor]~~ child who receives the notice of truancy and the
- 189 parent of the school-age ~~[minor]~~ child to:
- 190 (i) meet with school authorities to discuss the school-age ~~[minor's]~~ child's truancies;
- 191 and
- 192 (ii) cooperate with the local school board, charter school governing board, or school
- 193 district in securing regular attendance by the school-age ~~[minor]~~ child; and
- 194 (e) shall be mailed to, or served on, the school-age ~~[minor's]~~ child's parent.
- 195 (5) Nothing in this part prohibits a local school board, charter school governing board,
- 196 or school district from taking action to resolve a truancy problem with a school-age ~~[minor]~~
- 197 child who has been truant ~~[less]~~ fewer than five times, provided that the action does not
- 198 conflict with the requirements of this part.

199 Section 4. Section **53G-6-204** is amended to read:

200 **53G-6-204. School-age children exempt from school attendance.**

- 201 (1) (a) A local school board or charter school governing board may excuse a school-age
- 202 ~~[minor]~~ child from attendance for any of the following reasons:
- 203 (i) a school-age ~~[minor]~~ child over age 16 may receive a partial release from school to
- 204 enter employment, or attend a trade school, if the school-age ~~[minor]~~ child has completed grade
- 205 8; or
- 206 (ii) on an annual basis, a school-age ~~[minor]~~ child may receive a full release from
- 207 attending a public, regularly established private, or part-time school or class if:
- 208 (A) the school-age ~~[minor]~~ child has already completed the work required for
- 209 graduation from high school, or has demonstrated mastery of required skills and competencies
- 210 in accordance with Subsection [53F-2-501](#)(1);
- 211 (B) the school-age ~~[minor]~~ child is in a physical or mental condition, certified by a

212 competent physician if required by the local school board or charter school governing board,
213 which renders attendance inexpedient and impracticable;

214 (C) proper influences and adequate opportunities for education are provided in
215 connection with the school-age [minor's] child's employment; or

216 (D) the district superintendent or charter school governing board has determined that a
217 school-age [minor] child over the age of 16 is unable to profit from attendance at school
218 because of inability or a continuing negative attitude toward school regulations and discipline.

219 (b) A school-age [minor] child receiving a partial release from school under Subsection
220 (1)(a)(i) is required to attend:

221 (i) school part time as prescribed by the local school board or charter school governing
222 board; or

223 (ii) a home school part time.

224 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
225 must be sufficient to satisfy the local school board or charter school governing board.

226 (d) A local school board or charter school governing board that excuses a school-age
227 [minor] child from attendance as provided by this Subsection (1) shall issue a certificate that
228 the [minor] child is excused from attendance during the time specified on the certificate.

229 (2) (a) A local school board shall excuse a school-age [minor] child from attendance, if
230 the school-age [minor's] child's parent files a signed and notarized affidavit with the school-age
231 [minor's] child's school district of residence, as defined in Section 53G-6-302, that:

232 (i) the school-age [minor] child will attend a home school; and

233 (ii) the parent assumes sole responsibility for the education of the school-age [minor]
234 child, except to the extent the school-age [minor] child is dual enrolled in a public school as
235 provided in Section 53G-6-702.

236 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
237 remain in effect as long as:

238 (i) the school-age [minor] child attends a home school; and

239 (ii) the school district where the affidavit was filed remains the school-age [minor's]
240 child's district of residence.

241 (c) A parent of a school-age [minor] child who attends a home school is solely
242 responsible for:

- 243 (i) the selection of instructional materials and textbooks;
- 244 (ii) the time, place, and method of instruction; and
- 245 (iii) the evaluation of the home school instruction.
- 246 (d) A local school board may not:
- 247 (i) require a parent of a school-age ~~[minor]~~ child who attends a home school to
- 248 maintain records of instruction or attendance;
- 249 (ii) require credentials for individuals providing home school instruction;
- 250 (iii) inspect home school facilities; or
- 251 (iv) require standardized or other testing of home school students.
- 252 (e) Upon the request of a parent, a local school board shall identify the knowledge,
- 253 skills, and competencies a student is recommended to attain by grade level and subject area to
- 254 assist the parent in achieving college and career readiness through home schooling.
- 255 (f) A local school board that excuses a school-age ~~[minor]~~ child from attendance as
- 256 provided by this Subsection (2) shall annually issue a certificate stating that the school-age
- 257 ~~[minor]~~ child is excused from attendance for the specified school year.
- 258 (g) A local school board shall issue a certificate excusing a school-age ~~[minor]~~ child
- 259 from attendance:
- 260 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
- 261 school-age ~~[minor's]~~ child's parent pursuant to this Subsection (2); and
- 262 (ii) on or before August 1 each year thereafter unless:
- 263 (A) the school-age ~~[minor]~~ child enrolls in a school within the school district;
- 264 (B) the school-age ~~[minor's]~~ child's parent notifies the school district that the
- 265 school-age ~~[minor]~~ child no longer attends a home school; or
- 266 (C) the school-age ~~[minor's]~~ child's parent notifies the school district that the
- 267 school-age ~~[minor's]~~ child's school district of residence has changed.
- 268 (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a)
- 269 is exempt from the application of Subsections [53G-6-202\(2\)](#), (5), and (6).
- 270 (4) Nothing in this section may be construed to prohibit or discourage voluntary
- 271 cooperation, resource sharing, or testing opportunities between a school or school district and a
- 272 parent of a ~~[minor]~~ child attending a home school.
- 273 Section 5. Section **53G-6-205** is amended to read:

274 **53G-6-205. Preapproval of extended absence.**

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

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

281 **53G-6-206. Duties of a local school board, charter school governing board, or**
 282 **school district in resolving attendance problems -- Parental involvement -- Liability not**
 283 **imposed -- Report to state board.**

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

288 (b) A [minor] school-age child exempt from school attendance under Section
 289 **53G-6-204** or **53G-6-702** is not considered to be a [minor] school-age child who is or should
 290 be enrolled in a school district or charter school under Subsection (1)(a).

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

292 (a) counseling of the [minor] school-age child by school authorities;

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

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

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

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

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

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

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

305 (3) In addition to the efforts described in Subsection (2), the local school board, charter
306 school governing board, or school district may enlist the assistance of community and law
307 enforcement agencies as appropriate and reasonably feasible in accordance with Section
308 [53G-8-211](#).

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

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

313 (6) Each LEA shall annually report the following data separately to the state board:

314 (a) absences with a valid excuse; and

315 (b) absences without a valid excuse.

316 Section 7. Section [53G-6-208](#) is amended to read:

317 **[53G-6-208. Taking custody of a person believed to be a truant minor --](#)**
318 **Disposition -- Reports -- Immunity from liability.**

319 (1) A peace officer or public school administrator may take a minor into temporary
320 custody if there is reason to believe the minor is a truant minor.

321 (2) An individual taking a school-age [~~minor~~] child into custody under Subsection (1)
322 shall, without unnecessary delay, release the minor to:

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

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

326 (c) a truancy center established under Subsection (5).

327 (3) If the minor refuses to return to school or go to the truancy center, the officer or
328 administrator shall, without unnecessary delay, notify the minor's parents and release the minor
329 to their custody.

330 (4) If the parents cannot be reached or are unable or unwilling to accept custody and
331 none of the options in Subsection (2) are available, the minor shall be referred to the Division
332 of Child and Family Services.

333 (5) (a) A local school board or charter school governing board, singly or jointly with
334 another school board, may establish or designate truancy centers within existing school
335 buildings and staff the centers with existing teachers or staff to provide educational guidance

336 and counseling for truant minors. Upon receipt of a truant minor, the center shall, without
337 unnecessary delay, notify and direct the minor's parents to come to the center, pick up the
338 minor, and return the minor to the school in which the minor is enrolled.

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

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

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

349 (8) Nothing in this section may be construed to grant authority to a public school
350 administrator to place a minor in the custody of the Division of Child and Family Services,
351 without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A,
352 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

353 Section 8. Section **53G-8-210** is amended to read:

354 **53G-8-210. Disruptive student behavior.**

355 (1) As used in this section:

356 (a) "Disruptive student behavior" includes:

357 (i) the grounds for suspension or expulsion described in Section [53G-8-205](#); and

358 (ii) the conduct described in Subsection [53G-8-209\(2\)\(b\)](#).

359 (b) "Parent" includes:

360 (i) a custodial parent of a school-age ~~minor~~ child;

361 (ii) a legally appointed guardian of a school-age ~~minor~~ child; or

362 (iii) any other person purporting to exercise any authority over the minor which could
363 be exercised by a person described in Subsection (1)(b)(i) or (ii).

364 (c) "Qualifying minor" means a school-age ~~minor~~ child who:

365 (i) is at least nine years old; or

366 (ii) turns nine years old at any time during the school year.

367 (d) "School year" means the period of time designated by a local school board or
368 charter school governing board as the school year for the school where the school-age [~~minor~~]
369 child is enrolled.

370 (e) "School-age minor" means the same as that term is defined in Section [53G-6-201](#).

371 (2) A local school board, school district, charter school governing board, or charter
372 school may impose administrative penalties in accordance with Section [53G-8-211](#) on a
373 school-age [~~minor~~] child who violates this part.

374 (3) (a) A local school board or charter school governing board shall:

375 (i) authorize a school administrator or a designee of a school administrator to issue
376 notices of disruptive student behavior to qualifying minors; and

377 (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to
378 contest a notice of disruptive student behavior.

379 (b) A school representative shall provide to a parent of a school-age [~~minor~~] child, a
380 list of resources available to assist the parent in resolving the school-age minor's disruptive
381 student behavior problem.

382 (c) A local school board or charter school governing board shall establish procedures
383 for a school counselor or other designated school representative to work with a qualifying
384 minor who engages in disruptive student behavior in order to attempt to resolve the minor's
385 disruptive student behavior problems.

386 (4) The notice of disruptive student behavior described in Subsection (3)(a):

387 (a) shall be issued to a qualifying minor who:

388 (i) engages in disruptive student behavior, that does not result in suspension or
389 expulsion, three times during the school year; or

390 (ii) engages in disruptive student behavior, that results in suspension or expulsion, once
391 during the school year;

392 (b) shall require that the qualifying minor and a parent of the qualifying minor:

393 (i) meet with school authorities to discuss the qualifying minor's disruptive student
394 behavior; and

395 (ii) cooperate with the local school board or charter school governing board in
396 correcting the school-age minor's disruptive student behavior; and

397 (c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

398 (5) A habitual disruptive student behavior notice:
399 (a) may only be issued to a qualifying minor who:
400 (i) engages in disruptive student behavior, that does not result in suspension or
401 expulsion, at least six times during the school year;
402 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
403 expulsion, at least three times during the school year; and
404 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
405 least once during the school year; or
406 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
407 least twice during the school year; and
408 (b) may only be issued by a school administrator, a designee of a school administrator,
409 or a truancy specialist, who is authorized by a local school board or charter school governing
410 board to issue a habitual disruptive student behavior notice.
411 (6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is
412 issued under Subsection (5) may not be referred to the juvenile court.

413 (b) Within five days after the day on which a habitual disruptive student behavior
414 notice is issued, a representative of the school district or charter school shall provide
415 documentation, to a parent of the qualifying minor who receives the notice, of the efforts made
416 by a school counselor or representative under Subsection (3)(c).

417 Section 9. Section **53G-8-211** is amended to read:

418 **53G-8-211. Responses to school-based behavior.**

419 (1) As used in this section:

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

- 421 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
422 program or practice is effective for a specific population;
- 423 (ii) been rated as effective by a standardized program evaluation tool; or
- 424 (iii) been approved by the state board.

425 (b) "Habitual truant" means a school-age child who:

- 426 (i) is in grade 7 or above;
- 427 (ii) is subject to the requirements of Section [53G-6-202](#); and
- 428 (iii) (A) is truant at least 10 times during one school year; or

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

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

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

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

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

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

445 (h) "School-age child" means the same as that term is defined in Section [53G-6-201](#).

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

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

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

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

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

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

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

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

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

465 (i) when school is in session; or

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

467 (b) that is truancy.

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

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

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

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

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

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

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

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

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

485 (iii) transport a minor enrolled in a school to a location if the location is permitted by
486 law;

487 (iv) take temporary custody of a minor pursuant to Subsection [78A-6-112\(1\)](#); or

488 (v) protect the safety of students and the school community, including the use of
489 reasonable and necessary physical force when appropriate based on the totality of the
490 circumstances.

491 (c) Notwithstanding other provisions of this section, a law enforcement officer who has
492 cause to believe a minor has committed an offense on school property when school is not in
493 session nor during a school-sponsored activity, the law enforcement officer may refer the minor
494 to court or may refer the minor to evidence-based alternative interventions at the discretion of
495 the law enforcement officer.

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

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

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

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

507 (i) attendance records for the minor;

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

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

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

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

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

520 (5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the
521 minor may be referred directly to the juvenile court by the school administrator, the school

522 administrator's designee, or a school resource officer, or the minor may be referred to the
523 evidence-based alternative interventions in Subsection (3)(a).