

HB0014S02 compared with HB0014S01

~~deleted text~~ shows text that was in HB0014S01 but was deleted in HB0014S02.

inserted text shows text that was not in HB0014S01 but was inserted into HB0014S02.

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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

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Education; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

53G-8-210, as last amended by Laws of Utah 2019, Chapter 293

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

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

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

53G-6-201. Definitions.

~~[For purposes of]~~ As used in this part:

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

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

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

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

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

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

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

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

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

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

(a) a custodial parent of the minor;

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

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection ~~[(4)(a)]~~ (3)(a) or (b).

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

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

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

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

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

(a) is enrolled; or

(b) should be enrolled, if the school-age ~~[minor]~~ child is not enrolled in school.

(6) "School-age child" means a minor who:

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

(b) is not emancipated.

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

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

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

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

(b) is truant.

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(9) (a) "Valid excuse" means:

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

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

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

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

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

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

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

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

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

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

53G-6-202. Compulsory education.

(1) For purposes of this section:

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

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

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

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

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

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

(3) A school administrator, a designee of a school administrator, a law enforcement

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officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:

(a) in grade 1 through 6; and

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

(4) [~~The~~] A notice of compulsory education violation[~~, described in Subsection (3)~~]

issued to a parent:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) identifying information of the school-age child and the ~~[child's]~~ parent who received the notice of compulsory education violation;

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

(c) whether the school-age child has made adequate educational progress;

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

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

(f) whether the school-age child is receiving special education services or systematic remediation efforts.

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

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

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

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

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

(b) truant.

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

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

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

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

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

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

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

(d) shall direct the school-age ~~[minor]~~ child who receives the notice of truancy and the parent of the school-age ~~[minor]~~ child to:

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

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

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

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

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

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

(1) (a) A local school board or charter school governing board may excuse a school-age ~~[minor]~~ child from attendance for any of the following reasons:

(i) a school-age ~~[minor]~~ child over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age ~~[minor]~~ child has completed grade 8; or

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

(A) the school-age [minor] child has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53F-2-501(1);

(B) the school-age [minor] child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

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

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

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

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

(ii) a home school part time.

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

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

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

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

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

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall

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remain in effect as long as:

- (i) the school-age [~~minor~~] child attends a home school; and
- (ii) the school district where the affidavit was filed remains the school-age [~~minor's~~]

child's district of residence.

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

- (i) the selection of instructional materials and textbooks;
- (ii) the time, place, and method of instruction; and
- (iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age [~~minor~~] child who attends a home school to maintain records of instruction or attendance;

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

(iii) inspect home school facilities; or

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

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age [~~minor~~] child from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age [~~minor~~] child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age [~~minor~~] child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age [~~minor's~~] child's parent pursuant to this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age [~~minor~~] child enrolls in a school within the school district;

(B) the school-age [~~minor's~~] child's parent notifies the school district that the school-age [~~minor~~] child no longer attends a home school; or

(C) the school-age [~~minor's~~] child's parent notifies the school district that the school-age [~~minor's~~] child's school district of residence has changed.

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(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

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

Section 5. Section **53G-6-205** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) absences with a valid excuse; and

(b) absences without a valid excuse.

Section 7. Section **53G-6-208** is amended to read:

53G-6-208. Taking custody of a person believed to be a truant minor --

Disposition -- Reports -- Immunity from liability.

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

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

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

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

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

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

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

(5) (a) (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

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

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

(6) (a) Action taken under this section shall be reported to the appropriate school district.

(b) The district shall promptly notify the minor's parents of the action taken.

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

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

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

53G-8-210. Disruptive student behavior.

(1) As used in this section:

(a) "Disruptive student behavior" includes:

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

(ii) the conduct described in Subsection 53G-8-209(2)(b).

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(b) "Parent" includes:

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

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

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

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

(i) is at least nine years old; or

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

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

(e) "~~{School-age minor}~~ School-age child" means the same as that term is defined in Section ~~{53G-6-201}~~ 53G-6-201.

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

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

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

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

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

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

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

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

(i) engages in disruptive student behavior, that does not result in suspension or

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expulsion, three times during the school year; or

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

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

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

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

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

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board to issue a habitual disruptive student behavior notice.

(6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

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

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

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

(1) As used in this section:

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

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

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

(iii) been approved by the state board.

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

(i) is in grade 7 or above, ~~unless the school-age child is less than 12 years old;~~

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

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

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

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

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

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

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

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

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

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

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

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or local education agency or public school employee;

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

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

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

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

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

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

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

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) that is truancy.

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

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

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

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

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

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

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

(i) investigate possible criminal offenses and conduct, including conducting probable

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cause searches;

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

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

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

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

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

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

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

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

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

(i) attendance records for the minor;

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

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

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

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

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

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