

1 **TRUANCY ENFORCEMENT MORATORIUM**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 House Sponsor: Candice B. Pierucci

7 **LONG TITLE**

8 **General Description:**

9 This bill decriminalizes certain truancy violations until 2022.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ decriminalizes certain truancy violations until 2022;
- 13 ▶ prohibits the issuance and enforcement of notices of compulsory education violation
- 14 and notices of truancy during the moratorium;
- 15 ▶ suspends certain reporting requirements during the moratorium;
- 16 ▶ clarifies the application of certain exemptions; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides a special effective date.

22 This bill provides revisor instructions.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53G-6-202**, as last amended by Laws of Utah 2020, Chapter 20

26 **53G-6-203**, as last amended by Laws of Utah 2020, Chapter 20

27 **53G-6-204**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14

28 **53G-6-208**, as last amended by Laws of Utah 2020, Chapter 20

29 **53G-8-211**, as last amended by Laws of Utah 2020, Chapters 20 and 214

30 **Utah Code Sections Affected by Revisor Instructions:**

31 **53G-6-202**, as last amended by Laws of Utah 2020, Chapter 20

32 **53G-6-208**, as last amended by Laws of Utah 2020, Chapter 20

33 **53G-8-211**, as last amended by Laws of Utah 2020, Chapters 20 and 214



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

36 Section 1. Section **53G-6-202** is amended to read:

37 **53G-6-202. Compulsory education.**

38 (1) [~~For purposes of~~] As used in this section:

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

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

42 (c) "Remainder of the school year" means the portion of the school year beginning on
43 the day after the day on which a notice of compulsory education violation is served and ending
44 on the last day of the school year.

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

48 (3) A school administrator, a designee of a school administrator, a law enforcement
49 officer acting as a school resource officer, or a truancy specialist may only issue a notice of
50 compulsory education violation to a parent of a school-age child if the school-age child is:

51 (a) in grade 1 through 6; and

52 (b) truant at least five times during the school year.

53 (4) A notice of compulsory education violation issued to a parent:

54 (a) shall direct the parent to:

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

57 (ii) cooperate with the local school board, charter school governing board, or school

58 district in securing regular attendance by the school-age child;

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

60 (c) shall state that it is a class B misdemeanor for the parent to intentionally or without
61 good cause:

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

64 (ii) fail to prevent the school-age child from being truant five or more times during the
65 remainder of the school year;

66 (d) shall be served on the parent by personal service or certified mail; and

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

69 (5) [~~H~~] Except during the period between the effective date of this bill and June 1,
70 2022, it is a class B misdemeanor for a parent of a school-age child to intentionally or without
71 good cause fail to enroll the school-age child in school, unless the school-age child is exempt
72 from enrollment under Section 53G-6-204 or 53G-6-702.

73 (6) [~~H~~] Except during the period between the effective date of this bill and June 1,
74 2022, it is a class B misdemeanor for a parent of a school-age child who is in grade 1 through 6
75 to, after being served with a notice of compulsory education violation, intentionally or without
76 good cause:

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

79 (b) fail to prevent the school-age child from being truant five or more times during the
80 remainder of the school year.

81 (7) [~~A~~] Except during the period described in Subsections (5) and (6), a local school
82 board, charter school governing board, or school district shall report violations of this section
83 to the appropriate county or district attorney.

84 (8) [~~H~~] Except during the period described in Subsections (5) and (6), if school
85 personnel have reason to believe that, after a notice of compulsory education violation is

86 issued, the parent has failed to make a good faith effort to ensure that the school-age child
87 receives an appropriate education, the issuer of the compulsory education violation shall report
88 to the Division of Child and Family Services:

89 (a) identifying information of the school-age child and the parent who received the
90 notice of compulsory education violation;

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

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

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

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

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

100 (9) Notwithstanding this section, during the period described in Subsections (5) and
101 (6), a school administrator, designee of a school administrator, law enforcement officer acting
102 as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of
103 compulsory education.

104 Section 2. Section 53G-6-203 is amended to read:

105 **53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school**
106 **authorities.**

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

110 (2) ~~[It]~~ Except during the period between the effective date of this bill and June 1,
111 2022, accordance with Section 53G-8-211, a local school board, charter school governing
112 board, or school district may impose administrative penalties on a school-age child who is:

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

114 (b) truant.

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

116 (a) may authorize a school administrator, a designee of a school administrator, a law
117 enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice
118 of truancy in accordance with Subsection (4); and

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

121 (4) A notice of truancy described in Subsection (3):

122 (a) may not be issued until a school-age child has been truant at least five times during
123 the school year;

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

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

128 (d) shall direct the school-age child who receives the notice of truancy and the parent
129 of the school-age child to:

130 (i) meet with school authorities to discuss the school-age child's trancies; and
131 (ii) cooperate with the local school board, charter school governing board, or school
132 district in securing regular attendance by the school-age child; and

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

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

138 (b) A local school board, charter school governing board, or school district may not
139 take punitive action to resolve a truancy problem with a school-age child during the period
140 described in Subsection (2).

141 (6) Notwithstanding this section, during the period described in Subsection (2), a

142 school administrator, designee of a school administrator, law enforcement officer acting as a
143 school resource officer, or truancy specialist may not issue or otherwise enforce a notice of
144 truancy.

145 Section 3. Section **53G-6-204** is amended to read:

146 **53G-6-204. School-age children exempt from school attendance.**

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

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

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

153 (A) the school-age child has already completed the work required for graduation from
154 high school;

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

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

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

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

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

167 (ii) a home school part time.

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

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

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

- 176 (i) the school-age child will attend a home school; and
- 177 (ii) the parent assumes sole responsibility for the education of the school-age child,
178 except to the extent the school-age child is dual enrolled in a public school as provided in
179 Section 53G-6-702.

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

- 182 (i) the school-age child attends a home school; and
- 183 (ii) the school district where the affidavit was filed remains the school-age child's
184 district of residence.

185 (c) A parent of a school-age child who attends a home school is solely responsible for:

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

189 (d) A local school board may not:

- 190 (i) require a parent of a school-age child who attends a home school to maintain
191 records of instruction or attendance;
- 192 (ii) require credentials for individuals providing home school instruction;
- 193 (iii) inspect home school facilities; or
- 194 (iv) require standardized or other testing of home school students.

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

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

201 (g) A local school board shall issue a certificate excusing a school-age child from
202 attendance:

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

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

206 (A) the school-age child enrolls in a school within the school district;

207 (B) the school-age child's parent notifies the school district that the school-age child no
208 longer attends a home school; or

209 (C) the school-age child's parent notifies the school district that the school-age child's
210 school district of residence has changed.

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

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

216 (b) The exemptions in this section apply regardless of whether:

217 (i) a parent provides education instruction to the parent's child alone or in cooperation
218 with other parents similarly exempted under this section; or

219 (ii) the parent makes payment for educational services the parent's child receives.

220 Section 4. Section 53G-6-208 is amended to read:

221 **53G-6-208. Taking custody of a person believed to be a truant minor --**

222 **Disposition -- Reports -- Immunity from liability.**

223 (1) [A] Except during the period between the effective date of this bill and June 1,
224 2022, a peace officer or public school administrator may take a minor into temporary custody if
225 there is reason to believe the minor is a truant minor.

226 (2) An individual taking a presumed truant minor into custody under Subsection (1)
227 shall, without unnecessary delay, release the minor to:

- 228 (a) the principal of the minor's school;
- 229 (b) a person who has been designated by the local school board or charter school
230 governing board to receive and return the minor to school; or
- 231 (c) a truancy center established under Subsection (5).

232 (3) If the minor described in Subsection (2) refuses to return to school or go to the
233 truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's
234 parents and release the minor to their custody.

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

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

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

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

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

252 (6) (a) [~~Action taken~~] An individual taking action under this section shall [~~be reported~~]
253 report the action to the appropriate school district.

254 (b) The district described in Subsection (6)(a) shall promptly notify the minor's parents
255 of the action taken.

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

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

262 Section 5. Section **53G-8-211** is amended to read:

263 **53G-8-211. Responses to school-based behavior.**

264 (1) As used in this section:

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

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

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

269 (iii) been approved by the state board.

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

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

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

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

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

276 (c) "Minor" means the same as that term is defined in Section [78A-6-105](#).

277 (d) "Mobile crisis outreach team" means the same as that term is defined in Section
278 [78A-6-105](#).

279 (e) "Prosecuting attorney" means the same as that term is defined in Subsections
280 [78A-6-105](#)(46)(b) and (c).

281 (f) "Restorative justice program" means a school-based program or a program used or

282 adopted by a local education agency that is designed:

283 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
284 enforcement agencies and courts; and

285 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
286 school.

287 (g) "School administrator" means a principal of a school.

288 (h) "School is in session" means a day during which the school conducts instruction for
289 which student attendance is counted toward calculating average daily membership.

290 (i) "School resource officer" means a law enforcement officer, as defined in Section
291 [53-13-103](#), who contracts with, is employed by, or whose law enforcement agency contracts
292 with a local education agency to provide law enforcement services for the local education
293 agency.

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

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

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

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

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

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

307 (l) (i) "Status offense" means an offense that would not be an offense but for the age of
308 the offender.

309 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or

310 felony.

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

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

314 (i) when school is in session; or

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

316 (b) except during the period between the effective date of this bill and June 1, 2022,

317 that is truancy.

318 (3) (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have
319 committed an offense that is a class C misdemeanor, an infraction, a status offense on school
320 property, or an offense that is truancy:

321 (i) a school district or school may not refer the minor to a law enforcement officer or
322 agency or a court; and

323 (ii) a law enforcement officer or agency may not refer the minor to a prosecuting
324 attorney or a court.

325 (b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an
326 offense that is a class C misdemeanor, an infraction, a status offense on school property, or an
327 offense that is truancy, a school district, school, or law enforcement officer or agency may refer
328 the minor to evidence-based alternative interventions, including:

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

330 (ii) a youth services center operated by the Division of Juvenile Justice Services in
331 accordance with Section [62A-7-104](#);

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

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

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

- 338 (c) Notwithstanding Subsection (3)(a), a school resource officer may:
- 339 (i) investigate possible criminal offenses and conduct, including conducting probable
- 340 cause searches;
- 341 (ii) consult with school administration about the conduct of a minor enrolled in a
- 342 school;
- 343 (iii) transport a minor enrolled in a school to a location if the location is permitted by
- 344 law;
- 345 (iv) take temporary custody of a minor in accordance with Subsection 78A-6-112(1);
- 346 or
- 347 (v) protect the safety of students and the school community, including the use of
- 348 reasonable and necessary physical force when appropriate based on the totality of the
- 349 circumstances.

350 (d) Notwithstanding other provisions of this section, if a law enforcement officer has

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

352 session and not during a school-sponsored activity, the law enforcement officer may refer the

353 minor to:

- 354 (i) a prosecuting attorney or a court; or
- 355 (ii) evidence-based alternative interventions at the discretion of the law enforcement
- 356 officer.

357 (e) If a minor is alleged to have committed a traffic offense that is an infraction, a

358 school district, a school, or a law enforcement officer or agency may refer the minor to a

359 prosecuting attorney or a court for the traffic offense.

360 (4) A school district or school shall refer a minor for prevention and early intervention

361 youth services, as described in Section 62A-7-104, by the Division of Juvenile Justice Services

362 for a class C misdemeanor committed on school property or for being a habitual truant if the

363 minor refuses to participate in an evidence-based alternative intervention described in

364 Subsection (3)(b).

365 (5) A school district or school may refer a minor to a court or a law enforcement officer

366 or agency for an alleged class C misdemeanor committed on school property or for allegedly
367 being a habitual truant[~~as defined in Section 53G-6-201;~~] if the minor:

368 (a) refuses to participate in an evidence-based alternative intervention under Subsection
369 (3)(b); and

370 (b) fails to participate in prevention and early intervention youth services provided by
371 the Division of Juvenile Justice Services under Subsection (4).

372 (6) (a) If a minor is referred to a court or a law enforcement officer or agency under
373 Subsection (5), the school shall appoint a school representative to continue to engage with the
374 minor and the minor's family through the court process.

375 (b) A school representative appointed under Subsection (6)(a) may not be a school
376 resource officer.

377 (c) A school district or school shall include the following in the school district's or
378 school's referral to the court or the law enforcement officer or agency:

379 (i) attendance records for the minor;

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

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

384 (iv) a report from the Division of Juvenile Justice Services that demonstrates the
385 minor's failure to complete or participate in prevention and early intervention youth services
386 under Subsection (4); and

387 (v) any other information that the school district or school considers relevant.

388 (d) A minor referred to a court under Subsection (5) may not be ordered to or placed in
389 secure detention, including for a contempt charge or violation of a valid court order under
390 Section 78A-6-1101, when the underlying offense is a class C misdemeanor occurring on
391 school property or habitual truancy.

392 (e) If a minor is referred to a court under Subsection (5), the court may use, when
393 available, the resources of the Division of Juvenile Justice Services or the Division of

394 Substance Abuse and Mental Health to address the minor.

395 (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the
396 school administrator, the school administrator's designee, or a school resource officer may refer
397 the minor directly to a juvenile court or to the evidence-based alternative interventions in
398 Subsection (3)(b).

399 Section 6. **Effective date.**

400 If approved by two-thirds of all the members elected to each house, this bill takes effect
401 upon approval by the governor, or the day following the constitutional time limit of Utah
402 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
403 the date of veto override.

404 Section 7. **Revisor instructions.**

405 The Legislature intends that the Office of Legislative Research and General Counsel, in
406 preparing the Utah Code database for publication, replace the references in the following
407 subsections from "this bill's effective date" to the bill's actual effective date:

408 (1) Subsections [53G-6-202](#)(5) and (6);

409 (2) Subsection [53G-6-208](#)(1); and

410 (3) Subsection [53G-8-211](#)(2)(b).