

CHAPTER 335

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 13-1021

BY REPRESENTATIVE(S) Fields, Court, Duran, Fischer, Ginal, Hullinghorst, Kagan, Labuda, McLachlan, Melton, Mitsch Bush, Pabon, Peniston, Salazar, Schafer, Young, Exum, Hamner, Lee, May, Pettersen, Rosenthal, Ryden;
also SENATOR(S) Hudak, Heath, Jahn, Johnston, Kerr, Newell, Nicholson, Schwartz, Tochtrop, Todd.

AN ACT

CONCERNING MEASURES TO ENSURE THAT STUDENTS COMPLY WITH COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS, AND, IN CONNECTION THEREWITH, LIMITING THE LENGTH OF DETENTION THAT A COURT MAY IMPOSE TO ENFORCE COMPULSORY SCHOOL ATTENDANCE, ALLOWING STUDENTS WHO ARE UNDER JUVENILE COURT JURISDICTION TO OBTAIN A GED, AND SPECIFYING MINIMUM REQUIREMENTS FOR EDUCATION SERVICES PROVIDED IN JUVENILE DETENTION FACILITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-33-104, **add** (4) (b.5) as follows:

22-33-104. Compulsory school attendance. (4) (b.5) EACH BOARD OF EDUCATION IS ENCOURAGED TO ESTABLISH ATTENDANCE PROCEDURES FOR IDENTIFYING STUDENTS WHO ARE CHRONICALLY ABSENT AND TO IMPLEMENT BEST PRACTICES AND RESEARCH-BASED STRATEGIES TO IMPROVE THE ATTENDANCE OF STUDENTS WHO ARE CHRONICALLY ABSENT.

SECTION 2. In Colorado Revised Statutes, 22-33-107, **amend** (3) (a) and (3) (b) introductory portion; and **add** (3) (b) (I.5) as follows:

22-33-107. Enforcement of compulsory school attendance - definitions.
(3) (a) As used in this subsection (3): a

(I) "Child who is habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years ~~having~~ AND WHO HAS four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year. Absences due to suspension or expulsion of a child ~~shall be~~ ARE considered excused

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

absences for purposes of this subsection (3).

(II) "LOCAL COMMUNITY SERVICES GROUP" MEANS THE LOCAL JUVENILE SERVICES PLANNING COMMITTEE CREATED PURSUANT TO SECTION 19-2-211, C.R.S., THE LOCAL COLLABORATIVE MANAGEMENT GROUP CREATED BY A MEMORANDUM OF UNDERSTANDING ENTERED INTO PURSUANT TO SECTION 24-1.9-102, C.R.S., OR ANOTHER LOCAL GROUP OF PUBLIC AGENCIES THAT COLLABORATE WITH THE SCHOOL DISTRICT TO IDENTIFY AND PROVIDE SUPPORT SERVICES FOR STUDENTS.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children ELEMENTARY AND SECONDARY SCHOOL ATTENDANCE, INCLUDING BUT NOT LIMITED TO POLICIES AND PROCEDURES TO WORK WITH CHILDREN who are habitually truant. The policies and procedures shall MUST include provisions for the development of a plan. The plan shall MUST be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. THE APPROPRIATE SCHOOL PERSONNEL ARE ENCOURAGED TO WORK WITH THE LOCAL COMMUNITY SERVICES GROUP TO DEVELOP THE PLAN. The policies and procedures may also include but need not be limited to the following:

(I.5) PROCEDURES TO MONITOR THE ATTENDANCE OF EACH CHILD ENROLLED IN THE SCHOOL DISTRICT TO IDENTIFY EACH CHILD WHO HAS A SIGNIFICANT NUMBER OF UNEXCUSED ABSENCES AND TO WORK WITH THE LOCAL COMMUNITY SERVICES GROUP AND THE CHILD'S PARENT TO IDENTIFY AND ADDRESS THE LIKELY ISSUES UNDERLYING THE CHILD'S TRUANCY, INCLUDING ANY NONACADEMIC ISSUES;

SECTION 3. In Colorado Revised Statutes, 22-33-108, **amend** (5), (6), and (7) as follows:

22-33-108. Judicial proceedings. (5) (a) ~~As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article.~~ IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, IN ENFORCING THE COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS OF THIS ARTICLE, A SCHOOL DISTRICT SHALL EMPLOY BEST PRACTICES AND RESEARCH-BASED STRATEGIES TO MINIMIZE THE NEED FOR COURT ACTION AND THE RISK THAT A COURT WILL ISSUE DETENTION ORDERS AGAINST A CHILD OR PARENT.

(b) A SCHOOL DISTRICT SHALL INITIATE COURT PROCEEDINGS TO COMPEL A CHILD AND THE CHILD'S PARENT TO COMPLY WITH THE ATTENDANCE REQUIREMENTS SPECIFIED IN THIS ARTICLE BUT ONLY AS A LAST-RESORT APPROACH TO ADDRESS THE CHILD'S TRUANCY AND ONLY IF A CHILD CONTINUES TO BE HABITUALLY TRUANT AFTER SCHOOL OR SCHOOL DISTRICT PERSONNEL HAVE CREATED AND IMPLEMENTED A PLAN PURSUANT TO SECTION 22-33-107 (3) TO IMPROVE THE CHILD'S SCHOOL

ATTENDANCE.

(c) BEFORE INITIATING COURT PROCEEDINGS TO COMPEL COMPLIANCE WITH THE ATTENDANCE REQUIREMENTS SPECIFIED IN THIS ARTICLE, THE SCHOOL DISTRICT SHALL GIVE THE CHILD AND THE CHILD'S PARENT WRITTEN NOTICE THAT THE SCHOOL DISTRICT WILL INITIATE PROCEEDINGS IF THE CHILD DOES NOT COMPLY WITH THE ATTENDANCE REQUIREMENTS OF THIS ARTICLE. The school district may combine the notice and summons. If combined, the petition ~~shall~~ MUST state the date on which THE SCHOOL DISTRICT WILL INITIATE proceedings, ~~will be initiated~~, which date ~~shall~~ MUST not be less than five days ~~from~~ AFTER the date of the notice and summons. The notice ~~shall~~ MUST state the provisions of this article with which compliance is required and ~~shall~~ MUST state that the SCHOOL DISTRICT WILL NOT INITIATE proceedings ~~will not be brought~~ if the child complies with ~~that provision~~ THE IDENTIFIED PROVISIONS before the ~~filing of the proceeding~~ PROCEEDINGS ARE FILED.

(d) IF A SCHOOL DISTRICT INITIATES COURT PROCEEDINGS PURSUANT TO THIS SUBSECTION (5), THE SCHOOL DISTRICT, AT A MINIMUM, MUST SUBMIT TO THE COURT EVIDENCE OF:

(I) THE CHILD'S ATTENDANCE RECORD PRIOR TO AND AFTER THE POINT AT WHICH THE CHILD WAS IDENTIFIED AS HABITUALLY TRUANT;

(II) WHETHER THE CHILD WAS IDENTIFIED AS CHRONICALLY ABSENT AND, IF SO, THE STRATEGIES THE SCHOOL DISTRICT USED TO IMPROVE THE CHILD'S ATTENDANCE;

(III) THE INTERVENTIONS AND STRATEGIES USED TO IMPROVE THE CHILD'S ATTENDANCE BEFORE SCHOOL OR SCHOOL DISTRICT PERSONNEL CREATED THE CHILD'S PLAN DESCRIBED IN SECTION 22-33-107 (3); AND

(IV) THE CHILD'S PLAN AND THE EFFORTS OF THE CHILD, THE CHILD'S PARENT, AND SCHOOL OR SCHOOL DISTRICT PERSONNEL TO IMPLEMENT THE PLAN.

(6) ~~In the discretion of~~ The court before which a proceeding to compel attendance is brought MAY ISSUE, IN ITS DISCRETION, an order ~~may be issued~~ against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order ~~may~~ MUST require the child ~~or AND parent or both to follow an appropriate treatment plan that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education~~ TO COOPERATE WITH THE SCHOOL DISTRICT IN COMPLYING WITH THE PLAN CREATED FOR THE CHILD PURSUANT TO SECTION 22-33-107 (3).

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent and the child, the court may order that an ~~investigation~~ ASSESSMENT FOR NEGLECT AS DESCRIBED IN SECTION 19-3-102 (1), C.R.S., be conducted as provided in section ~~19-2-510 (2)~~ 19-3-501, C.R.S. ~~and~~ IN ADDITION, the court may order the child to show cause why he or she should not be held in contempt of court.

(b) The court may ~~include as a sanction~~ IMPOSE SANCTIONS after a finding of contempt ~~an appropriate treatment plan~~ that may include, but need not be limited to,

community service to be performed by the child, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

~~(b)~~ (c) IF THE COURT FINDS THAT THE CHILD HAS REFUSED TO COMPLY WITH THE PLAN CREATED FOR THE CHILD PURSUANT TO SECTION 22-33-107 (3), the court may impose on the child as a sanction for contempt of court a sentence ~~to incarceration to any~~ OF DETENTION FOR NO MORE THAN FIVE DAYS IN A juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402, C.R.S., and any rules promulgated by the Colorado supreme court.

SECTION 4. In Colorado Revised Statutes, **amend** 22-33-104.7 as follows:

22-33-104.7. Eligibility for the general educational development tests.

(1) ~~Any child~~ A STUDENT WHO IS SIXTEEN YEARS OF AGE AND WHO SUBMITS WRITTEN EVIDENCE OF A NEED TO TAKE THE GED TO BE ELIGIBLE FOR AN EDUCATIONAL OR VOCATIONAL PROGRAM ~~shall be~~ IS ELIGIBLE TO SIT FOR THE GED AFTER COMPLYING WITH ALL STATUTORY AND REGULATORY REQUIREMENTS IN REGARD TO GED TESTING.

(2) (a) A STUDENT WHO IS SIXTEEN YEARS OF AGE AND WHO IS SUBJECT TO THE JURISDICTION OF THE JUVENILE COURT IS ELIGIBLE TO SIT FOR THE GED IF THE JUDICIAL OFFICER OR ADMINISTRATIVE HEARING OFFICER WHO HAS RESPONSIBILITY FOR THE STUDENT'S CASE FINDS THAT SITTING FOR THE GED IS IN THE STUDENT'S BEST INTERESTS BASED ON:

(I) THE NUMBER OF CREDITS THAT THE STUDENT HAS EARNED TOWARD HIGH SCHOOL GRADUATION AND THE NUMBER NEEDED TO GRADUATE;

(II) THE OUTCOME OF PREVIOUS CREDIT RECOVERY AND SCHOOL REENGAGEMENT PLANS, IF ANY, CREATED FOR THE STUDENT BY THE SCHOOL IN WHICH THE STUDENT WAS MOST RECENTLY ENROLLED; AND

(III) THE DESIRES OF THE STUDENT AND THE STUDENT'S PARENT CONCERNING RETURNING TO SCHOOL OR SITTING FOR THE GED.

(b) BEFORE SITTING FOR THE GED, A STUDENT WHO IS ELIGIBLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL COMPLY WITH ALL STATUTORY AND REGULATORY REQUIREMENTS IN REGARD TO GED TESTING.

SECTION 5. In Colorado Revised Statutes, 19-2-402, **amend** (3) (a) as follows:

19-2-402. Juvenile detention services and facilities to be provided by department of human services - education. (3) (a) (I) JUVENILES IN A JUVENILE DETENTION FACILITY ARE EXEMPT FROM COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS PURSUANT TO SECTION 22-33-104(2)(f), C.R.S. HOWEVER, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE JUVENILE DETENTION FACILITY AND SCHOOL DISTRICT IN WHICH THE FACILITY IS LOCATED COOPERATE TO ENSURE THAT EACH JUVENILE WHO IS IN DETENTION IS OFFERED EDUCATIONAL SERVICES AT THE GRADE LEVEL IDENTIFIED FOR THE JUVENILE IN A TIME FRAME THAT ALIGNS WITH

THE HOURLY REQUIREMENTS FOR ATTENDANCE SPECIFIED IN SECTION 22-33-104(1), C.R.S.

(II) The school boards of the school districts that a juvenile detention facility serves or in which the juvenile detention facility is located, when requested by the judge of the juvenile court, shall furnish teachers and any books or equipment needed for the proper education of such juveniles as may be present in the juvenile detention facility TO PROVIDE EDUCATIONAL SERVICES THAT ALIGN WITH, AND ARE DESIGNED TO ASSIST EACH JUVENILE IN ACHIEVING, THE STATEWIDE MODEL CONTENT STANDARDS ADOPTED PURSUANT TO SECTION 22-7-1005, C.R.S., FOR EACH JUVENILE'S IDENTIFIED GRADE LEVEL. THE SCHOOL DISTRICTS AND THE PERSONNEL AT THE DETENTION FACILITY SHALL COOPERATE TO ENSURE THAT THE EDUCATIONAL SERVICES ARE AVAILABLE TO THE JUVENILES IN THE FACILITY IN A TIME FRAME THAT ALIGNS WITH THE HOURLY REQUIREMENTS FOR ATTENDANCE SPECIFIED IN SECTION 22-33-104 (1), C.R.S.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2013