

CHAPTER 130

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 93-140

BY SENATORS Ruddick, Owens, Meiklejohn, Norton, Pastore, Rizzuto, and Traylor;
also REPRESENTATIVES Hagedorn, Armstrong, Eisenach, Epps, Friednash, Greenwood, Keller, and Pierson.

AN ACT

CONCERNING SCHOOL ATTENDANCE.

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

SECTION 1. 22-33-104, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-33-104. Compulsory school attendance. (5) (a) THE GENERAL ASSEMBLY HEREBY DECLARES THAT TWO OF THE MOST IMPORTANT FACTORS IN ENSURING A CHILD'S EDUCATIONAL DEVELOPMENT ARE PARENTAL INVOLVEMENT AND PARENTAL RESPONSIBILITY. THE GENERAL ASSEMBLY FURTHER DECLARES THAT IT IS THE OBLIGATION OF EVERY PARENT TO ENSURE THAT EVERY CHILD UNDER SUCH PARENT'S CARE AND SUPERVISION RECEIVES ADEQUATE EDUCATION AND TRAINING. THEREFORE, EVERY PARENT OF A CHILD WHO HAS ATTAINED THE AGE OF SEVEN YEARS AND IS UNDER THE AGE OF SIXTEEN YEARS SHALL ENSURE THAT SUCH CHILD ATTENDS THE PUBLIC SCHOOL IN WHICH SUCH CHILD IS ENROLLED IN COMPLIANCE WITH THIS SECTION.

(b) PARENTS WHOSE CHILDREN ARE ENROLLED IN AN INDEPENDENT OR PAROCHIAL SCHOOL OR A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM PURSUANT TO THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SUBSECTION (5).

SECTION 2. 22-33-104.5 (6), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-33-104.5. Home-based education - legislative declaration - definitions -

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

guidelines. (6) (a) If a child is participating in a non-public home-based educational program but also attending his local school district of residence for a portion of the school day, the local school district of residence shall be entitled to count such child in accordance with the provisions of section 22-53-103 (7) for purposes of determining pupil enrollment under the "Public School Finance Act of 1988", article 53 of this title.

(b) FOR PURPOSES OF THIS SUBSECTION (6), A CHILD WHO IS PARTICIPATING IN A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM MAY PARTICIPATE IN ANY INTERSCHOLASTIC ACTIVITY INCLUDING, BUT NOT LIMITED TO, ATHLETICS, MUSIC, SPEECH, AND OTHER RELATED ACTIVITIES, IN THE CHILD'S LOCAL SCHOOL DISTRICT OF RESIDENCE PROVIDED THE CHILD:

(I) IS IN COMPLIANCE WITH ALL LAWS GOVERNING NON-PUBLIC HOME-BASED EDUCATION;

(II) MEETS ALL OF THE PUBLIC SCHOOL DISTRICT'S ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN THE INTERSCHOLASTIC ACTIVITY, EXCEPT FOR CLASS ATTENDANCE REQUIREMENTS OF THE SCHOOL DISTRICT OR ANY RECOGNIZED ASSOCIATION OF SCHOOLS ORGANIZING AND CONTROLLING THE INTERSCHOLASTIC ACTIVITIES;

(III) HAS NOT BEEN RULED ACADEMICALLY INELIGIBLE TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES WHILE A PUBLIC SCHOOL STUDENT WITHIN THE LAST TWO YEARS;

(IV) FULFILLS THE SAME RESPONSIBILITIES AND STANDARDS OF BEHAVIOR AND PERFORMANCE, INCLUDING RELATED CLASSROOM OR PRACTICE REQUIREMENTS, AS OTHER STUDENTS PARTICIPATING IN THE INTERSCHOLASTIC ACTIVITY OF THE TEAM, SQUAD, OR GROUP, AND MEETS THE SAME STANDARDS FOR PARTICIPATION WITH THE TEAM, SQUAD, OR GROUP; AND

(V) RESIDES WITHIN THE ATTENDANCE BOUNDARIES OF THE SCHOOL WITH WHICH THE CHILD PARTICIPATES.

(c) NO CHILD PARTICIPATING IN AN INTERSCHOLASTIC ACTIVITY PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6) SHALL BE CONSIDERED ATTENDING THE LOCAL SCHOOL DISTRICT OF RESIDENCE FOR PURPOSES OF DETERMINING PUPIL ENROLLMENT UNDER PARAGRAPH (a) OF THIS SUBSECTION (6).

SECTION 3. 22-33-105 (2) (a) and (2) (c), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

22-33-105. Suspension, expulsion, and denial of admission. (2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section ~~22-33-106~~ 22-33-106 (1) (a), (1) (b), (1) (c), OR (1) (e) OR NOT MORE THAN TEN SCHOOL DAYS ON THE GROUNDS STATED IN SECTION 22-33-106 (1) (d), UNLESS EXPULSION IS MANDATORY

PURSUANT TO SUCH PROVISION; and

(c) Deny admission to, or expel for any period not extending beyond ~~the end of the school~~ ONE year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer; but, at its next meeting, the latter shall report on each case acted upon, briefly describing the circumstances and the reasons for his action. When delegated, an appeal may be taken from the decision of the executive officer to the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent of the child, at which evidence may be presented in his behalf. If the child is denied admission or expelled, he shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

SECTION 4. 22-33-106 (1) (c) and (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., are amended, and the said 22-33-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following shall be grounds for suspension or expulsion of a child from a public school during a school year:

(c) Behavior ON OR OFF SCHOOL PROPERTY which is detrimental to the welfare OR safety ~~or morals~~ of other pupils or of school personnel;

(d) Serious violations in a school building or in or on school property, including, but not limited to, ~~the possession of~~ CARRYING, BRINGING, USING, OR POSSESSING a deadly weapon as defined in section 18-1-901 (3) (e), C.R.S., the sale of a drug or controlled substance as defined in section 12-22-303, C.R.S., or the commission of an act which if committed by an adult would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., which suspension or expulsion shall be mandatory;

(e) REPEATED INTERFERENCE WITH A SCHOOL'S ABILITY TO PROVIDE EDUCATIONAL OPPORTUNITIES TO OTHER STUDENTS.

SECTION 5. 22-33-106 (3) (c), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 22-33-106 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(3) The following shall constitute additional grounds for denial of admission to a public school:

(c) Having been expelled FROM ANY SCHOOL DISTRICT during the ~~same school year~~ PRECEDING TWELVE MONTHS;

(f) BEHAVIOR IN ANOTHER SCHOOL DISTRICT DURING THE PRECEDING TWELVE MONTHS THAT IS DETRIMENTAL TO THE WELFARE OR SAFETY OF OTHER PUPILS OR OF SCHOOL PERSONNEL.

SECTION 6. 22-33-107, Colorado Revised Statutes, 1988 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-33-107. Enforcement of compulsory school attendance.

(3) (a) AS USED IN THIS SUBSECTION (3), A CHILD WHO IS "HABITUALLY TRUANT" MEANS A CHILD WHO HAS ATTAINED THE AGE OF SEVEN YEARS AND IS UNDER THE AGE OF SIXTEEN YEARS HAVING 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 CONSIDERED EXCUSED ABSENCES FOR PURPOSES OF THIS SUBSECTION (3).

(b) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT SHALL ADOPT AND IMPLEMENT POLICIES AND PROCEDURES CONCERNING CHILDREN WHO ARE HABITUALLY TRUANT WHO ARE ENROLLED IN PUBLIC SCHOOLS UNDER THE JURISDICTION OF SUCH BOARD OF EDUCATION. SUCH POLICIES AND PROCEDURES MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(I) REQUIRING A MEETING BETWEEN THE PARENT OF THE CHILD WHO IS HABITUALLY TRUANT AND APPROPRIATE SCHOOL PERSONNEL TO REVIEW AND EVALUATE THE REASONS FOR THE CHILD BEING HABITUALLY TRUANT, SUCH MEETING TO BE HELD NOT LATER THAN TEN SCHOOL DAYS AFTER THE CHILD'S FOURTH UNEXCUSED ABSENCE IN A MONTH OR TENTH UNEXCUSED ABSENCE IN A SCHOOL YEAR;

(II) ANNUALLY AT THE BEGINNING OF THE SCHOOL YEAR AND UPON ANY ENROLLMENT DURING THE SCHOOL YEAR, NOTIFYING THE PARENT OF EACH CHILD ENROLLED IN THE PUBLIC SCHOOLS IN WRITING OF SUCH PARENT'S OBLIGATIONS PURSUANT TO SECTION 22-33-104 (5) AND REQUESTING THAT THE PARENT ACKNOWLEDGE IN WRITING AWARENESS OF SUCH OBLIGATIONS;

(III) ANNUALLY AT THE BEGINNING OF THE SCHOOL YEAR AND UPON ANY ENROLLMENT DURING THE SCHOOL YEAR, OBTAINING FROM THE PARENT OF EACH CHILD A TELEPHONE NUMBER OR OTHER MEANS OF CONTACTING SUCH PARENT DURING THE SCHOOL DAY; AND

(IV) ESTABLISHING A SYSTEM OF MONITORING INDIVIDUAL UNEXCUSED ABSENCES OF CHILDREN WHICH SHALL PROVIDE THAT, WHENEVER A CHILD WHO IS ENROLLED IN A PUBLIC SCHOOL FAILS TO REPORT TO SCHOOL ON A REGULARLY SCHEDULED SCHOOL DAY AND SCHOOL PERSONNEL HAVE RECEIVED NO INDICATION THAT THE CHILD'S PARENT IS AWARE OF THE CHILD'S ABSENCE, SCHOOL PERSONNEL OR VOLUNTEERS UNDER THE DIRECTION OF SCHOOL PERSONNEL SHALL MAKE A REASONABLE EFFORT TO NOTIFY BY TELEPHONE SUCH PARENT. ANY PERSON WHO, IN GOOD FAITH, GIVES OR FAILS TO GIVE NOTICE PURSUANT TO THIS SUBPARAGRAPH (IV) SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, WHICH MIGHT OTHERWISE BE INCURRED OR IMPOSED AND SHALL HAVE THE SAME IMMUNITY WITH RESPECT TO ANY JUDICIAL PROCEEDING WHICH RESULTS FROM SUCH NOTICE OR FAILURE TO GIVE SUCH NOTICE.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993