

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 1907

Sponsor:

Printer's No. 3199

1 Amend Bill, page 1, lines 1 through 13, by striking out all
2 of said lines and inserting
3 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
4 act relating to the public school system, including certain
5 provisions applicable as well to private and parochial
6 schools; amending, revising, consolidating and changing the
7 laws relating thereto," in pupils and attendance, providing
8 for purpose, further providing for definitions, providing for
9 attendance policy at charter, regional charter and cyber
10 charter schools, further providing for excuses from attending
11 school and for penalties for violation of compulsory
12 attendance requirements, providing for procedure by school
13 when child habitually truant, for procedure upon filing of
14 citation, for penalties for violating compulsory school
15 attendance requirements and for study of truancy procedure
16 and repealing provisions relating to suspension of operating
17 privilege; in charter schools, further providing for
18 provisions applicable to charter schools and for
19 applicability of other provisions of this act and of other
20 acts and regulations; and, in disruptive student programs,
21 further providing for definitions.

22 Amend Bill, page 1, lines 16 through 21; pages 2 through 17,
23 lines 1 through 30; page 18, lines 1 through 14; by striking out
24 all of said lines on said pages and inserting

25 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
26 as the Public School Code of 1949, is amended by adding a
27 section after Article XIII, subdivision (b) heading to read:

28 Section 1325. Purpose.--The purpose of this subdivision is
29 to improve school attendance and deter truancy through a
30 comprehensive approach to consistently identify and address
31 attendance issues as early as possible with credible
32 intervention techniques in order to:

33 (1) Preserve the unity of the family whenever possible as
34 the underlying issues of truancy are addressed.

35 (2) Avoid the loss of housing, the possible entry of a child

1 to foster care and other unintended consequences of disruption
2 of an intact family unit.

3 (3) Confine a person in parental relation to a child who is
4 habitually truant only as a last resort and for a minimum amount
5 of time.

6 Section 2. Section 1326 of the act is amended to read:

7 Section 1326. Definitions.--[The term "compulsory school
8 age," as hereinafter used, shall mean the period of a child's
9 life from the time the child's parents elect to have the child
10 enter school, which shall be not later than at the age of eight
11 (8) years, until the age of seventeen (17) years. The term shall
12 not include any child who holds a certificate of graduation from
13 a regularly accredited senior high school.

14 The term "migratory child," wherever used in this subdivision
15 of this article, shall include any child domiciled temporarily
16 in any school district for the purpose of seasonal employment,
17 but not acquiring residence therein, and any child accompanying
18 his parent or guardian who is so domiciled.] When used in this
19 article, the following words and phrases shall have the
20 following meanings:

21 "Citation" shall mean a nontraffic citation or private
22 criminal complaint.

23 "Compulsory school age" shall mean the period of a child's
24 life from the time the child's parents elect to have the child
25 enter school and which shall be no later than eight (8) years of
26 age until the child reaches seventeen (17) years of age. The
27 term does not include a child who holds a certificate of
28 graduation from a regularly accredited, licensed, registered or
29 approved high school.

30 "Conviction" shall mean a conviction under section 1333.2 for
31 violation of the requirement for compulsory school attendance.

32 "Court" shall mean a magisterial district court, the
33 Philadelphia Municipal Court or a court of common pleas.

34 "Department" shall mean the Department of Education of the
35 Commonwealth.

36 "Educational entity" shall mean a public school district,
37 nonpublic school or area vocational-technical school.

38 "Excused absence" shall mean an absence from school which is
39 permitted under section 1329.

40 "Governing body" shall mean the board of school directors of
41 a school district or any other governing entity of a school.

42 "Habitually truant" shall mean six (6) or more school days of
43 unexcused absences during the current school year by a child
44 subject to compulsory school attendance under this article.

45 "Judge" shall mean a magisterial district judge, a municipal
46 court judge or a judge of a court of common pleas.

47 "Juvenile act" shall mean the provisions of 42 Pa.C.S. Ch. 63
48 (relating to juvenile matters).

49 "Migratory child" shall mean a child domiciled temporarily in
50 a school district for the purpose of seasonal employment, but
51 not acquiring residence therein, and a child accompanying his or

1 her person in parental relation who is so domiciled.
2 "Offense" shall mean each citation filed under section 1333.1
3 for a violation of the requirement for compulsory school
4 attendance under this article regardless of the number of
5 unexcused absences alleged in the citation.
6 "Person in parental relation" shall mean a:
7 (1) Custodial biological or adoptive parent.
8 (2) Noncustodial biological or adoptive parent.
9 (3) Guardian of the person of a child.
10 (4) Person with whom a child lives and who is acting in a
11 parental role of a child.
12 This definition shall not include any county agency or person
13 acting as an agent of the county agency in the jurisdiction of a
14 dependent child defined under 42 Pa.C.S. § 6302 (relating to
15 definitions). This definition shall not expand the right of a
16 child under any other section of this act.
17 "School" shall mean the educational entity in which the child
18 is enrolled.
19 "School attendance improvement conference" shall mean a
20 conference where the child's absences and reasons for the
21 absences are examined in an effort to improve attendance, with
22 or without additional services. The following individuals shall
23 be invited to the conference:
24 (1) The child.
25 (2) The child's person in parental relation.
26 (3) Other individuals identified by the person in parental
27 relation who may be a resource.
28 (4) Appropriate school personnel.
29 (5) Recommended service providers.
30 "School day" shall mean the length of time that a child
31 subject to compulsory school attendance is expected to be
32 receiving instruction during a calendar day, as determined by
33 the governing body.
34 "School-based or community-based attendance improvement
35 program" shall mean a program designed to improve school
36 attendance by seeking to identify and address the underlying
37 reasons for a child's absences. The term may include an
38 educational assignment in an alternative education program,
39 provided the program does not include a program for disruptive
40 youth established pursuant to Article XIX-C.
41 "School year" shall have the same meaning as "school term" as
42 defined in section 102, as applicable to a school district, and
43 as further defined in section 1327(b) for a day school which is
44 operated by a bona fide church or other religious body, section
45 1327.1(c) for a day school or boarding school accredited by an
46 accrediting association which is approved by the State Board of
47 Education, section 1327.1(d) for a home education program,
48 sections 1501 and 1504 for a public school or a school district,
49 section 1715-A(9) for a charter school, section 1749-A(a)(1) for
50 a cyber charter school and section 1718-A(c) for a regional
51 charter school.

1 "Truant" shall mean having incurred three (3) or more school
2 days of unexcused absences during the current school year by a
3 child subject to compulsory school attendance under this
4 article.

5 "Unexcused absence" shall mean an absence from school which
6 is not permitted by the provisions of section 1329 and for which
7 an approved explanation has not been submitted within the time
8 period and in the manner prescribed by the governing body. An
9 out-of-school suspension may not be considered an unexcused
10 absence.

11 Section 3. The act is amended by adding a section to read:

12 Section 1327.2. Attendance Policy at Charter, Regional
13 Charter and Cyber Charter Schools.--(a) Each charter, regional
14 charter and cyber charter school shall establish an attendance
15 policy designed to accurately determine when a child who is
16 enrolled in a charter, regional charter or cyber charter school
17 has an unexcused absence, which may differ from the policy of
18 the school district in which the child resides. The policy must
19 conform to the provisions of this act relating to compulsory
20 attendance.

21 (b) Notwithstanding section 1333.2(a), in the case of a
22 child enrolled in a cyber charter school the venue for the
23 filing of a citation under section 1333.1 shall be based upon
24 the residence of the child. A cyber charter school may
25 participate in a proceeding under sections 1333.1, 1333.2 and
26 1333.3 in person, by phone conferencing, by video conferencing
27 or by any other electronic means.

28 (c) Charter, regional charter and cyber charter schools
29 shall report unexcused absences directly to the department
30 annually through the Pennsylvania Information Management System
31 (PIMS).

32 Section 4. Section 1329 of the act is amended by adding
33 subsections to read:

34 Section 1329. Excuses from Attending School.--* * *

35 (c) If a student is dismissed from school during school
36 hours for health-related reasons by a certified school nurse,
37 registered nurse, licensed practical nurse or a school
38 administrator or designee employed by the school district, the
39 student's absence from school shall be deemed excused.

40 (d) Notwithstanding any provision of law to the contrary, a
41 student shall be excused during school hours for the purpose of
42 obtaining professional health care or therapy service rendered
43 by a licensed practitioner of the healing arts in any state,
44 commonwealth or territory.

45 (e) The Department of Education shall provide guidance,
46 resources and strategies for families, schools and students
47 related to students with chronic health conditions which shall
48 be posted on the department's publicly accessible Internet
49 website.

50 Section 5. Section 1333 of the act, amended November 17,
51 1995 (1st Sp.Sess. P.L.1110, No.29), is amended to read:

1 Section 1333. [Penalties for Violation of Compulsory
2 Attendance Requirements.--(a) (1) Every parent, guardian, or
3 person in parental relation, having control or charge of any
4 child or children of compulsory school age, who shall fail to
5 comply with the provisions of this act regarding compulsory
6 attendance, shall on summary conviction thereof, be sentenced to
7 pay a fine, for the benefit of the school district in which such
8 offending person resides, not exceeding three hundred dollars
9 (\$300) and to pay court costs or be sentenced to complete a
10 parenting education program offered and operated by a local
11 school district, medical institution or other community
12 resources, and, in default of the payment of such fine and costs
13 or completion of the parenting program by the person so
14 offending, shall be sentenced to the county jail for a period
15 not exceeding five (5) days. Any person sentenced to pay any
16 such fine may appeal to the court of common pleas of the proper
17 county, upon entering into a recognizance, with one or more
18 proper sureties, in double the amount of penalty and costs.
19 Before any proceedings are instituted against any parent,
20 guardian, or person in parental relation, for failure to comply
21 with the provisions of this act, the district superintendent,
22 attendance officer, or secretary of the board of school
23 directors, shall give the offending person three (3) days'
24 written notice of such violation. If, after such notice has been
25 given, the provisions of this act regarding compulsory
26 attendance are again violated by the persons so notified, at any
27 time during the term of compulsory attendance, such person, so
28 again offending, shall be liable under the provisions of this
29 section without further notice.

30 (2) The child and every parent, guardian or person in
31 parental relation must appear at a hearing established by the
32 district justice. If the parent, guardian or person in parental
33 relation charged with a summary offense under this subsection
34 shows that he or she took every reasonable step to insure
35 attendance of the child at school, he or she shall not be
36 convicted of the summary offense.

37 (3) Upon a summary conviction, the district justice may
38 suspend, in whole or in part, a sentence in which a parent,
39 guardian or person in parental relation is summoned to pay as
40 required under this section: Provided, That the child no longer
41 is habitually truant from school without justification.

42 (4) In lieu of or in addition to any other sentence imposed
43 under this section, the district justice may order the parent,
44 guardian or person in parental relation to perform community
45 service in the school district in which the offending child
46 resides for a period not to exceed six (6) months.

47 (b) (1) If the parent, guardian or person in parental
48 relation is not convicted of a summary offense because he or she
49 took every reasonable step to insure attendance of the child at
50 school, a child of compulsory school age who has attained the
51 age of thirteen (13) years and fails to comply with the

1 provisions of this act regarding compulsory attendance or who is
2 habitually truant from school without justification commits a
3 summary offense and except as provided in clause (4) shall, upon
4 conviction, be sentenced to pay a fine not exceeding three
5 hundred dollars (\$300) for each offense for the benefit of the
6 school district in which such offending child resides or shall
7 be assigned to an adjudication alternative program pursuant to
8 42 Pa.C.S. § 1520 (relating to adjudication alternative
9 program).

10 (2) For any child who has attained the age of thirteen (13)
11 years who fails to pay the fine under clause (1) or to comply
12 with the adjudication alternative program, the district justice
13 may allege the child to be dependent under 42 Pa.C.S. § 6303(a)
14 (1) (relating to scope of chapter). The failure by the child to
15 pay a fine or comply with the adjudication alternative program
16 shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63
17 (relating to juvenile matters).

18 (3) Upon a summary conviction or assignment to an
19 adjudication alternative program, the district justice may
20 suspend, in whole or in part, a sentence or an adjudication
21 alternative program in which a child who has attained the age of
22 thirteen (13) years must pay or comply with the adjudication
23 alternative program: Provided, That the child no longer is
24 habitually truant from school without justification.

25 (4) Any child who has not attained the age of thirteen (13)
26 years who fails to comply with the compulsory attendance
27 provisions of this act and is habitually truant shall be
28 referred by the school district for services or possible
29 disposition as a dependent child as defined under 42 Pa.C.S. §
30 6302 (relating to definitions). Any child who has attained the
31 age of thirteen (13) years who fails to comply with the
32 compulsory attendance provisions of this act and is habitually
33 truant may, in lieu of a prosecution under clause (1), be
34 referred by the school district for services or possible
35 disposition as a dependent child as defined under 42 Pa.C.S. §
36 6302.

37 (5) The following words, when used in this subsection, shall
38 have the following meaning, except where the context clearly
39 indicates or requires a different meaning:

40 "Community resources" shall mean those agencies and services
41 for children and youth provided by the juvenile court, the
42 county, the Department of Health, the Department of Public
43 Welfare and other public or private institutions.

44 "District justice" shall mean such court as the court of
45 common pleas shall direct in counties not having district
46 justices.

47 "Habitually truant" shall mean absence for more than three
48 (3) school days or their equivalent following the first notice
49 of truancy given under section 1354. A person may be habitually
50 truant after such notice.

51 "Offense" shall mean each citation which goes before a

1 district justice or court of common pleas.

2 "Person in parental relation" shall not include any county
3 agency or person acting as an agent of the county agency in the
4 jurisdiction of a dependent child defined under 42 Pa.C.S. §
5 6302 (relating to definitions).

6 (c) If a child is convicted for a violation of this section,
7 the court, including a court not of record, shall send to the
8 Department of Transportation a certified record of the
9 conviction or other disposition on a form prescribed by the
10 department.

11 (d) Nothing in this section shall be construed to apply to a
12 parent, guardian or person in parental relation whose child or
13 children are in a home education program under section 1327.1.]
14 Procedure When Child is Truant.--(a) When a child is truant,
15 the school shall notify in writing the person in parental
16 relation with the child who resides in the same household as the
17 child of the child's violation of compulsory school attendance
18 within ten (10) school days of the child's third unexcused
19 absence. The notice:

20 (1) shall include a description of the consequences that
21 will follow if the child becomes habitually truant;

22 (2) shall be in the mode and language of communication
23 preferred by the person in parental relation;

24 (3) may include the offer of a school attendance improvement
25 conference; or

26 (4) when transmitted to a person who is not the biological
27 or adoptive parent, shall also be provided to the child's
28 biological or adoptive parent if the parent's mailing address is
29 on file with the school and the parent is not precluded from
30 receiving the information by court order.

31 (b) If the child continues to incur unexcused absences after
32 the school has issued the notice under subsection (a), the
33 school shall then offer by advance written notice a school
34 attendance improvement conference to the child and the person in
35 parental relation, unless a conference was previously held
36 following the notice provided under subsection (a). The
37 following shall apply:

38 (1) This subsection does not place a legal requirement upon
39 the child or person in parental relation to attend the
40 conference. The conference shall occur even if the person in
41 parental relation declines to participate or fails to attend the
42 scheduled conference after advance written notice and attempts
43 to communicate via telephone.

44 (2) The outcome of the conference shall be documented in a
45 written school attendance improvement plan. The department shall
46 develop a form to be used for this purpose, and each school
47 shall use a form substantially similar to the form developed by
48 the department.

49 (3) Further legal action may not be taken by the school to
50 address unexcused absences by the child until after the date for
51 the scheduled school attendance improvement conference has