

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1907 Session of 2015

INTRODUCED BY BENNINGHOFF, SAYLOR, ADOLPH, BAKER, V. BROWN,  
D. COSTA, CUTLER, DeLUCA, ELLIS, EVERETT, GILLESPIE, HARHART,  
A. HARRIS, PHILLIPS-HILL, KLUNK, OBERLANDER, PICKETT,  
STEPHENS, THOMAS, TOOHIL, WARD, WATSON, WHITE, PEIFER,  
ZIMMERMAN, MOUL AND MICCARELLI, MARCH 17, 2016

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 13, 2016

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," in pupils and attendance, further  
6 providing for definitions, providing for attendance policy at  
7 charter, regional charter and cyber charter schools, further  
8 providing for penalties for violation of compulsory  
9 attendance requirements, providing for procedure by school  
10 when child habitually truant, for procedure upon filing of  
11 citation and for penalties for violating compulsory school  
12 attendance requirements and further providing for suspension  
13 of operating privilege.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Section 1326 of the act of March 10, 1949  
17 (P.L.30, No.14), known as the Public School Code of 1949, is  
18 amended to read:

19 Section 1326. Definitions.--[The term "compulsory school  
20 age," as hereinafter used, shall mean the period of a child's  
21 life from the time the child's parents elect to have the child

1 enter school, which shall be not later than at the age of eight  
2 (8) years, until the age of seventeen (17) years. The term shall  
3 not include any child who holds a certificate of graduation from  
4 a regularly accredited senior high school.

5 The term "migratory child," wherever used in this subdivision  
6 of this article, shall include any child domiciled temporarily  
7 in any school district for the purpose of seasonal employment,  
8 but not acquiring residence therein, and any child accompanying  
9 his parent or guardian who is so domiciled.] When used in this  
10 article, the following words and phrases shall have the  
11 following meanings:

12 "Citation" shall mean a nontraffic citation or private  
13 criminal complaint.

14 "Compulsory school age" shall mean the period of a child's  
15 life between eight (8) and seventeen (17) years of age. The term  
16 does not include a child who holds a certificate of graduation  
17 from a regularly accredited, licensed, registered or approved  
18 high school.

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

21 "Court" shall mean a magisterial district court or a court of  
22 common pleas.

23 "Department" shall mean the Department of Education of the  
24 Commonwealth.

25 "Excused absence" shall mean an absence from school which is  
26 permitted under section 1329.

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

29 "Habitually truant" shall mean six (6) or more school days of  
30 unexcused absences during the current school year by a child

1 subject to compulsory school attendance under this article.

2 "Judge" shall mean a magisterial district judge or a judge of  
3 a court of common pleas.

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

6 "Migratory child" shall mean a child domiciled temporarily in  
7 a school district for the purpose of seasonal employment, but  
8 not acquiring residence therein, and a child accompanying his or  
9 her person in parental relation who is so domiciled.

10 "Offense" shall mean each citation filed under section 1333.1  
11 for a violation of the requirement for compulsory school  
12 attendance under this article regardless of the number of  
13 unexcused absences alleged in the citation.

14 "Person in parental relation" shall mean a:

15 (1) Custodial biological or adoptive parent.

16 (2) Noncustodial biological or adoptive parent.

17 (3) Guardian of the person of a child.

18 (4) Person with whom a child lives and who is acting in a  
19 parental role of a child.

20 This definition shall not include any county agency or person  
21 acting as an agent of the county agency in the jurisdiction of a  
22 dependent child defined under 42 Pa.C.S. § 6302 (relating to  
23 definitions). This definition shall not expand the right of a  
24 child under any other section of this act.

25 "School" shall mean the educational entity in which the child  
26 is enrolled and at which a resident of this Commonwealth may  
27 legally fulfill the compulsory school attendance requirements of  
28 this article.

29 "School attendance improvement conference" shall mean a  
30 conference where the child's absences and reasons therefore are

1 examined in an effort to improve attendance, with or without  
2 additional services, and to which the child, the child's person  
3 in parental relation, other individuals identified by the person  
4 in parental relation who may be a resource, appropriate school  
5 personnel and recommended service providers shall be invited.

6 "School day" shall mean the length of time that a child  
7 subject to compulsory school attendance is expected to be  
8 receiving instruction during a calendar day, as determined by  
9 the governing body.

10 "School year" shall have the same meaning as "school term" as  
11 defined in section 102, as applicable to a school district, and  
12 as further defined in section 1327(b) for a day school which is  
13 operated by a bona fide church or other religious body, section  
14 1327.1(c) for a day school or boarding school accredited by an  
15 accrediting association which is approved by the State Board of  
16 Education, section 1327.1(d) for a home education program, and  
17 sections 1501 and 1504 for a public kindergarten, elementary or  
18 secondary school or a school district.

19 "Truant" shall mean three (3) or more school days of  
20 unexcused absences during the current school year by a child  
21 subject to compulsory school attendance under this article.

22 "Unexcused absence" shall mean an absence from school which  
23 is not permitted by the provisions of section 1329 and for which  
24 an approved explanation has not been submitted within the time  
25 period and in the manner prescribed by the governing body. An  
26 out-of-school suspension may not be considered an unexcused  
27 absence.

28 Section 2. The act is amended by adding a section to read:

29 Section 1327.2. Attendance Policy at Charter, Regional  
30 Charter and Cyber Charter Schools.--(a) Each charter, regional

1 charter and cyber charter school shall establish an attendance  
2 policy designed to determine when a child who is enrolled in a  
3 charter, regional charter or cyber charter school has an  
4 unexcused absence, which may differ from the policy of the  
5 school district in which the child resides. The policy must  
6 conform to the provisions of this act relating to compulsory  
7 attendance. Each cyber charter school may develop guidelines  
8 setting forth alternative methods of calculating unexcused  
9 absences for the purposes of determining whether a child  
10 enrolled in a cyber charter school has an unexcused absence,  
11 subject to approval by the department.

12 (b) Notwithstanding section 1333.2(a), in the case of a  
13 child enrolled in a cyber charter school the venue for the  
14 filing of a citation under section 1333.1 shall be based upon  
15 the residence of the child. A cyber charter school may  
16 participate in a proceeding under sections 1333.1, 1333.2 and  
17 1333.3 in person, by phone conferencing, by video conferencing  
18 or by any other electronic means.

19 (c) Charter, regional charter and cyber charter schools shall  
20 report unexcused absences directly to the department annually  
21 through the Pennsylvania Information Management System (PIMS).

22 Section 2.1. Section 1333 of the act, amended November 17,  
23 1995 (1st Sp.Sess. P.L.1110, No.29), is amended to read:

24 Section 1333. [Penalties for Violation of Compulsory  
25 Attendance Requirements.--(a) (1) Every parent, guardian, or  
26 person in parental relation, having control or charge of any  
27 child or children of compulsory school age, who shall fail to  
28 comply with the provisions of this act regarding compulsory  
29 attendance, shall on summary conviction thereof, be sentenced to  
30 pay a fine, for the benefit of the school district in which such

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

23 (2) The child and every parent, guardian or person in  
24 parental relation must appear at a hearing established by the  
25 district justice. If the parent, guardian or person in parental  
26 relation charged with a summary offense under this subsection  
27 shows that he or she took every reasonable step to insure  
28 attendance of the child at school, he or she shall not be  
29 convicted of the summary offense.

30 (3) Upon a summary conviction, the district justice may

1 suspend, in whole or in part, a sentence in which a parent,  
2 guardian or person in parental relation is summoned to pay as  
3 required under this section: Provided, That the child no longer  
4 is habitually truant from school without justification.

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

10 (b) (1) If the parent, guardian or person in parental  
11 relation is not convicted of a summary offense because he or she  
12 took every reasonable step to insure attendance of the child at  
13 school, a child of compulsory school age who has attained the  
14 age of thirteen (13) years and fails to comply with the  
15 provisions of this act regarding compulsory attendance or who is  
16 habitually truant from school without justification commits a  
17 summary offense and except as provided in clause (4) shall, upon  
18 conviction, be sentenced to pay a fine not exceeding three  
19 hundred dollars (\$300) for each offense for the benefit of the  
20 school district in which such offending child resides or shall  
21 be assigned to an adjudication alternative program pursuant to  
22 42 Pa.C.S. § 1520 (relating to adjudication alternative  
23 program).

24 (2) For any child who has attained the age of thirteen (13)  
25 years who fails to pay the fine under clause (1) or to comply  
26 with the adjudication alternative program, the district justice  
27 may allege the child to be dependent under 42 Pa.C.S. § 6303(a)  
28 (1) (relating to scope of chapter). The failure by the child to  
29 pay a fine or comply with the adjudication alternative program  
30 shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63

1 (relating to juvenile matters).

2 (3) Upon a summary conviction or assignment to an  
3 adjudication alternative program, the district justice may  
4 suspend, in whole or in part, a sentence or an adjudication  
5 alternative program in which a child who has attained the age of  
6 thirteen (13) years must pay or comply with the adjudication  
7 alternative program: Provided, That the child no longer is  
8 habitually truant from school without justification.

9 (4) Any child who has not attained the age of thirteen (13)  
10 years who fails to comply with the compulsory attendance  
11 provisions of this act and is habitually truant shall be  
12 referred by the school district for services or possible  
13 disposition as a dependent child as defined under 42 Pa.C.S. §  
14 6302 (relating to definitions). Any child who has attained the  
15 age of thirteen (13) years who fails to comply with the  
16 compulsory attendance provisions of this act and is habitually  
17 truant may, in lieu of a prosecution under clause (1), be  
18 referred by the school district for services or possible  
19 disposition as a dependent child as defined under 42 Pa.C.S. §  
20 6302.

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

24 "Community resources" shall mean those agencies and services  
25 for children and youth provided by the juvenile court, the  
26 county, the Department of Health, the Department of Public  
27 Welfare and other public or private institutions.

28 "District justice" shall mean such court as the court of  
29 common pleas shall direct in counties not having district  
30 justices.