

1 **ENROLLED**

2 **Committee Substitute**

3 **for**

4 **H. B. 2764**

5
6 (By Delegates Lawrence, M. Poling and Stowers)

7
8 [Passed April 13, 2013; in effect ninety days from passage.]
9

10 AN ACT to amend and reenact §18-8-4 of the code of West Virginia,
11 1931, as amended, relating to compulsory school attendance;
12 and extending the authority and duties of attendance directors
13 to assistant attendance directors.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §18-8-4 of the code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

18 **§18-8-4. Duties of attendance director and assistant directors;**
19 **complaints, warrants and hearings.**

20 (a) The county attendance director and the assistants shall
21 diligently promote regular school attendance. The director and
22 assistants shall:

23 (1) Ascertain reasons for inexcusable absences from school of
24 students of compulsory school age and students who remain enrolled

1 beyond the compulsory school age as defined under section one-a of
2 this article; and

3 (2) Take such steps as are, in their discretion, best
4 calculated to encourage the attendance of students and to impart
5 upon the parents and guardians the importance of attendance and the
6 seriousness of failing to do so.

7 (b) In the case of five total unexcused absences of a student
8 during a school year, the attendance director or assistant shall:

9 Serve written notice to the parent, guardian or custodian of
10 the student that the attendance of the student at school is
11 required and that within ten days of receipt of the notice the
12 parent, guardian or custodian, accompanied by the student, shall
13 report in person to the school the student attends for a conference
14 with the principal or other designated representative of the school
15 in order to discuss and correct the circumstances causing the
16 inexcusable absences of the student; and if the parent, guardian or
17 custodian does not comply with the provisions of this article, then
18 the attendance director or assistant shall make complaint against
19 the parent, guardian or custodian before a magistrate of the
20 county. If it appears from the complaint that there is probable
21 cause to believe that an offense has been committed and that the
22 accused has committed it, a summons or a warrant for the arrest of
23 the accused shall issue to any officer authorized by law to serve
24 the summons or to arrest persons charged with offenses against the
25 state. More than one parent, guardian or custodian may be charged

1 in a complaint. Initial service of a summons or warrant issued
2 pursuant to the provisions of this section shall be attempted
3 within ten calendar days of receipt of the summons or warrant and
4 subsequent attempts at service shall continue until the summons or
5 warrant is executed or until the end of the school term during
6 which the complaint is made, whichever is later.

7 (c) The magistrate court clerk, or the clerk of the circuit
8 court performing the duties of the magistrate court as authorized
9 in section eight, article one, chapter fifty of this code, shall
10 assign the case to a magistrate within ten days of execution of the
11 summons or warrant. The hearing shall be held within twenty days
12 of the assignment to the magistrate, subject to lawful continuance.
13 The magistrate shall provide to the accused at least ten days'
14 advance notice of the date, time and place of the hearing.

15 (d) When any doubt exists as to the age of a student absent
16 from school, the attendance director and assistants have authority
17 to require a properly attested birth certificate or an affidavit
18 from the parent, guardian or custodian of the student, stating age
19 of the student. In the performance of his or her duties, the
20 county attendance director and assistants have authority to take
21 without warrant any student absent from school in violation of the
22 provisions of this article and to place the student in the school
23 in which he or she is or should be enrolled.

24 (e) The county attendance director and assistants shall devote
25 such time as is required by section three of this article to the

1 duties of attendance director in accordance with this section
2 during the instructional term and at such other times as the duties
3 of an attendance director are required. All attendance directors
4 and assistants hired for more than two hundred days may be assigned
5 other duties determined by the superintendent during the period in
6 excess of two hundred days. The county attendance director is
7 responsible under direction of the county superintendent for
8 efficiently administering school attendance in the county.

9 (f) In addition to those duties directly relating to the
10 administration of attendance, the county attendance director and
11 assistant directors also shall perform the following duties:

12 (1) Assist in directing the taking of the school census to see
13 that it is taken at the time and in the manner provided by law;

14 (2) Confer with principals and teachers on the comparison of
15 school census and enrollment for the detection of possible
16 nonenrollees;

17 (3) Cooperate with existing state and federal agencies charged
18 with enforcing child labor laws;

19 (4) Prepare a report for submission by the county
20 superintendent to the State Superintendent of Schools on school
21 attendance, at such times and in such detail as may be required.

22 The state board shall promulgate a legislative rule pursuant to
23 article three-b, chapter twenty-nine-a of this code that sets forth
24 student absences that are excluded for accountability purposes.
25 The absences that are excluded by the rule include, but are not be

1 limited to, excused student absences, students not in attendance
2 due to disciplinary measures and absent students for whom the
3 attendance director has pursued judicial remedies to compel
4 attendance to the extent of his or her authority. The attendance
5 director shall file with the county superintendent and county board
6 at the close of each month a report showing activities of the
7 school attendance office and the status of attendance in the county
8 at the time;

9 (5) Promote attendance in the county by compiling data for
10 schools and by furnishing suggestions and recommendations for
11 publication through school bulletins and the press, or in such
12 manner as the county superintendent may direct;

13 (6) Participate in school teachers' conferences with parents
14 and students;

15 (7) Assist in such other ways as the county superintendent may
16 direct for improving school attendance;

17 (8) Make home visits of students who have excessive unexcused
18 absences, as provided above, or if requested by the chief
19 administrator, principal or assistant principal; and

20 (9) Serve as the liaison for homeless children and youth.