| 1 | Committee Substitute |
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| 2 | for |
| 3 | н. в. 4003 |
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| 5 | (By Delegates Walker, Perry, Paxton, Poling, M., Pethtel) |
| 6 | [Originating in the Committee on Education.] |
| 7 | (January 16, 2014) |
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| 10 | A BILL to amend and reenact $\$18-8-2$ of the Code of West Virginia, |
| 11 | 1931, as amended, relating to jurisdiction to enforce |
| 12 | compulsory school attendance; granting jurisdiction in either |
| 13 | county when county of residence and school of enrollment are |
| 14 | different. |
| 15 | Be it enacted by the Legislature of West Virginia: |
| 16 | That §18-8-2 of the Code of West Virginia, 1931, as amended, |
| 17 | be amended and reenacted to read as follows: |
| 18 | ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE. |
| 19 | §18-8-2. Offenses; penalties; cost of prosecution; jurisdiction. |
| 20 | (a) Any person who, after receiving due notice, shall fail to |
| 21 | cause a child or children under eighteen years of age in that |
| 22 | person's legal or actual charge to attend school in violation of |
| 23 | the provisions of this article or without just cause, shall be |
| 24 | guilty of a misdemeanor and, shall, upon conviction of a first |

1 offense, be fined not less than fifty nor more than \$100 together 2 with the costs of prosecution, or required to accompany the child 3 to school and remain through the school day for so long as the 4 magistrate or judge may determine is appropriate. The magistrate 5 or judge, upon conviction and pronouncing sentence, may delay the 6 sentence for a period of sixty school days provided the child is in 7 attendance everyday during said sixty-day period. Following the 8 sixty-day period, if said child was present at school for every 9 school day, the delayed sentence may be suspended and not enacted. 10 Upon conviction of a second offense, a fine may be imposed of not 11 less than \$50 nor more than \$100 together with the costs of 12 prosecution and the person may be required to accompany the child 13 to school and remain throughout the school day until such time as 14 the magistrate or judge may determine is appropriate or confined in 15 jail not less than five nor more than twenty days. Every day a 16 child is out of school contrary to the provisions of this article 17 shall constitute a separate offense. Magistrates shall have 18 concurrent jurisdiction with circuit courts for the trial of 19 offenses arising under this section.

(b) Any person eighteen years of age or older who is enrolled 21 in school who, after receiving due notice, fails to attend school 22 in violation of the provisions of this article or without just 23 cause, shall be guilty of a misdemeanor and, shall, upon conviction 24 of a first offense, be fined not less than \$50 nor more than \$100 25 together with the costs of prosecution and required to attend

1 school and remain throughout the school day. The magistrate or 2 judge, upon conviction and pronouncing sentence, may delay the 3 imposition of a fine for a period of sixty school days provided the 4 person is in attendance every day during said sixty-day period. 5 Following the sixty-day period, if said student was present at 6 school everyday, the delayed sentence may be suspended and not Upon conviction of a second offense, a fine may be 7 enacted. 8 imposed of not less than \$50 nor more than \$100 together with the 9 costs of prosecution and the person may be required to go to school 10 and remain throughout the school day until such time as the person 11 graduates or withdraws from school or confined in jail not less 12 than five nor more than twenty days. Every day a student is out of 13 school contrary to the provisions of this article shall constitute 14 a separate offense. Magistrates shall have concurrent jurisdiction 15 with circuit courts for the trial of offenses arising under this 16 section.

(c) Upon conviction of a third offense, any person eighteen years of age or older who is enrolled in school shall be withdrawn from school during the remainder of that school year. Enrollment of that person in school during the next school year or years thereafter shall be conditional upon all absences being excused as defined in law, state board policy and county board of education policy. More than one unexcused absence of such a student shall be grounds for the director of attendance to authorize the school to withdraw the person for the remainder of the school year.

- 1 Magistrates shall have concurrent jurisdiction with circuit courts
- 2 for the trial of offenses arising under this section.
- 3 (d) Jurisdiction to enforce compulsory school attendance laws
- 4 lies in the county in which a student resides and in the county
- 5 where the school at which the student is enrolled is located. When
- 6 the county of residence and enrollment are different, an action to
- 7 enforce compulsory school attendance may be brought in either
- 8 county and the magistrates and circuit courts of either county have
- 9 <u>concurrent jurisdiction for the trial of offenses arising under</u> this section.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.