

E N R O L L E D

COMMITTEE SUBSTITUTE

for

H. B. 2550

(BY DELEGATE(S) COWLES, MILLER,
HOUSEHOLDER, MOFFATT, MCGEEHAN, SPONAUGLE, H. WHITE,
CAMPBELL, SKINNER, ROWE AND PERRY)

[Passed March 12, 2015;
in effect ninety days from passage.]

AN ACT to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to truancy intervention; defining excused and unexcused absences; providing that notice of a student's three unexcused absences be given to parent, guardian or custodian; providing that a parent, guardian or custodian have a mandatory conference with the principal or other designated representative of the school when the student has five unexcused absences; and increasing number of unexcused absences by a student before a complaint must be made against the parent, guardian or custodian of the student.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

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

1 (a) The county attendance director and the assistants shall
2 diligently promote regular school attendance. The director and
3 assistants shall:

4 (1) Ascertain reasons for unexcused absences from school of
5 students of compulsory school age and students who remain
6 enrolled beyond the compulsory school age as defined under
7 section one-a of this article;

8 (2) Take such steps as are, in their discretion, best calculated
9 to encourage the attendance of students and to impart upon the
10 parents and guardians the importance of attendance and the
11 seriousness of failing to do so; and

12 (3) For the purposes of this article, the following definitions
13 shall apply:

14 (A) “Excused absence” shall be defined to include:

15 (i) Personal illness or injury of the student or in the family;

16 (ii) Medical or dental appointment with written excuse from
17 physician or dentist;

18 (iii) Chronic medical condition or disability that impacts
19 attendance;

20 (iv) Participation in home or hospital instruction due to an
21 illness or injury or other extraordinary circumstance that
22 warrants home or hospital confinement;

23 (v) Calamity, such as a fire or flood;

24 (vi) Death in the family;

25 (vii) School-approved or county-approved curricular or
26 extra-curricular activities;

27 (viii) Judicial obligation or court appearance involving the
28 student;

29 (ix) Military requirement for students enlisted or enlisting in
30 the military;

31 (x) Personal or academic circumstances approved by the
32 principal; and

33 (xi) Such other situations as may be further determined by
34 the county board: *Provided*, That absences of students with
35 disabilities shall be in accordance with the Individuals with
36 Disabilities Education Improvement Act of 2004 and the federal
37 and state regulations adopted in compliance therewith.

38 (B) “Unexcused absence” shall be any absence not
39 specifically included in the definition of “excused absence”.

40 (b) In the case of three total unexcused absences of a student
41 during a school year, the attendance director or assistant shall
42 serve written notice to the parent, guardian or custodian of the
43 student that the attendance of the student at school is required
44 and that if the student has five unexcused absences, a conference
45 with the principal or other designated representative will be
46 required.

47 (c) In the case of five total unexcused absences, the
48 attendance director or assistant shall serve written notice to the
49 parent, guardian or custodian of the student that within five days
50 of receipt of the notice the parent, guardian or custodian,
51 accompanied by the student, shall report in person to the school
52 the student attends for a conference with the principal or other
53 designated representative of the school in order to discuss and
54 correct the circumstances causing the unexcused absences of the
55 student, including the adjustment of unexcused absences based
56 upon such meeting.

57 (d) In the case of ten total unexcused absences of a student
58 during a school year, the attendance director or assistant shall
59 make complaint against the parent, guardian or custodian before
60 a magistrate of the county. If it appears from the complaint that
61 there is probable cause to believe that an offense has been
62 committed and that the accused has committed it, a summons or
63 a warrant for the arrest of the accused shall issue to any officer
64 authorized by law to serve the summons or to arrest persons
65 charged with offenses against the state. More than one parent,
66 guardian or custodian may be charged in a complaint. Initial
67 service of a summons or warrant issued pursuant to the
68 provisions of this section shall be attempted within ten calendar
69 days of receipt of the summons or warrant and subsequent
70 attempts at service shall continue until the summons or warrant
71 is executed or until the end of the school term during which the
72 complaint is made, whichever is later.

73 (e) The magistrate court clerk, or the clerk of the circuit
74 court performing the duties of the magistrate court as authorized
75 in section eight, article one, chapter fifty of this code, shall
76 assign the case to a magistrate within ten days of execution of
77 the summons or warrant. The hearing shall be held within twenty
78 days of the assignment to the magistrate, subject to lawful
79 continuance. The magistrate shall provide to the accused at least

80 ten days' advance notice of the date, time and place of the
81 hearing.

82 (f) When any doubt exists as to the age of a student absent
83 from school, the attendance director and assistants have authority
84 to require a properly attested birth certificate or an affidavit from
85 the parent, guardian or custodian of the student, stating age of
86 the student. In the performance of his or her duties, the county
87 attendance director and assistants have authority to take without
88 warrant any student absent from school in violation of the
89 provisions of this article and to place the student in the school in
90 which he or she is or should be enrolled.

91 (g) The county attendance director and assistants shall
92 devote such time as is required by section three of this article to
93 the duties of attendance director in accordance with this section
94 during the instructional term and at such other times as the duties
95 of an attendance director are required. All attendance directors
96 and assistants hired for more than two hundred days may be
97 assigned other duties determined by the superintendent during
98 the period in excess of two hundred days. The county attendance
99 director is responsible under direction of the county
100 superintendent for efficiently administering school attendance in
101 the county.

102 (h) In addition to those duties directly relating to the
103 administration of attendance, the county attendance director and
104 assistant directors also shall perform the following duties:

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

107 (2) Confer with principals and teachers on the comparison of
108 school census and enrollment for the detection of possible
109 nonenrollees;

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

112 (4) Prepare a report for submission by the county
113 superintendent to the State Superintendent of Schools on school
114 attendance, at such times and in such detail as may be required.
115 The state board shall promulgate a legislative rule pursuant to
116 article three-b, chapter twenty-nine-a of this code that sets forth
117 student absences that are excluded for accountability purposes.
118 The absences that are excluded by the rule include, but are not
119 limited to, excused student absences, students not in attendance
120 due to disciplinary measures and absent students for whom the
121 attendance director has pursued judicial remedies to compel
122 attendance to the extent of his or her authority. The attendance
123 director shall file with the county superintendent and county
124 board at the close of each month a report showing activities of
125 the school attendance office and the status of attendance in the
126 county at the time;

127 (5) Promote attendance in the county by compiling data for
128 schools and by furnishing suggestions and recommendations for
129 publication through school bulletins and the press, or in such
130 manner as the county superintendent may direct;

131 (6) Participate in school teachers' conferences with parents
132 and students;

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

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

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

