
SECOND SUBSTITUTE HOUSE BILL 3054

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Clements, Huff and Delvin)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to truant, expelled, and suspended students;
2 amending RCW 28A.225.010, 28A.225.030, 28A.225.035, 28A.225.090,
3 46.20.291, 48.22.140, and 13.32A.140; adding new sections to chapter
4 28A.225 RCW; creating new sections; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 28A.225.010 and 1996 c 134 s 1 are each amended to
7 read as follows:

8 (1) All parents in this state of any child eight years of age and
9 under eighteen years of age shall cause such child to attend the public
10 school of the district in which the child resides and such child shall
11 have the responsibility to and therefore shall attend for the full time
12 when such school may be in session unless:

13 (a) The child is attending an approved private school for the same
14 time or is enrolled in an extension program as provided in RCW
15 28A.195.010(4);

16 (b) The child is receiving home-based instruction as provided in
17 subsection ((+4)) (5) of this section;

18 (c) The child is attending an education center as provided in
19 chapter 28A.205 RCW;

1 (d) The school district superintendent of the district in which the
2 child resides shall have excused such child from attendance because the
3 child is physically or mentally unable to attend school, is attending
4 a residential school operated by the department of social and health
5 services, or has been temporarily excused upon the request of his or
6 her parents for purposes agreed upon by the school authorities and the
7 parent: PROVIDED, That such excused absences shall not be permitted if
8 deemed to cause a serious adverse effect upon the student's educational
9 progress: PROVIDED FURTHER, That students excused for such temporary
10 absences may be claimed as full time equivalent students to the extent
11 they would otherwise have been so claimed for the purposes of RCW
12 28A.150.250 and 28A.150.260 and shall not affect school district
13 compliance with the provisions of RCW 28A.150.220; or

14 (e) The child is sixteen years of age or older and:

15 (i) The child is regularly and lawfully employed and either the
16 parent agrees that the child should not be required to attend school or
17 the child is emancipated in accordance with chapter 13.64 RCW;

18 (ii) The child has already met graduation requirements in
19 accordance with state board of education rules and regulations; or

20 (iii) The child has received a certificate of educational
21 competence under rules and regulations established by the state board
22 of education under RCW 28A.305.190.

23 (2) Should a parent enroll a child six years of age and under eight
24 years of age in the public school of the district in which the child
25 resides, such child shall have the responsibility to and therefore
26 shall attend for the full time when such school may be in session.

27 (3) A parent for the purpose of this chapter means a parent,
28 guardian, or person having legal custody of a child.

29 ((+3)) (4) An approved private school for the purposes of this
30 chapter and chapter 28A.200 RCW shall be one approved under regulations
31 established by the state board of education pursuant to RCW
32 28A.305.130.

33 ((+4)) (5) For the purposes of this chapter and chapter 28A.200
34 RCW, instruction shall be home-based if it consists of planned and
35 supervised instructional and related educational activities, including
36 a curriculum and instruction in the basic skills of occupational
37 education, science, mathematics, language, social studies, history,
38 health, reading, writing, spelling, and the development of an
39 appreciation of art and music, provided for a number of hours

1 equivalent to the total annual program hours per grade level
2 established for approved private schools under RCW 28A.195.010 and
3 28A.195.040 and if such activities are:

4 (a) Provided by a parent who is instructing his or her child only
5 and are supervised by a certificated person. A certificated person for
6 purposes of this chapter and chapter 28A.200 RCW shall be a person
7 certified under chapter 28A.410 RCW. For purposes of this section,
8 "supervised by a certificated person" means: The planning by the
9 certificated person and the parent of objectives consistent with this
10 subsection; a minimum each month of an average of one contact hour per
11 week with the child being supervised by the certificated person; and
12 evaluation of such child's progress by the certificated person. The
13 number of children supervised by the certificated person shall not
14 exceed thirty for purposes of this subsection; or

15 (b) Provided by a parent who is instructing his or her child only
16 and who has either earned forty-five college level quarter credit hours
17 or its equivalent in semester hours or has completed a course in home-
18 based instruction at a postsecondary institution or a vocational-
19 technical institute; or

20 (c) Provided by a parent who is deemed sufficiently qualified to
21 provide home-based instruction by the superintendent of the local
22 school district in which the child resides.

23 ~~((+5))~~ (6) The legislature recognizes that home-based instruction
24 is less structured and more experiential than the instruction normally
25 provided in a classroom setting. Therefore, the provisions of
26 subsection ~~((+4))~~ (5) of this section relating to the nature and
27 quantity of instructional and related educational activities shall be
28 liberally construed.

29 **Sec. 2.** RCW 28A.225.030 and 1996 c 134 s 3 are each amended to
30 read as follows:

31 (1) If a child is required to attend school under RCW 28A.225.010
32 and if the actions taken by a school district under RCW 28A.225.020 are
33 not successful in substantially reducing an enrolled student's absences
34 from public school, not later than the seventh unexcused absence by a
35 child within any month during the current school year or not later than
36 the tenth unexcused absence during the current school year the school
37 district shall file a petition and supporting affidavit for a civil
38 action with the juvenile court alleging a violation of RCW 28A.225.010:

1 (a) By the parent; (b) by the child; or (c) by the parent and the
2 child. Except as provided in this subsection, no additional documents
3 need be filed with the petition. The petition may be served on the
4 parent in any manner reasonably likely to provide adequate notice of
5 the filing. If service is unsuccessful, service shall be by personal
6 service.

7 (2) The district shall not later than the fifth unexcused absence
8 in a month:

9 (a) Enter into an agreement with a student and parent that
10 establishes school attendance requirements;

11 (b) Refer a student to a community truancy board as defined in RCW
12 28A.225.025. The community truancy board shall enter into an agreement
13 with the student and parent that establishes school attendance
14 requirements and take other appropriate actions to reduce the child's
15 absences; or

16 (c) File a petition under subsection (1) of this section.

17 (3) The petition may be filed by a school district employee who is
18 not an attorney.

19 (4) If the school district fails to file a petition under this
20 section, the parent of a child with five or more unexcused absences in
21 any month during the current school year or upon the tenth unexcused
22 absence during the current school year may file a petition with the
23 juvenile court alleging a violation of RCW 28A.225.010.

24 **Sec. 3.** RCW 28A.225.035 and 1997 c 68 s 1 are each amended to read
25 as follows:

26 (1) A petition for a civil action under RCW 28A.225.030 shall
27 consist of a written notification to the court alleging that:

28 (a) The child has unexcused absences during the current school
29 year;

30 (b) Actions taken by the school district have not been successful
31 in substantially reducing the child's absences from school; and

32 (c) Court intervention and supervision are necessary to assist the
33 school district or parent to reduce the child's absences from school.

34 (2) The petition shall set forth the name, age, school, and
35 residence of the child and the names and residence of the child's
36 parents.

37 (3) The petition shall set forth facts that support the allegations
38 in this section and shall generally request relief available under this

1 chapter and provide information about what the court might order under
2 RCW 28A.225.090.

3 (4) When a petition is filed under RCW 28A.225.030, the juvenile
4 court shall schedule a hearing at which the court shall consider the
5 petition. However, a hearing shall not be required if other actions by
6 the court would substantially reduce the child's unexcused absences.
7 When a hearing is held, the court shall:

8 (a) Separately notify the child, the parent of the child, and the
9 school district of the hearing;

10 (b) Notify the parent and the child of their rights to present
11 evidence at the hearing; and

12 (c) Notify the parent and the child of the options and rights
13 available under chapter 13.32A RCW.

14 (5) The court may require the attendance of both the child and the
15 parents at any hearing on a petition filed under RCW 28A.225.030.

16 (6) The court shall not require the attendance of school officials
17 who have filed supporting affidavits under RCW 28A.225.030 at any
18 hearing on a petition filed under RCW 28A.225.030.

19 (7) The court may permit the first hearing to be held without
20 requiring that either party be represented by legal counsel, and to be
21 held without a guardian ad litem for the child under RCW 4.08.050. At
22 the request of the school district, the court may permit a school
23 district representative who is not an attorney to represent the school
24 district at any future hearings.

25 ((+7)) (8) If the allegations in the petition are established by
26 a preponderance of the evidence, the court shall grant the petition and
27 enter an order assuming jurisdiction to intervene for the period of
28 time determined by the court, after considering the facts alleged in
29 the petition and the circumstances of the juvenile, to most likely
30 cause the juvenile to return to and remain in school while the juvenile
31 is subject to this chapter. In no case may the order expire before the
32 end of the school year in which it is entered.

33 ((+8)) (9) If the court assumes jurisdiction, the school district
34 shall regularly report to the court any additional unexcused absences
35 by the child.

36 ((+9)) (10) Community truancy boards and the courts shall
37 coordinate, to the extent possible, proceedings and actions pertaining
38 to children who are subject to truancy petitions and at-risk youth

1 petitions in RCW 13.32A.191 or child in need of services petitions in
2 RCW 13.32A.140.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.225
4 RCW to read as follows:

5 The office of the administrator for the courts shall develop a
6 uniform petition to be used on a state-wide basis for the purposes of
7 RCW 28A.225.010 through 28A.225.140. The office of the administrator
8 for the courts shall complete the uniform petition by June 1, 1998.
9 The uniform petition shall be used by all parties filing petitions
10 under RCW 28A.225.010 through 28A.225.140 by July 1, 1998.

11 **Sec. 5.** RCW 28A.225.090 and 1997 c 68 s 2 are each amended to read
12 as follows:

13 (1) A court may order a child subject to a petition under RCW
14 28A.225.035 to:

15 (a) Attend the child's current school;

16 (b) If there is space available and the program can provide
17 educational services appropriate for the child, order the child to
18 attend another public school, an alternative education program,
19 education center, a skill center, dropout prevention program, a
20 replacement school program provided by a school district for suspended
21 or expelled students, an alternative educational service program
22 authorized by chapter 28A.150 RCW, or another public educational
23 program;

24 (c) Attend a private nonsectarian school or program including an
25 education center. Before ordering a child to attend an approved or
26 certified private nonsectarian school or program, the court shall: (i)
27 Consider the public and private programs available; (ii) find that
28 placement is in the best interest of the child; and (iii) find that the
29 private school or program is willing to accept the child and will not
30 charge any fees in addition to those established by contract with the
31 student's school district. If the court orders the child to enroll in
32 a private school or program, the child's school district shall contract
33 with the school or program to provide educational services for the
34 child. The school district shall not be required to contract for a
35 weekly rate that exceeds the state general apportionment dollars
36 calculated on a weekly basis generated by the child and received by the
37 district. A school district shall not be required to enter into a

1 contract that is longer than the remainder of the school year. A
2 school district shall not be required to enter into or continue a
3 contract if the child is no longer enrolled in the district;

4 (d) Be referred to a community truancy board, if available; ~~((or))~~

5 (e) Submit to testing or evaluation for the use of controlled
6 substances or alcohol based on a determination that such testing or
7 evaluation is appropriate to the circumstances and behavior of the
8 child and will facilitate the child's compliance with the mandatory
9 attendance law. After considering the results of the testing or
10 evaluation, and if the child's parents agree to pay for treatment, the
11 court may require the student to participate in any recommended
12 services or outpatient substance abuse treatment program;

13 (f) Refrain from actions which may result in suspension or
14 expulsion from school; or

15 (g) Submit to an assessment by the court administrator, school
16 district, or other public entity, if available, for the purpose of
17 identifying the cause of the child's truancy.

18 (2) If the child fails to comply with ~~((the))~~ a court order, the
19 court may:

20 (a) Find the child in contempt of court and order the child to be
21 punished by detention, including electronic monitoring, or ~~((may))~~
22 impose alternatives to detention such as community service. When
23 ordering electronic monitoring under this section, the court shall
24 specify the agency which will provide the electronic monitoring
25 services, the terms the child must obey while on electronic monitoring,
26 and the duration of the electronic monitoring. Under this section, the
27 court is not authorized, based upon any single contempt petition, or at
28 any single disposition hearing addressing multiple contempt petitions,
29 to place a child on electronic monitoring for a term exceeding five
30 days. However, failure by a child to comply with an order issued under
31 this subsection shall not be punishable by detention for a period
32 greater than that permitted pursuant to a civil contempt proceeding
33 against a child under chapter 13.32A RCW.

34 (b) Order the department of licensing, under RCW 46.20.291, to
35 suspend the child's driver's license for ninety days. Whenever such an
36 order is entered, the court shall secure the immediate forfeiture of
37 the driver's license of the child and immediately forward the license
38 to the department of licensing. If the child fails to deliver the

1 license to the judge, the judge may find the child in contempt of court
2 pursuant to (a) of this subsection; and

3 (c) If the court has reasonable cause to believe that the child is
4 a child in need of services as defined in RCW 13.32A.030(4), order the
5 department of social and health services to file a child in need of
6 services petition pursuant to RCW 13.32A.140.

7 (3) Any parent violating any of the provisions of either RCW
8 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
9 dollars for each day of unexcused absence from school. It shall be a
10 defense for a parent charged with violating RCW 28A.225.010 to show
11 that he or she exercised reasonable diligence in attempting to cause a
12 child in his or her custody to attend school or that the child's school
13 did not perform its duties as required in RCW 28A.225.020. The court
14 may order the parent to provide community service instead of imposing
15 a fine. Any fine imposed pursuant to this section may be suspended
16 upon the condition that a parent charged with violating RCW 28A.225.010
17 shall participate with the school and the child in a supervised plan
18 for the child's attendance at school or upon condition that the parent
19 attend a conference or conferences scheduled by a school for the
20 purpose of analyzing the causes of a child's absence.

21 **Sec. 6.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to read
22 as follows:

23 The department is authorized to suspend the license of a driver
24 upon a showing by its records or other sufficient evidence that the
25 licensee:

26 (1) Has committed an offense for which mandatory revocation or
27 suspension of license is provided by law;

28 (2) Has, by reckless or unlawful operation of a motor vehicle,
29 caused or contributed to an accident resulting in death or injury to
30 any person or serious property damage;

31 (3) Has been convicted of offenses against traffic regulations
32 governing the movement of vehicles, or found to have committed traffic
33 infractions, with such frequency as to indicate a disrespect for
34 traffic laws or a disregard for the safety of other persons on the
35 highways;

36 (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

37 (5) Has failed to respond to a notice of traffic infraction, failed
38 to appear at a requested hearing, violated a written promise to appear

1 in court, or has failed to comply with the terms of a notice of traffic
2 infraction or citation, as provided in RCW 46.20.289;

3 (6) Has committed one of the prohibited practices relating to
4 drivers' licenses defined in RCW 46.20.336; ~~((or))~~

5 (7) Has been certified by the department of social and health
6 services as a person who is not in compliance with a child support
7 order or a residential or visitation order as provided in RCW
8 74.20A.320; or

9 (8) Has been found in contempt of court as provided in RCW
10 28A.225.090(2) and is the subject of a court order directing the
11 department to suspend the license of the licensee.

12 **Sec. 7.** RCW 48.22.140 and 1997 c 58 s 808 are each amended to read
13 as follows:

14 In the event that the department of licensing suspends a driver's
15 license solely for the nonpayment of child support as provided in
16 chapter 74.20A RCW or for ~~((noncompliance with a residential or~~
17 ~~visitation order as provided in chapter 26.09 RCW))~~ failing to comply
18 with a court order as provided in RCW 28A.225.090(2), any provision in
19 the driver's motor vehicle liability insurance policy excluding
20 insurance coverage for an unlicensed driver shall not apply to the
21 driver for ninety days from the date of suspension. When a driver's
22 license is suspended under chapter 74.20A or 28A.225 RCW, the driving
23 record for the suspended driver shall include a notation that
24 ~~((explains))~~ indicates the reason for the suspension.

25 **Sec. 8.** RCW 13.32A.140 and 1997 c 146 s 5 are each amended to read
26 as follows:

27 Unless the department files a dependency petition, the department
28 shall file a child in need of services petition to approve an out-of-
29 home placement on behalf of a child under any of the following sets of
30 circumstances:

31 (1) The child has been admitted to a crisis residential center or
32 has been placed by the department in an out-of-home placement, and:

33 (a) The parent has been notified that the child was so admitted or
34 placed;

35 (b) The child cannot return home, and legal authorization is needed
36 for out-of-home placement beyond seventy-two hours;

1 (c) No agreement between the parent and the child as to where the
2 child shall live has been reached;

3 (d) No child in need of services petition has been filed by either
4 the child or parent;

5 (e) The parent has not filed an at-risk youth petition; and

6 (f) The child has no suitable place to live other than the home of
7 his or her parent.

8 (2) The child has been admitted to a crisis residential center and:

9 (a) Seventy-two hours, including Saturdays, Sundays, and holidays,
10 have passed since such placement;

11 (b) The staff, after searching with due diligence, have been unable
12 to contact the parent of such child; and

13 (c) The child has no suitable place to live other than the home of
14 his or her parent.

15 (3) An agreement between parent and child made pursuant to RCW
16 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer
17 acceptable to parent or child, and:

18 (a) The party to whom the arrangement is no longer acceptable has
19 so notified the department;

20 (b) Seventy-two hours, including Saturdays, Sundays, and holidays,
21 have passed since such notification;

22 (c) No new agreement between parent and child as to where the child
23 shall live has been reached;

24 (d) No child in need of services petition has been filed by either
25 the child or the parent;

26 (e) The parent has not filed an at-risk youth petition; and

27 (f) The child has no suitable place to live other than the home of
28 his or her parent.

29 (4) A court in a contempt action under RCW 28A.225.090(2) orders
30 the department to file a petition.

31 Under the circumstances of subsections (1), (2), or (3) of this
32 section, the child shall remain in an out-of-home placement until a
33 child in need of services petition filed by the department on behalf of
34 the child is reviewed by the juvenile court and is resolved by the
35 court. The department may authorize emergency medical or dental care
36 for a child admitted to a crisis residential center or placed in an
37 out-of-home placement by the department. The state, when the
38 department files a child in need of services petition under this
39 section, shall be represented as provided for in RCW 13.04.093.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.225
2 RCW to read as follows:

3 The juvenile rehabilitation administration within the department of
4 social and health services may contract with counties to operate a
5 pilot project to conduct electronic monitoring of truant minors ordered
6 detained under RCW 28A.225.010. The pilot project shall be operated in
7 three counties. One of the counties selected shall be Yakima and
8 another shall be located west of the Cascade crest. If a pilot county
9 is not currently offering electronic monitoring, that county may
10 contract with another county, the state juvenile rehabilitation
11 administration, or any other entity for the provision of monitoring
12 equipment and services. Funds provided to counties under this act may
13 be used to purchase, lease, or set up electronic monitoring equipment,
14 or to fund agency supervision of children placed on, and children who
15 violate the terms of, electronic monitoring.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.225
17 RCW to read as follows:

18 The juvenile rehabilitation administration shall contract with the
19 institute for public policy or a similar agency to obtain an evaluation
20 of any pilot program instituted under section 9 of this act, ensuring
21 that each commissioned evaluation includes: A comparison of school
22 attendance outcomes for children subject to electronic monitoring with
23 those of similarly situated children in similar nonpilot counties;
24 identification of any issues or factors that limit effective
25 implementation of electronic monitoring in the pilot county; and any
26 other issue the evaluating agency considers relevant.

27 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
28 this act, referencing this act by bill or chapter number, is not
29 provided by June 30, 1998, in the omnibus appropriations act, this act
30 is null and void.

31 NEW SECTION. **Sec. 12.** Sections 2 through 7 of this act are
32 necessary for the immediate preservation of the public peace, health,
33 or safety, or support of the state government and its existing public
34 institutions, and take effect immediately.

1 NEW SECTION. **Sec. 13.** Sections 2 through 7 of this act apply to
2 all causes of action commenced on or after the effective date of
3 sections 2 through 7 of this act, regardless of when the cause of
4 action arose. To this extent, these sections apply retrospectively,
5 but in all other respects they apply prospectively.

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