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**SUBSTITUTE SENATE BILL 6494**

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**State of Washington                      62nd Legislature                      2012 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala, and Carrell)

READ FIRST TIME 02/03/12.

1            AN ACT Relating to improving truancy procedures by changing the  
2 applicability of mandatory truancy petition filing provisions to  
3 children under seventeen years of age, requiring initial petitions to  
4 contain information about the child's academic status, prohibiting  
5 issuance of a bench warrant at an initial truancy status hearing, and  
6 modifying school district reporting requirements after the court  
7 assumes jurisdiction in a truancy case; and amending RCW 28A.225.030  
8 and 28A.225.035.

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

10           **Sec. 1.** RCW 28A.225.030 and 1999 c 319 s 2 are each amended to  
11 read as follows:

12           (1) If a child under the age of seventeen is required to attend  
13 school under RCW 28A.225.010 and if the actions taken by a school  
14 district under RCW 28A.225.020 are not successful in substantially  
15 reducing an enrolled student's absences from public school, not later  
16 than the seventh unexcused absence by a child within any month during  
17 the current school year or not later than the tenth unexcused absence  
18 during the current school year the school district shall file a  
19 petition and supporting affidavit for a civil action with the juvenile

1 court alleging a violation of RCW 28A.225.010: (a) By the parent; (b)  
2 by the child; or (c) by the parent and the child. Except as provided  
3 in this subsection, no additional documents need be filed with the  
4 petition. Nothing in this subsection requires court jurisdiction to  
5 terminate when a child turns seventeen or precludes a school district  
6 from filing a petition for a child that is seventeen years of age.

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, if available, as  
12 defined in RCW 28A.225.025. The community truancy board shall enter  
13 into an agreement with the student and parent that establishes school  
14 attendance requirements and take other appropriate actions to reduce  
15 the child's 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 (5) Petitions filed under this section may be served by certified  
25 mail, return receipt requested. If such service is unsuccessful, or  
26 the return receipt is not signed by the addressee, personal service is  
27 required.

28 **Sec. 2.** RCW 28A.225.035 and 2009 c 266 s 3 are each amended to  
29 read as follows:

30 (1) A petition for a civil action under RCW 28A.225.030 or  
31 28A.225.015 shall consist of a written notification to the court  
32 alleging that:

33 (a) The child has unexcused absences during the current school  
34 year;

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

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

3 (2) The petition shall set forth the name, date of birth, school,  
4 address, gender, race, and ethnicity of the child and the names and  
5 addresses of the child's parents, and shall set forth whether the child  
6 and parent are fluent in English (~~and~~), whether there is an existing  
7 individualized education program, and the child's current academic  
8 status in school.

9 (3) The petition shall set forth facts that support the allegations  
10 in this section and shall generally request relief available under this  
11 chapter and provide information about what the court might order under  
12 RCW 28A.225.090.

13 (4) When a petition is filed under RCW 28A.225.030 or 28A.225.015,  
14 the juvenile court shall schedule a hearing at which the court shall  
15 consider the petition, or if the court determines that a referral to an  
16 available community truancy board would substantially reduce the  
17 child's unexcused absences, the court may refer the case to a community  
18 truancy board under the jurisdiction of the juvenile court.

19 (5) If a referral is made to a community truancy board, the truancy  
20 board must meet with the child, a parent, and the school district  
21 representative and enter into an agreement with the petitioner and  
22 respondent regarding expectations and any actions necessary to address  
23 the child's truancy within twenty days of the referral. If the  
24 petition is based on RCW 28A.225.015, the child shall not be required  
25 to attend and the agreement under this subsection shall be between the  
26 truancy board, the school district, and the child's parent. The court  
27 may permit the truancy board or truancy prevention counselor to provide  
28 continued supervision over the student, or parent if the petition is  
29 based on RCW 28A.225.015.

30 (6) If the truancy board fails to reach an agreement, or the parent  
31 or student does not comply with the agreement, the truancy board shall  
32 return the case to the juvenile court for a hearing.

33 (7)(a) Notwithstanding the provisions in subsection (4) of this  
34 section, a hearing shall not be required if other actions by the court  
35 would substantially reduce the child's unexcused absences. When a  
36 juvenile court hearing is held, the court shall:

37 (i) Separately notify the child, the parent of the child, and the

1 school district of the hearing. If the parent is not fluent in  
2 English, the preferred practice is for notice to be provided in a  
3 language in which the parent is fluent;

4 (ii) Notify the parent and the child of their rights to present  
5 evidence at the hearing; and

6 (iii) Notify the parent and the child of the options and rights  
7 available under chapter 13.32A RCW.

8 (b) If the child is not provided with counsel, the advisement of  
9 rights must take place in court by means of a colloquy between the  
10 court, the child if eight years old or older, and the parent.

11 (8)(a) The court may require the attendance of the child if eight  
12 years old or older, the parents, and the school district at any hearing  
13 on a petition filed under RCW 28A.225.030.

14 (b) The court may not issue a bench warrant for a child for failure  
15 to appear at a hearing on an initial truancy petition filed under RCW  
16 28A.225.030. If there has been proper service, the court may instead  
17 enter a default order assuming jurisdiction under the terms specified  
18 in subsection (12) of this section.

19 (9) A school district is responsible for determining who shall  
20 represent the school district at hearings on a petition filed under RCW  
21 28A.225.030 or 28A.225.015.

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

28 (11) If the child is in a special education program or has a  
29 diagnosed mental or emotional disorder, the court shall inquire as to  
30 what efforts the school district has made to assist the child in  
31 attending school.

32 (12) If the allegations in the petition are established by a  
33 preponderance of the evidence, the court shall grant the petition and  
34 enter an order assuming jurisdiction to intervene for the period of  
35 time determined by the court, after considering the facts alleged in  
36 the petition and the circumstances of the juvenile, to most likely  
37 cause the juvenile to return to and remain in school while the juvenile

1 is subject to this chapter. In no case may the order expire before the  
2 end of the school year in which it is entered.

3 (13)(a) If the court assumes jurisdiction, the school district  
4 shall ~~((regularly))~~ periodically report to the court any additional  
5 unexcused absences by the child, actions taken by the school district,  
6 and an update on the child's academic status in school at a schedule  
7 specified by the court.

8 (b) The first report under this subsection (13) must be received no  
9 later than three months from the date that the court assumes  
10 jurisdiction.

11 (14) Community truancy boards and the courts shall coordinate, to  
12 the extent possible, proceedings and actions pertaining to children who  
13 are subject to truancy petitions and at-risk youth petitions in RCW  
14 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

15 (15) If after a juvenile court assumes jurisdiction in one county  
16 the child relocates to another county, the juvenile court in the  
17 receiving county shall, upon the request of a school district or  
18 parent, assume jurisdiction of the petition filed in the previous  
19 county.

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