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**SENATE BILL 5745**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Hargrove and Miloscia

AN ACT Relating to implementing Becca task force truancy reform recommendations; amending RCW 28A.225.005, 28A.225.020, 28A.225.030, 28A.225.035, and 28A.225.090; adding a new section to chapter 28A.225 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature recognizes that all children and youth in Washington state are entitled to a basic education and to an equal opportunity to learn. The legislature recognizes that there are many causes of truancy and that truancy is an indicator of future school dropout and delinquent behavior. The legislature recognizes that early engagement of parents in the education process is an important measure in preventing truancy. It is the intent of the legislature to encourage the systematic identification of truant behavior as early as possible and to encourage the use of best practices and evidence-based interventions to reduce truant behavior in every school in Washington state. The legislature intends that schools, parents, juvenile courts, and communities share resources within and across school districts where possible to enhance the availability of best practices and evidence-based intervention for truant children and youth.

**Sec.**  RCW 28A.225.005 and 2009 c 556 s 5 are each amended to read as follows:

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter online, or in writing if the parent requests the information to be provided in written form, in a language in which the parent is fluent. This truancy information must include the general short-term and long-term consequences of truancy, the school's expectations of the parent to ensure regular school attendance by the child, the role and responsibility of the school regarding truancy, and the resources available to assist the child and the parent. The parent must date and acknowledge review of this truancy information online or in writing before or at the time of enrollment of the child at a new school and at the beginning of each school year. ((~~The school shall provide access to the information at least annually. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.~~))

**Sec.**  RCW 28A.225.020 and 2009 c 266 s 1 are each amended to read as follows:

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall:

(a) Inform the child's ((~~custodial~~)) parent((~~, parents, or guardian~~)) by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the ((~~custodial~~)) parent((~~, parents, or guardian~~)) is not fluent in English, the ((~~preferred practice is to~~))school must provide this information in a language in which the ((~~custodial~~)) parent((~~, parents, or guardian~~)) is fluent;

(b) Schedule a conference or conferences with the ((~~custodial~~)) parent((~~, parents, or guardian~~)) and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(c) Take data-informed steps to eliminate or reduce the child's absences. These steps shall include a risk and needs assessment using a validated truancy assessment tool, if available, to identify areas of need, and where appropriate, providing an available approved best practice or research-based intervention, or both, consistent with the risk and needs assessment profile, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, referring the child to a community truancy board, ((~~if available,~~)) requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However, the parent shall be notified, in a language in which the parent is fluent, of the steps to be taken to eliminate or reduce the child's absence.

(2) ((~~For purposes of this chapter, an~~))The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

(a) "Truancy assessment tool" means a reliable and validated assessment instrument designed to measure the risk and needs of a student in each of the following domains: Aggression-defiance; depression-anxiety; substance abuse; peer deviance; family environment; and school engagement, for the purpose of assessing needs and risk related to academic performance and attendance, providing the information can be used in responding to risk and needs, for selecting appropriate interventions and case management.

(b) "Unexcused absence" means that a child:

((~~(a)~~))(i) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

((~~(b)~~))(ii) Has failed to meet the school district's policy for excused absences.

(3) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW 28A.225.030, and 28A.225.015, along with a copy of any previous truancy assessment as required under subsection (i)(c) of this section, history of any best practices or researched-based intervention previously provided to the child by the child's current school district, and a copy of the most dated truancy information inclusive of online or written acknowledgment by the parent and child, as provided for in RCW 28A.225.005.

(4) Subject to the availability of funds, the administrative office of the courts must complete validation of the Washington assessment of risk and needs of students for high school students not later than August 30, 2015, develop and validate Washington assessments of risk and needs for middle school and elementary school students not later than August 30, 2016, and report the status of the tool development and validation by January 1st of each calendar year until development and validation are complete.

**Sec.**  RCW 28A.225.030 and 2012 c 157 s 1 are each amended to read as follows:

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year or not later than the tenth unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. Pursuant to RCW 28A.225.020, the petition must include a copy of any previous truancy assessment completed by the child's current school district, the history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district, and a copy of the most recent truancy information document signed by the parent and child, pursuant to RCW 28A.225.005. Except as provided in this subsection, no additional documents need be filed with the petition. Nothing in this subsection requires court jurisdiction to terminate when a child turns seventeen or precludes a school district from filing a petition for a child that is seventeen years of age.

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

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

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

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

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

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

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

**Sec.**  RCW 28A.225.035 and 2012 c 157 s 2 are each amended to read as follows:

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

(a) The child has unexcused absences as described in RCW 28A.225.030(1) during the current school year;

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

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

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

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

(4) Not later than January 1, 2016, when a petition is filed under RCW 28A.225.030 or 28A.225.015, the child and the child's parent must be scheduled for a community truancy board, as described in RCW 28A.225.025. Before the establishment of a local community truancy board as required in this section, when a petition is filed under RCW 28A.225.030 or 28A.225.015, the juvenile court shall schedule a hearing at which the court shall consider the petition((~~, or if the court determines that a referral to an available community truancy board would substantially reduce the child's unexcused absences, the court may refer the case to a community truancy board under the jurisdiction of the juvenile court~~)).

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

(6) ((~~If the truancy board fails to reach an agreement, or the parent or student does not comply with the agreement, the truancy board shall return the case to the juvenile court for a hearing.~~))If the community truancy board intervention is not successful in reducing a child's absences, the juvenile court shall schedule a hearing at which the court shall consider the petition.

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

(i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, ((~~the preferred practice is for~~)) notice ((~~to~~))must be provided in a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each school district, in collaboration with the educational service district and juvenile court, is responsible to identify and develop sufficient best practice or evidence-based interventions, or both, to meet the needs of its students who exhibit truant behavior.

No later than January 1, 2016, each educational service district must convene meetings with superintendents of school districts, school principals and school counselors, judicial officers responsible for hearing truancy petition and contempt matters, juvenile court administrators, and local service providers within the educational service district to develop a list of available best practice or evidence-based strategies, or both, for truancy intervention, and to develop additional best practice or evidence-based interventions, or both, for truancy sufficient to meet the needs of truant and out-of-school youth within each school and district. The educational service districts and school superintendents are encouraged to collaborate and share resources across school districts, between schools within a district, with the educational service district, and with the juvenile court. No later than September 1, 2016, the educational service district must issue a list of approved best practice intervention or research-based strategies, or both, available to schools.

**Sec.**  RCW 28A.225.090 and 2009 c 266 s 4 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, ((~~including suspensions~~))which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

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

~~(e)~~)) Submit to ((~~testing for the use of controlled substances or alcohol based on a determination~~))a substance abuse assessment if the court finds on the court record that such ((~~testing~~))assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the ((~~drug~~))substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(2) If the child fails to comply with the court order, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as community restitution. Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seven days. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

**--- END ---**