
ENGROSSED SUBSTITUTE HOUSE BILL 2640

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Education (originally sponsored by Representatives Clements, Brumsickle, Radcliff, Poulsen, Hatfield, Linville, Dickerson, Basich and Cole)

Read first time 02/02/96.

1 AN ACT Relating to school attendance; amending RCW 28A.225.010,
2 28A.225.020, 28A.225.030, 28A.225.035, 28A.225.151, 28A.225.080,
3 28A.225.090, 4.08.050, 28A.225.025, and 28A.225.030; adding a new
4 section to chapter 2.56 RCW; adding a new section to chapter 28A.225
5 RCW; creating new sections; repealing 28A.225.035 and 28A.225.151;
6 repealing 1995 c 312 s 81 (uncodified); prescribing penalties; and
7 providing an expiration date.

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

9 **Sec. 1.** RCW 28A.225.010 and 1990 c 33 s 219 are each amended to
10 read as follows:

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

16 (a) The child is attending an approved private school for the same
17 time or is enrolled in an extension program as provided in RCW
18 28A.195.010(4);

1 (b) The child is receiving home-based instruction as provided in
2 subsection (4) of this section; ~~((or))~~

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

5 (d) The school district superintendent of the district in which the
6 child resides shall have excused such child from attendance because the
7 child is physically or mentally unable to attend school, is attending
8 a residential school operated by the department of social and health
9 services, or has been temporarily excused upon the request of his or
10 her parents for purposes agreed upon by the school authorities and the
11 parent: PROVIDED, That such excused absences shall not be permitted if
12 deemed to cause a serious adverse effect upon the student's educational
13 progress: PROVIDED FURTHER, That students excused for such temporary
14 absences may be claimed as full time equivalent students to the extent
15 they would otherwise have been so claimed for the purposes of RCW
16 28A.150.250 and 28A.150.260 and shall not affect school district
17 compliance with the provisions of RCW 28A.150.220; or

18 ~~((d))~~ (e) The child is ~~((fifteen))~~ sixteen years of age or older
19 and:

20 (i) ~~((The school district superintendent determines that such child~~
21 ~~has already attained a reasonable proficiency in the branches required~~
22 ~~by law to be taught in the first nine grades of the public schools of~~
23 ~~this state;~~

24 ~~((ii))~~ The child is regularly and lawfully ~~((engaged in a useful or~~
25 ~~remunerative occupation))~~ employed and either the parent agrees that
26 the child should not be required to attend school or the child is
27 emancipated in accordance with chapter 13.64 RCW;

28 ~~((iii))~~ (ii) The child has already met graduation requirements in
29 accordance with state board of education rules and regulations; or

30 ~~((iv))~~ (iii) The child has received a certificate of educational
31 competence under rules and regulations established by the state board
32 of education under RCW 28A.305.190.

33 (2) A parent for the purpose of this chapter means a parent,
34 guardian, or person having legal custody of a child.

35 (3) An approved private school for the purposes of this chapter and
36 chapter 28A.200 RCW shall be one approved under regulations established
37 by the state board of education pursuant to RCW 28A.305.130.

38 (4) For the purposes of this chapter and chapter 28A.200 RCW,
39 instruction shall be home-based if it consists of planned and

1 supervised instructional and related educational activities, including
2 a curriculum and instruction in the basic skills of occupational
3 education, science, mathematics, language, social studies, history,
4 health, reading, writing, spelling, and the development of an
5 appreciation of art and music, provided for a number of hours
6 equivalent to the total annual program hours per grade level
7 established for approved private schools under RCW 28A.195.010 and
8 28A.195.040 and if such activities are:

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

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

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

28 (5) The legislature recognizes that home-based instruction is less
29 structured and more experiential than the instruction normally provided
30 in a classroom setting. Therefore, the provisions of subsection (4) of
31 this section relating to the nature and quantity of instructional and
32 related educational activities shall be liberally construed.

33 **Sec. 2.** RCW 28A.225.020 and 1995 c 312 s 67 are each amended to
34 read as follows:

35 (1) If a child required to attend school under (~~the laws of the~~
36 ~~state of Washington~~) RCW 28A.225.010 fails to attend school without
37 valid justification, the (~~child's~~) public school in which the child
38 is enrolled shall:

1 (~~(1)~~) (a) Inform the child's custodial parent, parents, or
2 guardian by a notice in writing or by telephone whenever the child has
3 failed to attend school after one unexcused absence within any month
4 during the current school year. School officials shall inform the
5 parent of the potential consequences of additional unexcused absences;

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

14 (~~(3)~~) (c) Take steps to eliminate or reduce the child's absences.
15 These steps shall include, where appropriate, adjusting the child's
16 school program or school or course assignment, providing more
17 individualized or remedial instruction, providing appropriate
18 vocational courses or work experience, (~~or refer~~) referring the child
19 to a community truancy board, requiring the child to attend an
20 alternative school or program, or assisting the parent or child to
21 obtain supplementary services that might eliminate or ameliorate the
22 cause or causes for the absence from school. If the child's parent
23 does not attend the scheduled conference, the conference may be
24 conducted with the student and school official. However, the parent
25 shall be notified of the steps to be taken to eliminate or reduce the
26 child's absence.

27 (2) For purposes of this chapter, an "unexcused absence" means that
28 a child:

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

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

34 **Sec. 3.** RCW 28A.225.030 and 1995 c 312 s 68 are each amended to
35 read as follows:

36 (1) If a child is required to attend school under RCW 28A.225.010
37 and if the actions taken by a school district under RCW 28A.225.020 are
38 not successful in substantially reducing an enrolled student's absences

1 from public school, upon the fifth unexcused absence by a child within
2 any month during the current school year or upon the tenth unexcused
3 absence during the current school year the school district shall:

4 (a) File a petition for a civil action with the juvenile court
5 alleging a violation of RCW 28A.225.010: ~~((+1))~~ (i) By the parent;
6 ~~((+2))~~ (ii) by the child; or ~~((+3))~~ (iii) by the parent and the child
7 i

8 (b) Enter into an agreement with the student and parent that
9 establishes school attendance requirements; or

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

15 (2) If the school district or community truancy board determines
16 that the student has failed to meet the school attendance requirements
17 contained in an agreement required in subsection (1)(b) or (c) of this
18 section, the school district shall file a petition with the juvenile
19 court in accordance with subsection (1)(a) of this section within five
20 school days.

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

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

28 **Sec. 4.** RCW 28A.225.035 and 1995 c 312 s 69 are each amended to
29 read as follows:

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

32 (a) The child has five or more unexcused absences within any month
33 during the current school year or ten or more unexcused absences in the
34 current school year;

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

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

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

4 (3) The petition shall set forth facts that support the allegations
5 in this section and shall generally request relief available under this
6 chapter.

7 (4) When a petition is filed under RCW 28A.225.030, the juvenile
8 court (~~may~~

9 ~~(a))~~ shall schedule (~~(a fact-finding)~~) an open hearing at which
10 the court shall consider the petition(~~(i)~~). However, a hearing shall
11 not be required if other actions by the court would substantially
12 reduce the child's unexcused absences.

13 (~~(b))~~ When a hearing is held, the court shall:

14 (a) Separately notify the child, the parent of the child, and the
15 school district of the (~~fact-finding~~) hearing;

16 (~~(e))~~ (b) Notify the parent and the child of their rights to
17 present evidence at the (~~fact-finding~~) hearing; and

18 (~~(d))~~ (c) Notify the parent and the child of the options and
19 rights available under chapter 13.32A RCW.

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

22 (6) 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 may permit a school
26 district representative who is not an attorney to represent the school
27 district at any future hearings.

28 (7) The court shall grant the petition and enter an order assuming
29 jurisdiction to intervene for the remainder of the school year, if the
30 allegations in the petition are established by a preponderance of the
31 evidence.

32 (~~(7))~~ (8) If the court assumes jurisdiction, the school district
33 shall regularly report to the court any additional unexcused absences
34 by the child.

35 (9) Community truancy boards and the courts shall coordinate, to
36 the extent possible, proceedings and actions pertaining to children who
37 are subject to truancy petitions and at-risk youth petitions in RCW
38 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

1 **Sec. 5.** RCW 28A.225.151 and 1995 c 312 s 72 are each amended to
2 read as follows:

3 (1) Each school shall document the actions taken under RCW
4 ~~((28A.225.020 and))~~ 28A.225.030 and report this information ~~((at the~~
5 ~~end of each grading period))~~ to the school district superintendent who
6 shall compile the data for all the schools in the district and prepare
7 an annual school district report for each school year and submit the
8 report to the superintendent of public instruction. The reports shall
9 be made upon forms furnished by the superintendent of public
10 instruction and shall be transmitted as determined by the
11 superintendent of public instruction.

12 (2) The reports under subsection (1) of this section shall include:

13 (a) The number of enrolled students ~~((and the number of excused and~~
14 ~~unexcused absences;~~

15 ~~(b) Documentation of the steps taken by the school district under~~
16 ~~each subsection of RCW 28A.225.020));~~

17 ~~((c))~~ (b) The number of enrolled students with ten or more
18 unexcused absences in a school year or five or more unexcused absences
19 in a month during a school year; and

20 ~~((d) Documentation of success by the school district in~~
21 ~~substantially reducing enrolled student absences for students with five~~
22 ~~or more absences in any month or ten or more unexcused absences in any~~
23 ~~school year;~~

24 ~~(e))~~ (c) The number of petitions filed by a school district ~~((or~~
25 ~~a parent))~~ with the juvenile court~~((; and~~

26 ~~(f) The disposition of cases filed with the juvenile court,~~
27 ~~including the frequency of contempt orders issued to enforce a court's~~
28 ~~order under RCW 28A.225.090)).~~

29 (3) A report required under this section shall not disclose the
30 name or other identification of a child or parent.

31 (4) The superintendent of public instruction shall collect these
32 reports from all school districts and prepare an annual report for each
33 school year to be submitted to the legislature no later than December
34 15th of each year.

35 **Sec. 6.** RCW 28A.225.080 and 1990 c 33 s 225 are each amended to
36 read as follows:

37 ~~((Except as otherwise provided in this code,))~~ No child under the
38 age of ~~((fifteen))~~ sixteen years shall be employed for any purpose by

1 any person, company or corporation, in this state during the hours
2 which the public schools of the district in which such child resides
3 are in session, unless the said child shall present a certificate from
4 a school district superintendent (~~as provided for in RCW~~
5 ~~28A.225.010~~), or his or her designee, excusing the said child from
6 attendance in the public schools and setting forth the reason for such
7 excuse, the residence and age of the child, and the time for which such
8 excuse is given. Every owner, superintendent, or overseer of any
9 establishment, company or corporation shall keep such certificate on
10 file so long as such child is employed by him or her. The form of said
11 certificate shall be furnished by the superintendent of public
12 instruction. Proof that any child under (~~fifteen~~) sixteen years of
13 age is employed during any part of the period in which public schools
14 of the district are in session, shall be deemed prima facie evidence of
15 a violation of this section.

16 **Sec. 7.** RCW 28A.225.090 and 1995 c 312 s 74 are each amended to
17 read as follows:

18 (~~Any person violating any of the provisions of either RCW~~
19 ~~28A.225.010 or 28A.225.080 shall be fined not more than twenty five~~
20 ~~dollars for each day of unexcused absence from school. However, a~~
21 ~~child found to be in violation of RCW 28A.225.010 shall be required to~~
22 ~~attend school and shall not be fined. If the child fails to comply~~
23 ~~with the court order to attend school, the)) (1) A court may(~~(1)~~
24 ~~Order the child be punished by detention; or (2) impose alternatives to~~
25 ~~detention such as community service hours or participation in)) order~~
26 a child subject to a petition under RCW 28A.225.035 to: Attend the
27 child's current school; enroll in another school, an alternative
28 education program, an education center, a skill center, a dropout
29 prevention program(~~s or referral~~), or another public or private
30 educational program; be referred to a community truancy board, if
31 available; or take other appropriate action. If the court orders the
32 child to enroll in a nonpublic school or program, the child's school
33 district shall contract with the school or program to provide
34 educational services for the child.~~

35 (2) If the child fails to comply with the court order, the court
36 may order the child to be punished by detention or may impose
37 alternatives to detention such as community service. Failure by a
38 child to comply with an order issued under this (~~section~~) subsection

1 shall not be punishable by detention for a period greater than that
2 permitted pursuant to a contempt proceeding against a child under
3 chapter 13.32A RCW.

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

19 ~~((School districts shall make complaint for violation of the~~
20 ~~provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the~~
21 ~~juvenile court.))~~

22 **Sec. 8.** RCW 4.08.050 and 1992 c 111 s 9 are each amended to read
23 as follows:

24 Except as provided under RCW 26.50.020 and 28A.225.035, when an
25 infant is a party he or she shall appear by guardian, or if he or she
26 has no guardian, or in the opinion of the court the guardian is an
27 improper person, the court shall appoint one to act. Said guardian
28 shall be appointed as follows:

29 (1) When the infant is plaintiff, upon the application of the
30 infant, if he or she be of the age of fourteen years, or if under that
31 age, upon the application of a relative or friend of the infant.

32 (2) When the infant is defendant, upon the application of the
33 infant, if he or she be of the age of fourteen years, and applies
34 within thirty days after the service of the summons; if he or she be
35 under the age of fourteen, or neglects to apply, then upon the
36 application of any other party to the action, or of a relative or
37 friend of the infant.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 2.56 RCW
2 to read as follows:

3 The administrator for the courts shall prepare a report for each
4 school year to be submitted to the legislature no later than December
5 15th of each year that summarizes the disposition of petitions filed
6 with the juvenile court under RCW 28A.225.030, including the number of
7 contempt orders issued to enforce a court's order under RCW
8 28A.225.030.

9 **Sec. 10.** RCW 28A.225.025 and 1995 c 312 s 66 are each amended to
10 read as follows:

11 For purposes of this chapter, "community truancy board" means a
12 board composed of members of the local community in which the child
13 attends school. The local school district boards of directors may
14 create a community truancy board or may use other boards that exist or
15 are created, such as diversion boards. However, a diversion or other
16 existing board must agree before it is used as a truancy board.
17 Members of the board shall be selected from representatives of the
18 community. Duties of a community truancy board shall include, but not
19 be limited to, recommending methods for improving school attendance
20 such as assisting the parent or the child to obtain supplementary
21 services that might eliminate or ameliorate the causes for the absences
22 or having the child enroll in another school, an alternative education
23 program, an education center, a skill center, a dropout prevention
24 program, or another public or private educational program. If a
25 community truancy board recommends that the child enroll in a nonpublic
26 school or program, the child's school district shall contract with the
27 school or program to provide educational services for the child.

28 NEW SECTION. **Sec. 11.** (1) The superintendent of public
29 instruction, subject to available funding, shall establish an incentive
30 program to encourage the creation of alternative learning schools and
31 programs for students who have been truant, suspended, expelled, or who
32 are subject to other disciplinary actions. Grants may be awarded to
33 individual school districts, school district consortiums, and
34 educational service districts. Funds for the grants may be used for
35 planning and initial program development. Grants shall be awarded no
36 later than November 1, 1996.

37 (2) This section expires December 31, 1996.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.225
2 RCW to read as follows:

3 The superintendent of public instruction, subject to available
4 funding, shall allocate funds to provide educational services for
5 children who have been referred to a community truancy board or to the
6 courts under RCW 28A.225.030. The funds shall be used on behalf of
7 such children for enrollment in skill centers, education centers,
8 alternative programs, and in other public or private educational
9 programs. Decisions regarding the expenditure of the funds shall be
10 made by the community truancy board or the courts, whichever is
11 applicable. The amount of the assistance for each child shall be
12 determined in accordance with the omnibus appropriations act. These
13 funds shall be in excess of any other funds provided through RCW
14 28A.150.260 as basic education and other state, federal, or local
15 sources.

16 **Sec. 13.** RCW 28A.225.030 and 1995 c 312 s 68 are each amended to
17 read as follows:

18 If the actions taken by a school district under RCW 28A.225.020 are
19 not successful in substantially reducing an enrolled student's absences
20 from school, (~~upon the fifth unexcused absence by a child within any~~
21 ~~month during the current school year or upon the tenth unexcused~~
22 ~~absence during the current school year)) the school district ((shall))
23 may file a petition with the juvenile court alleging a violation of RCW
24 28A.225.010: (1) By the parent; (2) by the child; or (3) by the parent
25 and the child.~~

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

31 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
32 each repealed:

- 33 (1) RCW 28A.225.035 and 1995 c 312 s 69;
34 (2) RCW 28A.225.151 and 1995 c 312 s 72; and
35 (3) 1995 c 312 s 81 (uncodified).

1 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
2 this act, referencing the act by bill number, is provided by June 30,
3 1996, in the supplemental omnibus appropriations act, sections 13 and
4 14 of this act are null and void.

5 NEW SECTION. **Sec. 16.** If specific funding for the purposes of
6 this act, referencing the act by bill number, is not provided by June
7 30, 1996, in the supplemental omnibus appropriations act, sections 1
8 through 12 of this act are null and void.

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