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**SUBSTITUTE SENATE BILL 5118**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators McAuliffe, Hargrove, Winsley, Long and Sheldon)

Read first time 02/25/97.

1 AN ACT Relating to truancy petitions; reenacting and amending RCW  
2 28A.225.035 and 28A.225.090; and creating a new section.

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

4 **Sec. 1.** RCW 28A.225.035 and 1996 c 134 s 4 and 1996 c 133 s 31 are  
5 each reenacted and amended to read as follows:

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

8 (a) The child has unexcused absences during the current school  
9 year;

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

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

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

17 (3) The petition shall set forth facts that support the allegations  
18 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 may permit the first hearing to be held without  
17 requiring that either party be represented by legal counsel, and to be  
18 held without a guardian ad litem for the child under RCW 4.08.050. At  
19 the request of the school district, the court may permit a school  
20 district representative who is not an attorney to represent the school  
21 district at any future hearings.

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

32 (8) If the court assumes jurisdiction, the school district shall  
33 regularly report to the court any additional unexcused absences by the  
34 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. 2.** RCW 28A.225.090 and 1996 c 134 s 6 and 1996 c 133 s 32 are  
2 each reenacted and amended to read as follows:

3       (1) A court may order a child subject to a petition under RCW  
4 28A.225.035 to:

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

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

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

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

29       (e) Submit to testing for the use of controlled substances or  
30 alcohol based on a determination that such testing is appropriate to  
31 the circumstances and behavior of the child and will facilitate the  
32 child's compliance with the mandatory attendance law.

33       (2) If the child fails to comply with the court order, the court  
34 may order the child to be punished by detention or may impose  
35 alternatives to detention such as community service. Failure by a  
36 child to comply with an order issued under this subsection shall not be  
37 punishable by detention for a period greater than that permitted  
38 pursuant to a civil contempt proceeding against a child under chapter  
39 13.32A RCW.

1 (3) Any parent violating any of the provisions of either RCW  
2 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five  
3 dollars for each day of unexcused absence from school. It shall be a  
4 defense for a parent charged with violating RCW 28A.225.010 to show  
5 that he or she exercised reasonable diligence in attempting to cause a  
6 child in his or her custody to attend school or that the child's school  
7 did not perform its duties as required in RCW 28A.225.020. The court  
8 may order the parent to provide community service instead of imposing  
9 a fine. Any fine imposed pursuant to this section may be suspended  
10 upon the condition that a parent charged with violating RCW 28A.225.010  
11 shall participate with the school and the child in a supervised plan  
12 for the child's attendance at school or upon condition that the parent  
13 attend a conference or conferences scheduled by a school for the  
14 purpose of analyzing the causes of a child's absence.

15 NEW SECTION. **Sec. 3.** The authority of a court to issue an order  
16 for testing to determine whether the child has consumed or used alcohol  
17 or controlled substances applies to all persons subject to a petition  
18 under RCW 28A.225.030 regardless of whether the petition was filed  
19 before the effective date of this section.

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