

2 **ESSB 5988** - H COMM AMD **ADOPTED 04/12/99**
3 By Committee on Appropriations

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 28A.225.010 and 1998 c 244 s 14 are each amended to
8 read as follows:

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

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

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

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

21 (d) The school district superintendent of the district in which the
22 child resides shall have excused such child from attendance because the
23 child is physically or mentally unable to attend school, is attending
24 a residential school operated by the department of social and health
25 services, is incarcerated in an adult correctional facility, or has
26 been temporarily excused upon the request of his or her parents for
27 purposes agreed upon by the school authorities and the parent:
28 PROVIDED, That such excused absences shall not be permitted if deemed
29 to cause a serious adverse effect upon the student's educational
30 progress: PROVIDED FURTHER, That students excused for such temporary
31 absences may be claimed as full time equivalent students to the extent
32 they would otherwise have been so claimed for the purposes of RCW
33 28A.150.250 and 28A.150.260 and shall not affect school district
34 compliance with the provisions of RCW 28A.150.220; or

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

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

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

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

9 (2) If a parent enrolls a child six years of age and under eight
10 years of age in the public school of the district in which the child
11 resides, that parent has the responsibility to ensure the child
12 attends, and the child has the responsibility to attend, for the full
13 time when that school is in session, except for a child who is or will
14 be home schooled under chapter 28A.200 RCW or unless one of the other
15 exceptions in subsection (1) of this section is met. This subsection
16 does not apply to a child enrolled in a public school part-time for the
17 purpose of receiving ancillary services. An exception shall be made to
18 this requirement for children whose parents formally remove them from
19 enrollment in kindergarten if the child is less than eight years old.

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

22 ~~((+3))~~ (4) An approved private school for the purposes of this
23 chapter and chapter 28A.200 RCW shall be one approved under regulations
24 established by the state board of education pursuant to RCW
25 28A.305.130.

26 ~~((+4))~~ (5) For the purposes of this chapter and chapter 28A.200
27 RCW, instruction shall be home-based if it consists of planned and
28 supervised instructional and related educational activities, including
29 a curriculum and instruction in the basic skills of occupational
30 education, science, mathematics, language, social studies, history,
31 health, reading, writing, spelling, and the development of an
32 appreciation of art and music, provided for a number of hours
33 equivalent to the total annual program hours per grade level
34 established for approved private schools under RCW 28A.195.010 and
35 28A.195.040 and if such activities are:

36 (a) Provided by a parent who is instructing his or her child only
37 and are supervised by a certificated person. A certificated person for
38 purposes of this chapter and chapter 28A.200 RCW shall be a person
39 certified under chapter 28A.410 RCW. For purposes of this section,

1 "supervised by a certificated person" means: The planning by the
2 certificated person and the parent of objectives consistent with this
3 subsection; a minimum each month of an average of one contact hour per
4 week with the child being supervised by the certificated person; and
5 evaluation of such child's progress by the certificated person. The
6 number of children supervised by the certificated person shall not
7 exceed thirty for purposes of this subsection; or

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

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

16 ~~((+5))~~ (6) The legislature recognizes that home-based instruction
17 is less structured and more experiential than the instruction normally
18 provided in a classroom setting. Therefore, the provisions of
19 subsection ~~((+4))~~ (5) of this section relating to the nature and
20 quantity of instructional and related educational activities shall be
21 liberally construed.

22 **Sec. 2.** RCW 28A.225.020 and 1996 c 134 s 2 are each amended to
23 read as follows:

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

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

32 (b) Schedule a conference or conferences with the custodial parent,
33 parents, or guardian and child at a time reasonably convenient for all
34 persons included for the purpose of analyzing the causes of the child's
35 absences after two unexcused absences within any month during the
36 current school year. If a regularly scheduled parent-teacher
37 conference day is to take place within thirty days of the second

1 unexcused absence, then the school district may schedule this
2 conference on that day; and

3 (c) Take steps to eliminate or reduce the child's absences. These
4 steps shall include, where appropriate, adjusting the child's school
5 program or school or course assignment, providing more individualized
6 or remedial instruction, providing appropriate vocational courses or
7 work experience, referring the child to a community truancy board,
8 requiring the child to attend an alternative school or program, or
9 assisting the parent or child to obtain supplementary services that
10 might eliminate or ameliorate the cause or causes for the absence from
11 school. If the child's parent does not attend the scheduled
12 conference, the conference may be conducted with the student and school
13 official. However, the parent shall be notified of the steps to be
14 taken to eliminate or reduce the child's absence.

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

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

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

22 (3) If a child transfers from one school district to another, the
23 receiving school or school district shall honor the attendance record
24 including the unexcused absences accumulated at the previous school or
25 from the previous school district.

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

28 (1) If a child is required to attend school under RCW 28A.225.010
29 and if the actions taken by a school district under RCW 28A.225.020 are
30 not successful in substantially reducing an enrolled student's absences
31 from public school, not later than the seventh unexcused absence by a
32 child within any month during the current school year or not later than
33 the tenth unexcused absence during the current school year the school
34 district shall file a petition and supporting affidavit for a civil
35 action with the juvenile court alleging a violation of RCW 28A.225.010:
36 (a) By the parent; (b) by the child; or (c) by the parent and the
37 child. However, if the petition alleges a violation of RCW
38 28A.225.010(2), the petition shall only allege a violation by the

1 parent. Except as provided in this subsection, no additional documents
2 need be filed with the petition.

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

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

7 (b) Refer a student to a community truancy board as defined in RCW
8 28A.225.025. The community truancy board shall enter into an agreement
9 with the student and parent that establishes school attendance
10 requirements and take other appropriate actions to reduce the child's
11 absences; or

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

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

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

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

24 **Sec. 4.** 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 ~~((When a petition is filed under RCW 28A.225.030))~~ Upon receipt
4 of a petition and supporting affidavit from a school district alleging
5 a violation of RCW 28A.225.010 by a child subject to this chapter, the
6 juvenile court shall require that the child, if age eight or older, a
7 parent, and a school representative appear before a truancy board as
8 defined in RCW 28A.225.025, unless the respondent requests a hearing
9 before the court.

10 (5) Within thirty days of receipt of the truancy referral, the
11 truancy board shall meet with the child, a parent, and the school
12 representative, and enter into an agreement regarding expectations and
13 any actions necessary to address the truancy. The agreement shall be
14 presented to the court for its approval. The court may approve the
15 agreement without a separate hearing. The court shall approve the
16 agreement by order or shall schedule a hearing. The court may, if the
17 school district and community truancy board agree, permit the truancy
18 board to provide continued supervision over the student and report on
19 compliance with the agreement.

20 (6) Notwithstanding the provisions in subsection (4) of this
21 section, if the juvenile court finds that a truancy board would not be
22 the most effective means of addressing the underlying truancy due to
23 extenuating circumstances, the juvenile court shall schedule a hearing
24 at which the court shall consider the petition. However, a hearing
25 shall not be required if other actions by the court would substantially
26 reduce the child's unexcused absences. When a hearing is held, the
27 court shall:

28 (a) Separately notify the child, the parent of the child, and the
29 school district of the hearing;

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

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

34 ~~((+5+))~~ (7) Except as provided in RCW 28A.225.030(1) the court may
35 require the attendance of both the child and the parents at any hearing
36 on a petition filed under RCW 28A.225.030.

37 ~~((+6+))~~ (8) A school district is responsible for determining who
38 shall represent the school district at hearings on a petition filed
39 under RCW 28A.225.030.

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

7 (~~(7)~~) (10) If the allegations in the petition are established by
8 a preponderance of the evidence, the court shall grant the petition and
9 enter an order assuming jurisdiction to intervene for the period of
10 time determined by the court, after considering the facts alleged in
11 the petition and the circumstances of the juvenile, to most likely
12 cause the juvenile to return to and remain in school while the juvenile
13 is subject to this chapter. In no case may the order expire before the
14 end of the school year in which it is entered.

15 (~~(8)~~) (11) If the court assumes jurisdiction, the school district
16 shall regularly report to the court any additional unexcused absences
17 by the child.

18 (~~(9)~~) (12) Community truancy boards and the courts shall
19 coordinate, to the extent possible, proceedings and actions pertaining
20 to children who are subject to truancy petitions and at-risk youth
21 petitions in RCW 13.32A.191 or child in need of services petitions in
22 RCW 13.32A.140.

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

28 **Sec. 5.** RCW 28A.225.090 and 1998 c 296 s 39 are each amended to
29 read as follows:

30 (1) A court may order a child subject to a petition under RCW
31 28A.225.035 to:

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

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

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

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

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

23 (2) If the child fails to comply with the court order, the court
24 may order the child to be punished by detention, as provided in RCW
25 7.21.030(2)(e), or may impose alternatives to detention such as
26 community service. Failure by a child to comply with an order issued
27 under this subsection shall not be punishable by detention for a period
28 greater than that permitted pursuant to a civil contempt proceeding
29 against a child under chapter 13.32A RCW.

30 (3) If the child continues to be truant after entering into a
31 court-approved agreement with the truancy board under RCW 28A.225.035,
32 or if the child fails to enter into an agreement with the truancy
33 board, the truancy board shall return the matter to the juvenile court
34 for a hearing. If upon entering an order the child continues to be
35 truant, the juvenile court shall find the child in contempt and impose
36 a remedial sanction in accordance with chapter 7.21 RCW designed to
37 immediately return the child to school, including the actual imposition
38 of detention. The court shall consider the fact that the child was

1 provided ample opportunity to attend school with assistance from the
2 truancy board.

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

17 **Sec. 6.** RCW 28A.225.025 and 1996 c 134 s 9 are each amended to
18 read as follows:

19 For purposes of this chapter, "community truancy board" means a
20 board composed of members of the local community in which the child
21 attends school. Juvenile courts shall establish and operate community
22 truancy boards. However, establishment and operation of community
23 truancy boards may be delegated to school districts with the agreement
24 of both the court and the school district. The ((local school district
25 boards of directors may create a community truancy board or)) juvenile
26 courts may use other ((boards)) entities that exist or are created,
27 such as diversion ((boards)) units. However, a diversion unit or other
28 existing ((board)) entity must agree before it is used as a truancy
29 board. ((Members of the board shall be selected from representatives
30 of the community.)) Duties of a community truancy board shall include,
31 but not be limited to, recommending methods for improving school
32 attendance such as assisting the parent or the child to obtain
33 supplementary services that might eliminate or ameliorate the causes
34 for the absences or suggesting to the school district that the child
35 enroll in another school, an alternative education program, an
36 education center, a skill center, a dropout prevention program, or
37 another public or private educational program.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.300
2 RCW to read as follows:

3 The superintendent of public instruction shall provide, to the
4 extent funds are appropriated, start-up grants for alternative programs
5 and services that provide instruction and learning for truant, at-risk,
6 and expelled students. Each grant application shall contain proposed
7 performance indicators and an evaluation plan to measure the success of
8 the program and its impact on improved student learning. Applications
9 shall contain the applicant's plan for maintaining the program and
10 services after the grant period.

11 NEW SECTION. **Sec. 8.** If funds are appropriated by the legislature
12 for this specific purpose the superintendent of public instruction
13 shall contract with the institute for public policy or a similar agency
14 to: Evaluate the effectiveness of the petition process and community
15 truancy boards in chapter 28A.225 RCW in reducing truancy; determine
16 whether students who do return to school after being subject to court
17 action have disciplinary actions such as suspensions or expulsions,
18 establish patterns of improved attendance, are successful in their
19 classes, and successfully complete their education program; and
20 determine the costs imposed on school districts by the petition process
21 and other truancy-related procedural requirements required by the
22 legislature in 1992 and thereafter.

23 The cost determination shall be submitted to the appropriate
24 committees of the legislature by December 15, 1999. The evaluation
25 shall be submitted to the appropriate committees of the legislature by
26 December 15, 2000.

27 This section expires December 31, 2000.

28 NEW SECTION. **Sec. 9.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected."

32 Correct the title.

EFFECT: The striking amendment: (1) adds a requirement that if a
6 or 7 year-old child enrolls full-time in public school, unless an
exception applies, the child is required to attend school regularly and

the truancy provisions apply if the child does not attend regularly (if a 6 or 7 year-old becomes truant, any petitions are to be filed against the parent, not the student); (2) adds a requirement that juvenile courts establish community truancy boards and the court may delegate that responsibility to a school district if the district agrees to operate a truancy board; (3) amends and clarifies the truancy petition process and the roles of the court and the truancy board; (4) provides that when a child transfers from one school district to another, attendance records follow; when a child moves from one county to another, the truancy petition can be transferred to the new county; (5) provides for a study of truancy issues by SPI and an alternative education grant program if funds are appropriated for them; (6) restores the exception to the compulsory attendance law for those who work, are emancipated, meet graduation requirements, or have a GED to those at least 16 years old (current law), rather than 15; and (7) clarifies that the attendance requirement for 6 and 7 year olds that are enrolled in public school full-time by their parents does not apply to home schooled children.

--- END ---