

SENATE BILL REPORT

SB 5881

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2009

Title: An act relating to truancy.

Brief Description: Changing provisions involving truancy.

Sponsors: Senators McAuliffe, Hargrove, Regala, Jarrett and King.

Brief History:

Committee Activity: Human Services & Corrections: 2/19/09, 2/23/09 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5881 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Kevin Black (786-7747)

Background: In 1995 the Washington State Legislature passed the "Becca Bill," E2SSB 5439, establishing new requirements and procedures for compulsory school attendance. State law now requires an escalating series of interventions when a child has unexcused absences from school. When a child has one unexcused absence, the school must inform the child's parent, parents, or guardian by written notice or telephone. After two unexcused absences, the school must request a conference with the child's parent, parents, or guardian, and take steps to reduce or eliminate the child's school absences.

If a child has seven unexcused absences in a month, or ten unexcused absences in a school year, the school must file a truancy petition, requesting a court to enter a truancy order requiring the child's attendance in school. If this order is entered, and the child continues to be absent from school, the school may request that the child be found in contempt of the order, and sanctions may issue, including an order that the child be placed in secure detention for up to seven days.

A school district or juvenile court may establish a community truancy board for the purpose of improving a child's school attendance, and to determine interventions that will assist a

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child in attending school. A community truancy board functions as a diversion from juvenile court. A 2009 study by the Washington State Institute of Public Policy found that approximately 13 percent of school districts operate community truancy boards.

Summary of Bill (Recommended Substitute): If the child or parent is not fluent in English, it is the preferred practice to provide a notice of a child's unexcused absence, or a notice of a truancy hearing, in a language in which the parent, parents, or guardian is fluent.

A truancy petition must state whether the child and parent are fluent in English, and whether there is an existing individualized education program for the child. If the child is in a special education program, or has a diagnosed mental disorder, the court must inquire as to what efforts the school district has made to assist the child in attending school.

If a child is not provided with counsel at a truancy hearing, the court must conduct a colloquy on the record advising the child and parents of the child's rights before entering a truancy order.

Detention as a sanction for truancy must be limited to seven days. A warrant of arrest relating to truancy must not be served on a child inside a school during school hours in a place where other students are present.

The Legislature encourages the use of community truancy boards and other diversion units which are effective in promoting school attendance and preventing the need for more intrusive court intervention. The time that a community truancy board has to respond to a truancy referral is shortened to 20 days. An agreement with a community truancy board does not have to be sent back to court for approval unless the child or parent has not complied with the agreement.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Providing notices in the language in which the parents are fluent is identified as a "preferred practice." Time for community truancy board referrals was shortened and agreements do not need to return to court unless there is noncompliance. The detention and arrest provisions were changed.

Appropriation: None.

Fiscal Note: Requested on February 12, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Parents are confused by the communications they get from schools, and we need to create greater understanding. Drop out rates are too high, especially for minority children. School districts try to help, but a lot of problems are beyond their reach. Truancy boards are effective, and diversion works to prevent absences. This bill addresses issues which we hear about all the time in complaint calls from parents. We should communicate better and get parents involved earlier. A

shortage of counselors means that truancy is handled as a discipline issue instead of a counseling issue. This bill will make the process fairer, and help ensure that commissioners have the information they need to adjudicate a case. A child shouldn't be arrested in school. State funding should be tied to utilization of diversion programs, not the number of truancy petitions filed. Judges favor receiving more information, but would prefer retaining the ability to order up to seven days of detention, with a purge condition.

CON: School administrators oppose unfunded mandates. There are upwards of 84 languages spoken in our school districts. There's no way we could comply with this bill. We're already trying to cope with a recent appellate decision. Kids are not being held accountable due to lawyers. We should complete the truancy study that is occurring now before making changes. Parents frequently will not come in for a conference even when there is not a language barrier.

OTHER: We find that most kids respond positively to court intervention. We don't want to delay what works best, which is getting a child in front of a judge.

Persons Testifying: PRO: Senator McAuliffe, prime sponsor; Steve Zuber, Maria Flores, Office of Education Ombudsman; Robert Boruchowitz, lawyer.

CON: Debra Axtman, Marysville School District; Barbara Mertens, Washington Association of School Administrators; Linda Ellis, Edmonds School District.

OTHER: Jerry Bender, Association of Washington School Principals.