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SENATE BILL 5745

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State of Washington

64th Legislature

2015 Regular Session

By Senators Hargrove and Miloscia

Read first time 02/02/15. Referred to Committee on Human Services,  
Mental Health & Housing.

1 AN ACT Relating to implementing Becca task force truancy reform  
2 recommendations; amending RCW 28A.225.005, 28A.225.020, 28A.225.030,  
3 28A.225.035, and 28A.225.090; adding a new section to chapter 28A.225  
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that all  
7 children and youth in Washington state are entitled to a basic  
8 education and to an equal opportunity to learn. The legislature  
9 recognizes that there are many causes of truancy and that truancy is  
10 an indicator of future school dropout and delinquent behavior. The  
11 legislature recognizes that early engagement of parents in the  
12 education process is an important measure in preventing truancy. It  
13 is the intent of the legislature to encourage the systematic  
14 identification of truant behavior as early as possible and to  
15 encourage the use of best practices and evidence-based interventions  
16 to reduce truant behavior in every school in Washington state. The  
17 legislature intends that schools, parents, juvenile courts, and  
18 communities share resources within and across school districts where  
19 possible to enhance the availability of best practices and evidence-  
20 based intervention for truant children and youth.

1       **Sec. 2.** RCW 28A.225.005 and 2009 c 556 s 5 are each amended to  
2 read as follows:

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

20       **Sec. 3.** RCW 28A.225.020 and 2009 c 266 s 1 are each amended to  
21 read as follows:

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

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

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

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

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

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

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

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

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

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

37 (3) If a child transfers from one school district to another  
38 during the school year, the receiving school or school district shall  
39 include the unexcused absences accumulated at the previous school or  
40 from the previous school district for purposes of this section, RCW

1 28A.225.030, and 28A.225.015, along with a copy of any previous  
2 truancy assessment as required under subsection (i)(c) of this  
3 section, history of any best practices or researched-based  
4 intervention previously provided to the child by the child's current  
5 school district, and a copy of the most dated truancy information  
6 inclusive of online or written acknowledgment by the parent and  
7 child, as provided for in RCW 28A.225.005.

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

16 **Sec. 4.** RCW 28A.225.030 and 2012 c 157 s 1 are each amended to  
17 read as follows:

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

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

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

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

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

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

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

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

22 **Sec. 5.** RCW 28A.225.035 and 2012 c 157 s 2 are each amended to  
23 read as follows:

24 (1) A petition for a civil action under RCW 28A.225.030 or  
25 28A.225.015 shall consist of a written notification to the court  
26 alleging that:

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

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

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

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

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

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

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

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

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

37 (i) Separately notify the child, the parent of the child, and the  
38 school district of the hearing. If the parent is not fluent in  
39 English, ~~((the preferred practice is for))~~ notice ~~((to))~~ must be

1 provided in a language in which the parent is fluent as indicated on  
2 the petition pursuant to RCW 28A.225.030(1);

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

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

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

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

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

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

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

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

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

39 (13)(a) If the court assumes jurisdiction, the school district  
40 shall periodically report to the court any additional unexcused

1 absences by the child, actions taken by the school district, and an  
2 update on the child's academic status in school at a schedule  
3 specified by the court.

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

7 (14) Community truancy boards and the courts shall coordinate, to  
8 the extent possible, proceedings and actions pertaining to children  
9 who are subject to truancy petitions and at-risk youth petitions in  
10 RCW 13.32A.191 or child in need of services petitions in RCW  
11 13.32A.140.

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

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.225  
18 RCW to read as follows:

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

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



1       **Sec. 7.** RCW 28A.225.090 and 2009 c 266 s 4 are each amended to  
2 read as follows:

3       (1) A court may order a child subject to a petition under RCW  
4 28A.225.035 to do one or more of the following:

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

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

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

31       ~~((Be referred to a community truancy board, if available; or~~  
32 ~~(e)))~~ Submit to ~~((testing for the use of controlled substances or~~  
33 ~~alcohol based on a determination))~~ a substance abuse assessment if  
34 the court finds on the court record that such ~~((testing))~~ assessment  
35 is appropriate to the circumstances and behavior of the child and  
36 will facilitate the child's compliance with the mandatory attendance  
37 law and, if any assessment, including a urinalysis test ordered under  
38 this subsection indicates the use of controlled substances or  
39 alcohol, order the minor to abstain from the unlawful consumption of  
40 controlled substances or alcohol and adhere to the recommendations of

1 the ((~~drug~~)) substance abuse assessment at no expense to the school;  
2 or

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

9 (2) If the child fails to comply with the court order, the court  
10 may order the child to be subject to detention, as provided in RCW  
11 7.21.030(2)(e), or may impose alternatives to detention such as  
12 community restitution. Failure by a child to comply with an order  
13 issued under this subsection shall not be subject to detention for a  
14 period greater than that permitted pursuant to a civil contempt  
15 proceeding against a child under chapter 13.32A RCW. Detention  
16 ordered under this subsection may be for no longer than seven days. A  
17 warrant of arrest for a child under this subsection may not be served  
18 on a child inside of school during school hours in a location where  
19 other students are present.

20 (3) Any parent violating any of the provisions of either RCW  
21 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
22 twenty-five dollars for each day of unexcused absence from school.  
23 The court shall remit fifty percent of the fine collected under this  
24 section to the child's school district. It shall be a defense for a  
25 parent charged with violating RCW 28A.225.010 to show that he or she  
26 exercised reasonable diligence in attempting to cause a child in his  
27 or her custody to attend school or that the child's school did not  
28 perform its duties as required in RCW 28A.225.020. The court may  
29 order the parent to provide community restitution instead of imposing  
30 a fine. Any fine imposed pursuant to this section may be suspended  
31 upon the condition that a parent charged with violating RCW  
32 28A.225.010 shall participate with the school and the child in a  
33 supervised plan for the child's attendance at school or upon  
34 condition that the parent attend a conference or conferences  
35 scheduled by a school for the purpose of analyzing the causes of a  
36 child's absence.

37 (4) If a child continues to be truant after entering into a  
38 court-approved order with the truancy board under RCW 28A.225.035,  
39 the juvenile court shall find the child in contempt, and the court  
40 may order the child to be subject to detention, as provided in RCW

1 7.21.030(2)(e), or may impose alternatives to detention such as  
2 meaningful community restitution. Failure by a child to comply with  
3 an order issued under this subsection may not subject a child to  
4 detention for a period greater than that permitted under a civil  
5 contempt proceeding against a child under chapter 13.32A RCW.

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

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