

HOUSE BILL REPORT

ESSB 5293

As Passed House:
April 11, 2017

Title: An act relating to court-based and school-based efforts to promote attendance and reduce truancy.

Brief Description: Concerning court-based and school-based efforts to promote attendance and reduce truancy.

Sponsors: Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Darneille and Chase).

Brief History:

Committee Activity:

Judiciary: 3/15/17, 3/23/17 [DP];

Appropriations: 4/1/17, 4/4/17 [DP].

Floor Activity:

Passed House: 4/11/17, 80-17.

Brief Summary of Engrossed Substitute Bill

- Makes a variety of changes with respect to school and court processes regarding truancy.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Haler, Hansen, Kirby, Klippert and Orwall.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Cece Clynch (786-7195).

HOUSE COMMITTEE ON APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 29 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Tharinger, Vick, Volz and Wilcox.

Minority Report: Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Condotta and Taylor.

Staff: Jessica Harrell (786-7349).

Background:

Unexcused Absences.

Children 8 years of age and under 18 years of age must attend public school unless they fall within certain exceptions, such as attending private school or receiving home-based instruction. If a parent enrolls a 6-year-old or 7-year-old child in school, the child is required to attend school, and the parent is responsible for ensuring the child attends.

When a child who is 8 years of age and under 18 years of age has unexcused absences, schools and school districts must take certain steps to eliminate or reduce the child's absences:

1. After one unexcused absence in one month, the school must inform parents in writing or by phone of potential consequences of continued absences.
2. After two unexcused absences in one month, the school must schedule a conference with the parents and take steps to reduce absences. Such steps must be data-informed, include the use of the Washington Assessment of the Risks and Needs of Students (WARNS) and, where appropriate, provide an available approved best practice or research-based intervention, or both, consistent with the WARNS.
3. After five unexcused absences in one month, the district must enter into an attendance agreement with the student and parent, refer the student to a community truancy board (CTB), or file a truancy petition with the court.
4. After seven unexcused absences in one month or 10 unexcused absences in one year, the district must file a truancy petition with the court if the student is under the age of 17. A petition may be filed with respect to a student who is 17 years of age.

Similar requirements are in place with respect to 6-year-old and 7-year-old children who are enrolled in school, except that the third step set forth above does not apply.

Community Truancy Boards and Other Coordinated Means of Intervention.

A CTB means a board established pursuant to a memorandum of understanding (MOU) between a juvenile court and a school district and composed of members of the local community in which the child attends school. All members of a CTB must receive training regarding the identification of barriers to school attendance, the use of assessments such as the WARNS to identify the specific needs of individual children, trauma-informed approaches to discipline, evidence-based treatments that have been found effective in supporting at-risk youth and their families, and the specific services and treatment available in the particular school, court, community, and elsewhere. Duties of a CTB include

connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy, multi-systemic therapy, and aggression replacement training, or recommending to the juvenile court that a juvenile be referred to a HOPE center or Crisis Residential Center (CRC).

By the beginning of the 2017-18 school year, juvenile courts must establish, through an MOU with each school district within their respective counties, a coordinated and collaborative approach to address truancy. For a school district that is located in more than one county, the MOU shall be with the juvenile court in the county that acts as the school district's treasurer.

In most cases, the establishment and operation of a CTB pursuant to an MOU with the court is required. School districts with fewer than 200 students, however, may utilize a CTB or address truancy through other coordinated means of intervention aimed at identifying barriers to attendance and connecting students and their families with services such as those provided by a CTB. These smaller school districts may work cooperatively with other districts or the educational service district. All districts must designate, and identify to the local juvenile court, a person or persons to coordinate district efforts to address excessive absenteeism and truancy.

Truancy Petitions.

If a CTB or other coordinated means of intervention is in place pursuant to an MOU between the court and the district, the court must initially stay the petition and refer the child and the child's parent. The CTB must provide to the court a description of the intervention and prevention efforts to be employed to substantially reduce the child's unexcused absences, along with a timeline for completion. If the CTB fails to reach an agreement or there is noncompliance, the CTB must return the case to the court, the stay must be lifted, and the court must schedule a hearing to consider the petition. Alternatively, if no CTB or coordinated means of intervention is in place, upon filing of the petition the court must schedule a hearing.

At a hearing on a petition, a court may order a child to attend school, change schools, or submit to a substance abuse assessment or mental health evaluation. Additionally, the court may order the child to submit to a temporary placement in a CRC or HOPE center if the court determines there is an immediate health and safety concern or family conflict needing mediation.

Individualized Education Program.

The federal Individuals with Disabilities Education Improvement Act (IDEA) requires that districts provide to each public school child who receives special education an Individualized Education Program (IEP). An IEP guides a student's learning while in a special education program. It describes the amount of time the student will spend receiving special education, any related services the student will receive, and the academic/behavioral goals and expectations for the year. The IEP is developed and revised annually by an IEP team, which includes: the student's parent or guardian; one of the student's general education teachers; one special education teacher; a representative of the school district; someone who can interpret assessment results; and others who may have special knowledge or expertise.

Section 504 Plan.

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights law that prohibits discrimination against individuals with disabilities. It applies to any school which receives federal funds. A Section 504 Plan details the accommodations that will be made to ensure a student with disabilities has equal access to educational programs, services, and activities. The Section 504 Plan is reevaluated periodically and prior to a significant change of placement.

Crisis Residential Centers.

Crisis residential centers are short-term, semi-secure and secure facilities for runaway youth and adolescents in conflict with their families. Counselors at a CRC work with the family to resolve the immediate conflict and develop better ways of dealing with conflict in the future. The stated goal of CRCs is to reunite the family and youth whenever possible.

HOPE Centers.

HOPE Centers provide temporary residential placements for street youth. Youth may self-refer to a HOPE Center for services, and entering a center is voluntary. While residing in a HOPE Center, youth undergo a comprehensive assessment in order to develop the best plan for the youth, with the focus on finding a permanent and stable home. The assessment includes gathering information on the youth's legal status and conducting a physical examination, a mental health and chemical abuse evaluation, and an educational evaluation of basic skills, any learning disabilities, or special needs.

Summary of Bill:

Unexcused Absences.

Amendments are made with respect to steps schools and school districts must take in order to eliminate or reduce a child's unexcused absences. Data-informed steps must be taken at some point between the second and the fifth unexcused absence, rather than after the second. Rather than mandate application of the Washington Assessment of the Risks and Needs of Students (WARNS), these steps must include application of an assessment tool such as the WARNS.

For any child with an existing Individualized Education Program (IEP) or 504 plan, these steps must include the convening of the child's IEP or Section 504 Plan (504 plan) team, including a behavioral specialist or mental health specialist where appropriate, to consider the reasons for the absences. If necessary, and if consent from the parent is given, a functional behavior assessment to explore the function of the absence behavior must be conducted and a detailed behavior plan completed, and time allowed for the plan to be initiated and data tracked to determine progress. If a child is without an existing IEP or 504 plan, but there exists a reasonable belief that the child has a mental or physical disability or impairment, the parent must be informed of the right to obtain an appropriate evaluation at no cost. If the school obtains consent to conduct an evaluation, time must be allowed for the evaluation to be completed, and if the child is eligible for services, a plan developed to address the child's needs.

Community Truancy Boards and Other Coordinated Means of Intervention.

Rather than require that all members of a community truancy board (CTB) receive training in all of the various tools and assessments, CTBs must include members who receive training. Training in culturally responsive interactions is added to the list of trainings.

Instead of recommending to the juvenile court that a juvenile be referred to a HOPE center or crisis residential center (CRC), a CTB may recommend that a juvenile be offered the opportunity for placement in a HOPE center or CRC if appropriate.

All districts must identify to the Office of the Superintendent of Public Instruction (OSPI) the person or persons designated to coordinate district efforts to address excessive absenteeism and truancy.

Truancy Petitions.

Authorizing language is stricken that permits a court to order a child to submit to a temporary placement in a CRC or HOPE center.

If a child fails to comply with a court order, the court may impose community restitution, nonresidential programs with intensive wraparound services, or other services and interventions that the court deems appropriate. If the child continues to fail to comply with the court order, and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention.

Reports by school districts to the OSPI regarding unexcused absences, steps taken, and truancy petitions filed must also include each instance of imposition of detention for failure to comply with a court order, together with a statement of the reasons for each such instance.

Repealer.

A section enacted in 1996 is repealed. This section pertains to appropriations for educational services for children referred to CTBs or to the courts. It is subject to available funding, and funding for purposes of this section has not been appropriated for several years.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Judiciary):

(In support) Last year, Second Substitute House Bill 2449 was the "Becca fix" bill. It was historic and very comprehensive. The original Becca bill was enacted in the 1990s. Times have changed, and a need was seen for earlier intervention. This bill is the "Becca-fix fix" bill, and it is technical. The sponsors of the House bill and this one have met together, as well as independently, with a variety of stakeholders. Community truancy boards are part of this earlier intervention effort to exhaust all avenues before detention is utilized. This state is an outlier in its heavy use of detention, and the original Becca bill is in some ways

responsible for that. Truancy is not the problem, but a symptom of underlying problems. Eventually, the Legislature will be talking about whether detention should be used at all. The Juvenile Detention Alternatives Initiative is reducing detention facility populations. The Office of the Superintendent of Public Instruction supports the bill and appreciates the work on the fixes that are included, which provide clarity and guidance. Hopefully, the House bill on truancy and this bill can be reconciled together and result in a positive outcome for youth. Particularly important to include in this bill is an amendment to add the piece from the House bill that removed the requirement that a petition for truancy include a signed version of the truancy and attendance information provided to the parent. Also, Section 4(4) is not necessary; it should be removed, and the sponsor has indicated she supports its removal.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

(Other) This bill and its companion are both good bills that need a couple of adjustments. There should be a change regarding willful noncompliance so that it only applies when a student is able to comply, but willfully does not. Additionally, the crisis residential center placements should be put back in the bill.

Persons Testifying (Judiciary): Senator Darneille, prime sponsor; Laurie Shannon, Office of the Superintendent of Public Instruction; and Tom Parker, Superior Court Judges Association.

Persons Testifying (Appropriations): Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.