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**SUBSTITUTE HOUSE BILL 2640**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Education (originally sponsored by Representatives Clements, Brumsickle, Radcliff, Poulsen, Hatfield, Linville, Dickerson, Basich and Cole)

Read first time 02/02/96.

1 AN ACT Relating to school attendance; amending RCW 28A.225.010,  
2 28A.225.020, 28A.225.030, 28A.225.035, 28A.225.151, 28A.225.080,  
3 28A.225.090, and 28A.225.025; adding a new section to chapter 2.56 RCW;  
4 adding a new section to chapter 28A.225 RCW; creating a new section;  
5 prescribing penalties; and providing an expiration date.

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

7 **Sec. 1.** RCW 28A.225.010 and 1990 c 33 s 219 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) of this section; (~~or~~)

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

3       (d) The school district superintendent of the district in which the  
4 child resides shall have excused such child from attendance because the  
5 child is physically or mentally unable to attend school, is attending  
6 a residential school operated by the department of social and health  
7 services, or has been temporarily excused upon the request of his or  
8 her parents for purposes agreed upon by the school authorities and the  
9 parent: PROVIDED, That such excused absences shall not be permitted if  
10 deemed to cause a serious adverse effect upon the student's educational  
11 progress: PROVIDED FURTHER, That students excused for such temporary  
12 absences may be claimed as full time equivalent students to the extent  
13 they would otherwise have been so claimed for the purposes of RCW  
14 28A.150.250 and 28A.150.260 and shall not affect school district  
15 compliance with the provisions of RCW 28A.150.220; or

16       ~~((d))~~ (e) The child is ~~((fifteen))~~ sixteen years of age or older  
17 and:

18       (i) ~~((The school district superintendent determines that such child~~  
19 ~~has already attained a reasonable proficiency in the branches required~~  
20 ~~by law to be taught in the first nine grades of the public schools of~~  
21 ~~this state;~~

22       ~~((ii))~~ The child is regularly and lawfully ~~((engaged in a useful or~~  
23 ~~remunerative occupation))~~ employed and either the parent agrees that  
24 the child should not be required to attend school or the child is  
25 emancipated in accordance with chapter 13.64 RCW;

26       ~~((iii))~~ (ii) The child has already met graduation requirements in  
27 accordance with state board of education rules and regulations; or

28       ~~((iv))~~ (iii) The child has received a certificate of educational  
29 competence under rules and regulations established by the state board  
30 of education under RCW 28A.305.190.

31       (2) A parent for the purpose of this chapter means a parent,  
32 guardian, or person having legal custody of a child.

33       (3) An approved private school for the purposes of this chapter and  
34 chapter 28A.200 RCW shall be one approved under regulations established  
35 by the state board of education pursuant to RCW 28A.305.130.

36       (4) For the purposes of this chapter and chapter 28A.200 RCW,  
37 instruction shall be home-based if it consists of planned and  
38 supervised instructional and related educational activities, including  
39 a curriculum and instruction in the basic skills of occupational

1 education, science, mathematics, language, social studies, history,  
2 health, reading, writing, spelling, and the development of an  
3 appreciation of art and music, provided for a number of hours  
4 equivalent to the total annual program hours per grade level  
5 established for approved private schools under RCW 28A.195.010 and  
6 28A.195.040 and if such activities are:

7 (a) Provided by a parent who is instructing his or her child only  
8 and are supervised by a certificated person. A certificated person for  
9 purposes of this chapter and chapter 28A.200 RCW shall be a person  
10 certified under chapter 28A.410 RCW. For purposes of this section,  
11 "supervised by a certificated person" means: The planning by the  
12 certificated person and the parent of objectives consistent with this  
13 subsection; a minimum each month of an average of one contact hour per  
14 week with the child being supervised by the certificated person; and  
15 evaluation of such child's progress by the certificated person. The  
16 number of children supervised by the certificated person shall not  
17 exceed thirty for purposes of this subsection; or

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

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

26 (5) The legislature recognizes that home-based instruction is less  
27 structured and more experiential than the instruction normally provided  
28 in a classroom setting. Therefore, the provisions of subsection (4) of  
29 this section relating to the nature and quantity of instructional and  
30 related educational activities shall be liberally construed.

31 **Sec. 2.** RCW 28A.225.020 and 1995 c 312 s 67 are each amended to  
32 read as follows:

33 (1) If a child required to attend school under (~~the laws of the~~  
34 ~~state of Washington~~) RCW 28A.225.010 fails to attend school without  
35 valid justification, the (~~child's~~) public school in which the child  
36 is enrolled shall:

37 (~~(1)~~) (a) Inform the child's custodial parent, parents, or  
38 guardian by a notice in writing or by telephone whenever the child has

1 failed to attend school after one unexcused absence within any month  
2 during the current school year. School officials shall inform the  
3 parent of the potential consequences of additional unexcused absences;

4 ~~((+2))~~ (b) Schedule a conference or conferences with the custodial  
5 parent, parents, or guardian and child at a time ~~((and place))~~  
6 reasonably convenient for all persons included for the purpose of  
7 analyzing the causes of the child's absences after two unexcused  
8 absences within any month during the current school year. If a  
9 regularly scheduled parent-teacher conference day is to take place  
10 within thirty days of the second unexcused absence, then the school  
11 district may schedule this conference on that day; and

12 ~~((+3))~~ (c) Take steps to eliminate or reduce the child's absences.  
13 These steps shall include, where appropriate, adjusting the child's  
14 school program or school or course assignment, providing more  
15 individualized or remedial instruction, providing appropriate  
16 vocational courses or work experience, ~~((or refer))~~ referring the child  
17 to a community truancy board, requiring the child to attend an  
18 alternative school or program, or assisting the parent or child to  
19 obtain supplementary services that might eliminate or ameliorate the  
20 cause or causes for the absence from school. If the child's parent  
21 does not attend the scheduled conference, the conference may be  
22 conducted with the student and school official. However, the parent  
23 shall be notified of the steps to be taken to eliminate or reduce the  
24 child's absence.

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

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

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

32 **Sec. 3.** RCW 28A.225.030 and 1995 c 312 s 68 are each amended to  
33 read as follows:

34 (1) If a child is required to attend school under RCW 28A.225.010  
35 and if the actions taken by a school district under RCW 28A.225.020 are  
36 not successful in substantially reducing an enrolled student's absences  
37 from public school, upon the fifth unexcused absence by a child within

1 any month during the current school year or upon the tenth unexcused  
2 absence during the current school year the school district shall:

3 (a) File a petition for a civil action with the juvenile court  
4 alleging a violation of RCW 28A.225.010: ((+1)) (i) By the parent;  
5 ((+2)) (ii) by the child; or ((+3)) (iii) by the parent and the child  
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7 (b) Enter into an agreement with the student and parent that  
8 establishes school attendance requirements; or

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

14 (2) If the school district or community truancy board determines  
15 that the student has failed to meet the school attendance requirements  
16 contained in an agreement required in subsection (1)(b) or (c) of this  
17 section, the school district shall file a petition with the juvenile  
18 court in accordance with subsection (1)(a) of this section within five  
19 school days.

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

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

27 **Sec. 4.** RCW 28A.225.035 and 1995 c 312 s 69 are each amended to  
28 read as follows:

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

31 (a) The child has five or more unexcused absences within any month  
32 during the current school year or ten or more unexcused absences in the  
33 current school year;

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

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

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

4 (3) The petition shall set forth facts that support the allegations  
5 in this section and shall generally request relief available under this  
6 chapter.

7 (4) When a petition is filed under RCW 28A.225.030, the juvenile  
8 court (~~may~~

9 ~~(a)) shall schedule ((a fact-finding)) an open hearing at which  
10 the court shall consider the petition(†). However, a hearing shall  
11 not be required if other actions by the court would substantially  
12 reduce the child's unexcused absences.~~

13 ~~((b))~~ When a hearing is held, the court shall:

14 (a) Separately notify the child, the parent of the child, and the  
15 school district of the ((fact-finding)) hearing;

16 ~~((e))~~ (b) Notify the parent and the child of their rights to  
17 present evidence at the ((fact-finding)) hearing; and

18 ~~((d))~~ (c) Notify the parent and the child of the options and  
19 rights available under chapter 13.32A RCW.

20 (5) The court may require the attendance of both the child and the  
21 parents at any hearing on a petition filed under RCW 28A.225.030.

22 (6) The court may permit the first hearing to be held without  
23 requiring that either party be represented by legal counsel. At the  
24 request of the school district, the court may permit a school district  
25 representative who is not an attorney to represent the school district  
26 at any future hearings.

27 (7) The court shall grant the petition and enter an order assuming  
28 jurisdiction to intervene for the remainder of the school year, if the  
29 allegations in the petition are established by a preponderance of the  
30 evidence.

31 ~~((7))~~ (8) If the court assumes jurisdiction, the school district  
32 shall regularly report to the court any additional unexcused absences  
33 by the child.

34 (9) Community truancy boards and the courts shall coordinate, to  
35 the extent possible, proceedings and actions pertaining to children who  
36 are subject to truancy petitions and at-risk youth petitions in RCW  
37 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

1       **Sec. 5.** RCW 28A.225.151 and 1995 c 312 s 72 are each amended to  
2 read as follows:

3       (1) Each school shall document the actions taken under RCW  
4 ~~((28A.225.020 and))~~ 28A.225.030 and report this information ~~((at the~~  
5 ~~end of each grading period))~~ to the school district superintendent who  
6 shall compile the data for all the schools in the district and prepare  
7 an annual school district report for each school year and submit the  
8 report to the superintendent of public instruction. The reports shall  
9 be made upon forms furnished by the superintendent of public  
10 instruction and shall be transmitted as determined by the  
11 superintendent of public instruction.

12       (2) The reports under subsection (1) of this section shall include:

13       (a) The number of enrolled students ~~((and the number of excused and~~  
14 ~~unexcused absences;~~

15       ~~(b) Documentation of the steps taken by the school district under~~  
16 ~~each subsection of RCW 28A.225.020));~~

17       ~~((c))~~ (b) The number of enrolled students with ten or more  
18 unexcused absences in a school year or five or more unexcused absences  
19 in a month during a school year; and

20       ~~((d) Documentation of success by the school district in~~  
21 ~~substantially reducing enrolled student absences for students with five~~  
22 ~~or more absences in any month or ten or more unexcused absences in any~~  
23 ~~school year;~~

24       ~~(e))~~ (c) The number of petitions filed by a school district ~~((or~~  
25 ~~a parent))~~ with the juvenile court~~((; and~~

26       ~~(f) The disposition of cases filed with the juvenile court,~~  
27 ~~including the frequency of contempt orders issued to enforce a court's~~  
28 ~~order under RCW 28A.225.090)).~~

29       (3) A report required under this section shall not disclose the  
30 name or other identification of a child or parent.

31       (4) The superintendent of public instruction shall collect these  
32 reports from all school districts and prepare an annual report for each  
33 school year to be submitted to the legislature no later than December  
34 15th of each year.

35       **Sec. 6.** RCW 28A.225.080 and 1990 c 33 s 225 are each amended to  
36 read as follows:

37       ~~((Except as otherwise provided in this code,))~~ No child under the  
38 age of ~~((fifteen))~~ sixteen years shall be employed for any purpose by

1 any person, company or corporation, in this state during the hours  
2 which the public schools of the district in which such child resides  
3 are in session, unless the said child shall present a certificate from  
4 a school district superintendent (~~as provided for in RCW~~  
5 ~~28A.225.010~~), or his or her designee, excusing the said child from  
6 attendance in the public schools and setting forth the reason for such  
7 excuse, the residence and age of the child, and the time for which such  
8 excuse is given. Every owner, superintendent, or overseer of any  
9 establishment, company or corporation shall keep such certificate on  
10 file so long as such child is employed by him or her. The form of said  
11 certificate shall be furnished by the superintendent of public  
12 instruction. Proof that any child under (~~fifteen~~) sixteen years of  
13 age is employed during any part of the period in which public schools  
14 of the district are in session, shall be deemed prima facie evidence of  
15 a violation of this section.

16 **Sec. 7.** RCW 28A.225.090 and 1995 c 312 s 74 are each amended to  
17 read as follows:

18 (~~Any person violating any of the provisions of either RCW~~  
19 ~~28A.225.010 or 28A.225.080 shall be fined not more than twenty five~~  
20 ~~dollars for each day of unexcused absence from school. However, a~~  
21 ~~child found to be in violation of RCW 28A.225.010 shall be required to~~  
22 ~~attend school and shall not be fined. If the child fails to comply~~  
23 ~~with the court order to attend school, the)) (1) A court may(~~(1)~~  
24 ~~Order the child be punished by detention; or (2) impose alternatives to~~  
25 ~~detention such as community service hours or participation in)) order~~  
26 a child subject to a petition under RCW 28A.225.035 to: Attend the  
27 child's current school; enroll in another school, an alternative  
28 education program, an education center, a skill center, a dropout  
29 prevention program(~~s or referral~~), or another public or private  
30 educational program; be referred to a community truancy board, if  
31 available; or take other appropriate action. If the court orders the  
32 child to enroll in a nonpublic school or program, the child's school  
33 district shall contract with the school or program to provide  
34 educational services for the child.~~

35 (2) If the child fails to comply with the court order, the court  
36 may order the child to be punished by detention or may impose  
37 alternatives to detention such as community service. Failure by a  
38 child to comply with an order issued under this (~~section~~) subsection

1 shall not be punishable by detention for a period greater than that  
2 permitted pursuant to a contempt proceeding against a child under  
3 chapter 13.32A RCW.

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

19 ~~((School districts shall make complaint for violation of the~~  
20 ~~provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the~~  
21 ~~juvenile court.))~~

22 NEW SECTION. Sec. 8. A new section is added to chapter 2.56 RCW  
23 to read as follows:

24 The administrator for the courts shall prepare a report for each  
25 school year to be submitted to the legislature no later than December  
26 15th of each year that summarizes the disposition of petitions filed  
27 with the juvenile court under RCW 28A.225.030, including the number of  
28 contempt orders issued to enforce a court's order under RCW  
29 28A.225.030.

30 Sec. 9. RCW 28A.225.025 and 1995 c 312 s 66 are each amended to  
31 read as follows:

32 For purposes of this chapter, "community truancy board" means a  
33 board composed of members of the local community in which the child  
34 attends school. The local school district boards of directors may  
35 create a community truancy board or may use other boards that exist or  
36 are created, such as diversion boards. However, a diversion or other  
37 existing board must agree before it is used as a truancy board.

1 Members of the board shall be selected from representatives of the  
2 community. Duties of a community truancy board shall include, but not  
3 be limited to, recommending methods for improving school attendance  
4 such as assisting the parent or the child to obtain supplementary  
5 services that might eliminate or ameliorate the causes for the absences  
6 or having the child enroll in another school, an alternative education  
7 program, an education center, a skill center, a dropout prevention  
8 program, or another public or private educational program. If a  
9 community truancy board recommends that the child enroll in a nonpublic  
10 school or program, the child's school district shall contract with the  
11 school or program to provide educational services for the child.

12 NEW SECTION. **Sec. 10.** (1) The superintendent of public  
13 instruction, subject to available funding, shall establish an incentive  
14 program to encourage the creation of alternative learning schools and  
15 programs for students who have been truant, suspended, expelled, or who  
16 are subject to other disciplinary actions. Grants may be awarded to  
17 individual school districts, school district consortiums, and  
18 educational service districts. Funds for the grants may be used for  
19 planning and initial program development. Grants shall be awarded no  
20 later than November 1, 1996.

21 (2) This section expires December 31, 1996.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.225  
23 RCW to read as follows:

24 The superintendent of public instruction, subject to available  
25 funding, shall allocate funds to provide educational services for  
26 children who have been referred to a community truancy board or to the  
27 courts under RCW 28A.225.030. The funds shall be used on behalf of  
28 such children for enrollment in skill centers, education centers,  
29 alternative programs, and in other public or private educational  
30 programs. Decisions regarding the expenditure of the funds shall be  
31 made by the community truancy board or the courts, whichever is  
32 applicable. The amount of the assistance for each child shall be  
33 determined in accordance with the omnibus appropriations act. These  
34 funds shall be in excess of any other funds provided through RCW

1 28A.150.260 as basic education and other state, federal, or local  
2 sources.

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