

# HOUSE BILL REPORT

## ESB 5983

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to notice in truancy matters.

**Brief Description:** Requiring juvenile courts to provide truancy hearing notice using the court's resources.

**Sponsors:** Senators Stevens and Hargrove.

**Brief History:**

**Committee Activity:**

Judiciary: 3/20/07, 3/30/07 [DPA].

**Brief Summary of Engrossed Bill**  
**(As Amended by House Committee)**

- Requires the court, when a hearing on a truancy petition is scheduled, to provide required notices "directly and using its own resources."
- Provides that the court must reimburse a public agency or political subdivision for the cost of serving notice of a hearing date on a show cause contempt order if the court requires service by certified mail or personal service.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Pedersen and Ross.

**Staff:** Edie Adams (786-7180).

**Background:**

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*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.*

State law regarding school attendance requires children ages 8 to 17 years to attend public schools unless they fall within certain exceptions, such as attending private school, receiving home-based instruction, or when the child is 16 years old and meets other specified criteria.

When a child who is required to attend a public school has unexcused absences, the school district must take steps to eliminate or reduce the child's absences and must also notify and request a conference with the parent. After five unexcused absences in one month, the school district must either: enter into a school attendance agreement with the student and parent; refer the student to a community truancy board; or file a truancy petition requesting court intervention or supervision. If the efforts of the school and the parents do not reduce the child's absences, the school district must file a truancy petition with the juvenile court no later than the seventh unexcused absence in a month or the tenth unexcused absence during a school year. The petition may be filed against the child, the parent, or both. A parent may file a truancy petition if the school district does not file a petition after five unexcused absences in one month or after 10 unexcused absences in a school year.

A truancy petition is filed in juvenile court. The petition may be served by certified mail, return receipt requested, but if this method of service fails, the petition must be personally served. Upon receipt of a truancy petition, the court must either schedule a hearing on the petition or refer the case to a community truancy board.

When a juvenile court hearing is held on a truancy petition, the court is required to separately notify the child, the parent of the child, and the school district of the hearing; notify the parent and child of their rights to present evidence at the hearing; and notify the parent and the child of the options and rights available under the Family Reconciliation Act.

If the allegations in the petition are established, the court must assume jurisdiction to intervene for a period of time that cannot be shorter than through the end of the current school year. The court may order the child to attend his or her current school, another public school, or an alternative school or another educational program. The court also may order the child to submit to testing for the use of controlled substances or alcohol. If the child fails to comply with a truancy order, the court may find the child in contempt, after notice and a hearing, and impose detention or community service on a child who is age 8 or older. The court also may impose a fine or community service on the child's parents.

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### **Summary of Amended Bill:**

The provision governing notice requirements for truancy petition hearings is amended to require the notices to be provided when the hearing is scheduled and to provide that the juvenile court must provide the required notices "directly and using its own resources."

The juvenile court must reimburse a public agency or political subdivision of the state for the cost of serving notice of a hearing date on a show cause contempt order if the juvenile court either declines to provide notice of the hearing date or requires a public agency or political subdivision of the state to provide the notice by certified mail or personal service.

## **Amended Bill Compared to Original Bill:**

The amended bill added the requirement that the court reimburse a public agency or political subdivision for the cost of serving notice of a hearing date on a show cause contempt order if the court requires service by certified mail or personal service.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

### **Staff Summary of Public Testimony:**

(In support) Truancy petitions are an important part of the Becca Law and the goal of getting kids back on track. We need to get to the kids early, so they don't end up pregnant or involved in crime or drugs. There is some ambiguity in the law relating to the responsibility of the school districts and the courts in providing notices. It makes sense for the court to make the notice of when the court hearing is scheduled.

Schools are now having to do all of the paperwork and provide proof of service on both children and parents either by certified mail or personal service for notices of hearings and for the contempt proceedings. The Becca Law was designed to allow non-lawyers to bring these petitions, at least in the initial stages. We are now asking lay people to perform legal functions.

The most at-risk kids are those where the schools can't get a signed return on certified mail. Personal service is very costly and often can't be obtained. Those are the kids most in need of our help, and they are the ones we lose when the court requires proof of service before issuing bench warrants. The bench warrant is what gets kids back and gets them home.

Schools already don't have enough resources to pay for their responsibilities under the truancy laws. The courts receive five times more funding for the Becca Law than do school districts. When schools have to use their scarce resources on costly service, they aren't going to be able to get to those kids who really need help.

(Opposed) This bill does not address the concerns raised by the school districts and will not change the current practice. Courts are already providing notice of the hearing dates when a truancy petition is filed.

A truancy petition is a civil action. In all civil actions service is required in order for the court to have jurisdiction. If the parent and child appear at the hearing, they have submitted to the court's jurisdiction, and so the court does not require proof of service in those cases. However, in those cases where the parties do not voluntarily appear, the court cannot enter a default order unless we have proof of service. This is a constitutional due process requirement.

What happened in Snohomish County is that a new commissioner discovered that the court had been entering default orders without proof of service. The court corrected this deficiency by requiring proof of service. This is a due process requirement, not a loophole.

It is not appropriate for the court to be providing service of process in these cases, since it is the court that has to rule on the sufficiency of service before proceeding on the petition or motion.

**Persons Testifying:** (In support) Senator Stevens, prime sponsor; Debbie Axtman, Marysville School District; Karen Ebel, Mukilteo School District; Linda Ellis, Edmonds School District; Joseph McKamey and Marge Mitchell, Northshore School District; and June Shirey, Snohomish School District.

(Opposed) Linda Krese, Snohomish County Superior Court.

**Persons Signed In To Testify But Not Testifying:** None.