

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5881

Chapter 266, Laws of 2009

61st Legislature
2009 Regular Session

TRUANCY--NOTICES--PETITIONS--BOARD--COURT DUTIES

EFFECTIVE DATE: 07/26/09

Passed by the Senate March 4, 2009
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 14, 2009
YEAS 86 NAYS 10

FRANK CHOPP

Speaker of the House of Representatives

Approved April 28, 2009, 4:37 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5881** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5881

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators McAuliffe, Hargrove, Regala, Jarrett, and King)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to truancy; and amending RCW 28A.225.020,
2 28A.225.025, 28A.225.035, and 28A.225.090.

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

4 **Sec. 1.** RCW 28A.225.020 and 1999 c 319 s 1 are each amended to
5 read as follows:

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

9 (a) Inform the child's custodial parent, parents, or guardian by a
10 notice in writing or by telephone whenever the child has failed to
11 attend school after one unexcused absence within any month during the
12 current school year. School officials shall inform the parent of the
13 potential consequences of additional unexcused absences. If the
14 custodial parent, parents, or guardian is not fluent in English, the
15 preferred practice is to provide this information in a language in
16 which the custodial parent, parents, or guardian is fluent;

17 (b) Schedule a conference or conferences with the custodial parent,
18 parents, or guardian and child at a time reasonably convenient for all
19 persons included for the purpose of analyzing the causes of the child's

1 absences after two unexcused absences within any month during the
2 current school year. If a regularly scheduled parent-teacher
3 conference day is to take place within thirty days of the second
4 unexcused absence, then the school district may schedule this
5 conference on that day; and

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

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

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

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

25 (3) If a child transfers from one school district to another during
26 the school year, the receiving school or school district shall include
27 the unexcused absences accumulated at the previous school or from the
28 previous school district for purposes of this section, RCW 28A.225.030,
29 and 28A.225.015.

30 **Sec. 2.** RCW 28A.225.025 and 1999 c 319 s 5 are each amended to
31 read as follows:

32 (1) For purposes of this chapter, "community truancy board" means
33 a board composed of members of the local community in which the child
34 attends school. Juvenile courts may establish and operate community
35 truancy boards. If the juvenile court and the school district agree,
36 a school district may establish and operate a community truancy board
37 under the jurisdiction of the juvenile court. Juvenile courts may

1 create a community truancy board or may use other entities that exist
2 or are created, such as diversion units. However, a diversion unit or
3 other existing entity must agree before it is used as a truancy board.
4 Duties of a community truancy board shall include, but not be limited
5 to, recommending methods for improving school attendance such as
6 assisting the parent or the child to obtain supplementary services that
7 might eliminate or ameliorate the causes for the absences or suggesting
8 to the school district that the child enroll in another school, an
9 alternative education program, an education center, a skill center, a
10 dropout prevention program, or another public or private educational
11 program.

12 (2) The legislature finds that utilization of community truancy
13 boards, or other diversion units that fulfill a similar function, is
14 the preferred means of intervention when preliminary methods of notice
15 and parent conferences and taking appropriate steps to eliminate or
16 reduce unexcused absences have not been effective in securing the
17 child's attendance at school. The legislature intends to encourage and
18 support the development and expansion of community truancy boards and
19 other diversion programs which are effective in promoting school
20 attendance and preventing the need for more intrusive intervention by
21 the court. Operation of a school truancy board does not excuse a
22 district from the obligation of filing a petition within the
23 requirements of RCW 28A.225.015(3).

24 **Sec. 3.** RCW 28A.225.035 and 2001 c 162 s 1 are each amended to
25 read as follows:

26 (1) A petition for a civil action under RCW 28A.225.030 or
27 28A.225.015 shall consist of a written notification to the court
28 alleging that:

29 (a) The child has unexcused absences during the current school
30 year;

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

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

35 (2) The petition shall set forth the name, date of birth, school,
36 address, gender, race, and ethnicity of the child and the names and

1 addresses of the child's parents, and shall set forth whether the child
2 and parent are fluent in English and whether there is an existing
3 individualized education program.

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 and provide information about what the court might order under
7 RCW 28A.225.090.

8 (4) When a petition is filed under RCW 28A.225.030 or 28A.225.015,
9 the juvenile court shall schedule a hearing at which the court shall
10 consider the petition, or if the court determines that a referral to an
11 available community truancy board would substantially reduce the
12 child's unexcused absences, the court may refer the case to a community
13 truancy board under the jurisdiction of the juvenile court.

14 (5) If a referral is made to a community truancy board, the truancy
15 board must meet with the child, a parent, and the school district
16 representative and enter into an agreement with the petitioner and
17 respondent regarding expectations and any actions necessary to address
18 the child's truancy within ~~((thirty))~~ twenty days of the referral. If
19 the petition is based on RCW 28A.225.015, the child shall not be
20 required to attend and the agreement under this subsection shall be
21 between the truancy board, the school district, and the child's parent.
22 ~~((The agreement shall be presented to the juvenile court for its~~
23 ~~approval.))~~

24 ~~((6) The court shall approve the agreement by order or schedule a~~
25 ~~hearing.))~~ The court may~~((, if the school district and community~~
26 ~~truancy board agree,))~~ permit the truancy board or truancy prevention
27 counselor to provide continued supervision over the student, or parent
28 if the petition is based on RCW 28A.225.015~~((, and report on compliance~~
29 ~~with the order))~~.

30 ~~((7))~~ (6) If the truancy board fails to reach an agreement, or
31 the parent or student does not comply with the agreement, the truancy
32 board shall return the case to the juvenile court for a hearing.

33 ~~((8))~~ (7)(a) Notwithstanding the provisions in subsection (4) of
34 this 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 ~~((a))~~ (i) Separately notify the child, the parent of the child,

1 and the school district of the hearing. If the parent is not fluent in
2 English, the preferred practice is for notice to be provided in a
3 language in which the parent is fluent;

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

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

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

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

15 ~~((10))~~ (9) A school district is responsible for determining who
16 shall represent the school district at hearings on a petition filed
17 under RCW 28A.225.030 or 28A.225.015.

18 ~~((11))~~ (10) The court may permit the first hearing to be held
19 without requiring that either party be represented by legal counsel,
20 and to be held without a guardian ad litem for the child under RCW
21 4.08.050. At the request of the school district, the court shall
22 permit a school district representative who is not an attorney to
23 represent the school district at any future hearings.

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

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

36 (13) If the court assumes jurisdiction, the school district shall
37 regularly report to the court any additional unexcused absences by the
38 child.

1 (14) Community truancy boards and the courts shall coordinate, to
2 the extent possible, proceedings and actions pertaining to children who
3 are subject to truancy petitions and at-risk youth petitions in RCW
4 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

5 (15) If after a juvenile court assumes jurisdiction in one county
6 the child relocates to another county, the juvenile court in the
7 receiving county shall, upon the request of a school district or
8 parent, assume jurisdiction of the petition filed in the previous
9 county.

10 **Sec. 4.** RCW 28A.225.090 and 2008 c 171 s 1 are each amended to
11 read as follows:

12 (1) A court may order a child subject to a petition under RCW
13 28A.225.035 to do one or more of the following:

14 (a) Attend the child's current school, and set forth minimum
15 attendance requirements, including suspensions;

16 (b) If there is space available and the program can provide
17 educational services appropriate for the child, order the child to
18 attend another public school, an alternative education program, center,
19 a skill center, dropout prevention program, or another public
20 educational program;

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

1 (d) Be referred to a community truancy board, if available; or

2 (e) Submit to testing for the use of controlled substances or
3 alcohol based on a determination that such testing is appropriate to
4 the circumstances and behavior of the child and will facilitate the
5 child's compliance with the mandatory attendance law and, if any test
6 ordered under this subsection indicates the use of controlled
7 substances or alcohol, order the minor to abstain from the unlawful
8 consumption of controlled substances or alcohol and adhere to the
9 recommendations of the drug assessment at no expense to the school.

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

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

37 (4) If a child continues to be truant after entering into a court-
38 approved order with the truancy board under RCW 28A.225.035, the

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

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

Passed by the Senate March 4, 2009.

Passed by the House April 14, 2009.

Approved by the Governor April 28, 2009.

Filed in Office of Secretary of State April 29, 2009.