
HOUSE BILL 2199

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Kelley, Dahlquist, Maxwell, and Kenney

Prefiled 12/15/11. Read first time 01/09/12. Referred to Committee on Education.

1 AN ACT Relating to changing compulsory school attendance
2 requirements for children six and seven years of age; amending RCW
3 28A.225.010, 28A.225.020, 28A.225.025, 28A.225.030, 28A.225.035,
4 28A.225.090, and 28A.200.010; and repealing RCW 28A.225.015.

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

6 **Sec. 1.** RCW 28A.225.010 and 1998 c 244 s 14 are each amended to
7 read as follows:

8 (1) All parents in this state of any child (~~eight~~) six years of
9 age and under eighteen years of age shall cause such child to attend
10 the public school of the district in which the child resides and such
11 child shall have the responsibility to and therefore shall attend for
12 the full time when such school may be in session unless:

13 (a) The child is attending an approved private school for the same
14 time or is enrolled in an extension program as provided in RCW
15 28A.195.010(4);

16 (b) The child is receiving home-based instruction as provided in
17 subsection (4) of this section;

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

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

15 (e) The child is sixteen years of age or older and:

16 (i) The child is regularly and lawfully employed and either the
17 parent agrees that the child should not be required to attend school or
18 the child is emancipated in accordance with chapter 13.64 RCW;

19 (ii) The child has already met graduation requirements in
20 accordance with state board of education rules and regulations; or

21 (iii) The child has received a certificate of educational
22 competence under rules and regulations established by the state board
23 of education under RCW 28A.305.190.

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

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

29 (4) For the purposes of this chapter and chapter 28A.200 RCW,
30 instruction shall be home-based if it consists of planned and
31 supervised instructional and related educational activities, including
32 a curriculum and instruction in the basic skills of occupational
33 education, science, mathematics, language, social studies, history,
34 health, reading, writing, spelling, and the development of an
35 appreciation of art and music, provided for a number of hours
36 equivalent to the total annual program hours per grade level
37 established for approved private schools under RCW 28A.195.010 and
38 28A.195.040 and if such activities are:

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

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

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

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

25 **Sec. 2.** RCW 28A.225.020 and 2009 c 266 s 1 are each amended to
26 read as follows:

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

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

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

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

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

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

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

28 (3) If a child transfers from one school district to another during
29 the school year, the receiving school or school district shall include
30 the unexcused absences accumulated at the previous school or from the
31 previous school district for purposes of this section(~~(7)~~) and RCW
32 28A.225.030(~~(7 and 28A.225.015)~~).

33 **Sec. 3.** RCW 28A.225.025 and 2009 c 266 s 2 are each amended to
34 read as follows:

35 (1) For purposes of this chapter, "community truancy board" means
36 a board composed of members of the local community in which the child
37 attends school. Juvenile courts may establish and operate community

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

15 (2) The legislature finds that utilization of community truancy
16 boards, or other diversion units that fulfill a similar function, is
17 the preferred means of intervention when preliminary methods of notice
18 and parent conferences and taking appropriate steps to eliminate or
19 reduce unexcused absences have not been effective in securing the
20 child's attendance at school. The legislature intends to encourage and
21 support the development and expansion of community truancy boards and
22 other diversion programs which are effective in promoting school
23 attendance and preventing the need for more intrusive intervention by
24 the court. Operation of a school truancy board does not excuse a
25 district from the obligation of filing a petition within the
26 requirements of RCW ((28A.225.015(3))) 28A.225.030.

27 **Sec. 4.** RCW 28A.225.030 and 1999 c 319 s 2 are each amended to
28 read as follows:

29 (1) If a child is required to attend school under RCW 28A.225.010
30 and is eight years old or older and if the actions taken by a school
31 district under RCW 28A.225.020 are not successful in substantially
32 reducing ((an)) the enrolled student's absences from public school, not
33 later than the seventh unexcused absence by such a child within any
34 month during the current school year or not later than the tenth
35 unexcused absence during the current school year the school district
36 shall file a petition and supporting affidavit for a civil action with
37 the juvenile court alleging a violation of RCW 28A.225.010: (a) By the

1 parent; (b) by the child; or (c) by the parent and the child. Except
2 as provided in this subsection, no additional documents need be filed
3 with the petition.

4 (2) The district shall not later than the fifth unexcused absence
5 in a month by a child eight years old or older:

6 (a) Enter into an agreement with ((a)) the student and parent that
7 establishes school attendance requirements;

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

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

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

16 (4) If the school district fails to file a petition under this
17 section, the parent of a child who is eight years old or older with
18 five or more unexcused absences in any month during the current school
19 year or upon the tenth unexcused absence during the current school year
20 may file a petition with the juvenile court alleging a violation of RCW
21 28A.225.010.

22 (5) Petitions filed under this section may be served by certified
23 mail, return receipt requested. If such service is unsuccessful, or
24 the return receipt is not signed by the addressee, personal service is
25 required.

26 **Sec. 5.** RCW 28A.225.035 and 2009 c 266 s 3 are each amended to
27 read as follows:

28 (1) A petition for a civil action under RCW 28A.225.030 ((~~or~~
29 ~~28A.225.015~~)) shall consist of a written notification to the court
30 alleging that:

31 (a) The child has unexcused absences during the current school
32 year;

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

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

1 (2) The petition shall set forth the name, date of birth, school,
2 address, gender, race, and ethnicity of the child and the names and
3 addresses of the child's parents, and shall set forth whether the child
4 and parent are fluent in English and whether there is an existing
5 individualized education program.

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

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

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

27 (6) If the truancy board fails to reach an agreement, or the parent
28 or student does not comply with the agreement, the truancy board shall
29 return the case to the juvenile court for a hearing.

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

34 (i) Separately notify the child, the parent of the child, and the
35 school district of the hearing. If the parent is not fluent in
36 English, the preferred practice is for notice to be provided in a
37 language in which the parent is fluent;

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

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

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

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

11 (9) A school district is responsible for determining who shall
12 represent the school district at hearings on a petition filed under RCW
13 28A.225.030 (~~((or 28A.225.015))~~).

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

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

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

32 (13) If the court assumes jurisdiction, the school district shall
33 regularly report to the court any additional unexcused absences by the
34 child.

35 (14) Community truancy boards and the courts shall coordinate, to
36 the extent possible, proceedings and actions pertaining to children who
37 are subject to truancy petitions and at-risk youth petitions in RCW
38 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

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

6 **Sec. 6.** RCW 28A.225.090 and 2009 c 266 s 4 are each amended to
7 read as follows:

8 (1) A court may order a child subject to a petition under RCW
9 28A.225.035 to do one or more of the following:

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

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

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

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

35 (e) Submit to testing for the use of controlled substances or
36 alcohol based on a determination that such testing is appropriate to
37 the circumstances and behavior of the child and will facilitate the

1 child's compliance with the mandatory attendance law and, if any test
2 ordered under this subsection indicates the use of controlled
3 substances or alcohol, order the minor to abstain from the unlawful
4 consumption of controlled substances or alcohol and adhere to the
5 recommendations of the drug assessment at no expense to the school.

6 (2) If the child fails to comply with the court order, the court
7 may order the child to be subject to detention, as provided in RCW
8 7.21.030(2)(e), or may impose alternatives to detention such as
9 community restitution. Failure by a child to comply with an order
10 issued under this subsection shall not be subject to detention for a
11 period greater than that permitted pursuant to a civil contempt
12 proceeding against a child under chapter 13.32A RCW. Detention ordered
13 under this subsection may be for no longer than seven days. A warrant
14 of arrest for a child under this subsection may not be served on a
15 child inside of school during school hours in a location where other
16 students are present.

17 (3) Any parent violating any of the provisions of either RCW
18 28A.225.010(~~(, 28A.225.015,)~~) or 28A.225.080 shall be fined not more
19 than twenty-five dollars for each day of unexcused absence from school.
20 The court shall remit fifty percent of the fine collected under this
21 section to the child's school district. It shall be a defense for a
22 parent charged with violating RCW 28A.225.010 to show that he or she
23 exercised reasonable diligence in attempting to cause a child in his or
24 her custody to attend school or that the child's school did not perform
25 its duties as required in RCW 28A.225.020. The court may order the
26 parent to provide community restitution instead of imposing a fine.
27 Any fine imposed pursuant to this section may be suspended upon the
28 condition that a parent charged with violating RCW 28A.225.010 shall
29 participate with the school and the child in a supervised plan for the
30 child's attendance at school or upon condition that the parent attend
31 a conference or conferences scheduled by a school for the purpose of
32 analyzing the causes of a child's absence.

33 (4) If a child continues to be truant after entering into a court-
34 approved order with the truancy board under RCW 28A.225.035, the
35 juvenile court shall find the child in contempt, and the court may
36 order the child to be subject to detention, as provided in RCW
37 7.21.030(2)(e), or may impose alternatives to detention such as
38 meaningful community restitution. Failure by a child to comply with an

1 order issued under this subsection may not subject a child to detention
2 for a period greater than that permitted under a civil contempt
3 proceeding against a child under chapter 13.32A RCW.

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

7 **Sec. 7.** RCW 28A.200.010 and 2004 c 19 s 107 are each amended to
8 read as follows:

9 (1) Each parent whose child is receiving home-based instruction
10 under RCW 28A.225.010(4) and is eight years old or older shall have the
11 duty to:

12 (a) File annually a signed declaration of intent that he or she is
13 planning to cause his or her child to receive home-based instruction.
14 The statement shall include the name and age of the child, shall
15 specify whether a certificated person will be supervising the
16 instruction, and shall be written in a format prescribed by the
17 superintendent of public instruction. Each parent shall file the
18 statement by September 15th of the school year or within two weeks of
19 the beginning of any public school quarter, trimester, or semester with
20 the superintendent of the public school district within which the
21 parent resides or the district that accepts the transfer, and the
22 student shall be deemed a transfer student of the nonresident district.
23 Parents may apply for transfer under RCW 28A.225.220;

24 (b) Ensure that test scores or annual academic progress assessments
25 and immunization records, together with any other records that are kept
26 relating to the instructional and educational activities provided, are
27 forwarded to any other public or private school to which the child
28 transfers. At the time of a transfer to a public school, the
29 superintendent of the local school district in which the child enrolls
30 may require a standardized achievement test to be administered and
31 shall have the authority to determine the appropriate grade and course
32 level placement of the child after consultation with parents and review
33 of the child's records; and

34 (c) Ensure that a standardized achievement test approved by the
35 state board of education is administered annually to the child by a
36 qualified individual or that an annual assessment of the student's
37 academic progress is written by a certificated person who is currently

1 working in the field of education. The state board of education shall
2 not require these children to meet the student learning goals, master
3 the essential academic learning requirements, to take the assessments,
4 or to obtain a certificate of academic achievement or a certificate of
5 individual achievement pursuant to RCW 28A.655.061 and 28A.155.045.
6 The standardized test administered or the annual academic progress
7 assessment written shall be made a part of the child's permanent
8 records. If, as a result of the annual test or assessment, it is
9 determined that the child is not making reasonable progress consistent
10 with his or her age or stage of development, the parent shall make a
11 good faith effort to remedy any deficiency.

12 (2) Failure of a parent to comply with the duties in this section
13 shall be deemed a failure of such parent's child to attend school
14 without valid justification under RCW 28A.225.020. Parents who do
15 comply with the duties set forth in this section shall be presumed to
16 be providing home-based instruction as set forth in RCW 28A.225.010(4).

17 NEW SECTION. **Sec. 8.** RCW 28A.225.015 (Attendance mandatory--Six
18 or seven year olds--Unexcused absences--Petition) and 1999 c 319 s 6
19 are each repealed.

--- END ---