

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Mahony**

A BILL ACT 876 OF 1991
HOUSE BILL 1386

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 6, CHAPTER 18, SUBCHAPTER 2 OF THE
9 ARKANSAS CODE OF 1987 TO PERMIT NOTIFICATION OF EXCESSIVE
10 ABSENCES BY REGULAR MAIL; TO CLARIFY THE RESPONSIBILITIES
11 OF THE PROSECUTING ATTORNEY; AND FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code §6-18-222 is hereby amended to read as
16 follows:

17 "6-18-222. Penalty for excessive unexcused absences - Revocation of
18 driving privilege.

19 (a) (1) (A) The board of directors of each school district in this state
20 shall adopt a student attendance policy as provided for in 6-18-209 which
21 shall include a certain number of excessive absences which may be used as a
22 basis for denial of course credit, promotion, or graduation. However,
23 excessive absences shall not be a basis for expulsion or dismissal of a
24 student.

25 (B) The legislative intent is that a student having
26 excessive absences because of illness, accident, or other unavoidable reasons
27 should be given assistance in obtaining credit for the courses.

28 (2) A copy of the school district's student attendance policy
29 shall be provided to the student's parents, guardians, or persons in loco
30 parentis at the beginning of the school year or upon enrollment, whichever
31 event first occurs.

32 (3) The student's parents, guardians, or persons in loco parentis
33 shall be notified when the student has accumulated excessive absences equal to
34 one-half (1/2) the total number of absences permitted under the school
35 district's student attendance policy per semester. Notice shall be by
36 telephonic contact with the student's parents, guardians, or persons in loco

1 parentis by the end of the school day in which such absence occurred or by
2 regular mail with a return address on the envelope sent no later than the
3 following school day.

4 (4) Whenever a student exceeds the number of excessive absences
5 provided for in the district's student attendance policy, the school district
6 shall notify the prosecuting authority, and the student's parents, guardians,
7 or persons in loco parentis shall be subject to a civil penalty in such an
8 amount as a court of competent jurisdiction presiding in the presence of a
9 representative of the school district may prescribe, but not to exceed five
10 hundred dollars (\$500) plus costs of court and any reasonable fees assessed by
11 the court. The penalty shall be forwarded by the court to the school attended
12 by the student.

13 (5) Upon notification by the school district to the prosecuting
14 authority, the prosecuting authority shall file an action in the appropriate
15 court to impose the civil penalty set forth in subdivision (a)(4) of this
16 section and shall take whatever action is necessary to collect the penalty
17 provided for therein. The failure of the prosecuting authority to timely file
18 an action or pursue collection on a case once notified shall be considered
19 neglect of duty, subjecting the prosecuting attorney to the provisions of
20 16-21-116.

21 (6) The penalty set forth in this section is to impress upon the
22 parents, guardians, or persons in loco parentis the importance of school
23 attendance and is not to be used as a primary source of revenue. When
24 assessing penalties, the court shall be aware of any available programs
25 designed to improve the parent-child relationship or parenting skills. When
26 practicable and appropriate, the court may utilize mandatory attendance to
27 such programs as well as community service requirements in lieu of monetary
28 penalties.

29 (7) In cases where the court determines the student's unexcused
30 absences cannot be attributed to the parents, guardians, or persons in loco
31 parentis, the action may be suspended or dismissed conditioned on a petition
32 being filed in juvenile court to seek services on behalf of the student.

33 (8) As used in this section, 'prosecuting authority' means the
34 elected district prosecuting attorney or his appointed deputy for schools
35 located in unincorporated areas of the county or within cities not having a

1 police or municipal court and means the prosecuting attorney of the city for
2 schools located within the city limits of cities having either a police court
3 or a municipal court in which a city prosecutor represents the city for
4 violations of city ordinances or traffic violations.

5 (9) In any instance where it is found that the school district or
6 prosecuting authority is not complying with the provisions of this section,
7 the State Board of Education may petition the circuit court to issue a writ of
8 mandamus.

9 (b)(1) Each public, private, or parochial school shall notify the
10 Department of Finance and Administration whenever a student fourteen (14)
11 years of age or older is no longer in school.

12 (2)(A) Upon receipt of such notification, the Department of
13 Finance and Administration shall notify the licensee by certified mail, return
14 receipt requested, that his motor vehicle operator's license will be suspended
15 unless a hearing is requested in writing within thirty (30) days from the date
16 of notice.

17 (B) The licensee shall be entitled to retain or regain his
18 license by providing the Department of Finance and Administration with
19 adequate evidence that:

20 (i) The licensee is eighteen (18) years of age;
21 (ii) The licensee is attending school; or
22 (iii) The licensee has obtained a high school diploma
23 or its equivalent.

24 (C)(i) In cases where demonstrable financial hardship would
25 result from the suspension of the learner's permit or driver's license, the
26 Department of Finance and Administration may grant exceptions only to the
27 extent necessary to ameliorate the hardship.

28 (ii) If it can be demonstrated that the conditions
29 for granting a hardship were fraudulent, the parent, guardian, or person in
30 loco parentis shall be subject to all applicable perjury statutes.

31 (D) The Department of Finance and Administration shall have
32 the power to promulgate rules and regulations to carry out the intent of this
33 section and shall distribute to each public, private, and parochial school a
34 copy of all rules and regulations adopted under this section."

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1 SECTION 2. All provisions of this act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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APPROVED: 3/29/91

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