

As Engrossed: 8/16/94 8/17/94

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**
4 **By: Representatives Mahony and Pryor**

Call Item 15
ACT 30 OF 1994
HOUSE BILL 1017

A Bill

For An Act To Be Entitled

8 "AN ACT TO AMEND A.C.A. § 6-18-201 TO AUTHORIZE WAIVERS
9 FROM COMPULSORY SCHOOL ATTENDANCE FOR 16 AND 17 YEAR OLDS
10 WHO ENROLL IN ADULT EDUCATION PROGRAMS; TO AMEND A.C.A. §§
11 6-18-222 AND 27-16-701 TO REQUIRE 16 AND 17 YEAR OLDS
12 ENROLLED IN ADULT EDUCATION TO HAVE SATISFACTORY
13 ATTENDANCE IN ORDER TO OBTAIN AND KEEP A DRIVERS LICENSE;
14 TO AMEND A.C.A. § 5-4-323 TO REQUIRE THE COURT TO GIVE
15 NOTICE TO SCHOOL DISTRICTS OR ADULT EDUCATION PROGRAMS
16 WHEN THE COURT REQUIRES PERSONS TO MAKE GOOD FAITH EFFORTS
17 TOWARD COMPLETION OF A HIGH SCHOOL DIPLOMA OR A GED; AND
18 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

Subtitle

21 "TO AMEND VARIOUS PROVISIONS OF THE
22 ARKANSAS CODE RELATIVE TO 16 AND 17 YEAR
23 OLDS ENROLLING IN ADULT EDUCATION."

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

27 SECTION 1. Arkansas Code Annotated § 6-18-201 is hereby amended to read
28 as follows:

29 "6-18-201. Compulsory attendance - Exceptions.

30 (a) Every parent, guardian, or other person residing within the State
31 of Arkansas having custody or charge of any child or children age five (5)
32 through seventeen (17) years on October 1 of that year, both inclusive, shall
33 enroll and send the child or children to a public, private, or parochial
34 school or provide a home school for the child or children as described in §
35 6-15-501 et seq. under such penalty for noncompliance, as shall be set by law
36 with the following exceptions:

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1 (1) Any child who has received a high school diploma, or its
2 equivalent as determined by the State Board of Education, is not subject to
3 the attendance requirement.

4 (2) Any parent, guardian, or other person residing within the
5 state and having custody or charge of any child or children may elect for the
6 child or children not to attend kindergarten if the child or children will not
7 be age six (6) on October 1 of that particular school year. If such an
8 election is made, the parent, guardian, or other person having custody or
9 charge of the child must file a signed kindergarten waiver form with the local
10 district administrative office. Such form shall be prescribed by regulation
11 of the Department of Education. On filing the kindergarten waiver form, the
12 child or children shall not be required to attend kindergarten in that school
13 year.

14 (3) Any child age sixteen (16) or above enrolled in a
15 postsecondary vocational-technical institution, a community college, or a
16 two-year or four-year institution of higher education is not subject to the
17 attendance requirement.

18 (4) Any child age sixteen (16) or above enrolled in an adult
19 education program *or the National Guard Youth Challenge Program* as provided
20 for in subsection (b) is not subject to the attendance requirement. *However,*
21 *the requirements in subsection (b) shall not apply to the National Guard Youth*
22 *Challenge Program until July 1, 1995.*

23 (5) Any child age sixteen (16) or above enrolled in an adult
24 education program prior to June 13, 1994, under a waiver granted by the local
25 school district, and currently attending the program is not subject to the
26 attendance requirement.

27 (b) A local school district may grant a waiver of the attendance
28 requirement to any child age sixteen (16) or seventeen (17) to enroll in an
29 adult education program after all of the following requirements have been met:

30 (1) The child makes formal application to the school district for
31 a waiver to enroll in an adult education program.

32 (2) The child and the child_s parents, guardians, or persons in
33 loco parentis meet with the school counselor to discuss academic options open
34 to the child.

35 (3) The adult education program agrees to provide a quarterly

1 attendance report to the school district.

2 (4) The adult education program has an opportunity to review the
3 child_s school records and agrees to admit the child into the program.

4 (5) The child, the child_s parents, guardians, or persons in loco
5 parentis and the administrative head of the adult education program agree in
6 writing that the child will have regular attendance and appropriate conduct.

7 (c) Any child who will be six (6) years of age on or before October 1
8 of the school year of enrollment and who has not completed a state-accredited
9 kindergarten program shall be evaluated by the district and placed either in
10 the first grade or kindergarten depending upon the results of the evaluation."
11

12 SECTION 2. Arkansas Code Annotated § 6-18-222 is hereby amended to read
13 as follows:

14 "6-18-222. Penalty for excessive unexcused absences - Revocation of
15 driving privilege.

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

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

25 (2) The State Board of Vocational Education shall adopt a student
26 attendance policy for sixteen (16) and seventeen (17) year olds enrolled in an
27 adult education program, which shall require a minimum attendance of twenty
28 (20) hours per week to remain in the program.

29 (3) A copy of the school district's student attendance policy or
30 the State Board of Vocational Education_s student attendance policy for
31 sixteen (16) and seventeen (17) year olds enrolled in adult education shall be
32 provided to the student's parents, guardians, or persons in loco parentis at
33 the beginning of the school year or upon enrollment, whichever event first
34 occurs.

35 (4) The student's parents, guardians, or persons in loco parentis

1 shall be notified when the student has accumulated excessive absences equal to
2 one-half (1/2) the total number of absences permitted under the school
3 district's or the State Board of Vocational Education_s student attendance
4 policy per semester. Notice shall be by telephonic contact with the student's
5 parents, guardians, or persons in loco parentis by the end of the school day
6 in which such absence occurred or by regular mail with a return address on the
7 envelope sent no later than the following school day.

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

18 (6) Upon notification by the school district or the adult education
19 program to the prosecuting authority, the prosecuting authority shall file an
20 action which shall be exempt from all filing fees for civil cases in the
21 appropriate court to impose the civil penalty set forth in subdivision (a) (5)
22 of this section and shall take whatever action is necessary to collect the
23 penalty provided for therein. The failure of the prosecuting authority to
24 timely file an action or pursue collection on a case once notified shall be
25 considered neglect of duty, subjecting the prosecuting attorney to the
26 provisions of § 16-21-116. Actions under this section shall be filed in an
27 appropriate municipal court as a matter of preference.

28 (7) The penalty set forth in this section is to impress upon the
29 parents, guardians, or persons in loco parentis the importance of school or
30 adult education attendance and is not to be used as a primary source of
31 revenue. When assessing penalties, the court shall be aware of any available
32 programs designed to improve the parent-child relationship or parenting
33 skills. When practicable and appropriate, the court may utilize mandatory
34 attendance to such programs as well as community service requirements in lieu
35 of monetary penalties.

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

5 (9) As used in this section, prosecuting authority means the
6 elected district prosecuting attorney, or his appointed deputy, for schools
7 located in unincorporated areas of the county or within cities not having a
8 police or municipal court and means the prosecuting attorney of the city for
9 schools located within the city limits of cities having either a police court
10 or a municipal court in which a city prosecutor represents the city for
11 violations of city ordinances or traffic violations.

12 (10) In any instance where it is found that the school district or
13 the adult education program or the prosecuting authority is not complying with
14 the provisions of this section, the State Board of Education may petition the
15 circuit court to issue a writ of mandamus.

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

19 (2) Each adult education program shall notify the Department of
20 Finance and Administration whenever a student sixteen (16) or seventeen (17)
21 years of age has left the program without receiving a high school equivalency
22 certificate.

23 (3)(A) Upon receipt of such notification, the Department of Finance
24 and Administration shall notify the licensee by certified mail, return receipt
25 requested, that his motor vehicle operator's license will be suspended unless
26 a hearing is requested in writing within thirty (30) days from the date of
27 notice.

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

31 (i) The licensee is eighteen (18) years of age;

32 (ii) The licensee is attending school or an adult education
33 program; or

34 (iii) The licensee has obtained a high school diploma or
35 its equivalent.

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

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

8 (D) The Department of Finance and Administration shall have the
9 power to promulgate rules and regulations to carry out the intent of this
10 section and shall distribute to each public, private, and parochial school and
11 each adult education program a copy of all rules and regulations adopted under
12 this section."

13

14 SECTION 3. Arkansas Code Annotated § 27-16-701 is hereby amended to
15 read as follows:

16 "27-16-701. Application for license or instruction permit - Restricted
17 permits.

18 (a) Every application for an instruction permit or for a commercial or
19 noncommercial driver's license shall be made upon a form furnished by the
20 office and every application shall be accompanied by the required fee.

21 (b) Every application shall state the full name, date of birth, sex,
22 residence address of the applicant, and briefly describe the applicant and
23 shall state whether the applicant has theretofore been licensed as a driver,
24 and, if so, when and by what state or country, and whether any such license
25 has ever been suspended or revoked or whether an application has ever been
26 refused, and, if so, the date of and reason for suspension, revocation, or
27 refusal.

28 (c) (1) Every application form for an instruction permit, commercial or
29 noncommercial driver's license, or for any renewal of these licenses or
30 permits shall include space for the applicant's social security number if he
31 has been assigned such a number.

32 (2) Every applicant shall supply his social security number on the
33 application form when he has been assigned such a number, except that an
34 applicant for an instruction permit for a noncommercial driver's license shall
35 not be required to supply his or her social security number and may choose

1 whether to use his or her social security number on the application.

2 (d) Every application for an instruction permit or for a driver's
3 license by a person less than eighteen (18) years old on October 1 of any year
4 shall be accompanied by:

5 (1) (A) Proof of receipt of a high school diploma or its equivalent
6 or enrollment and regular attendance in an adult education program or a
7 public, private, or parochial school.

8 (i) A student enrolled in school shall present proof of a
9 C average for the previous semester or grading period in order to be issued
10 a license.

11 (ii) A student with disabilities receiving special
12 education or related services or a student enrolled in an adult education
13 program shall present proof that the student is successfully completing his
14 individual education plan in order to be issued a license.

15 (B) Regular attendance in a school shall be attendance in
16 compliance with the established written policy of the school district or
17 school concerning truancy;

18 (C) Regular attendance in an adult education program shall
19 be attendance in compliance with the policy for sixteen (16) and seventeen
20 (17) year olds established by the State Board of Vocational Education as
21 provided for in § 6-18-222;

22 (2) (A) Proof that such person is being provided schooling at home
23 as described in § 6-15-501 et seq.

24 (B) A student enrolled in a home school shall present proof
25 that he is successfully completing his course of study as required by §§
26 6-15-504 and 6-15-505 in order to be issued a license.

27 (C) If the student becomes eligible for a license before
28 taking the annual achievement test for that school year, he may be issued a
29 temporary license either upon the presentation of satisfactory test results
30 from the previous school year or, if the student was not enrolled in a home
31 school during the previous school year, a proof of satisfactory progress in
32 the public or private school in which he was last enrolled. The temporary
33 license shall expire upon the next July 1 after it is issued; or

34 (3) Proof that such person is enrolled in a postsecondary
35 vocational-technical program, a community college, or a two-year or four-year

1 institution of higher education.

2 (e) The Department of Education shall develop guidelines for use by
3 school districts to provide a certified exemption from the C average
4 requirement of subdivision (d) (1) (A) (i) of this section to a student found to
5 be performing at his or her fullest level of capability although such may be
6 below a C average.

7 (f) (1) Any person less than eighteen (18) years old who is unable to
8 meet the requirements of subsection (d) of this section may petition the
9 Office of Driver Services that he or she be issued a restricted permit for
10 employment-related purposes.

11 (2) (A) The Office of Driver Services shall advise the person of the
12 time and place for making such request and for the hearing thereon, which
13 shall be conducted within a reasonable time following the application date.

14 (B) Such notice shall be given by mailing the notice to the
15 last known address of the person seeking the restricted permit.

16 (3) (A) In cases where demonstrable financial hardship would result
17 from the failure to issue a learner's permit or driver's license, the
18 Department of Finance and Administration may grant exceptions only to the
19 extent necessary to ameliorate the hardship.

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

23 (g) The Department of Finance and Administration shall have the power
24 to promulgate rules and regulations to carry out the intent of this section
25 and shall distribute to each public, private, and parochial school and each
26 adult education program a copy of all rules and regulations adopted under this
27 section."

28

29 SECTION 4. Arkansas Code Annotated § 5-4-323 is hereby amended to read
30 as follows:

31 "5-4-323. Additional conditions - High school diploma or general
32 education development certificate.

33 (a) (1) (A) As an additional requirement for suspension of sentence or
34 probation, the court shall require any person who is convicted of a felony or
35 Class A misdemeanor to make a good faith effort toward completion of a high

1 school diploma or a general education development certificate unless the
2 person has already achieved the diploma or certificate.

3 (B) Such requirement shall be implemented only after the
4 appropriate school or adult education program has received notice from the
5 court at least ten (10) working days prior to the person making application to
6 enroll so as to allow school or program officials to review the person's
7 educational records and only upon the acceptance of the person by the
8 administrative head of the school or adult education program.

9 (C) If no appropriate school or adult education program can be
10 found, the requirement is of no effect.

11 (2) The court, after consultation with the school or the adult
12 education program, shall determine the appropriate documentation for those
13 individuals participating under the provisions of this section and shall
14 report all documentation of school or adult education program participation on
15 a quarterly basis to the Administrative Office of the Courts who shall then
16 report to the Governor's Commission on Adult Literacy.

17 (b) The court shall not revoke a suspension of sentence or probation
18 because of the person's inability to achieve the degree or certificate but
19 shall revoke a suspension or probation if the person fails to make a good
20 faith effort to achieve the degree or certificate.

21 (c) A good faith effort means the person has been enrolled in a
22 program of instruction and is attending school or adult education.

23 (d) Any person who fails to make a good faith effort to comply with a
24 court order issued pursuant to this section shall be guilty of an unclassified
25 misdemeanor and shall be punished by a fine of at least one hundred dollars
26 (\$100) but not more than one thousand dollars (\$1,000)."

27

28 SECTION 5. The Department of Vocational Education shall promulgate
29 emergency rules and regulations to implement the provisions of this act
30 relative to adult education within ten (10) days from and after its passage
31 and approval.

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33 SECTION 6. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

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

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the Seventy-Ninth General Assembly, meeting in Second Extraordinary Session, that under current law, sixteen and seventeen year olds can no longer enroll in adult education and attend a GED program, and the GED programs are more suitable than the public schools in meeting the educational needs of some sixteen and seventeen year olds. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/Rep. Mahony, et al

APPROVED: 8-24-94

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