

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Enrolled: S3/18/97 H3/24/97 H4/1/97

A Bill

ACT 1308 OF 1997
SENATE BILL 564

4
5 By: Senator Mahony

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 6-18-222 TO
10 CLARIFY THE PROCEDURE FOR COMPLIANCE WITH STUDENT TRUANCY
11 LAWS; AND FOR OTHER PURPOSES."

Subtitle

13 "TO AMEND A.C.A. § 6-18-222 TO CLARIFY
14 THE PROCEDURE FOR COMPLIANCE WITH
15 STUDENT TRUANCY LAWS."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code Annotated § 6-18-222 is amended to read as
21 follows:

22 "6-18-222. Penalty for excessive unexcused absences - Revocation of
23 driving privilege.

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

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

33 (2) The State Board of Vocational Education shall adopt a student
34 attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an
35 adult education program, which shall require a minimum attendance of twenty
36 (20) hours per week to remain in the program.

1 (3) A copy of the school district's student attendance policy or
2 the State Board of Vocational Education's student attendance policy for
3 sixteen (16) and seventeen (17) year olds enrolled in adult education shall be
4 provided to the student's parents, guardians, or persons in loco parentis at
5 the beginning of the school year or upon enrollment, whichever event first
6 occurs.

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

15 (5) Whenever a student exceeds the number of excessive unexcused
16 absences provided for in the district's or the State Board of Vocational
17 Education's student attendance policy, the school district or the adult
18 education program shall notify the prosecuting authority, and the student's
19 parents, guardians, or persons in loco parentis shall be subject to a civil
20 penalty in such an amount as a juvenile court or other court of competent
21 jurisdiction, as authorized under subdivision (6)(A) of this subsection
22 ~~presiding in the presence of a representative of the school district~~, may
23 prescribe, but not to exceed five hundred dollars (\$500) plus costs of court
24 and any reasonable fees assessed by the court. The penalty shall be forwarded
25 by the court to the school or the adult education program attended by the
26 student.

27 (6)(A) Upon notification by the school district or the adult
28 education program to the prosecuting authority, the prosecuting authority
29 shall file ~~an action which shall be exempt from all filing fees for civil~~
30 ~~cases in the appropriate court to impose the civil penalty set forth in~~
31 ~~subdivision (a)(5) of this section and shall take whatever action is necessary~~
32 ~~to collect the penalty provided for therein.~~ in juvenile court a truancy
33 petition pursuant to § 9-27-310 or enter into a diversion agreement with the
34 student pursuant to § 9-27-323. However, the prosecuting authority may file
35 an action in another court of competent jurisdiction if the prosecuting
36 authorities and the juvenile judge, upon agreement, have developed a written

1 plan for prosecuting truant students outside of juvenile court by October 1,
2 1997. For any action filed pursuant to such written plan or filed in juvenile
3 court to impose the civil penalty set forth in subdivision (5) of this
4 subsection, the prosecuting authority shall be exempt from all filing fees and
5 shall take whatever action is necessary to collect the penalty provided for
6 therein.

7 ~~_____ (C) (B) Actions under this section subsection shall be filed in~~
8 ~~an appropriate municipal juvenile court as a matter of preference.~~

9 (C) Municipal attorneys may practice in juvenile court for the
10 limited purpose of filing petitions or entering into diversion agreements as
11 authorized by this subdivision if agreed upon by all of the parties pursuant
12 to subsection (6)(A) above.

13 (7)(A) The purpose of the penalty set forth in this section
14 subsection is to impress upon the parents, guardians, or persons in loco
15 parentis the importance of school or adult education attendance, and the
16 penalty is not to be used primarily as a source of revenue.

17 (B) When assessing penalties, the court shall be aware of
18 any available programs designed to improve the parent-child relationship or
19 parenting skills.

20 (C) When practicable and appropriate, the court may utilize
21 mandatory attendance to such programs as well as community service
22 requirements in lieu of monetary penalties.

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

27 (9) (8) As used in this section, "prosecuting authority" means
28 the elected district prosecuting attorney, or his appointed deputy, for
29 schools located in unincorporated areas of the county or within cities not
30 having a police or municipal court and means the prosecuting attorney of the
31 city for schools located within the city limits of cities having either a
32 police court or a municipal court in which a city prosecutor represents the
33 city for violations of city ordinances or traffic violations.

34 ~~_____ (10)(9) In any instance where it is found that the school~~
35 ~~district or the adult education program or the prosecuting authority is not~~
36 ~~complying with the provisions of this section, the State Board of Education~~

1 may petition the circuit court to issue a writ of mandamus.

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

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

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

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

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

18 (ii) The licensee is attending school or an adult
19 education program; or

20 (iii) The licensee has obtained a high school diploma
21 or its equivalent.

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

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

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

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36 SECTION 2. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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

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

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/s/Mahony

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APPROVED:4-10-97

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