

Act 473 of the 1989 Regular Session.

Act 473

HB1526

By: Representative Mahony

"AN ACT TO ASSESS A CIVIL PENALTY AGAINST PARENTS OF STUDENTS WITH EXCESSIVE UNEXCUSED SCHOOL ABSENCES; TO INCREASE THE CRIMINAL PENALTY AGAINST PARENTS; AND FOR OTHER PURPOSES."

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

SECTION 1. (a) The Board of Directors of each school district in this state shall adopt a student attendance policy as provided for in Ark. Code 6-18-209 which shall include a certain number of an excessive unexcused absences as a basis for denial of promotion or graduation. However, unexcused absences shall not be a basis for expulsion or dismissal of a student. The State Board of Education shall promulgate whatever rules and regulations are necessary to define "excused" and "unexcused" absences.

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

(c) The student's parents, guardians or persons in loco parentis shall be notified when the student has accumulated unexcused absences equal to one-third the total permitted under the school district's student attendance policy per semester and equal to two-thirds the total permitted under the school district's student attendance policy per semester. Notice shall be by telephonic contact with the student's parents, guardians or persons in loco parentis by the end of the school day in which such absence occurred or by certified mail with a return receipt required sent no later than the following school day.

(d) Whenever a student exceeds the number of unexcused absences as provided for in the district's student attendance policy, the student's parents, guardians or parents in loco parentis, shall be subject to a civil penalty in such an amount as a court of competent jurisdiction presiding in the presence of the district's Board of Directors at a regular or special called meeting may prescribe, but not to exceed five hundred dollars (\$500.00) plus costs of court and any reasonable fees assessed by the court. The penalty shall be forwarded by the court to the school attended by the student.

(e) Each school district shall notify the prosecuting attorney if the school is located outside of the city limits or city attorney if the school is located within the city limits, whichever is applicable, whenever a student exceeds the number of unexcused absences who shall take whatever action is necessary to collect the penalty provided for herein. The failure of the prosecuting attorney to timely pursue collection on a case once notified shall be considered neglect of duty, subjecting the prosecuting attorney to the provisions of Arkansas Code 16-21-116.

(f) The penalty set forth in this section is to impress upon the parents, guardians or persons in loco parentis the importance of school attendance and is not to be used as a primary source of revenue. When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills. When practicable and appropriate the court may utilize mandatory attendance to such

programs as well as community service requirements in lieu of monetary penalties.

(g) In cases when the court determines the student's unexcused absences can not be attributed to the parents, guardians or persons in loco parentis, the action may be suspended or dismissed conditioned on a petition being filed in juvenile court to seek services on behalf of the student.

SECTION 2. (a) Upon notification by the school district that a student is no longer attending school, a court of competent jurisdiction shall inform the Department of Finance and Administration that the student's learner's permit or driver's license is suspended. This suspension shall be in effect until the school district certifies that the student has returned to school or the individual has turned seventeen (17). In cases where demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the court may grant exceptions only to the extent necessary to ameliorate the hardship.

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

SECTION 3. Ark. Code 6-18-216 is hereby amended to read as follows:
"6-18-216. Penalty for violating attendance provisions.

(a) All persons violating the foregoing provisions of this act shall be deemed guilty of a misdemeanor and shall be subject to prosecution in any court having jurisdiction in such cases.

(b) Each day such persons violate the provisions of this act shall constitute a separate offense, and the penalty for the violation of such provisions shall be a fine of not more than fifty dollars (\$50.00) and not less than ten dollars (\$10.00) for each offense.

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

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: March 10, 1989
