

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

# A Bill

HOUSE BILL 1780

4  
5 By: Representative Luker

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 6-18-222 TO CLARIFY AND  
10 STRENGTHEN CURRENT STUDENT TRUANT LAWS IN ARKANSAS; AND  
11 FOR OTHER PURPOSES."

## Subtitle

14 "TO CLARIFY AND STRENGTHEN ARKANSAS  
15 TRUANT STUDENT LAW."

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

19 SECTION 1. Arkansas Code 6-18-222 is amended to read as follows:  
20 "6-18-222. Penalty for excessive unexcused absences - Revocation  
21 of driving privilege.

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

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

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

35 (3) A copy of the school district's student attendance policy or  
36 the State Board of Vocational Education's student attendance policy for

1 sixteen (16) and seventeen (17) year olds enrolled in adult education  
 2 shall be provided to the student's parents, guardians, or persons in  
 3 loco parentis at the beginning of the school year or upon enrollment,  
 4 whichever event first occurs.

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

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

25 ~~(6)(A) Upon notification by the school district or the adult~~  
 26 ~~education program to the prosecuting authority, the prosecuting~~  
 27 ~~authority shall file an action which shall be exempt from all filing~~  
 28 ~~fees for civil cases in the appropriate court to impose the civil~~  
 29 ~~penalty set forth in subdivision (a)(5) of this section and shall take~~  
 30 ~~whatever action is necessary to collect the penalty provided for~~  
 31 ~~therein.~~

32 ~~\_\_\_\_\_ (B) The failure of the prosecuting authority to timely file~~  
 33 ~~an action or pursue collection on a case, once notified, shall be~~  
 34 ~~considered neglect of duty, subjecting the prosecuting attorney to the~~  
 35 ~~provisions of A 16-21-116.~~

36 ~~\_\_\_\_\_ (C) Actions under this section shall be filed in an~~

1 ~~appropriate municipal court as a matter of preference. Whenever a~~  
 2 ~~student exceeds the number of excessive absences provided for the~~  
 3 ~~district's student policy, the school district shall file an action~~  
 4 ~~which shall be exempt from all filing fees for civil cases in the~~  
 5 ~~appropriate court to impose the civil penalty set forth in subsection~~  
 6 ~~(a)(5) of this section and shall take whatever action is necessary to~~  
 7 ~~collect the penalty provided for therein. Actions under this section~~  
 8 ~~shall be filed in an appropriate municipal court as a matter of~~  
 9 ~~preference.~~

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

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

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

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

25 ~~—(9)~~ (8) As used in this section, prosecuting authority means the  
 26 elected district prosecuting attorney, or his appointed deputy, for  
 27 schools located in unincorporated areas of the county or within cities  
 28 not having a police or municipal court and means the prosecuting  
 29 attorney of the city for schools located within the city limits of  
 30 cities having either a police court or a municipal court in which a city  
 31 prosecutor represents the city for violations of city ordinances or  
 32 traffic violations.

33 ~~—(10)~~ (9) In any instance where it is found that the school  
 34 district ~~or the adult education program or the prosecuting authority~~ is  
 35 not complying with the provisions of this section, the State Board of  
 36 Education may petition the circuit court to issue a writ of mandamus.

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

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

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

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

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

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

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

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

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

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

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

1 Code.

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

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

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