

3 Senate Bill No. 1715

4 SENATE BILL NO. 1715 - By: Justice of the Senate and Osborn of the
5 House.

6 An Act relating to schools; amending 70 O.S. 2001, Section
7 10-105, as last amended by Section 1, Chapter 210, O.S.L.
8 2006 (70 O.S. Supp. 2009, Section 10-105), which relates to
9 school attendance; authorizing excused absence for student
10 participation in certain ceremony upon approval of school
11 principal; providing an effective date; and declaring an
12 emergency.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 70 O.S. 2001, Section 10-105, as
15 last amended by Section 1, Chapter 210, O.S.L. 2006 (70 O.S. Supp.
16 2009, Section 10-105), is amended to read as follows:

17 Section 10-105. A. It shall be unlawful for a parent,
18 guardian, or other person having custody of a child who is over the
19 age of five (5) years, and under the age of eighteen (18) years, to
20 neglect or refuse to cause or compel such child to attend and comply
21 with the rules of some public, private or other school, unless other
22 means of education are provided for the full term the schools of the
23 district are in session or the child is excused as provided in this
24 section. One-half (1/2) day of kindergarten shall be required of
25 all children five (5) years of age or older unless the child is
26 excused from kindergarten attendance as provided in this section. A
27 child who is five (5) years of age shall be excused from

1 kindergarten attendance until the next school year after the child
2 is six (6) years of age if a parent, guardian, or other person
3 having custody of the child notifies the superintendent of the
4 district where the child is a resident by certified mail prior to
5 enrollment in kindergarten, or at any time during the first school
6 year that the child is required to attend kindergarten pursuant to
7 this section, of election to withhold the child from kindergarten
8 until the next school year after the child is six (6) years of age.
9 A kindergarten program shall be directed toward developmentally
10 appropriate objectives for such children. The program shall require
11 that any teacher employed on and after January 1, 1993, to teach a
12 kindergarten program within the public school system shall be
13 certified in early childhood education. All teachers hired to teach
14 a kindergarten program within the public school system prior to
15 January 1, 1993, shall be required to obtain certification in early
16 childhood education on or before the 1996-97 school year in order to
17 continue to teach a kindergarten program.

18 B. It shall be unlawful for any child who is over the age of
19 twelve (12) years and under the age of eighteen (18) years, and who
20 has not finished four (4) years of high school work, to neglect or
21 refuse to attend and comply with the rules of some public, private
22 or other school, or receive an education by other means for the full
23 term the schools of the district are in session.

1 Provided, that this section shall not apply:

2 1. If any ~~such~~ child is prevented from attending school by
3 reason of mental or physical disability, to be determined by the
4 board of education of the district upon a certificate of the school
5 physician or public health physician, or, if no such physician is
6 available, a duly licensed and practicing physician;

7 2. If any ~~such~~ child is excused from attendance at school, due
8 to an emergency, by the principal teacher of the school in which
9 such child is enrolled, at the request of the parent, guardian,
10 custodian or other person having control of such child;

11 3. If any ~~such~~ child who has attained his or her sixteenth
12 birthday is excused from attending school by written, joint
13 agreement between:

- 14 a. the school administrator of the school district where
15 the child attends school, and
16 b. the parent, guardian or custodian of the child.

17 Provided, further, that no child shall be excused from
18 attending school by such joint agreement between a
19 school administrator and the parent, guardian or
20 custodian of the child unless and until it has been
21 determined that such action is for the best interest
22 of the child and/or the community, and that said child
23 shall thereafter be under the supervision of the

1 parent, guardian or custodian until the child has
2 reached the age of eighteen (18) years; ~~or~~

3 4. If any ~~such~~ child is excused from attending school for the
4 purpose of observing religious holy days if before the absence, the
5 parent, guardian, or person having custody or control of the student
6 submits a written request for the excused absence. The school
7 district shall excuse a student pursuant to this subsection for the
8 days on which the religious holy days are observed and for the days
9 on which the student must travel to and from the site where the
10 student will observe the holy days; or

11 5. If any child is excused from attending school for the
12 purpose of participating in a military funeral honors ceremony upon
13 approval of the school principal.

14 C. It shall be the duty of the attendance officer to enforce
15 the provisions of this section. In the prosecution of a parent,
16 guardian, or other person having custody of a child for violation of
17 any provision of this section, it shall be an affirmative defense
18 that the parent, guardian, or other person having custody of the
19 child has made substantial and reasonable efforts to comply with the
20 compulsory attendance requirements of this section but is unable to
21 cause the child to attend school. If the court determines the
22 affirmative defense is valid, it shall dismiss the complaint against
23 the parent, guardian, or other person having custody of the child

1 and shall notify the school attendance officer who shall refer the
2 child to the district attorney for the county in which the child
3 resides for the filing of a Child in Need of Supervision petition
4 against the child pursuant to the Oklahoma Juvenile Code.

5 D. Any parent, guardian, custodian, child or other person
6 violating any of the provisions of this section, upon conviction,
7 shall be guilty of a misdemeanor, and shall be punished as follows:

8 1. For the first offense, a fine of not less than Twenty-five
9 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or
10 imprisonment for not more than five (5) days, or both such fine and
11 imprisonment;

12 2. For the second offense, a fine of not less than Fifty
13 Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or
14 imprisonment for not more than ten (10) days, or both such fine and
15 imprisonment; and

16 3. For the third or subsequent offense, a fine of not less than
17 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty
18 Dollars (\$250.00), or imprisonment for not more than fifteen (15)
19 days, or both such fine and imprisonment.

20 Each day the child remains out of school after the oral and
21 documented or written warning has been given to the parent,
22 guardian, custodian, child or other person or the child has been

1 ordered to school by the juvenile court shall constitute a separate
2 offense.

3 E. At the trial of any person charged with violating the
4 provisions of this section, the attendance records of the child or
5 ward may be presented in court by any authorized employee of the
6 school district.

7 F. The court may order the parent, guardian, or other person
8 having custody of the child to perform community service in lieu of
9 the fine set forth in this section. The court may require that all
10 or part of the community service be performed for a public school
11 district.

12 G. The court may order as a condition of a deferred sentence or
13 as a condition of sentence upon conviction of the parent, guardian,
14 or other person having custody of the child any conditions as the
15 court considers necessary to obtain compliance with school
16 attendance requirements. The conditions may include, but are not
17 limited to, the following:

- 18 1. Verifying attendance of the child with the school;
- 19 2. Attending meetings with school officials;
- 20 3. Taking the child to school;
- 21 4. Taking the child to the bus stop;
- 22 5. Attending school with the child;

1 6. Undergoing an evaluation for drug, alcohol, or other
2 substance abuse and following the recommendations of the evaluator;
3 and

4 7. Taking the child for drug, alcohol, or other substance abuse
5 evaluation and following the recommendations of the evaluator,
6 unless excused by the court.

7 SECTION 2. This act shall become effective July 1, 2010.

8 SECTION 3. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON VETERANS & MILITARY AFFAIRS, dated
13 2-10-10 - DO PASS, As Coauthored.