

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2588

By: Holland

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 10-105, as last amended by Section 1, Chapter
9 210, O.S.L. 2006 (70 O.S. Supp. 2009, Section 10-
10 105), which relates to the neglect or refusal of a
11 parent to compel child to attend school; clarifying
12 language; and providing an effective date.

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~~ the child to attend and
21 comply with the rules of some public, private or other school,
22 unless other means of education are provided for the full term the
23 schools of the district are in session or the child is excused as
24 provided in this section. One-half (1/2) day of kindergarten shall

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

21 B. It shall be unlawful for any child who is over the age of
22 twelve (12) years and under the age of eighteen (18) years, and who
23 has not finished four (4) years of high school work, to neglect or
24 refuse to attend and comply with the rules of some public, private

1 or other school, or receive an education by other means for the full
2 term the schools of the district are in session.

3 Provided, that this section shall not apply:

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

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

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

16 a. the school administrator of the school district where
17 the child attends school, and

18 b. the parent, guardian or custodian of the child.

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

1 shall thereafter be under the supervision of the
2 parent, guardian or custodian until the child has
3 reached the age of eighteen (18) years; or

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

12 C. It shall be the duty of the attendance officer to enforce
13 the provisions of this section. In the prosecution of a parent,
14 guardian, or other person having custody of a child for violation of
15 any provision of this section, it shall be an affirmative defense
16 that the parent, guardian, or other person having custody of the
17 child has made substantial and reasonable efforts to comply with the
18 compulsory attendance requirements of this section but is unable to
19 cause the child to attend school. If the court determines the
20 affirmative defense is valid, it shall dismiss the complaint against
21 the parent, guardian, or other person having custody of the child
22 and shall notify the school attendance officer who shall refer the
23 child to the district attorney for the county in which the child
24

1 resides for the filing of a Child in Need of Supervision petition
2 against the child pursuant to the Oklahoma Juvenile Code.

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

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

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

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

18 Each day the child remains out of school after the oral and
19 documented or written warning has been given to the parent,
20 guardian, custodian, child or other person or the child has been
21 ordered to school by the juvenile court shall constitute a separate
22 offense.

23 E. At the trial of any person charged with violating the
24 provisions of this section, the attendance records of the child or

1 ward may be presented in court by any authorized employee of the
2 school district.

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

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

- 14 1. Verifying attendance of the child with the school;
- 15 2. Attending meetings with school officials;
- 16 3. Taking the child to school;
- 17 4. Taking the child to the bus stop;
- 18 5. Attending school with the child;
- 19 6. Undergoing an evaluation for drug, alcohol, or other
20 substance abuse and following the recommendations of the evaluator;
21 and

22 7. Taking the child for drug, alcohol, or other substance abuse
23 evaluation and following the recommendations of the evaluator,
24 unless excused by the court.

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SECTION 2. This act shall become effective November 1, 2010.

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