

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1188

By: Corn

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5
6 AS INTRODUCED

7 An Act relating to schools; stating legislative
8 findings; requiring the Supreme Court to establish
9 truancy court divisions in the district courts;
10 requiring the Supreme Court to promulgate certain
11 rules; amending 70 O.S. 2001, Section 10-105, as last
12 amended by Section 1, Chapter 210, O.S.L. 2006 (70
13 O.S. Supp. 2008, Section 10-105), which relates to
14 school attendance; providing for order of certain
15 court or enrollment in certain programs for certain
16 exemption; specifying certain requirements;
17 specifying jurisdiction of the truancy court
18 division; providing for codification; and providing
19 an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 91.8 of Title 20, unless there
23 is created a duplication in numbering, reads as follows:

24 A. The Oklahoma Legislature finds that, due to the continuing
and expanding truancy problem in the public schools of this state,
there is a need for a court in the counties of this state with
specific jurisdiction over actions involving truancy.

1 B. The Supreme Court shall create a truancy court division
2 within the district courts of the judicial districts of this state.

3 C. The Supreme Court shall promulgate rules for the
4 establishment and jurisdiction of the truancy court divisions.

5 SECTION 2. AMENDATORY 70 O.S. 2001, Section 10-105, as
6 last amended by Section 1, Chapter 210, O.S.L. 2006 (70 O.S. Supp.
7 2008, Section 10-105), is amended to read as follows:

8 Section 10-105. A. It shall be unlawful for a parent,
9 guardian, or other person having custody of a child who is over the
10 age of five (5) years, and under the age of eighteen (18) years, to
11 neglect or refuse to cause or compel such child to attend and comply
12 with the rules of some public, private or other school, unless other
13 means of education are provided for the full term the schools of the
14 district are in session or the child is excused as provided in this
15 section. One-half (1/2) day of kindergarten shall be required of
16 all children five (5) years of age or older unless the child is
17 excused from kindergarten attendance as provided in this section. A
18 child who is five (5) years of age shall be excused from
19 kindergarten attendance until the next school year after the child
20 is six (6) years of age if a parent, guardian, or other person
21 having custody of the child notifies the superintendent of the
22 district where the child is a resident by certified mail prior to
23 enrollment in kindergarten, or at any time during the first school
24 year that the child is required to attend kindergarten pursuant to

1 this section, of election to withhold the child from kindergarten
2 until the next school year after the child is six (6) years of age.
3 A kindergarten program shall be directed toward developmentally
4 appropriate objectives for such children. The program shall require
5 that any teacher employed on and after January 1, 1993, to teach a
6 kindergarten program within the public school system shall be
7 certified in early childhood education. All teachers hired to teach
8 a kindergarten program within the public school system prior to
9 January 1, 1993, shall be required to obtain certification in early
10 childhood education on or before the 1996-97 school year in order to
11 continue to teach a kindergarten program.

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

18 Provided, that this section shall not apply:

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

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

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

8 a. order of the judge of the district truancy court
9 established pursuant to Section 1 of this act. Prior
10 to such action before the court, the school
11 administrator of the school district where the child
12 attends school, and

13 ~~b. the parent, guardian or custodian of the child.~~
14 ~~Provided, further, that no child shall be excused from~~
15 ~~attending school by such~~ must file a joint agreement
16 ~~between a school administrator and the parent,~~
17 ~~guardian or custodian of the child unless and until~~
18 stating that it has been determined that such action
19 is for the best interest of the child and/or the
20 community, and that said child shall thereafter be
21 under the supervision of the parent, guardian or
22 custodian until the child has reached the age of
23 eighteen (18) years. Provided, prior to signing of
24 the joint agreement, the school administration shall

1 have made every effort to ensure the provision of
2 educational services to the student, including:

3 (1) establishing an individual graduation plan for
4 the student, along with counseling and the
5 assignment of a faculty mentor,

6 (2) providing services through an alternative
7 education program, and

8 (3) providing the student with the option to
9 participate in programs available through a
10 technology center school, if available, or

11 b. enrolling in and attending:

12 (1) a residential educational program which requires
13 the child to work toward earning a Certificate of
14 General Educational Development (GED) while in
15 the program, or

16 (2) a dropout recovery program operated by a
17 technology center school or an independent school
18 district; or

19 4. If any such child is excused from attending school for the
20 purpose of observing religious holy days if before the absence, the
21 parent, guardian, or person having custody or control of the student
22 submits a written request for the excused absence. The school
23 district shall excuse a student pursuant to this subsection for the
24 days on which the religious holy days are observed and for the days

1 on which the student must travel to and from the site where the
2 student will observe the holy days.

3 C. It shall be the duty of the attendance officer to enforce
4 the provisions of this section. The truancy court division within
5 the district courts established pursuant to Section 1 of this act
6 shall have jurisdiction over all actions brought pursuant to this
7 section. In the prosecution of a parent, guardian, or other person
8 having custody of a child for violation of any provision of this
9 section, it shall be an affirmative defense that the parent,
10 guardian, or other person having custody of the child has made
11 substantial and reasonable efforts to comply with the compulsory
12 attendance requirements of this section but is unable to cause the
13 child to attend school. If the court determines the affirmative
14 defense is valid, it shall dismiss the complaint against the parent,
15 guardian, or other person having custody of the child and shall
16 notify the school attendance officer who shall refer the child to
17 the district attorney for the county in which the child resides for
18 the filing of a Child in Need of Supervision petition against the
19 child pursuant to the Oklahoma Juvenile Code.

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

23 1. For the first offense, a fine of not less than Twenty-five
24 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or

1 imprisonment for not more than five (5) days, or both such fine and
2 imprisonment;

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

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

11 Each day the child remains out of school after the oral and
12 documented or written warning has been given to the parent,
13 guardian, custodian, child or other person or the child has been
14 ordered to school by the ~~juvenile~~ truancy court shall constitute a
15 separate offense.

16 E. At the trial of any person charged with violating the
17 provisions of this section, the attendance records of the child or
18 ward may be presented in court by any authorized employee of the
19 school district.

20 F. The court may order the parent, guardian, or other person
21 having custody of the child to perform community service in lieu of
22 the fine set forth in this section. The court may require that all
23 or part of the community service be performed for a public school
24 district.

1 G. The court may order as a condition of a deferred sentence or
2 as a condition of sentence upon conviction of the parent, guardian,
3 or other person having custody of the child any conditions as the
4 court considers necessary to obtain compliance with school
5 attendance requirements. The conditions may include, but are not
6 limited to, the following:

- 7 1. Verifying attendance of the child with the school;
- 8 2. Attending meetings with school officials;
- 9 3. Taking the child to school;
- 10 4. Taking the child to the bus stop;
- 11 5. Attending school with the child;
- 12 6. Undergoing an evaluation for drug, alcohol, or other
13 substance abuse and following the recommendations of the evaluator;
14 and

15 7. Taking the child for drug, alcohol, or other substance abuse
16 evaluation and following the recommendations of the evaluator,
17 unless excused by the court.

18 SECTION 3. This act shall become effective January 1, 2010.

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