

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1403

By: Easley

4
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 neglect or refusal to compel
11 child to attend school; establishing certain
12 notification requirements for students educated by
13 other means; providing an effective date; and
14 declaring an emergency.

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

16 SECTION 1. AMENDATORY 70 O.S. 2001, Section 10-105, as
17 last amended by Section 1, Chapter 210, O.S.L. 2006 (70 O.S. Supp.
18 2009, Section 10-105), is amended to read as follows:

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

1 2. The parent or guardian of a child utilizing other means of
2 education shall provide written notification to the public school
3 district of residence of intent to utilize other means of education
4 prior to the first day of each school year, or within ten (10) days
5 of the beginning of the provision of such other means of education
6 to the student.

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

1 January 1, 1993, shall be required to obtain certification in early
2 childhood education on or before the 1996-97 school year in order to
3 continue to teach a kindergarten program.

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

10 Provided, that this section shall not apply:

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

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

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

23 a. the school administrator of the school district where
24 the child attends school, and

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

2 Provided, further, that no child shall be excused from
3 attending school by such joint agreement between a
4 school administrator and the parent, guardian or
5 custodian of the child unless and until it has been
6 determined that such action is for the best interest
7 of the child and/or the community, and that ~~said~~ the
8 child shall thereafter be under the supervision of the
9 parent, guardian or custodian until the child has
10 reached the age of eighteen (18) years; or

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

19 C. It shall be the duty of the attendance officer to enforce
20 the provisions of this section. In the prosecution of a parent,
21 guardian, or other person having custody of a child for violation of
22 any provision of this section, it shall be an affirmative defense
23 that the parent, guardian, or other person having custody of the
24 child has made substantial and reasonable efforts to comply with the

1 compulsory attendance requirements of this section but is unable to
2 cause the child to attend school. If the court determines the
3 affirmative defense is valid, it shall dismiss the complaint against
4 the parent, guardian, or other person having custody of the child
5 and shall notify the school attendance officer who shall refer the
6 child to the district attorney for the county in which the child
7 resides for the filing of a Child in Need of Supervision petition
8 against the child pursuant to the Oklahoma Juvenile Code.

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

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

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

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

24

1 Each day the child remains out of school after the oral and
2 documented or written warning has been given to the parent,
3 guardian, custodian, child or other person or the child has been
4 ordered to school by the juvenile court shall constitute a separate
5 offense.

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

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

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

- 21 1. Verifying attendance of the child with the school;
- 22 2. Attending meetings with school officials;
- 23 3. Taking the child to school;
- 24 4. Taking the child to the bus stop;

1 5. Attending school with the child;

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

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

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

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

13

14 52-2-3125 KM 2/3/2010 4:27:11 PM

15

16

17

18

19

20

21

22

23

24