

1 STATE OF OKLAHOMA

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

3 SENATE BILL 308

By: Wilson

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6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2001,
8 Section 10-109, which relates to temporary detention
9 and custody of children subject to compulsory
10 attendance law; removing exception for children being
11 home schooled; providing an effective date; and
12 declaring an emergency.

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

14 SECTION 1. AMENDATORY 70 O.S. 2001, Section 10-109, is
15 amended to read as follows:

16 Section 10-109. A. An attendance officer, any school
17 administrator, or designee of the school administrator who is
18 employed by the school, or any peace officer may, ~~except for~~
19 ~~children being home schooled pursuant to Section 10-105 of the~~
20 ~~Oklahoma Statutes,~~ temporarily detain and assume temporary custody
21 of any child subject to compulsory full-time education, during hours
22 in which school is actually in session, who is found away from the
23 home of such child and who is absent from school without lawful
24 excuse within the school district that such attendance officer,

1 peace officer or school official serves, if ~~said~~ the school district
2 has previously approved the temporary detention and custody pursuant
3 to this section.

4 B. Any person temporarily detaining and assuming temporary
5 custody of a child pursuant to this section shall immediately
6 deliver the child either to the parent, guardian, or other person
7 having control or custody of the child, or to the school from which
8 the child is absent without valid excuse, or to a nonsecure youth
9 service or community center servicing the school district, or to a
10 community intervention center, as defined by Section 7301-1.3 of
11 Title 10 of the Oklahoma Statutes.

12 C. The temporary custody or detention provided by this section
13 shall be utilized as a means of reforming and returning the truant
14 students to school and shall not be used as a pretext for
15 investigating criminal matters. The temporary custody or detention
16 herein provided is a severely limited type of detention and is not
17 justified unless there are specific facts causing an attendance
18 officer or other authorized person to reasonably suspect that a
19 truancy violation is occurring and that the person the officer
20 intends to detain is a truant.

21 SECTION 2. This act shall become effective July 1, 2009.

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

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