

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1373

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 57, O.S.L. 2010 (70 O.S. Supp. 2010, Section 10-105),  
10 which relates to neglect or refusal to compel a child  
11 to attend school; increasing fines; providing an  
12 effective date; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 70 O.S. 2001, Section 10-105, as  
15 last amended by Section 1, Chapter 57, O.S.L. 2010 (70 O.S. Supp.  
16 2010, 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

1 all children five (5) years of age or older unless the child is  
2 excused from kindergarten attendance as provided in this section. A  
3 child who is five (5) years of age shall be excused from  
4 kindergarten attendance until the next school year after the child  
5 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 child is prevented from attending school by reason of  
5 mental or physical disability, to be determined by the board of  
6 education of the district upon a certificate of the school physician  
7 or public health physician, or, if no such physician is available, a  
8 duly licensed and practicing physician;

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

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

4 4. If any 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; or

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

15 C. It shall be the duty of the attendance officer to enforce  
16 the provisions of this section. In the prosecution of a parent,  
17 guardian, or other person having custody of a child for violation of  
18 any provision of this section, it shall be an affirmative defense  
19 that the parent, guardian, or other person having custody of the  
20 child has made substantial and reasonable efforts to comply with the  
21 compulsory attendance requirements of this section but is unable to  
22 cause the child to attend school. If the court determines the  
23 affirmative defense is valid, it shall dismiss the complaint against  
24 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)~~ Fifty Dollars (\$50.00) nor more than ~~Fifty Dollars~~  
10 ~~(\$50.00)~~ Two Hundred Fifty Dollars (\$250.00), or imprisonment for  
11 not more than five (5) days, or both such fine and imprisonment;

12 2. For the second offense, a fine of not less than ~~Fifty~~  
13 ~~Dollars (\$50.00)~~ One Hundred Dollars (\$100.00) nor more than One  
14 ~~Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00), or  
15 imprisonment for not more than ten (10) days, or both such fine and  
16 imprisonment; and

17 3. For the third or subsequent offense, a fine of not less than  
18 ~~One Hundred Dollars (\$100.00)~~ Two Hundred Fifty Dollars (\$250.00)  
19 nor more than ~~Two Hundred Fifty Dollars (\$250.00)~~ One Thousand  
20 Dollars (\$1,000.00), or imprisonment for not more than fifteen (15)  
21 days, or both such fine and imprisonment.

22 Each day the child remains out of school after the oral and  
23 documented or written warning has been given to the parent,  
24 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;

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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, 2011.

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.

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13           53-1-5386           KB           01/09/11

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