

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2543

By: Nollan

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5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2011,  
8 Section 10-105, which relates to compulsory school  
9 attendance; requiring certain affidavit by certain  
10 persons by certain date; and providing an effective  
11 date.

12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 70 O.S. 2011, Section 10-105, is  
15 amended to read as follows:

16 Section 10-105. A. It shall be unlawful for a parent,  
17 guardian, or other person having custody of a child who is over the  
18 age of five (5) years, and under the age of eighteen (18) years, to  
19 neglect or refuse to cause or compel such child to attend and comply  
20 with the rules of some public, private or other school, unless other  
21 means of education are provided for the full term the schools of the  
22 district are in session or the child is excused as provided in this  
23 section. One-half (1/2) day of kindergarten shall be required of  
24 all children five (5) years of age or older unless the child is

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

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

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. The parent, guardian, or other person having custody of a  
16 child who is over the age of five (5) years and under the age of  
17 eighteen (18) years who is not attending some public, private or  
18 other school and is receiving an education by other means shall  
19 provide an affidavit to the State Board of Education. Such  
20 affidavit shall be provided on an annual basis no later than  
21 September 10.

22 D. It shall be the duty of the attendance officer to enforce  
23 the provisions of this section. In the prosecution of a parent,  
24 guardian, or other person having custody of a child for violation of

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

12 ~~D.~~ E. Any parent, guardian, custodian, child or other person  
13 violating any of the provisions of this section, upon conviction,  
14 shall be guilty of a misdemeanor, and shall be punished as follows:

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

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

23 3. For the third or subsequent offense, a fine of not less than  
24 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty

1 Dollars (\$250.00), or imprisonment for not more than fifteen (15)  
2 days, or both such fine and imprisonment.

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

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

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

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

- 23 1. Verifying attendance of the child with the school;
- 24 2. Attending meetings with school officials;

- 1       3. Taking the child to school;
- 2       4. Taking the child to the bus stop;
- 3       5. Attending school with the child;
- 4       6. Undergoing an evaluation for drug, alcohol, or other
- 5 substance abuse and following the recommendations of the evaluator;
- 6 and

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

10       SECTION 2. This act shall become effective November 1, 2012.

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12       53-2-9019       AM       01/17/12

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