

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1940

By: Strom and Caldwell (Trey)
of the House

and

Hicks of the Senate

8 An Act relating to school attendance; amending 70
O.S. 2011, Section 10-106, which relates to
9 compulsory attendance; excusing absence due to
school-approved activities and approved
10 extracurricular activities; authorizing absence for
other reason deemed appropriate by school district;
11 and providing an effective date.

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

16 "An Act relating to school attendance; amending 70
O.S. 2011, Section 10-105, which relates to
17 compulsory school attendance; providing certain
exemption for a child granted certain valid excuse
for an absence; amending 70 O.S. 2011, Section 10-
18 106, which relates to attendance records; excusing
absence due to school-approved activities and
19 approved extracurricular activities; and providing an
effective date.

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

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

1 Section 10-105. A. It shall be unlawful for a parent,
2 guardian, or other person having custody of a child who is over the
3 age of five (5) years, and under the age of eighteen (18) years, to
4 neglect or refuse to cause or compel such child to attend and comply
5 with the rules of some public, private or other school, unless other
6 means of education are provided for the full term the schools of the
7 district are in session or the child is excused as provided in this
8 section. One-half (1/2) day of kindergarten shall be required of
9 all children five (5) years of age or older unless the child is
10 excused from kindergarten attendance as provided in this section. A
11 child who is five (5) years of age shall be excused from
12 kindergarten attendance until the next school year after the child
13 is six (6) years of age if a parent, guardian, or other person
14 having custody of the child notifies the superintendent of the
15 district where the child is a resident by certified mail prior to
16 enrollment in kindergarten, or at any time during the first school
17 year that the child is required to attend kindergarten pursuant to
18 this section, of election to withhold the child from kindergarten
19 until the next school year after the child is six (6) years of age.
20 A kindergarten program shall be directed toward developmentally
21 appropriate objectives for such children. The program shall require
22 that any teacher employed on and after January 1, 1993, to teach a
23 kindergarten program within the public school system shall be
24 certified in early childhood education. All teachers hired to teach

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

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

11 Provided, that this section shall not apply:

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

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

21 3. If any child who has attained his or her sixteenth birthday
22 is excused from attending school by written, joint agreement
23 between:
24

1 a. the school administrator of the school district where
2 the child attends school, and

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

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

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

21 5. If any child is excused from attending school for the
22 purpose of participating in a military funeral honors ceremony upon
23 approval of the school principal; or
24

1 6. If any child has been granted a valid excuse for his or her
2 absence from school as provided for in Section 10-106 of this title.

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

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

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

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

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

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

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

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

23 G. The court may order as a condition of a deferred sentence or
24 as a condition of sentence upon conviction of the parent, guardian,

1 or other person having custody of the child any conditions as the
2 court considers necessary to obtain compliance with school
3 attendance requirements. The conditions may include, but are not
4 limited to, the following:

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

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

16 SECTION 2. AMENDATORY 70 O.S. 2011, Section 10-106, is
17 amended to read as follows:

18 Section 10-106. A. It shall be the duty of the principal or
19 head teacher of each public, private or other school in the State of
20 Oklahoma to keep a full and complete record of the attendance of all
21 children at such school and to notify the attendance officer of the
22 district in which such school is located of the absence of such
23 children from the school together with the causes thereof, if known;
24 and it shall be the duty of any parent, guardian or other person

1 having charge of any child of compulsory attendance age to notify
2 the child's teacher concerning the cause of any absences of such
3 child. It shall be the duty of the principal or head teacher to
4 notify the parent, guardian or responsible person of the absence of
5 the child for any part of the school day, unless the parent,
6 guardian or other responsible person notifies the principal or head
7 teacher of such absence. Such attendance officer and teacher shall
8 be required to report to the school health officer all absences on
9 account of illness with such information respecting the same as may
10 be available by report or investigation; and the attendance officer
11 shall, if justified by the circumstances, promptly give to the
12 parent, guardian or custodian of any child who has not complied with
13 the provisions of this article oral and documented or written
14 warning to the last-known address of such person that the attendance
15 of such child is required at some public, private or other school as
16 herein provided. If within five (5) days after the warning has been
17 received, the parent, guardian or custodian of such child does not
18 comply with the provisions of this article, then such attendance
19 officer shall make complaint against the parent, guardian or
20 custodian of such child in a court of competent jurisdiction for
21 such violation, which violation shall be a misdemeanor. If a child
22 is absent without valid excuse four (4) or more days or parts of
23 days within a four-week period or is absent without valid excuse for
24 ten (10) or more days or parts of days within a semester, the

1 attendance officer shall notify the parent, guardian or custodian of
2 the child and immediately report such absences to the district
3 attorney in the county wherein the school is located for juvenile
4 proceedings pursuant to Title 10A of the Oklahoma Statutes.

5 B. As used in this section, "valid excuse" includes, but is not
6 limited to, absences for:

7 1. Any school-approved activity; or

8 2. Participation in extracurricular activities approved by the
9 board of education or the school principal.

10 SECTION 3. This act shall become effective November 1, 2019."

11 Passed the Senate the 2nd day of April, 2019.

12
13 _____
14 Presiding Officer of the Senate

15 Passed the House of Representatives the ____ day of _____,
16 2019.

17
18 _____
19 Presiding Officer of the House
20 of Representatives
21
22
23
24

1 ENGROSSED HOUSE
2 BILL NO. 1940

By: Strom and Caldwell (Trey)
of the House

3 and

4 Hicks of the Senate
5
6

7 An Act relating to school attendance; amending 70
8 O.S. 2011, Section 10-106, which relates to
9 compulsory attendance; excusing absence due to
10 school-approved activities and approved
11 extracurricular activities; authorizing absence for
12 other reason deemed appropriate by school district;
and providing an effective date.

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

14 SECTION 4. AMENDATORY 70 O.S. 2011, Section 10-106, is
15 amended to read as follows:

16 Section 10-106. A. It shall be the duty of the principal or
17 head teacher of each public, private or other school in the State of
18 Oklahoma to keep a full and complete record of the attendance of all
19 children at such school and to notify the attendance officer of the
20 district in which such school is located of the absence of such
21 children from the school together with the causes thereof, if known;
22 and it shall be the duty of any parent, guardian or other person
23 having charge of any child of compulsory attendance age to notify
24 the child's teacher concerning the cause of any absences of such

1 child. It shall be the duty of the principal or head teacher to
2 notify the parent, guardian or responsible person of the absence of
3 the child for any part of the school day, unless the parent,
4 guardian or other responsible person notifies the principal or head
5 teacher of such absence. Such attendance officer and teacher shall
6 be required to report to the school health officer all absences on
7 account of illness with such information respecting the same as may
8 be available by report or investigation; and the attendance officer
9 shall, if justified by the circumstances, promptly give to the
10 parent, guardian or custodian of any child who has not complied with
11 the provisions of this article oral and documented or written
12 warning to the last-known address of such person that the attendance
13 of such child is required at some public, private or other school as
14 herein provided. If within five (5) days after the warning has been
15 received, the parent, guardian or custodian of such child does not
16 comply with the provisions of this article, then such attendance
17 officer shall make complaint against the parent, guardian or
18 custodian of such child in a court of competent jurisdiction for
19 such violation, which violation shall be a misdemeanor. If a child
20 is absent without valid excuse four (4) or more days or parts of
21 days within a four-week period or is absent without valid excuse for
22 ten (10) or more days or parts of days within a semester, the
23 attendance officer shall notify the parent, guardian or custodian of
24 the child and immediately report such absences to the district

1 attorney in the county wherein the school is located for juvenile
2 proceedings pursuant to Title 10A of the Oklahoma Statutes.

3 B. As used in this section, "valid excuse" includes, but is not
4 limited to, absences for:

5 1. Any school-approved activity;

6 2. Participation in extracurricular activities approved by the
7 board of education or the school principal; or

8 3. Any other reason deemed appropriate by each local school
9 district.

10 SECTION 5. This act shall become effective November 1, 2019.

11 Passed the House of Representatives the 27th day of February,
12 2019.

13
14 _____
15 Presiding Officer of the House
of Representatives

16 Passed the Senate the ____ day of _____, 2019.

17
18 _____
19 Presiding Officer of the Senate