

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3502

By: Hardin (David)

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2021, Section 10-105, which relates to school attendance; requiring compulsory school attendance for certain students who are eighteen; providing exceptions; prescribing punishment for violations; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2021, Section 10-105, is amended to read as follows:

Section 10-105. A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other 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. One-half (1/2) day of kindergarten shall be required of 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. It shall be unlawful for any student who is eighteen (18)
16 years of age, and who has not completed four (4) years of high
17 school work, to neglect or refuse to attend and comply with the
18 rules of some public, private, or other school, or receive an
19 education by other means for the full term the schools of the
20 district are in session. Provided, that this section shall not
21 apply:

22 1. If any student is prevented from attending school by reason
23 of mental or physical disability, to be determined by the board of
24 education of the district upon a certificate of the school physician

1 or public health physician, or, if no physician is available, a duly
2 licensed and practicing physician;

3 2. If any student is excused from attending school due to an
4 emergency by the administrator of the school where the student is
5 enrolled;

6 3. If any student who has attained his or her eighteenth
7 birthday is excused from attending school by written, joint
8 agreement between:

9 a. the school principal of the school district where the
10 student attends school, and

11 b. the student;

12 4. If any student is excused from attending school for the
13 purpose of observing religious holy days if before the absence the
14 student submits a written request for the excused absence. The
15 school district shall excuse a student pursuant to this paragraph
16 for the days on which the religious holy days are observed and for
17 the days on which the student must travel to and from the site where
18 the student will observe the holy days; or

19 5. If any student is excused from attending school for the
20 purpose of participating in a military funeral honors ceremony upon
21 approval of the school principal.

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

13 ~~D.~~ E. Any parent, guardian, custodian, student who is eighteen
14 (18) years of age, child or other person violating any of the
15 provisions of this section, upon conviction, shall be guilty of a
16 misdemeanor, and shall be punished as follows:

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

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

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

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

10 ~~E.~~ F. At the trial of any person charged with violating the
11 provisions of this section, the attendance records of the student
12 who is eighteen (18) years of age, child, or ward may be presented
13 in court by any authorized employee of the school district.

14 ~~F.~~ G. The court may order the student who is eighteen (18)
15 years of age, parent, guardian, or other person having custody of
16 the child to perform community service in lieu of the fine set forth
17 in this section. The court may require that all or part of the
18 community service be performed for a public school district.

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

1. Verifying attendance of the child with the school;
2. Attending meetings with school officials;
3. Taking the child to school;
4. Taking the child to the bus stop;
5. Attending school with the child;
6. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator;
- and
7. Taking the child for or the student who is eighteen (18) years of age attending drug, alcohol, or other substance abuse evaluation and following the recommendations of the evaluator, unless excused by the court.

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

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