

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1035

By: Rosecrants

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2021, Section 10-105, which relates to student attendance; including exceptions for mental health counseling and occupational therapy appointments; providing for certification of absence by certain professional; updating language; and providing an effective date.

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, including mental health counseling  
6 and occupational therapy appointments, to be determined by the board  
7 of education of the district upon a certificate of the school  
8 physician ~~or~~, public health physician, counselor or occupational  
9 therapist, or, if no such physician, counselor or occupational  
10 therapist is available, a duly licensed and practicing physician,  
11 counselor or occupational therapist;

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

16 3. If any child who has attained his or her sixteenth birthday  
17 is excused from attending school by written, joint agreement  
18 between:

- 19 a. the school administrator of the school district where  
20 the child attends school, and  
21 b. the parent, guardian or custodian of the child.

22 Provided, further, that no child shall be excused from  
23 attending school by such joint agreement between a  
24 school administrator and the parent, guardian or

1           custodian of the child unless and until it has been  
2           determined that such action is for the best interest  
3           of the child and/or the community, and that said child  
4           shall thereafter be under the supervision of the  
5           parent, guardian or custodian until the child has  
6           reached the age of eighteen (18) years;

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

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

19          C. It shall be the duty of the attendance officer to enforce  
20          the provisions of this section. In the prosecution of a parent,  
21          guardian, or other person having custody or control of a child for  
22          violation of any provision of this section, it shall be an  
23          affirmative defense that the parent, guardian, or other person  
24          having custody of the child has made substantial and reasonable

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

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

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

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

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

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

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

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

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

- 21 1. Verifying attendance of the child with the school;
- 22 2. Attending meetings with school officials;
- 23 3. Taking the child to school;
- 24 4. Taking the child to the bus stop;

1        5. Attending school with the child;

2        6. Undergoing an evaluation for drug, alcohol, or other  
3 substance abuse and following the recommendations of the evaluator;  
4 and

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

8        SECTION 2. This act shall become effective November 1, 2023.

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10       59-1-5668        EK        01/02/23