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APPROVED AND SIGNED BY THE GOVERNOR

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Date 3-26-83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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ENROLLED

SENATE BILL NO. 20

(By Mr. Palumbo)

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PASSED March 11, 1983

In Effect July 1, 1983 ~~Passage~~



ENROLLED
Senate Bill No. 20

(BY MR. PALUMBO)

[Passed March 11, 1983; in effect July 1, 1983.]

AN ACT to amend and reenact sections two, four and nine, article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to compulsory school attendance; increasing the minimum fine from three to five dollars and the maximum fine from twenty to fifty dollars for persons convicted of violations; providing for the duties of county school attendance director and assistants; providing for initial notice which allows a ten-day period in which a parent, guardian, or custodian is required to attend a personal conference with a school official concerning a child's absenteeism; providing for issuance and execution of warrants when violation continues after initial notice; setting maximum time period for assignment of the case to a magistrate and for holding hearing; providing for advance notice of hearing to the defendant; and changing the term "justice of the peace" to "magistrate."

Be it enacted by the Legislature of West Virginia:

That sections two, four and nine, article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-2. Offenses; penalties; cost of prosecution.

- 1 Any person who, after due notice has been served upon
- 2 him as hereinafter provided, shall fail to cause a child or

3 children in his legal or actual charge to attend school as
4 hereinbefore provided, shall be guilty of a misdemeanor,
5 and shall, upon conviction thereof, be fined not less than
6 five nor more than fifty dollars together with the costs of
7 prosecution, or confined in jail not less than five nor more
8 than twenty days. Every day a child is out of school contrary
9 to the provisions of this article shall constitute a separate
10 offense. Magistrates shall have jurisdiction of offenses
11 under this section.

12 Whenever a person accused of violating any of the
13 provisions of this article has been tried and acquitted, the
14 cost of prosecution shall be paid by the county board of
15 education out of the maintenance fund of the county.

**§18-8-4. Duties of attendance director and assistant directors;
complaints, warrants and hearings.**

1 The county attendance director and his assistants shall
2 diligently promote regular school attendance. They shall
3 ascertain reasons for inexcusable absences from school of
4 pupils of compulsory school age as defined under this
5 article, and shall take such steps as are, in their discretion,
6 best calculated to correct attitudes of parents and pupils
7 which result in absences from school even though not
8 clearly in violation of law.

9 If it is found that absence from school is in violation of
10 law, the attendance director or assistant, in the case of first
11 offense that school year, shall serve written notice to the
12 parent, guardian, or custodian of such child that the
13 attendance of such child at school is required and that
14 within ten days of receipt of such notice the parent,
15 guardian, or custodian, accompanied by the child if
16 possible, shall report in person to the school the child
17 attends for a conference with the principal or other
18 designated representative of the school in order to discuss
19 and correct the circumstances causing the inexcusable
20 absences of the child; and if the parent, guardian, or
21 custodian does not comply with the provisions of this
22 article, then the attendance director or assistant shall make
23 complaint against such parent, guardian or custodian
24 before a magistrate of the county: *Provided*, That for a
25 subsequent offense in any school year no such notice shall
26 be required. If it appears from the complaint that there is
27 probable cause to believe that an offense has been

28 committed and that the accused has committed it, a warrant
29 for the arrest of the accused shall issue to any officer
30 authorized by law to arrest persons charged with offenses
31 against the state. More than one warrant may be issued on
32 the same complaint. The warrant shall be executed within
33 ten days of its issuance or as soon thereafter as the accused
34 can be found.

35 The magistrate court clerk, or the clerk of the circuit
36 court performing the duties of the magistrate court clerk as
37 authorized in section eight, article one, chapter fifty of this
38 code, shall assign the case to a magistrate within ten days of
39 execution of the warrant. The hearing shall be held within
40 twenty days of the assignment to the magistrate, subject to
41 lawful continuance. The magistrate shall provide to the
42 accused at least ten days' advance notice of the date, time
43 and place of the hearing.

44 When any doubt exists as to the age of a child absent from
45 school, the attendance director shall have authority to
46 require a properly attested birth certificate or an affidavit
47 from the parent, guardian or custodian of such child,
48 stating age of such child. The county attendance director or
49 assistant shall, in the performance of his duties, have
50 authority to take without warrant any child absent from
51 school in violation of the provisions of this article and to
52 place such child in the school in which such child is or
53 should be enrolled.

54 The county attendance director shall devote full time to
55 his duties as a school official and shall be responsible under
56 direction of the county superintendent for the efficient
57 administration of school attendance in his county. In
58 addition to those duties directly relating to the
59 administration of attendance, the county attendance
60 director and assistant directors shall also perform the
61 following duties:

62 (a) Assist in directing the taking of the school census to
63 see that it is taken at the time and in the manner provided by
64 law;

65 (b) Advise with principals and teachers on the
66 comparison of school census and enrollment for the
67 detection of possible nonenrollees;

68 (c) Cooperate with existing state and federal agencies
69 charged with enforcement of child labor laws;

70 (d) Prepare a report for submission by the county
71 superintendent to the state superintendent of schools on
72 school attendance, at such times and in such detail as may
73 be required; also, file with the county superintendent and
74 county board of education at the close of each month a
75 report showing activities of the school attendance office
76 and the status of attendance in the county at the time;

77 (e) Promote attendance in the county by the compilation
78 of data for schools and by furnishing suggestions and
79 recommendations for publication through school bulletins
80 and the press, or for such purposes as the county
81 superintendent may direct;

82 (f) Participate in school functions such as parent-
83 teacher associations, civic meetings, club meetings, and
84 teachers' conferences;

85 (g) Assist in such other ways as the county
86 superintendent may direct for improving school
87 attendance.

§18-8-9. Report and disposition of fines collected.

1 All fines collected under the provisions of this article
2 shall be paid on or before the last day of each calendar
3 month by the magistrate, or other proper official having
4 jurisdiction in the case, to the sheriff and by him credited to
5 the county school fund; and the magistrate shall file with
6 the county superintendent on the last day of each month an
7 itemized statement of all fines paid over to the sheriff.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Samuel E. Holmes
.....
Chairman Senate Committee

Donald Anello
.....
Chairman House Committee

Originated in the Senate.

In effect July 1, 1983.

Judd C. Vicks
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Walter P. McNamee
.....
President of the Senate

W. H. Lee, Jr.
.....
Speaker House of Delegates

The within *is approved* this the *26*
day of *March*, 1983

John P. ...
.....
Governor

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SECY. OF STATE