

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2006



ENROLLED

SENATE BILL NO. 631

(By Senator Kessler, et al)



PASSED March 9, 2006

In Effect 90 days from Passage

SB 631

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Senate Bill No. 631

(BY SENATORS KESSLER, DEMPSEY, HUNTER, CARUTH,
DEEM, LANHAM, MCKENZIE AND WEEKS)

[Passed March 9, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to process, service and parties charged in summons or warrants for violations of compulsory school attendance; authorizing charge of more than one parent, custodian or guardian in single complaint; and continuing attempts to serve until executed or end of school term.

Be it enacted by the Legislature of West Virginia:

That §18-8-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

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

- 1 (a) The county attendance director and the assistants
- 2 shall diligently promote regular school attendance. They

3 shall ascertain reasons for inexcusable absences from
4 school of pupils of compulsory school age and students
5 who remain enrolled beyond the sixteenth birthday as
6 defined under this article and shall take such steps as are,
7 in their discretion, best calculated to correct attitudes of
8 parents and pupils which result in absences from school
9 even though not clearly in violation of law.

10 (b) In the case of five consecutive or ten total unexcused
11 absences of a child during a school year, the attendance
12 director or assistant shall serve written notice to the
13 parent, guardian or custodian of such child that the
14 attendance of such child at school is required and that
15 within ten days of receipt of the notice the parent, guard-
16 ian or custodian, accompanied by the child, shall report in
17 person to the school the child attends for a conference with
18 the principal or other designated representative of the
19 school in order to discuss and correct the circumstances
20 causing the inexcusable absences of the child; and if the
21 parent, guardian or custodian does not comply with the
22 provisions of this article, then the attendance director or
23 assistant shall make complaint against the parent, guard-
24 ian or custodian before a magistrate of the county. If it
25 appears from the complaint that there is probable cause to
26 believe that an offense has been committed and that the
27 accused has committed it, a summons or a warrant for the
28 arrest of the accused shall issue to any officer authorized
29 by law to serve the summons or to arrest persons charged
30 with offenses against the state. More than one parent,
31 guardian or custodian may be charged in a complaint.
32 Initial service of a summons or warrant issued pursuant to
33 the provisions of this section shall be attempted within ten
34 calendar days of receipt of the summons or warrant and
35 subsequent attempts at service shall continue until the
36 summons or warrant is executed or until the end of the
37 school term during which the complaint is made, which-
38 ever is later.

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

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

58 (e) The county attendance director shall devote such time
59 as is required by section three of this article to the duties
60 of attendance director in accordance with this section
61 during the instructional term and at such other times as
62 the duties of an attendance director are required. All
63 attendance directors hired for more than two hundred
64 days may be assigned other duties determined by the
65 superintendent during the period in excess of two hundred
66 days. The county attendance director shall be responsible
67 under direction of the county superintendent for the
68 efficient administration of school attendance in the
69 county.

70 (f) In addition to those duties directly relating to the
71 administration of attendance, the county attendance
72 director and assistant directors shall also perform the
73 following duties:

74 (1) Assist in directing the taking of the school census to
75 see that it is taken at the time and in the manner provided
76 by law;

77 (2) Confer with principals and teachers on the compari-
78 son of school census and enrollment for the detection of
79 possible nonenrollees;

80 (3) Cooperate with existing state and federal agencies
81 charged with enforcement of child labor laws;

82 (4) Prepare a report for submission by the county
83 superintendent to the state superintendent of schools on
84 school attendance, at such times and in such detail as may
85 be required. The state board shall promulgate a legislative
86 rule pursuant to article three-b, chapter twenty-nine-a of
87 this code that sets forth student absences that shall be
88 excluded for accountability purposes. The absences that
89 shall be excluded by the rule shall include, but not be
90 limited to, excused student absences, students not in
91 attendance due to disciplinary measures and absent
92 students for whom the attendance director has pursued
93 judicial remedies to compel attendance to the extent of his
94 or her authority. The attendance director shall file with
95 the county superintendent and county board of education
96 at the close of each month a report showing activities of
97 the school attendance office and the status of attendance
98 in the county at the time;

99 (5) Promote attendance in the county by the compilation
100 of data for schools and by furnishing suggestions and
101 recommendations for publication through school bulletins
102 and the press, or in such manner as the county superinten-
103 dent may direct;

104 (6) Participate in school teachers' conferences with
105 parents and students;

106 (7) Assist in such other ways as the county superinten-
107 dent may direct for improving school attendance;

- 108 (8) Make home visits of students who have excessive
109 unexcused absences, as provided above, or if requested by
110 the chief administrator, principal or assistant principal;
111 and
- 112 (9) Serve as the liaison for homeless children and youth.

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

Randy White
.....
Chairman Senate Committee

R. Berry
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell E. Gohs
.....
Clerk of the Senate

Bruce M. Bond
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Robert St. ...
.....
Speaker House of Delegates

The within *is approved* this the *23rd*
Day of *March*, 2006.

Paul Hancock
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2006

Time

11:15 AM