

FILED

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WEST VIRGINIA
HOUSE OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2764

(By Delegate(s) Lawrence, M. Poling and Stowers)



Passed April 13, 2013

In effect ninety days from passage.

HB 2764

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FOR

H. B. 2764

(BY DELEGATE(S) LAWRENCE, M. POLING AND STOWERS)

[Passed April 13, 2013: 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 compulsory school attendance; and extending the authority and duties of attendance directors to assistant attendance directors.

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 shall
- 2 diligently promote regular school attendance. The director and
- 3 assistants shall:

4 (1) Ascertain reasons for inexcusable absences from school
5 of students of compulsory school age and students who remain
6 enrolled beyond the compulsory school age as defined under
7 section one-a of this article; and

8 (2) Take such steps as are, in their discretion, best calculated
9 to encourage the attendance of students and to impart upon the
10 parents and guardians the importance of attendance and the
11 seriousness of failing to do so.

12 (b) In the case of five total unexcused absences of a student
13 during a school year, the attendance director or assistant shall:

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

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

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

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

67 (f) In addition to those duties directly relating to the admin-
68 istration of attendance, the county attendance director and
69 assistant directors also shall perform the following duties:

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

72 (2) Confer with principals and teachers on the comparison of
73 school census and enrollment for the detection of possible
74 nonenrollees;

75 (3) Cooperate with existing state and federal agencies
76 charged with enforcing child labor laws;

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

92 (5) Promote attendance in the county by compiling data for
93 schools and by furnishing suggestions and recommendations for
94 publication through school bulletins and the press, or in such
95 manner as the county superintendent may direct;

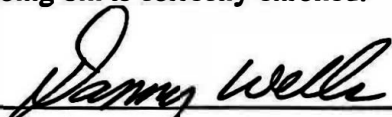
96 (6) Participate in school teachers' conferences with parents
97 and students;

98 (7) Assist in such other ways as the county superintendent
99 may direct for improving school attendance;

100 (8) Make home visits of students who have excessive
101 unexcused absences, as provided above, or if requested by the
102 chief administrator, principal or assistant principal; and

103 (9) Serve as the liaison for homeless children and youth.

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


Chairman, House Committee


Member, Senate Committee

Originating in the House.

In effect ninety days from passage.


Clerk of the House of Delegates


Clerk of the Senate


Speaker of the House of Delegates


President of the Senate

The within is approved this the 1st
day of May, 2013.


Governor

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:27 am