

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 571

(Delegate Levi, *et al.*)

Judiciary

Judicial Proceedings

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**Truancy - Prohibition Against Issuance of Learner's Instructional Permit**

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This bill prohibits the Motor Vehicle Administration (MVA) from issuing a learner's instructional permit to an applicant under age 16 if the applicant's school attendance record indicates more than 10 unexcused absences during the prior school semester.

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**Fiscal Summary**

**State Effect:** Potential increase in special fund expenditures for MVA computer programming costs in FY 2008 only.

**Local Effect:** Potential minimal increase in local school systems' administrative requirements to provide students with certified attendance records. It is assumed that these requirements could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Except as otherwise provided, each child who resides in Maryland and is 5 years or older and under 16 years must regularly attend a public school unless the child is otherwise receiving regular, thorough instruction during the school year. Each person who has legal custody or care and control of a child who is at least 5 years, but less than 16 years, must see that the child attends school or receives instruction.

Under current law, a child who is required by law to attend school and is habitually truant is considered a "Child in Need of Supervision." A student is habitually truant if the

student is unlawfully absent from school more than 20% of the school days within any marking period, semester, or year. Local school systems have the authority to define habitual truancy in a more stringent manner. These cases are under the jurisdiction of the juvenile court.

The principal of each public or private school statewide is required to report a student with habitual unexcused absences to the county superintendent or a designated representative to initiate an investigation. If the child is under the custody of a State or local agency, the superintendent must immediately notify the appropriate agency. If no such arrangement exists, the superintendent may provide to the child counseling on the availability of social services or refer the student to the Department of Juvenile Services.

Current statutory penalties focus on parents and guardians rather than children. Any person who induces a child to be unlawfully absent from school, or who employs or harbors any child who is absent unlawfully from school is guilty of a misdemeanor. That person is subject to a maximum fine of \$500, imprisonment of up to 30 days, or both.

Any person who has legal custody or care and control of a child who is at least 5 years, but less than 16 years, who fails to see that the child attends school or receives instruction is guilty of a misdemeanor. For a first conviction, the violator is subject to a maximum fine of \$50 per unlawful day of absence or imprisonment not to exceed 10 days, or both. For a second or subsequent conviction, the violator is subject to a maximum fine of \$100 per day of unlawful absence, or imprisonment not to exceed 30 days, or both. The court may suspend the fine or prison sentence imposed and establish terms and conditions that would promote the child's attendance.

The principal or head teacher of each public or private school in Maryland must immediately report to the county superintendent or other designated official the name of each child enrolled in the school who has been absent in attendance without lawful excuse. On receipt of this report, the appropriate school system representative must initiate an investigation into the cause of the child's truancy, and may provide counseling regarding available social, health, and educational services. Following the investigation or intervention, the representative may notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse.

**Background:** The Maryland State Department of Education (MSDE) defines habitual truancy as a child ages 5 to 20 enrolled in a school for more than 90 days who is absent for 20% or more of enrolled days. According to MSDE data 2.37% of children, or 20,382 students, enrolled in Maryland public schools were habitually truant during the 2005-2006 school year.

**State Expenditures:** The MVA advises that computer programming modifications to the driver licensing system required by the bill could result in a one-time expenditure of \$57,850 in fiscal 2008. The Department of Legislative Services (DLS) advises that, if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is an estimate and that the MVA may be able to handle the changes with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 519 (Senator Peters, *et al.*) – Judicial Proceedings.

**Information Source(s):** Department of Juvenile Services, Maryland Department of Transportation, Maryland State Department of Education, Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2007  
mll/rhh Revised - House Third Reader - March 29, 2007  
Revised - Enrolled Bill - May 11, 2007

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