

HOUSE BILL 319

F1, E3

8lr0425
CF SB 160

By: **Delegates Sydnor, Angel, Barron, Ebersole, Hettleman, Lafferty, J. Lewis, Sanchez, A. Washington, and P. Young**

Introduced and read first time: January 22, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2018

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law – Truancy ~~– Affirmative Defense~~**

3 FOR the purpose of altering the age range for which a certain charge relating to truancy is
4 applicable; reducing the maximum terms of imprisonment that may be imposed on
5 conviction of certain charges relating to truancy; authorizing the imposition of
6 community service on conviction of certain charges related to truancy; altering the
7 application of a certain affirmative defense to a certain charge relating to truancy;
8 and generally relating to ~~an affirmative defense against a charge relating to~~ truancy.

9 BY repealing and reenacting, with amendments,
10 Article – Education
11 Section ~~7-301(e) and (e-1)~~ 7-301(c), (e), and (e-1)
12 Annotated Code of Maryland
13 (2014 Replacement Volume and 2017 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Education**

17 7-301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (c) Each person who has legal custody or care and control of a child who is 5 years
 2 old or older and under [18] 16 shall see that the child attends school or receives instruction
 3 as required by this section.

4 (e) (1) Any person who induces or attempts to induce a child to be absent
 5 unlawfully from school or employs or harbors any child who is absent unlawfully from
 6 school while school is in session is guilty of a misdemeanor and on conviction is subject to
 7 a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

8 (2) Any person who has legal custody or care and control of a child who is
 9 5 years old or older and under ~~18~~ 16 who fails to see that the child attends school or receives
 10 instruction under this section is guilty of a misdemeanor and:

11 (i) For a first conviction is subject to a fine not to exceed \$50 per day
 12 of unlawful absence or imprisonment not to exceed ~~10~~ 3 days, or both; and

13 (ii) For a second or subsequent conviction is subject to a fine not to
 14 exceed \$100 per day of unlawful absence or imprisonment not to exceed ~~30~~ 5 days, or both.

15 (3) IN ADDITION TO THE PENALTIES PROVIDED UNDER PARAGRAPH
 16 (2) OF THIS SUBSECTION, THE COURT MAY ORDER A PERSON CONVICTED UNDER
 17 PARAGRAPH (2) OF THIS SUBSECTION TO PERFORM COMMUNITY SERVICE.

18 (4) (I) FOR A PERSON WITH LEGAL CUSTODY OR CARE AND
 19 CONTROL OF A CHILD AT THE TIME OF AN ALLEGED VIOLATION OF THIS SECTION, IT
 20 IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER THIS SECTION THAT THE PERSON
 21 MADE REASONABLE AND SUBSTANTIAL EFFORTS TO SEE THAT THE CHILD
 22 ATTENDED SCHOOL AS REQUIRED BY LAW BUT WAS UNABLE TO CAUSE THE CHILD
 23 TO ATTEND SCHOOL.

24 (II) IF THE COURT FINDS THE AFFIRMATIVE DEFENSE IS VALID,
 25 THE COURT SHALL DISMISS THE CHARGE UNDER THIS SECTION AGAINST THE
 26 DEFENDANT.

27 ~~(4)~~ (5) (i) As to any sentence imposed under this section, the court
 28 may suspend the fine or the prison sentence and establish terms and conditions that would
 29 promote the child's attendance.

30 (ii) The suspension authority provided for under subparagraph (i) of
 31 this paragraph is in addition to and not in limitation of the suspension authority under §
 32 6-221 of the Criminal Procedure Article.

33 (e-1) (1) This subsection applies only:

34 (i) In a county in which the circuit administrative judge has
 35 established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

1 (ii) To the extent that funds are provided in an annual State budget
2 for a Truancy Reduction Pilot Program.

3 (2) A charge under this section may be filed in the juvenile court and
4 assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

5 (3) [(i) For a person with legal custody or care and control of a child at
6 the time of an alleged violation of this section, it is an affirmative defense to a charge under
7 this section that the person made reasonable and substantial efforts to see that the child
8 attended school as required by law but was unable to cause the child to attend school.

9 (ii) If the court finds the affirmative defense is valid, the court shall
10 dismiss the charge under this section against the defendant.

11 (4)] The court may condition marking a charge under this section set on
12 participation of the defendant in the appropriate Truancy Reduction Pilot Program under
13 Title 3, Subtitle 8C of the Courts Article.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
15 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.