

HOUSE BILL 1464

F3, D4

8lr3488

By: **Prince George's County Delegation**

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Truancy Violations – Reporting of Neglect**

3 **PG 515–18**

4 FOR the purpose of requiring a school employee, in Prince George's County, to report any
5 person to the Prince George's County Department of Social Services for neglect of a
6 child if the person has legal custody or care and control of a child who is between
7 certain ages and fails to see that the child attends school or receives certain
8 instruction; providing that a certain criminal penalty does not apply in Prince
9 George's County; altering a certain definition; making conforming changes; and
10 generally relating to the reporting of truancy violations as child neglect in Prince
11 George's County.

12 BY repealing and reenacting, with amendments,
13 Article – Education
14 Section 7–301
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Family Law
19 Section 5–701(a) and 5–704
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Family Law
24 Section 5–701(s)
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Education**

4 7–301.

5 (a) This section does not apply to a child under the age of 18 years who:

6 (1) Has obtained a Maryland high school diploma, an equivalent
7 out-of-state high school diploma, or a GED;

8 (2) Is a student with disabilities and has completed the requirements for a
9 Maryland high school certificate of completion;

10 (3) Is receiving regular, thorough instruction during the school year in the
11 studies usually taught in the public schools to children of the same age;

12 (4) Has completed an instruction program under item (3) of this subsection;

13 (5) Is severely ill and requires home or hospital instruction;

14 (6) Is married;

15 (7) Is in military service;

16 (8) Is committed by court order to an institution without an educational
17 program;

18 (9) Provides financial support to the child's family as documented by a local
19 department of social services;

20 (10) Subject to the approval of the county superintendent, has been expelled
21 under § 7–305 of this subtitle;

22 (11) Is pregnant or a parent and is enrolled in an alternative educational
23 program;

24 (12) Attends an alternative educational program;

25 (13) Subject to written parental consent and written agreement with the
26 county board, attends a public school on a part-time basis and attends a private career
27 school as defined under § 10–101 of this article; or

28 (14) Is waived from the provisions of this section by the State
29 Superintendent.

1 (a-1) (1) Except as otherwise provided in this section, each child who resides in
2 this State and is 5 years old or older and under 18 shall attend a public school regularly
3 during the entire school year.

4 (2) In accordance with regulations of the State Board of Education, a child
5 who resides in this State and is 5 years old may be exempted from mandatory school
6 attendance for 1 year if the child's parent or guardian files a written request with the local
7 school system asking that the child's attendance be delayed due to the child's level of
8 maturity.

9 (3) Except as provided in subsection [(f)] (H) of this section or in
10 regulations of the State Board of Education, each child who resides in this State shall
11 attend a kindergarten program regularly during the school year prior to entering the first
12 grade unless the child is otherwise receiving regular, thorough instruction in the skills and
13 studies usually taught in a kindergarten program of a public school.

14 (b) A county superintendent, school principal, or an individual authorized by the
15 county superintendent or principal may excuse a student for a lawful absence.

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

19 (d) (1) This section applies to any child who has a mental, emotional, or
20 physical handicap.

21 (2) This section does not apply to a child:

22 (i) Whose mental, emotional, or physical condition makes the child's
23 instruction detrimental to the child's progress; or

24 (ii) Whose presence in school presents a danger of serious physical
25 harm to others.

26 (3) With the advice of the school principal, supervisor, pupil personnel
27 supervisor, or visiting teacher and with the written recommendation of a licensed physician
28 or a State Department of Education certified or licensed psychologist, the county
29 superintendent may:

30 (i) Make other appropriate provisions for the free education of any
31 student excepted from attendance under paragraph (2) of this subsection; or

32 (ii) Permit the parents or guardians of that student to withdraw the
33 child from public school, for as long as the attendance of the child in a public school would
34 be detrimental to the child's progress or the child's presence in school would present a
35 danger of serious physical harm to others.

1 (4) If a child is withdrawn from a public school under this subsection, the
2 county board shall make other appropriate provisions for the education of the child.

3 (5) If an appropriate educational placement is not available immediately,
4 the county board shall make interim provisions for the education of the child until an
5 appropriate placement becomes available.

6 **(E) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

7 **(2) A SCHOOL EMPLOYEE SHALL REPORT ANY PERSON TO THE**
8 **PRINCE GEORGE'S COUNTY DEPARTMENT OF SOCIAL SERVICES FOR NEGLECT OF**
9 **A CHILD, IN ACCORDANCE WITH § 5-704 OF THE FAMILY LAW ARTICLE, IF THE**
10 **PERSON HAS LEGAL CUSTODY OR CARE AND CONTROL OF A CHILD WHO IS 5 YEARS**
11 **OLD OR OLDER AND UNDER 18 AND FAILS TO SEE THAT THE CHILD ATTENDS SCHOOL**
12 **OR RECEIVES INSTRUCTION AS REQUIRED UNDER SUBSECTION (C) OF THIS**
13 **SECTION.**

14 **[(e)] (F) (1)** Any person who induces or attempts to induce a child to be
15 absent unlawfully from school or employs or harbors any child who is absent unlawfully
16 from school while school is in session is guilty of a misdemeanor and on conviction is subject
17 to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

18 **(2) (I) THIS PARAGRAPH DOES NOT APPLY IN PRINCE GEORGE'S**
19 **COUNTY.**

20 **(II)** Any person who has legal custody or care and control of a child
21 who is 5 years old or older and under 18 who fails to see that the child attends school or
22 receives instruction under this section is guilty of a misdemeanor and:

23 **[(i)] 1.** For a first conviction is subject to a fine not to exceed \$50
24 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

25 **[(ii)] 2.** For a second or subsequent conviction is subject to a fine
26 not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or
27 both.

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

31 (ii) The suspension authority provided for under subparagraph (i) of
32 this paragraph is in addition to and not in limitation of the suspension authority under §
33 6-221 of the Criminal Procedure Article.

34 **[(e-1)] (G) (1)** This subsection applies only:

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

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

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

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

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

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

16 **[(f)] (H)** A child may be exempted from attending kindergarten if a parent or
17 guardian of the child files a written request with the local school system and verifies that
18 the child is enrolled:

19 (1) Full time in a licensed child care center;

20 (2) Full time in a registered family child care home; or

21 (3) Part time in a Head Start 5 year old program.

22 **[(g)] (I)** Subject to data being available through the Maryland Longitudinal
23 Data System established under § 24–702 of this article and except as otherwise provided in
24 this section, a child under the age of 18 years shall return to attendance at a public school
25 regularly during the school year as required by this section, if the child:

26 (1) Is no longer participating in GED courses; and

27 (2) Has not obtained a passing score on the GED test that resulted in the
28 issuance of a Maryland high school diploma.

29 **Article – Family Law**

30 5–701.

31 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the
32 following words have the meanings indicated.

1 (s) (1) "Neglect" means the leaving of a child unattended or other failure to
 2 give proper care and attention to a child by any parent or other person who has permanent
 3 or temporary care or custody or responsibility for supervision of the child under
 4 circumstances that indicate:

5 [(1)] (I) that the child's health or welfare is harmed or placed at
 6 substantial risk of harm; or

7 [(2)] (II) mental injury to the child or a substantial risk of mental injury.

8 (2) "NEGLECT" INCLUDES, IN PRINCE GEORGE'S COUNTY ONLY, THE
 9 FAILURE OF ANY PERSON WHO HAS LEGAL CUSTODY OR CARE AND CONTROL OF A
 10 CHILD WHO IS 5 YEARS OLD OR OLDER AND UNDER 18 TO SEE THAT THE CHILD
 11 ATTENDS SCHOOL OR RECEIVES INSTRUCTION UNDER § 7-301 OF THE EDUCATION
 12 ARTICLE.

13 5-704.

14 (a) Notwithstanding any other provision of law, including any law on privileged
 15 communications, each health practitioner, police officer, educator, or human service
 16 worker, acting in a professional capacity in this State:

17 (1) who has reason to believe that a child has been subjected to abuse or
 18 neglect, shall notify the local department or the appropriate law enforcement agency; and

19 (2) if acting as a staff member of a hospital, public health agency, child care
 20 institution, juvenile detention center, school, or similar institution, shall immediately
 21 notify and give all information required by this section to the head of the institution or the
 22 designee of the head.

23 (b) (1) An individual who notifies the appropriate authorities under subsection
 24 (a) of this section shall make:

25 (i) an oral report, by telephone or direct communication, as soon as
 26 possible to the local department or appropriate law enforcement agency; and

27 (ii) a written report:

28 1. to the local department not later than 48 hours after the
 29 contact, examination, attention, or treatment that caused the individual to believe that the
 30 child had been subjected to abuse or neglect; and

31 2. with a copy to the local State's Attorney.

32 (2) (i) An agency to which an oral report of suspected abuse or neglect

1 is made under paragraph (1) of this subsection shall immediately notify the other agency.

2 (ii) This paragraph does not prohibit a local department and an
3 appropriate law enforcement agency from agreeing to cooperative arrangements.

4 (c) Insofar as is reasonably possible, an individual who makes a report under this
5 section shall include in the report the following information:

6 (1) the name, age, and home address of the child;

7 (2) the name and home address of the child's parent or other person who is
8 responsible for the child's care;

9 (3) the whereabouts of the child;

10 (4) the nature and extent of the abuse or neglect of the child, including any
11 evidence or information available to the reporter concerning possible previous instances of
12 abuse or neglect; and

13 (5) any other information that would help to determine:

14 (i) the cause of the suspected abuse or neglect; and

15 (ii) the identity of any individual responsible for the abuse or neglect.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2018.