



## SB 865, Juveniles – Truancy Reduction Pilot

### Fact Sheet #1

#### What does this Bill Do?

##### What does SB 865 do?

This bill strengthens truancy courts including in these four ways:

➤ **No pilot.** The first truancy court legislation was passed in 2004 and established the truancy court as a pilot program, permitted to operate in only the Second Judicial Circuit (Dorchester, Somerset, Wicomico, and Worcester counties). It has since expanded to Hartford, Kent, and Prince George's counties and operates successfully in each one. Today, at least two more counties (Frederick and Montgomery counties) are interested in establishing truancy courts. Truancy courts are a reality, not a pilot. This language is in §§ 3-8C-01 and 3-8C-01.1 of the bill.

➤ **Faster establishment.** The bill will make it easier for a county to establish a Truancy Reduction and School Engagement Program by allowing a county administrative judge or a circuit administrative judge to establish the program in their county or circuit, respectively, without having to wait for a change in the statute and following compliance with the applicable Maryland Rules (which establish the practices and procedures for all Maryland State courts). This language is in § 3-8C-02(a) of the bill.

➤ **Child-focused purpose with supporting service options.** The bill unequivocally states that the purpose of the program is the child's engagement or reengagement with education. That purpose is reflected in the bill's enhancements to the court's disposition options which bolster the court's ability to enter an order that addresses the reasons for education disengagement and ways to bring it back. This language is in §§ 3-8C-02(b) and 3-8C-06(d) of the bill.

➤ **Annual report.** The bill will require the Judiciary to provide the General Assembly with an annual report on the Truancy Reduction and School Engagement Program so legislators and the public know how the program is serving children and families and what might be needed to improve the program's functioning. This language is in § 3-8C-12 of the bill.

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## Fact Sheet #2

### What is the Truancy Reduction and School Engagement Program and Why Have One?

#### 1. What is the Truancy Reduction and School Engagement Program?

The program established by SB 865 is a problem-solving court, housed in the juvenile court, that focus on children who (1) are required to attend school under Maryland law, and (2) do not regularly attend school, despite the efforts of school officials to engage the child and their parents with school.

The goal of the truancy court is to:

- Look at root causes of a child's truancy and school disengagement,
- Design and implement services that engage the child and family with the child's education, and
- Increase the child's participation and success in their education.

#### 2. What *isn't* this truancy court?

Most importantly – This truancy court is **not** a delinquency court or child in need of assistance (CINA) court. So:

- The truancy case comes to the juvenile court through a petition from the school system. The State's Attorney does not bring the case and neither does the Department of Juvenile Services or the local Department of Social Services.
- The child who is the subject of the truancy case is not adjudicated delinquent or a CINA.
- The child cannot be detained, placed in shelter care, placed on community detention, or sent to an out-of-home placement.

#### 2. Why is a case be brought before a truancy court?

A case is brought to the truancy court because (1) a child is not attending school as required by Maryland law and (2) the school's efforts to address the child's truancy without court involvement have failed.

Under Maryland's education law, a "truant student" is a student who is unlawfully absent from school for more than 8 days in any quarter, 15 days in any semester, or 20 days in a school year, and whose absences are considered unlawful absences under the State Board of Education's regulations. Education Article, § 7-302.2(a).

Under those regulations, a student generally is an "habitual truant" if the student "is unlawfully absent from school for a number of days or portion of days in excess of 20 percent of the school days within any marking period, semester, or year." The term can be defined more stringently by a local school system. COMAR 13A.08.01.04C.

Each school system is required to develop a system of "active intervention" for truant students and each truant student must be "immediately" referred to that program. Education Article, § 7-

302.2(b), (c). If these efforts are unsuccessful, the school system may refer the child to the Truancy Reduction and School Engagement Program

### **3. Why is the Truancy Reduction and School Engagement Program good for children and families?**

No matter the reason why a child is not attending or avoiding school, not going to school may hamper a child for life. Youth who do not attain a high school education, for example, are more likely to experience poverty and to enter the criminal justice system. Students of color and students experiencing poverty have the highest rates of absenteeism which sets them up for more negative life outcomes.

The Truancy Reduction and School Engagement Program gets children back to school. It identifies why a child is not going to school and provides child and parents with access to needed services.

This program is also a way of “working with the family as a whole”. Programs may identify whether other children in the family have problems with school engagement and tackle those problems in an effort to stop other children from falling into the same behaviors. Several programs have found that even after truancy court ended for one child, parents have sought the program’s help for other children.

### **4. Are there alternatives to the Truancy Reduction and School Engagement Program?**

The Truancy Reduction and School Engagement Program is but one part of a continuum of options that a school system has for children who are absent and disengaged from school.

But - because by the time a child enters the program the school has been unsuccessful in implementing non-court options, the options to this program include filing a CINS petition and/or prosecuting the parents (the absolute last resort).

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## Fact Sheet #3

### What Happens in Truancy Court?

#### 1. What happens in truancy court?

Procedures may vary from court to court, but each truancy court follows the same general process.

➤ **Petition.** The school system files a petition with the truancy court concerning the child. The petition tells the court the school system's basis for believing that the child is truant and why the court should take action to reengage the child with school.

➤ **Outreach.** Truancy court program staff reach out to the family to invite them to talk about the program before the hearing. The goal is to (1) answer the family's questions about the program, (2) alleviate the family's concerns about the program, and (3) let them know that the program is cooperative and not adversarial.

Before the initial hearing, the program staff again reaches out the family to encourage attendance at the hearing and identify and resolve any transportation needs.

➤ The initial hearing (called the adjudication hearing) is held before the truancy court judge or magistrate. The hearing decides whether the facts in the petition concerning the child's school attendance are true.

➤ If the judge or magistrate does not find that the facts in the petition concerning the child's school attendance are true, they dismiss the petition, and the case is over.

➤ If the magistrate or judge does find that the facts in the petition concerning the child's school attendance are true, a second hearing is held. In this hearing (called the disposition hearing), the judge or magistrate determines whether, and if so, what services or actions should be required to engage or reengage the child with school. This may include referring the family for an assessment to further identify needs. What this will not include is any kind of sanction against the child or family. The child cannot be charged with delinquency, put into detention, removed from home, fined, etc.

➤ The child and family move through the service parts of the program. In some jurisdictions, this involves working through set phases or program elements. As each phase or element is completed, that achievement is celebrated before the court. In other jurisdictions, the child and family have individual targets to meet and are rewarded when meeting those targets.

➤ For children and families who complete the entire program or all phases, the child graduates with a ceremony before the court.

➤ Case termination can look different for those children and families who do not complete the entire program. Some end the program because the child enrolls in alternative education, like home schooling. Others may move out of county. In other circumstances, where the judge or magistrate concludes that the program's work with the child and family has gone as far as it can, the case may be closed unsuccessfully.

**2. Many parents have a hard time finding services for their children. What happens to a parent who is before the truancy court and cannot find the services the court orders?**

It is often true that a court referral is the “squeaky wheel” that can open doors to services that don’t seem to be accessible otherwise.

But even more than that, one of the benefits of a truancy court is that the parents are not in it alone. The truancy court coordinator and other staff work with the child and family throughout the program, to identify service providers, help the family connect with and get to the services, and address issues that arise in the course of the services.

**3. What happens if the child or parents do not comply with the truancy court?**

The Truancy Reduction and School Engagement Program cannot sanction a child who does not comply. As noted above, the child cannot be charged with delinquency, put into detention, removed from home, fined, etc. The child who does not comply can, and will, eventually be removed from the program.

For counties in which the Department of Juvenile Services has a child in need of supervision program, a CINS petition may be filed with the juvenile court concerning the child, but that happens rarely.

A parent could be charged with a violation of Education Article, § 7-301, which makes it a misdemeanor to induce or attempt to induce a child to be absent unlawfully from school, to employ or harbor any child who is absent unlawfully from school while school is in session, or (for a person with legal custody or care and control of a child who is from 5- to 15-years-old) to fail to see that the child attends school or receives instruction.

**4. Not every child completes the truancy program. Does that mean that children who do not complete the program have failed?**

No. Truancy courts each have their own standards for what constitutes “graduation” from the program but not graduating does not mean the child has failed. Many of the children who do not graduate leave the program for administrative reasons, for example, they move from the jurisdiction. Other children who do not graduate do not meet all the county’s requirements to graduate but have improved attendance and connection to education.

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## Fact Sheet #4

### Other Information

#### 1. Is a child stopped from being able to enlist in the military if a child is in the Truancy Reduction and School Engagement Program?

No. We contacted recruiters from each branch of the military and confirmed that participation in the Truancy Reduction and School Engagement Program, in and of itself, would not stop a child's enlistment in the military.

Under federal law, the military would expect any involvement with a court to be reported as part of the enlistment process. It would be a mark against the recruit's honesty if involvement in the program was not reported. But when reported, generally, the involvement would not preclude enlistment, particularly in the Army, Navy, or Marines.

On the other hand, we were told that failure to graduate from high school (or in some cases get a GED) would preclude or severely hamper enlistment.

#### 2. Why doesn't the bill include public defender representation for children with truancy court cases?

Neither the current law nor the law as it would be amended by this bill provide for representation by the Office of the Public Defender for the simple reason that a **truancy court proceeding is a civil matter without any punitive sanctions to the child**. The proceeding does not in any way allege that the child committed an offense that could lead to any serious repercussions on the child or otherwise put the child at risk of being removed from the child's home.

The law around public defender representation identifies specific circumstances under which an indigent defendant or party is eligible for representation. A proceeding involving a child in a truancy court case is not specifically named. Criminal Procedure Article § 16-204(b)(1).

There does not appear to be a consensus on adding Office of Public Defender representation. There are strong concerns that it would turn truancy courts into a punitive system and remove from the program from its problem-solving core.

#### 3. Are any counties ready to establish a Truancy Reduction and School Engagement Program?

Yes

➤ The Frederick County Juvenile Court, working with the schools and other county stakeholders, has begun meeting informally and is ready to turn those meetings in a formal program. Their delegation filed bills this session to that end. The bills only add the Sixth Circuit Administrative Judge may establish a truancy reduction pilot program in the juvenile court in Frederick County. They do not include any of the enhancements in this bill. See HB 1479/SB1039, Frederick County - Juveniles - Truancy Reduction Pilot Program.

➤ The Montgomery County Juvenile Court has begun working with the schools and other county stakeholders to design a program for that county. They anticipate being able to formalize their plans this year.

#### **4. How are Truancy Reduction and School Engagement Programs funded?**

The Judiciary, through the Office of Problem-Solving Courts (OPSC), provides grant funding for existing truancy courts. These grants support truancy court staff and certain services for truancy court participants and families, such as family clinical assessments, mental health and substance use treatment, and transportation and housing assistance. The grant also pays for training for truancy court judges, magistrates, and staff.

Over the past several years, OPSC has recognized and responded to State budget trends by accessing resources from federal, State, and local partners in an effort to sustain court programs. OPSC continues to collaborate with local and State partners, such as the Maryland Department of Health, the Office of Public Defenders, local State's Attorney's Offices, local Boards of Education, and local behavioral health providers to maximize access to existing resources.

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