
By: **Delegates Conway, Bozman, Cane, Eckardt, Elmore, and Haddaway**
Introduced and read first time: February 25, 2004
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Causes - Truancy Reduction Pilot Program**

3 FOR the purpose of establishing the Truancy Reduction Pilot Program; limiting the
4 application of this Act to certain counties; requiring the county administrative
5 judge to establish a docket for truancy cases; establishing a certain Code
6 violation and civil offense for failure of a child to attend school without lawful
7 excuse; establishing that the Code violation is not a criminal conviction;
8 establishing that a petition alleging that a child who is required to attend school
9 fails to attend school without lawful excuse shall be filed by an authorized school
10 official in circuit court; prohibiting an authorized school official from filing a
11 certain petition under certain circumstances unless certain charges were filed
12 and dismissed; requiring the court to hold an adjudicatory hearing after a
13 certain petition is filed; establishing that certain rules of evidence apply at an
14 adjudicatory hearing; establishing that the allegations in a petition shall be
15 proved by a preponderance of the evidence; requiring the court to hold a
16 separate disposition hearing; requiring the disposition hearing to be held on the
17 same day as the adjudicatory hearing except under certain circumstances;
18 authorizing the court to take certain actions in making a disposition on a
19 petition; establishing that cases on the truancy docket are eligible for family
20 support services; clarifying that certain provisions relating to probation before
21 judgment apply to a defendant charged with a certain offense; authorizing the
22 court to impose certain conditions of probation under certain circumstances;
23 establishing that the Maryland Rules govern the format of a certain petition and
24 certain procedures; establishing that the court retains jurisdiction over certain
25 petitions and criminal cases under certain circumstances; authorizing a party to
26 appeal a final judgment in accordance with certain procedures; establishing a
27 certain affirmative defense in a certain criminal case; requiring a court to
28 dismiss certain charges under certain circumstances; specifying the contents of
29 a certain petition; requiring the circuit administrative judge for a certain circuit
30 to submit a certain report on the pilot program; making this Act subject to a
31 certain contingency; providing for the termination of this Act; and generally
32 relating to the Truancy Reduction Pilot Program.

33 BY adding to

34 Article - Courts and Judicial Proceedings

1 Section 3-8C-01 through 3-8C-09, inclusive, to be under the new subtitle
2 "Subtitle 8C. Truancy Reduction Pilot Program"
3 Annotated Code of Maryland
4 (2002 Replacement Volume and 2003 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Criminal Procedure
7 Section 6-220(b)(1)
8 Annotated Code of Maryland
9 (2001 Volume and 2003 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article - Education
12 Section 7-301(a)(1), (c), and (e)
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2003 Supplement)

15 BY adding to
16 Article - Education
17 Section 7-301(e-1)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2003 Supplement)

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

22 **Article - Courts and Judicial Proceedings**

23 **SUBTITLE 8C. TRUANCY REDUCTION PILOT PROGRAM.**

24 3-8C-01.

25 (A) THIS SUBTITLE APPLIES ONLY IN DORCHESTER COUNTY, SOMERSET
26 COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

27 (B) (1) THE CIRCUIT ADMINISTRATIVE JUDGE OF THE FIRST CIRCUIT SHALL
28 ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE CIRCUIT COURTS OF
29 DORCHESTER COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER
30 COUNTY.

31 (2) THE COUNTY ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT FOR
32 THE COUNTY SHALL ASSIGN TO A TRUANCY DOCKET ALL:

33 (I) PETITIONS FILED UNDER THIS SUBTITLE ALLEGING THAT A
34 CHILD WHO IS REQUIRED TO ATTEND SCHOOL FAILS TO ATTEND SCHOOL WITHOUT
35 LAWFUL EXCUSE; AND

1 (II) CRIMINAL CASES ARISING UNDER THE COMPULSORY
2 ATTENDANCE LAWS OF THE STATE UNDER § 7-301 OF THE EDUCATION ARTICLE.

3 3-8C-02.

4 (A) A CHILD REQUIRED TO ATTEND SCHOOL IN ACCORDANCE WITH § 7-301 OF
5 THE EDUCATION ARTICLE MAY NOT FAIL TO ATTEND SCHOOL WITHOUT LAWFUL
6 EXCUSE.

7 (B) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND IS A CIVIL
8 OFFENSE.

9 (C) ADJUDICATION OF A CODE VIOLATION UNDER THIS SECTION IS NOT A
10 CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT IMPOSE ANY OF THE CIVIL
11 DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

12 3-8C-03.

13 (A) A PETITION ALLEGING THAT A CHILD WHO IS REQUIRED TO ATTEND
14 SCHOOL FAILS TO ATTEND SCHOOL WITHOUT LAWFUL EXCUSE SHALL BE FILED IN
15 CIRCUIT COURT BY AN AUTHORIZED SCHOOL OFFICIAL.

16 (B) IF A CHILD IS UNDER THE AGE OF 12 YEARS, AN AUTHORIZED SCHOOL
17 OFFICIAL MAY NOT FILE A PETITION UNDER THIS SUBTITLE UNLESS:

18 (1) CRIMINAL CHARGES WERE FILED UNDER § 7-301 OF THE EDUCATION
19 ARTICLE AGAINST THE PERSON WHO HAS LEGAL CUSTODY OR CARE AND CONTROL
20 OF THE CHILD; AND

21 (2) THE COURT DISMISSED THE CHARGES IN ACCORDANCE WITH
22 § 7-301(E-1) OF THE EDUCATION ARTICLE.

23 3-8C-04.

24 (A) A PETITION FILED UNDER THIS SUBTITLE SHALL ALLEGE THAT A CHILD
25 WHO IS REQUIRED TO ATTEND SCHOOL FAILED TO ATTEND SCHOOL WITHOUT
26 LAWFUL EXCUSE AND SHALL SET FORTH IN CLEAR AND SIMPLE LANGUAGE THE
27 FACTS SUPPORTING THE ALLEGATION.

28 (B) (1) AFTER A PETITION IS FILED UNDER THIS SUBTITLE THE COURT
29 SHALL HOLD AN ADJUDICATORY HEARING.

30 (2) THE RULES OF EVIDENCE UNDER TITLE 5 OF THE MARYLAND RULES
31 SHALL APPLY AT AN ADJUDICATORY HEARING.

32 (3) THE ALLEGATIONS IN A PETITION FILED UNDER THIS SUBTITLE
33 SHALL BE PROVED BY A PREPONDERANCE OF THE EVIDENCE.

1 3-8C-05.

2 (A) UNLESS A PETITION FILED UNDER THIS SUBTITLE IS DISMISSED, THE
3 COURT SHALL HOLD A SEPARATE DISPOSITION HEARING AFTER THE ADJUDICATORY
4 HEARING.

5 (B) THE DISPOSITION HEARING SHALL BE HELD ON THE SAME DAY AS THE
6 ADJUDICATORY HEARING UNLESS ON ITS OWN MOTION OR MOTION OF A PARTY THE
7 COURT FINDS THAT THERE IS GOOD CAUSE TO DELAY THE DISPOSITION HEARING TO
8 A LATER DAY.

9 (C) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD NO
10 LATER THAN 15 DAYS AFTER THE CONCLUSION OF THE ADJUDICATORY HEARING
11 UNLESS GOOD CAUSE IS SHOWN.

12 (D) (1) IN MAKING A DISPOSITION ON A PETITION FILED UNDER THIS
13 SUBTITLE, THE COURT MAY TAKE SUCH ACTION AS WILL PROMOTE THE CHILD'S
14 ATTENDANCE IN SCHOOL.

15 (2) THE COURT MAY ORDER:

16 (I) THE CHILD TO:

- 17 1. PERFORM COMMUNITY SERVICE;
- 18 2. ATTEND COUNSELING, INCLUDING FAMILY COUNSELING;
- 19 3. ATTEND SUBSTANCE ABUSE EVALUATION AND
20 TREATMENT;
- 21 4. ATTEND MENTAL HEALTH EVALUATION AND
22 TREATMENT; OR
- 23 5. KEEP A CURFEW WITH THE HOURS SET BY THE COURT; OR

24 (II) THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN
25 ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE
26 OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE MOTOR VEHICLE
27 ADMINISTRATION FOR A SPECIFIED PERIOD OF NOT LESS THAN 30 DAYS NOR MORE
28 THAN 90 DAYS; OR

29 (III) ANY OTHER DISPOSITION PERMITTED BY LAW OR THE
30 MARYLAND RULES.

31 (E) CASES ON THE TRUANCY DOCKET ARE ELIGIBLE FOR FAMILY SUPPORT
32 SERVICES AS PROVIDED IN THE MARYLAND RULES.

1 3-8C-06.

2 (A) THE PROVISIONS OF § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE
3 APPLY TO A DEFENDANT CHARGED WITH A VIOLATION OF § 7-301 OF THE
4 EDUCATION ARTICLE.

5 (B) IN ADDITION TO ANY CONDITIONS OF PROBATION AUTHORIZED UNDER §
6 6-220 OF THE CRIMINAL PROCEDURE ARTICLE, THE COURT MAY IMPOSE CONDITIONS
7 OF PROBATION THAT WOULD PROMOTE THE CHILD'S ATTENDANCE IN SCHOOL.

8 3-8C-07.

9 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE MARYLAND RULES
10 GOVERN THE FORMAT OF THE PETITION AND THE PROCEDURES TO BE FOLLOWED
11 BY THE COURT AND THE PARTIES UNDER THIS SUBTITLE.

12 3-8C-08.

13 A COURT SHALL RETAIN JURISDICTION OVER A PETITION FILED UNDER THIS
14 SUBTITLE OR A CRIMINAL CASE ARISING UNDER THE COMPULSORY ATTENDANCE
15 LAWS OF THE STATE UNDER § 7-301 OF THE EDUCATION ARTICLE UNTIL ALL TERMS
16 OF THE COURT'S ORDER ARE SATISFIED.

17 3-8C-09.

18 A PARTY MAY APPEAL A FINAL JUDGMENT ENTERED UNDER THIS SUBTITLE AS
19 PROVIDED IN TITLE 12 OF THIS ARTICLE AND IN THE MARYLAND RULES.

20

Article - Criminal Procedure

21 6-220.

22 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty
23 of a crime, a court may stay the entering of judgment, defer further proceedings, and
24 place the defendant on probation subject to reasonable conditions if:

25 (i) the court finds that the best interests of the defendant and the
26 public welfare would be served; and

27 (ii) the defendant gives written consent after determination of guilt
28 or acceptance of a nolo contendere plea.

29

Article - Education

30 7-301.

31 (a) (1) Except as otherwise provided in this section, each child who resides
32 in this State and is 5 years old or older and under 16 shall attend a public school
33 regularly during the entire school year unless the child is otherwise receiving regular,

1 thorough instruction during the school year in the studies usually taught in the public
2 schools to children of the same age.

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

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

11 (2) Any person who has legal custody or care and control of a child who is
12 5 years old or older and under 16 who fails to see that the child attends school or
13 receives instruction under this section is guilty of a misdemeanor and:

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

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

19 (3) As to any sentence imposed under this section, the court may
20 suspend the fine or the prison sentence and establish terms and conditions which
21 would promote the child's attendance. The suspension authority provided for in this
22 subsection is in addition to and not in limitation of the suspension authority under §
23 6-221 of the Criminal Procedure Article.

24 (E-1) (1) THIS SUBSECTION APPLIES ONLY IN DORCHESTER COUNTY,
25 SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

26 (2) AN ACTION BROUGHT UNDER THIS SECTION SHALL BE FILED IN
27 CIRCUIT COURT AND ASSIGNED TO THE TRUANCY DOCKET IN ACCORDANCE WITH §
28 3-8C-01 OF THE COURTS ARTICLE.

29 (3) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER THIS SECTION
30 THAT THE PERSON WHO HAS LEGAL CUSTODY OR CARE AND CONTROL OF THE CHILD
31 HAS MADE REASONABLE AND SUBSTANTIAL EFFORTS TO SEE THAT THE CHILD
32 ATTENDS SCHOOL AS REQUIRED BY LAW BUT IS UNABLE TO CAUSE THE CHILD TO
33 ATTEND SCHOOL.

34 (4) IF THE COURT DETERMINES THAT THE AFFIRMATIVE DEFENSE IS
35 VALID, THE COURT SHALL DISMISS THE CHARGES AGAINST THE DEFENDANT.

36 SECTION 2. AND BE IT FURTHER ENACTED, That on or before May 31,
37 2007, the Circuit Administrative Judge for the First Circuit shall submit a report to
38 the General Assembly, in accordance with § 2-1246 of the State Government Article,
39 that evaluates the Truancy Reduction Pilot Program established under this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is contingent
2 on funds being included in the 2005 State budget for the Administrative Office of the
3 Courts/Family Services Program to establish the Truancy Reduction Pilot Program
4 for the circuit courts of Dorchester County, Somerset County, Wicomico County, and
5 Worcester County. If the funds are not included in the 2005 State budget, this Act
6 shall be null and void without the necessity of further action by the General Assembly.

7 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
8 of Section 3 of this Act, this Act shall take effect July 1, 2004. It shall remain effective
9 for a period of 3 years and, at the end of June 30, 2007, with no further action
10 required by the General Assembly, this Act shall be abrogated and of no further force
11 and effect.