

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 604
Judiciary

(Delegate Niemann, *et al.*)

Juvenile Law - Truancy

This bill establishes the juvenile offense of truancy and provides that the juvenile court has exclusive original jurisdiction over truancy violations. The bill defines the offense of truancy as a child who is required to attend school, but fails to do so without a lawful excuse. Under this bill, truancy violations are generally subject to the same adjudication and disposition process as cases involving allegations of delinquency.

Fiscal Summary

State Effect: Potential significant expenditure increase for additional Department of Juvenile Services (DJS) staff, facilities, and programs and public defenders. The magnitude depends on the number of youth referred to DJS for alleged truancy violations.

Local Effect: Potential significant increase in circuit court expenditures to accommodate the increase in juvenile court caseload as a result of this bill and the possible need for more State's Attorneys. The magnitude depends on the number of youth referred to DJS for alleged truancy violations.

Small Business Effect: None.

Analysis

Bill Summary: As in child in need of supervision (CINS) cases, the State's Attorney is required to prepare and file petitions alleging truancy in the juvenile court, which is located in the circuit court of the county where the child resides. Petitions are filed by the State's Attorney within 30 days after referral from the intake officer, with some exceptions. The petition must specify the alleged facts of the case that constitute the

truancy violation. State's Attorneys have the authority to dismiss truancy petitions in open court.

Courts or intake officers may authorize detention, community detention, or shelter care for a child prior to a truancy hearing, just as they can prior to a delinquency hearing. Shelter care prior to a hearing has a maximum limit of 30 days, but may be extended for no more than 30 additional days under certain circumstances.

As in alleged CINS cases, a child alleged to have committed the offense of truancy may not be placed prior to a hearing in detention or community detention; a State mental health facility; or a shelter care facility that is not operating in compliance with applicable State laws.

Additionally, if a child is found to be truant, the court may order the child to:

- attend school;
- perform community service;
- attend counseling, including family counseling;
- attend substance abuse evaluation and treatment;
- attend mental health evaluation and treatment; or
- keep a curfew with the hours set by the court.

The bill applies the same notification requirements for children in need of supervision to truants. Therefore, if a court finds that a child is in need of supervision and commits the child to the custody or under the guardianship of DJS, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to have committed the offense of truancy and has been committed to DJS custody or guardianship.

Current Law: 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 for a number of days or portion of days in excess of 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.

Except as otherwise provided, each child who resides in Maryland and is 5 years or older and under 16 years must attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in public school to children of the same age. 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.

Current statutory penalties focus on parents and guardians rather than children. Any person who induces or attempts to induce a child to be unlawfully absent from school, or who employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor. That person is subject to a maximum fine of \$500, or imprisonment not to exceed 30 days, or both. A habitually truant child can be designated as CINS. CINS cases are under the jurisdiction of the juvenile court.

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, the supervisor of pupil personnel, or any other designated official the name of each child enrolled in the school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out. On receipt of such a 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 DJS that the student has been habitually truant, without lawful excuse.

Background: Pursuant to Chapter 551 of 2004, the Judiciary established a Truancy Reduction Pilot Program in Wicomico County in January 2005. This court-based program issues civil petitions against truant children and files criminal misdemeanors against their parents. The program expanded to Somerset County in November 2005. The program will expand to Dorchester and Worcester counties, provided that funding is available. Under the program, truancy is a code violation and a civil offense. Authorized school officials may file petitions alleging violations of the truancy provisions under the program with the juvenile court. Approximately 29 cases were filed under the Truancy Reduction Pilot Program between January 2005 and January 2006.

During the 2004-2005 school year, 1,584 students were suspended from Maryland Public Schools for truancy.

State Expenditures: Under the current system, school police report truancy violations to DJS. DJS then requests a petition to be filed in juvenile court. Typically, school police report truancy that has reached habitual truancy levels.

In fiscal 2005, 33,774 youths were referred to DJS. Of those, only 359 had been charged with truancy, and most of those youths had additional charges. DJS advises that few youth with the sole charge of truancy progress far into the DJS and juvenile court system. This bill, as written, would bring truancy offenses of any magnitude under the jurisdiction of the juvenile court. However, it is assumed that the current reporting system will still be in place for truancy offenses. Thus, the number of petitions in juvenile court filed as a result of this bill will depend on the number of truancy reports DJS receives from schools.

According to the Maryland State Department of Education (MSDE), the following suspensions occurred during the 2004-2005 school year: (1) 5,831 for cutting class; (2) 1,617 for tardiness; and (3) 1,584 for truancy. This represents a total of 9,032 attendance-related suspensions. Under this bill, schools would still be responsible for reporting truancy offenses to DJS to pursue in juvenile court. Assuming these 9,032 suspensions would be added to the juvenile court docket, the State expenditures listed below could occur.

- *DJS Staff.* Typically, a DJS caseworker is needed for every 40 intakes per month (480 per year). Adding 9,032 youth to the DJS population would require approximately 19 new caseworkers.
- *DJS Facilities.* This bill provides for shelter care for alleged truancy offenders. As a result, to the extent that courts order shelter care for this population, DJS may need to construct additional shelter care facilities.
- *DJS Programs.* Under the bill, counseling, substance abuse, and mental health services may be ordered for truancy offenders. This may result in the need for additional DJS programs.
- *Office of the Public Defender (OPD) Staff.* The addition of 9,032 truancy offenders to the juvenile court docket could result in the need for additional public defenders. This need could range from 24 to 38 additional public defenders. This range represents one additional public defender in each jurisdiction to one additional public defender per 240 cases (the current caseload for juvenile attorneys in OPD).

Local Expenditures: For the reasons mentioned in the illustration above, expenditures could significantly increase as a result of this bill. Since juvenile courts are located in

circuit courts, circuit court expenditures could significantly increase as a result of the addition of this population to the docket.

Also, this bill requires State's Attorneys to prepare and file petitions alleging truancy. This may result in the need for additional State's Attorneys.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Juvenile Services, Department of Human Resources, Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2006
nas/rhh

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