

HOUSE BILL 546

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By: **Delegates Jones, Barkley, Benson, Branch, Bromwell, Bronrott, Burns, Cane, Conaway, DeBoy, Gaines, Glenn, Harrison, Haynes, Heller, Howard, Hubbard, Kirk, Kramer, Lafferty, Love, Malone, Manno, McKee, Morhaim, Myers, Nathan-Pulliam, Oaks, Proctor, Robinson, Stein, Stocksdale, Tarrant, and F. Turner**

Introduced and read first time: February 7, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Compulsory Attendance – Age of Withdrawal**

3 FOR the purpose of altering the age at which a child may withdraw from required
4 schooling; requiring certain individuals with the legal custody or care and
5 control of certain children between certain ages to see that the children attend
6 school or receive certain instruction; providing for a delayed effective date; and
7 generally relating to the age of withdrawal and compulsory attendance in
8 school.

9 BY repealing and reenacting, with amendments,
10 Article – Education
11 Section 7–301
12 Annotated Code of Maryland
13 (2006 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, 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.



1 (a) (1) Except as otherwise provided in this section, each child who
2 resides in this State and is 5 years old or older and under [16] **17** shall attend a public
3 school regularly during the entire school year unless the child is otherwise receiving
4 regular, thorough instruction during the school year in the studies usually taught in
5 the public schools to children of the same age.

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

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

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

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

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

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

24 (i) Whose mental, emotional, or physical condition makes his
25 instruction detrimental to his progress; or

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

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

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

3 (ii) Permit the parents or guardians of that student to withdraw
4 him from public school, for as long as the attendance of the child in a public school
5 would be detrimental to his progress or his presence in school would present a danger
6 of serious physical harm to others.

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

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

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

18 (2) Any person who has legal custody or care and control of a child
19 who is 5 years old or older and under [16] 17 who fails to see that the child attends
20 school or receives instruction under this section is guilty of a misdemeanor and:

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

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

26 (3) As to any sentence imposed under this section, the court may
27 suspend the fine or the prison sentence and establish terms and conditions which
28 would promote the child's attendance. The suspension authority provided for in this
29 subsection is in addition to and not in limitation of the suspension authority under §
30 6-221 of the Criminal Procedure Article.

31 (e-1) (1) This subsection applies only in Dorchester County, Somerset
32 County, Wicomico County, and Worcester County.

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

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

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

11 (f) A child may be exempted from attending kindergarten if a parent or
12 guardian of the child files a written request with the local school system and verifies
13 that the child is enrolled:

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

15 (2) Full time in a registered family day care home; or

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

17 (g) Kindergarten programs are not subject to the requirements of § 7-103(a)
18 of this title relating to minimum days or hours of operation.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2009.