

SENATE BILL 436

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8lr1384

By: **Senators Pugh, McFadden, Conway, Currie, Forehand, Garagiola, Glassman, Jones, Kasemeyer, Kelley, King, Lenett, Madaleno, Muse, Peters, Raskin, and Robey**

Introduced and read first time: January 31, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring certain children under a certain age to attend a public
4 school regularly during the entire school year, subject to certain exceptions;
5 raising the age to which certain persons are responsible for a child's attendance
6 at school or receipt of certain instruction; requiring certain children to attend
7 alternative educational programs or to be given certain information regarding
8 GED programs by certain county boards of education; making certain stylistic
9 changes; and generally relating to the age of compulsory school attendance.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 7–301
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

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

17 **Article – Education**

18 7–301.

19 (a) (1) **THIS SECTION DOES NOT APPLY TO A CHILD UNDER THE AGE**
20 **OF 18 YEARS WHO:**

21 (i) **HAS OBTAINED A MARYLAND HIGH SCHOOL DIPLOMA,**
22 **AN EQUIVALENT OUT-OF-STATE HIGH SCHOOL DIPLOMA, OR A GED;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (II) IS A STUDENT WITH DISABILITIES AND HAS COMPLETED
2 THE REQUIREMENTS FOR A MARYLAND HIGH SCHOOL CERTIFICATE OF
3 COMPLETION;

4 (III) IS RECEIVING REGULAR, THOROUGH INSTRUCTION
5 DURING THE SCHOOL YEAR IN THE STUDIES USUALLY TAUGHT IN THE PUBLIC
6 SCHOOLS TO CHILDREN OF THE SAME AGE INCLUDING HOME SCHOOLING
7 UNDER COMAR 13A.10.01;

8 (IV) IS SEVERELY ILL AND REQUIRES HOME OR HOSPITAL
9 INSTRUCTION;

10 (V) IS MARRIED;

11 (VI) IS IN MILITARY SERVICE;

12 (VII) IS COMMITTED BY COURT ORDER TO AN INSTITUTION
13 WITHOUT AN EDUCATIONAL PROGRAM;

14 (VIII) PROVIDES FINANCIAL SUPPORT TO THE CHILD'S
15 FAMILY AS DOCUMENTED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES;

16 (IX) SUBJECT TO THE APPROVAL OF THE COUNTY
17 SUPERINTENDENT, HAS BEEN EXPELLED UNDER § 7-305 OF THIS SUBTITLE;

18 (X) IS PREGNANT OR A PARENT AND IS ENROLLED IN AN
19 ALTERNATIVE EDUCATIONAL PROGRAM;

20 (XI) ATTENDS AN ALTERNATIVE EDUCATIONAL PROGRAM;

21 (XII) SUBJECT TO WRITTEN PARENTAL CONSENT AND
22 WRITTEN AGREEMENT WITH THE COUNTY BOARD, ATTENDS A PUBLIC SCHOOL
23 ON A PART-TIME BASIS AND ATTENDS A PRIVATE CAREER SCHOOL AS DEFINED
24 UNDER § 10-101 OF THIS ARTICLE OR PARTICIPATES IN GED COURSES ON A
25 PART-TIME BASIS; OR

26 (XIII) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY
27 THE STATE SUPERINTENDENT.

28 (A-1) (1) Except as otherwise provided in this section, each child who
29 resides in this State and is 5 years old or older and under [16] 18 shall attend a public
30 school regularly during the entire school year [unless the child is otherwise receiving
31 regular, thorough instruction during the school year in the studies usually taught in
32 the public schools to children of the same age].

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

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

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

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

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

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

19 (i) Whose mental, emotional, or physical condition makes [his]
20 **THE CHILD'S** instruction detrimental to [his] **THE CHILD'S** progress; or

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

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

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

29 (ii) Permit the parents or guardians of that student to withdraw
30 [him] **THE CHILD** from public school, for as long as the attendance of the child in a
31 public school would be detrimental to [his] **THE CHILD'S** progress or [his] **THE**
32 **CHILD'S** presence in school would present a danger of serious physical harm to others.

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

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

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

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

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

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

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

22 (e-1) (1) This subsection applies only in Dorchester County, Harford
23 County, Prince George's County, Somerset County, Wicomico County, and Worcester
24 County.

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

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

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

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

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

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

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That a child who is 16 years
11 old or older and under 18 on or before July 1, 2008, but will be 18 years old or older on
12 or before July 1, 2009, shall:

13 (1) attend alternative educational programs; or

14 (2) to the extent practicable, be given information regarding GED
15 programs by the county board of education.

16 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
17 take effect July 1, 2009.

18 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
19 Section 3 of this Act, this Act shall take effect July 1, 2008.