

# SENATE BILL 436

F1

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

---

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 21, 2008

---

## CHAPTER \_\_\_\_\_

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; making this Act subject to a certain contingency; providing for a  
10 delayed effective date; and generally relating to the age of compulsory school  
11 attendance.

12 BY repealing and reenacting, with amendments,  
13 Article – Education  
14 Section 7–301  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2007 Supplement)

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

19 **Article – Education**

20 7–301.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1           (a)    **(1) THIS SECTION DOES NOT APPLY TO A CHILD UNDER THE AGE**  
2 **OF ~~18~~ 17 YEARS WHO:**

3                   **(I) HAS OBTAINED A MARYLAND HIGH SCHOOL DIPLOMA,**  
4 **AN EQUIVALENT OUT-OF-STATE HIGH SCHOOL DIPLOMA, OR A GED;**

5                   **(II) IS A STUDENT WITH DISABILITIES AND HAS COMPLETED**  
6 **THE REQUIREMENTS FOR A MARYLAND HIGH SCHOOL CERTIFICATE OF**  
7 **COMPLETION;**

8                   **(III) IS RECEIVING REGULAR, THOROUGH INSTRUCTION**  
9 **DURING THE SCHOOL YEAR IN THE STUDIES USUALLY TAUGHT IN THE PUBLIC**  
10 **SCHOOLS TO CHILDREN OF THE SAME AGE INCLUDING HOME SCHOOLING**  
11 **UNDER COMAR 13A.10.01;**

12                   **(IV) IS SEVERELY ILL AND REQUIRES HOME OR HOSPITAL**  
13 **INSTRUCTION;**

14                   **(V) IS MARRIED;**

15                   **(VI) IS IN MILITARY SERVICE;**

16                   **(VII) IS COMMITTED BY COURT ORDER TO AN INSTITUTION**  
17 **WITHOUT AN EDUCATIONAL PROGRAM;**

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

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

22                   **(X) IS PREGNANT OR A PARENT AND IS ENROLLED IN AN**  
23 **ALTERNATIVE EDUCATIONAL PROGRAM;**

24                   **(XI) ATTENDS AN ALTERNATIVE EDUCATIONAL PROGRAM;**

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

30                   **(XIII) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY**  
31 **THE STATE SUPERINTENDENT.**

1           (A-1) (1) ~~Except~~ **BEGINNING WITH THE 2009 – 2010 SCHOOL YEAR,**  
2 **EXCEPT** as otherwise provided in this section, each child who resides in this State and  
3 is 5 years old or older and under [16] ~~18~~ **17** shall attend a public school regularly  
4 during the entire school year [unless the child is otherwise receiving regular, thorough  
5 instruction during the school year in the studies usually taught in the public schools to  
6 children of the same age].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (e-1) (1) This subsection applies only in Dorchester County, Harford  
30 County, Prince George's County, Somerset County, Wicomico County, and Worcester  
31 County.

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

35 (3) (i) For a person with legal custody or care and control of a child  
36 at the time of an alleged violation of this section, it is an affirmative defense to a  
37 charge under this section that the person made reasonable and substantial efforts to

1 see that the child attended school as required by law but was unable to cause the child  
2 to attend school.

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

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

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

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

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

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

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

17 (1) attend alternative educational programs; or

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

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

22 ~~SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in~~  
23 ~~Section 3 of this Act, this Act shall take effect July 1, 2008. this Act shall take effect~~  
24 July 1, 2009, contingent on the approval by the General Assembly of the fiscal 2011  
25 State budget including at least \$45,000,000 to implement this Act beginning with the  
26 2010-2011 school year and, if the fiscal 2011 State budget does not include at least  
27 \$45,000,000 to implement this Act, this Act, with no further action required by the  
28 General Assembly, shall be null and void and of no force and effect.