

# HOUSE BILL 1321

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By: **Delegates Conway, Eckardt, Elmore, and Haddaway**

Introduced and read first time: February 17, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Truancy Reduction Pilot Program - Repeal of Sunset**

3 FOR the purpose of repealing the termination date of provisions of law relating to a  
4 Truancy Reduction Pilot Program; clarifying that certain provisions of law  
5 relating to a Truancy Reduction Pilot Program apply only in certain counties  
6 and under certain circumstances; authorizing a certain school official to file a  
7 certain petition with the juvenile court if the court steted a certain charge;  
8 providing for the transfer of certain cases under certain circumstances;  
9 requiring the Chief Judge of the Court of Appeals to report to the General  
10 Assembly on each Truancy Reduction Pilot Program on or before a certain date  
11 each year; and generally relating to a Truancy Reduction Pilot Program.

12 BY repealing and reenacting, with amendments,  
13 Article - Courts and Judicial Proceedings  
14 Section 3-8C-01, 3-8C-04, 3-8C-08, 3-8C-09, and 3-8C-10  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2008 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 3-8C-02, 3-8C-03, 3-8C-05, 3-8C-06, and 3-8C-07  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2008 Supplement)

22 BY adding to  
23 Article - Courts and Judicial Proceedings  
24 Section 3-8C-08 and 3-8C-11  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2008 Supplement)

27 BY repealing and reenacting, without amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Education  
 2 Section 7–301 (a) and (e)  
 3 Annotated Code of Maryland  
 4 (2008 Replacement Volume)

5 BY repealing and reenacting, with amendments,  
 6 Article – Education  
 7 Section 7–301(e–1)  
 8 Annotated Code of Maryland  
 9 (2008 Replacement Volume)

10 BY repealing and reenacting, with amendments,  
 11 Chapter 551 of the Acts of the General Assembly of 2004, as amended by  
 12 Chapter 648 of the Acts of the General Assembly of 2007  
 13 Section 4

14 BY repealing and reenacting, with amendments,  
 15 Chapter 648 of the Acts of the General Assembly of 2007  
 16 Section 2

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

19 **Article – Courts and Judicial Proceedings**

20 3–8C–01.

21 This subtitle applies only [in Dorchester County, Harford County, Prince  
 22 George’s County, Somerset County, Wicomico County, and Worcester County]:

23 **(1) IN A COUNTY IN WHICH THE CIRCUIT ADMINISTRATIVE JUDGE**  
 24 **HAS ESTABLISHED A TRUANCY REDUCTION PILOT PROGRAM UNDER § 3–8C–02**  
 25 **OF THIS SUBTITLE; AND**

26 **(2) TO THE EXTENT THAT FUNDS ARE PROVIDED IN AN ANNUAL**  
 27 **STATE BUDGET FOR A TRUANCY REDUCTION PILOT PROGRAM.**

28 3–8C–02.

29 (a) (1) The Circuit Administrative Judge of the First Circuit may  
 30 establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in  
 31 Dorchester County, Somerset County, Wicomico County, and Worcester County.

32 (2) The Circuit Administrative Judge of the Third Circuit may  
 33 establish a Truancy Reduction Pilot Program in the juvenile court in Harford County.

1           (3) The Circuit Administrative Judge of the Seventh Circuit may  
2 establish a Truancy Reduction Pilot Program in the juvenile court in Prince George's  
3 County.

4           (b) After consultation with the administrative judges of the first, third, and  
5 seventh circuits, the Chief Judge of the Court of Appeals may accept a gift or grant to  
6 implement the pilot programs in each respective circuit.

7 3-8C-03.

8           (a) A child who is required under § 7-301 of the Education Article to attend  
9 school may not fail to do so without lawful excuse.

10          (b) A violation of this section is a Code violation and is a civil offense.

11          (c) Adjudication of a Code violation under this section is not a criminal  
12 conviction for any purpose and does not impose any of the civil disabilities ordinarily  
13 imposed by a criminal conviction.

14 3-8C-04.

15          (a) An authorized school official may file with the juvenile court a petition  
16 alleging a violation of this subtitle.

17          (b) If a child is under the age of 12 years, an authorized school official may  
18 file a petition under this subtitle only if:

19               (1) A criminal charge was filed under § 7-301 of the Education Article  
20 against the person with legal custody or care and control of the child at the time of the  
21 alleged violation; and

22               (2) The court dismissed **OR STETTED** the charge in accordance with §  
23 7-301(e-1) of the Education Article.

24 3-8C-05.

25          (a) A petition under this subtitle shall allege that a child who is required to  
26 attend school failed to attend school without lawful excuse and shall set forth in clear  
27 and simple language the facts supporting the allegation.

28          (b) (1) Whenever a petition is filed under this subtitle the court shall hold  
29 an adjudicatory hearing.

30               (2) The rules of evidence under Title 5 of the Maryland Rules shall  
31 apply at an adjudicatory hearing under this section.

32               (3) The allegations in a petition under this subtitle shall be proved by  
33 a preponderance of the evidence.

1 3-8C-06.

2 (a) Unless a petition filed under this subtitle is dismissed, the court shall  
3 hold a separate disposition hearing after the adjudicatory hearing.

4 (b) The court shall hold a disposition hearing on the same day as the  
5 adjudicatory hearing unless, on its own motion or motion of a party, the court finds  
6 good cause to delay the disposition hearing to a later day.

7 (c) If the court delays a disposition hearing, it shall be held no later than 15  
8 days after the conclusion of the adjudicatory hearing unless good cause is shown.

9 (d) In making a disposition on a petition filed under this subtitle, the court  
10 may order the child to:

11 (1) Attend school;

12 (2) Perform community service;

13 (3) Attend counseling, including family counseling;

14 (4) Attend substance abuse evaluation and treatment;

15 (5) Attend mental health evaluation and treatment; or

16 (6) Keep a curfew with the hours set by the court.

17 (e) Cases under this subtitle are eligible for family support services as  
18 provided in the Maryland Rules.

19 3-8C-07.

20 A criminal defendant under this subtitle is subject to:

21 (1) Any conditions of probation authorized under § 6-220 of the  
22 Criminal Procedure Article; and

23 (2) Any additional condition of probation that would promote the  
24 child's attendance in school.

25 **3-8C-08.**

26 (A) (1) **IF A PETITION IS FILED UNDER THIS SUBTITLE IN A COUNTY**  
27 **OTHER THAN THE COUNTY WHERE THE CHILD IS LIVING OR DOMICILED, THE**  
28 **COURT ON ITS OWN MOTION, OR ON MOTION OF A PARTY, MAY TRANSFER THE**

1 PROCEEDINGS TO THE COUNTY OF RESIDENCE OR DOMICILE AT ANY TIME  
2 PRIOR TO FINAL TERMINATION OF JURISDICTION.

3 (2) IN ITS DISCRETION, THE COURT TO WHICH THE CASE IS  
4 TRANSFERRED MAY TAKE FURTHER ACTION.

5 (B) EVERY DOCUMENT, SOCIAL HISTORY, AND RECORD ON FILE WITH  
6 THE CLERK OF THE COURT PERTAINING TO THE CASE SHALL ACCOMPANY THE  
7 TRANSFER.

8 [3-8C-08.] **3-8C-09.**

9 Except as otherwise provided in this subtitle, the Maryland Rules govern the  
10 format of the petition and the procedures to be followed by the court and the parties  
11 under this subtitle.

12 [3-8C-09.] **3-8C-10.**

13 The court shall retain jurisdiction under this subtitle until every condition of  
14 the court's order is satisfied.

15 [3-8C-10.] **3-8C-11.**

16 A party may appeal a final judgment entered under this subtitle as provided in  
17 Title 12 of this article and in the Maryland Rules.

18 **3-8C-12.**

19 ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE CHIEF JUDGE OF THE  
20 COURT OF APPEALS SHALL REPORT TO THE GENERAL ASSEMBLY, IN  
21 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON EACH  
22 TRUANCY REDUCTION PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

23 **Article - Education**

24 7-301.

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

30 (e) (1) Any person who induces or attempts to induce a child to absent  
31 himself unlawfully from school or employs or harbors any child who is absent  
32 unlawfully from school while school is in session is guilty of a misdemeanor and on

1 conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30  
2 days, or both.

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

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

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

11 (3) As to any sentence imposed under this section, the court may  
12 suspend the fine or the prison sentence and establish terms and conditions which  
13 would promote the child's attendance. The suspension authority provided for in this  
14 subsection is in addition to and not in limitation of the suspension authority under §  
15 6-221 of the Criminal Procedure Article.

16 (e-1) (1) This subsection applies only [in Dorchester County, Harford  
17 County, Prince George's County, Somerset County, Wicomico County, and Worcester  
18 County]:

19 **(I) IN A COUNTY IN WHICH A THE CIRCUIT**  
20 **ADMINISTRATIVE JUDGE HAS ESTABLISHED A TRUANCY REDUCTION PILOT**  
21 **PROGRAM UNDER § 3-8C-02 OF THE COURTS ARTICLE; AND**

22 **(II) TO THE EXTENT THAT FUNDS ARE PROVIDED IN AN**  
23 **ANNUAL STATE BUDGET FOR A TRUANCY REDUCTION PILOT PROGRAM.**

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

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

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

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

