

# 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

Re-referred to: Judiciary, March 2, 2009

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Committee Report: Favorable

House action: Adopted

Read second time: March 21, 2009

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

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

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**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 Article – Courts and Judicial Proceedings  
2 Section 3–8C–08 and 3–8C–11  
3 Annotated Code of Maryland  
4 (2006 Replacement Volume and 2008 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – Education  
7 Section 7–301 (a) and (e)  
8 Annotated Code of Maryland  
9 (2008 Replacement Volume)

10 BY repealing and reenacting, with amendments,  
11 Article – Education  
12 Section 7–301(e–1)  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume)

15 BY repealing and reenacting, with amendments,  
16 Chapter 551 of the Acts of the General Assembly of 2004, as amended by  
17 Chapter 648 of the Acts of the General Assembly of 2007  
18 Section 4

19 BY repealing and reenacting, with amendments,  
20 Chapter 648 of the Acts of the General Assembly of 2007  
21 Section 2

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

24 **Article – Courts and Judicial Proceedings**

25 3–8C–01.

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

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

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

33 3–8C–02.

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

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

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

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

12 3-8C-03.

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

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

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

19 3-8C-04.

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

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

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

27 (2) The court dismissed **OR STETTED** the charge in accordance with §  
28 7-301(e-1) of the Education Article.

29 3-8C-05.

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

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

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

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

7 3-8C-06.

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

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

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

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

17 (1) Attend school;

18 (2) Perform community service;

19 (3) Attend counseling, including family counseling;

20 (4) Attend substance abuse evaluation and treatment;

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

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

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

25 3-8C-07.

26 A criminal defendant under this subtitle is subject to:

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

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

1 **3-8C-08.**

2 (A) (1) IF A PETITION IS FILED UNDER THIS SUBTITLE IN A COUNTY  
3 OTHER THAN THE COUNTY WHERE THE CHILD IS LIVING OR DOMICILED, THE  
4 COURT ON ITS OWN MOTION, OR ON MOTION OF A PARTY, MAY TRANSFER THE  
5 PROCEEDINGS TO THE COUNTY OF RESIDENCE OR DOMICILE AT ANY TIME  
6 PRIOR TO FINAL TERMINATION OF JURISDICTION.

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

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

12 [3-8C-08.] **3-8C-09.**

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

16 [3-8C-09.] **3-8C-10.**

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

19 [3-8C-10.] **3-8C-11.**

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

22 **3-8C-12.**

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

27 **Article - Education**

28 7-301.

29 (a) (1) Except as otherwise provided in this section, each child who  
30 resides in this State and is 5 years old or older and under 16 shall attend a public  
31 school regularly during the entire school year unless the child is otherwise receiving

1 regular, thorough instruction during the school year in the studies usually taught in  
2 the public schools to children of the same age.

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

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

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

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

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

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

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

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

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

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

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

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

6 **Chapter 551 of the Acts of 2004, as amended by Chapter 648 of the Acts of**  
7 **2007**

8 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions  
9 of Section 3 of this Act, this Act shall take effect July 1, 2004. [It shall remain effective  
10 for a period of 5 years and, at the end of June 30, 2009, with no further action required  
11 by the General Assembly, this Act shall be abrogated and of no further force and  
12 effect.]

13 **Chapter 648 of the Acts of 2007**

14 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to the provisions  
15 of Section 3 of Chapter 551 of the Acts of the General Assembly of 2004 as amended by  
16 this Act, this Act shall take effect July 1, 2007. [This Act shall remain effective until  
17 the taking effect of the termination provision specified in Section 4 of Chapter 551 of  
18 the Acts of the General Assembly of 2004 as amended by this Act. If that termination  
19 provision takes effect, this Act shall be abrogated and of no further force and effect.]

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.