

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1141

(Delegate James, *et al.*)

Judiciary

Judicial Proceedings

Juvenile Law - Truancy Reduction Pilot Program - Filing of Petition

This bill repeals a requirement that a criminal compulsory attendance violation charge be filed against a person with legal custody or care and control of a child and dismissed or stetted before a child younger than age 12 is eligible to participate in a Truancy Reduction Pilot Program (TRPP).

Fiscal Summary

State Effect: Any increase in participation in TRPPs is not expected to materially impact State operations or finances.

Local Effect: Any increase in participation in TRPPs is not expected to materially impact local operations or finances.

Small Business Effect: None.

Analysis

Current Law: Families enter TRPP when a school official files a civil petition alleging that a child who is required to attend school has failed to do so without lawful excuse. For students younger than age 12, prior to participation in TRPP, a criminal charge must have been filed against the student's legal custodian and then dismissed or placed on the inactive docket (stetted) prior to participation in TRPP.

In making a disposition on the truancy petition, the court may order the student to (1) attend school; (2) perform community service; (3) attend counseling, including family counseling; (4) attend substance abuse evaluation and treatment; (5) attend mental health

evaluation and treatment; or (6) comply with a curfew set by the court. Following the disposition hearing, a review hearing is scheduled to review family assessment findings and determine appropriate services. Participants are eligible for graduation from TRPP when they have remained in the program for 90 days without any unexcused absences.

Except as otherwise provided, each child who resides in Maryland and is 5 years or older and younger than age 16 must regularly attend a public school unless the child is otherwise receiving regular, thorough instruction during the school year. Each person who has legal custody or care and control of a child who is at least age 5, but younger than age 16, must see that the child attends school or receives instruction.

Current statutory penalties focus on parents and guardians rather than children. Any person who induces or attempts to induce a child to be unlawfully absent from school, or who employs or harbors any child who is absent unlawfully from school while school is in session, is guilty of a misdemeanor. That person is subject to maximum penalties of a fine of \$500 and/or 30 days imprisonment.

Any person who has legal custody or care and control of a child who is at least 5 years old, but younger than age 16, who fails to see that the child attends school or receives instruction is guilty of a misdemeanor. For a first conviction, the violator is subject to maximum penalties of a fine of \$50 per unlawful day of absence and/or 10 days imprisonment. For a second or subsequent conviction, the violator is subject to maximum penalties of a fine of \$100 per day of unlawful absence and/or 30 days imprisonment. The court may suspend the imposed fine or prison sentence and establish terms and conditions that promote the child's attendance.

The principal or head teacher of each public or private school in Maryland must immediately report to the county superintendent, the supervisor of pupil personnel, or any other designated official, the name of each child enrolled in the school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions developed. On receipt of such a report, the appropriate school system representative must initiate an investigation into the cause of the child's truancy, and may provide counseling regarding available social, health, and educational services. Following the investigation or intervention, the representative may notify DJS that the student has been habitually truant, without lawful excuse.

A child who is required by law to attend school and is habitually truant can be designated a Child in Need of Supervision (CINS). A student is habitually truant if the student is unlawfully absent from school in excess of 20% of the school days within any marking period, semester, or year. Local school systems have the authority to define habitual truancy more narrowly. CINS cases are under the jurisdiction of the juvenile court.

Background: Chapter 551 of 2004 authorized a three-year TRPP in the juvenile courts in Dorchester, Somerset, Wicomico, and Worcester counties. Chapter 648 of 2007 extended the term of TRPP and authorized the establishment of TRPP in the juvenile courts of Harford and Prince George's counties. Similar to drug courts, truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. Chapter 718 of 2009 repealed the termination date of TRPP, establishing permanent truancy courts in Dorchester, Harford, Prince George's, Wicomico, and Worcester counties.

According to the Office of Problem-Solving Courts Annual Report, the truancy courts collectively served 167 children in fiscal 2009 (the most current year for which data is readily available).

This bill is intended to allow for direct referrals to truancy court for younger children. The Judiciary indicates that judges have encountered impediments in getting referrals to the truancy courts on younger children because of the requirement for criminal charges to be filed against the parent as a prerequisite to filing a truancy petition. The filing of a criminal charge is one that local authorities have in the past used sparingly and only in the most extreme cases. This requirement also prolongs the period of time that must pass before a case can be referred to the truancy court.

Truancy, or unexcused absence from school, is a problem nationwide. A recent U.S. Department of Justice report cites truancy as a significant risk factor for substance abuse, delinquency, gang activity, and dropping out of school. In another study, the department found that approximately two-thirds of serious violent offenders and half of serious nonviolent offenders had been truants. A 2007 report from the National Center for School Engagement in Colorado cited a number of studies showing that effective truancy reduction programs can produce a marked decline in delinquent acts committed by school-age youth.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard County, Maryland State Department of Education, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Office of the Public Defender, Department of Legislative Services

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