

SENATE BILL 362

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SB 41/11 – EHE

2lr1323
CF 2lr1762

By: **Senators Pugh, Benson, Conway, Currie, Forehand, Garagiola,
Jones–Rodwell, Madaleno, McFadden, and Stone**

Introduced and read first time: January 30, 2012

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Age for Compulsory Public School Attendance – Exemptions**

3 FOR the purpose of altering the age at which certain children are required to attend a
4 public school regularly during the entire school year, subject to certain
5 exceptions; altering the age of certain children for which certain persons are
6 responsible for the child’s attendance at school or receipt of certain instruction;
7 making certain stylistic changes; providing for delayed effective dates; and
8 generally relating to the age for compulsory public school attendance.

9 BY repealing and reenacting, with amendments,
10 Article – Education
11 Section 7–301
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 7–301(a), (a–1)(1), (c), and (e)(2)
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2011 Supplement)
19 (As enacted by Section 1 of this Act)

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

22 **Article – Education**

23 7–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

14 **(5) IS MARRIED;**

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

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

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

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

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

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

25 **(12) SUBJECT TO WRITTEN PARENTAL CONSENT AND WRITTEN**
26 **AGREEMENT WITH THE COUNTY BOARD, ATTENDS A PUBLIC SCHOOL ON A**
27 **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**

1 **(13) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY THE**
2 **STATE SUPERINTENDENT.**

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

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

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

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

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

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

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

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

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

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

34 (i) Make other appropriate provisions for the free education of
35 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] **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) **(I)** As to any sentence imposed under this section, the court
25 may suspend the fine or the prison sentence and establish terms and conditions
26 [which] **THAT** would promote the child's attendance.

27 **(II)** The suspension authority provided for [in] **UNDER**
28 **SUBPARAGRAPH (I) OF** this [subsection] **PARAGRAPH** is in addition to and not in
29 limitation of the suspension authority under § 6-221 of the Criminal Procedure
30 Article.

31 (e-1) (1) This subsection applies only:

32 (i) In a county in which the circuit administrative judge has
33 established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article;
34 and

1 (ii) To the extent that funds are provided in an annual State
2 budget for a Truancy Reduction Pilot Program.

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

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

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

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

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

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

20 (2) Full time in a registered family child care home; or

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article – Education**

25 7–301.

26 (a) This section does not apply to a child under the age of [17] 18 years who:

27 (1) Has obtained a Maryland high school diploma, an equivalent
28 out-of-state high school diploma, or a GED;

29 (2) Is a student with disabilities and has completed the requirements
30 for a Maryland high school certificate of completion;

1 (3) Is receiving regular, thorough instruction during the school year in
2 the studies usually taught in the public schools to children of the same age, including
3 home schooling under COMAR 13A.10.01;

4 (4) Is severely ill and requires home or hospital instruction;

5 (5) Is married;

6 (6) Is in military service;

7 (7) Is committed by court order to an institution without an
8 educational program;

9 (8) Provides financial support to the child's family as documented by a
10 local department of social services;

11 (9) Subject to the approval of the county superintendent, has been
12 expelled under § 7-305 of this subtitle;

13 (10) Is pregnant or a parent and is enrolled in an alternative
14 educational program;

15 (11) Attends an alternative educational program;

16 (12) Subject to written parental consent and written agreement with
17 the county board, attends a public school on a part-time basis and attends a private
18 career school as defined under § 10-101 of this article or participates in GED courses
19 on a part-time basis; or

20 (13) Is waived from the provisions of this section by the State
21 Superintendent.

22 (a-1) (1) Except as otherwise provided in this section, each child who
23 resides in this State and is 5 years old or older and under [17] 18 shall attend a public
24 school regularly during the entire school year.

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

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

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

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

4 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
5 take effect July 1, 2016.

6 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
7 Section 3 of this Act, this Act shall take effect June 1, 2014.