

SENATE BILL 160

F1, E3

8lr1621
CF 8lr0425

By: **Senators Nathan–Pulliam, Benson, Guzzone, Madaleno, McFadden, Robinson, Rosapepe, and Young**

Introduced and read first time: January 15, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Truancy – Affirmative Defense**

3 FOR the purpose of altering the application of a certain affirmative defense to a certain
4 charge relating to truancy; and generally relating to an affirmative defense against
5 a charge relating to truancy.

6 BY repealing and reenacting, with amendments,
7 Article – Education
8 Section 7–301(e) and (e–1)
9 Annotated Code of Maryland
10 (2014 Replacement Volume and 2017 Supplement)

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

13 **Article – Education**

14 7–301.

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

19 (2) Any person who has legal custody or care and control of a child who is
20 5 years old or older and under 18 who fails to see that the child attends school or receives
21 instruction under this section is guilty of a misdemeanor and:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (3) (I) FOR A PERSON WITH LEGAL CUSTODY OR CARE AND
4 CONTROL OF A CHILD AT THE TIME OF AN ALLEGED VIOLATION OF THIS SECTION, IT
5 IS AN AFFIRMATIVE DEFENSE TO A CHARGE UNDER THIS SECTION THAT THE PERSON
6 MADE REASONABLE AND SUBSTANTIAL EFFORTS TO SEE THAT THE CHILD
7 ATTENDED SCHOOL AS REQUIRED BY LAW BUT WAS UNABLE TO CAUSE THE CHILD
8 TO ATTEND SCHOOL.

9 (II) IF THE COURT FINDS THE AFFIRMATIVE DEFENSE IS VALID,
10 THE COURT SHALL DISMISS THE CHARGE UNDER THIS SECTION AGAINST THE
11 DEFENDANT.

12 (4) (i) As to any sentence imposed under this section, the court may
13 suspend the fine or the prison sentence and establish terms and conditions that would
14 promote the child's attendance.

15 (ii) The suspension authority provided for under subparagraph (i) of
16 this paragraph is in addition to and not in limitation of the suspension authority under §
17 6-221 of the Criminal Procedure Article.

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

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

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

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

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

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2018.