

Chapter 706

(House Bill 319)

AN ACT concerning

Juvenile Law – Truancy – ~~Affirmative Defense~~

FOR the purpose of altering the age range for which a certain charge relating to truancy is applicable; reducing the maximum terms of imprisonment that may be imposed on conviction of certain charges relating to truancy; authorizing the imposition of community service on conviction of certain charges related to truancy; altering the application of a certain affirmative defense to a certain charge relating to truancy; and generally relating to ~~an affirmative defense against a charge relating to~~ truancy.

BY repealing and reenacting, with amendments,

Article – Education

Section ~~7-301(c) and (e-1)~~ 7-301(c), (e), and (e-1)

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)

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

Article – Education

7-301.

(c) Each person who has legal custody or care and control of a child who is 5 years old or older and under [18] **16** shall see that the child attends school or receives instruction as required by this section.

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

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under ~~18~~ **16** who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed ~~10~~ **3** days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed ~~30~~ **5** days, or both.

(3) IN ADDITION TO THE PENALTIES PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT MAY ORDER A PERSON CONVICTED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO PERFORM COMMUNITY SERVICE.

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

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

~~(4)~~ **(5)** (i) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions that would promote the child's attendance.

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

(e–1) (1) This subsection applies only:

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

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

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

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

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

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

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

Approved by the Governor, May 15, 2018.