

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in pupils and attendance, further
6 providing for definitions and for penalties for violation of
7 compulsory attendance requirements and providing for
8 procedure by school when child habitually truant, for
9 procedure upon filing of citation and for penalties for
10 violating compulsory school attendance requirements.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 1326 of the act of March 10, 1949
14 (P.L.30, No.14), known as the Public School Code of 1949, is
15 amended to read:

16 Section 1326. Definitions.--[The term "compulsory school
17 age," as hereinafter used, shall mean the period of a child's
18 life from the time the child's parents elect to have the child
19 enter school, which shall be not later than at the age of eight
20 (8) years, until the age of seventeen (17) years. The term shall
21 not include any child who holds a certificate of graduation from

1 a regularly accredited senior high school.

2 The term "migratory child," wherever used in this subdivision
3 of this article, shall include any child domiciled temporarily
4 in any school district for the purpose of seasonal employment,
5 but not acquiring residence therein, and any child accompanying
6 his parent or guardian who is so domiciled.] When used in this
7 article, the following words and phrases shall have the
8 following meanings:

9 "Citation" shall mean a nontraffic citation or private
10 criminal complaint.

11 "Compulsory school age" shall mean the period of a child's
12 life between eight (8) and seventeen (17) years of age. The term
13 does not include a child who holds a certificate of graduation
14 from a regularly accredited, licensed, registered or approved
15 high school.

16 "Conviction" shall mean a conviction under section 1333.2 for
17 violation of the requirement for compulsory school attendance.

18 "Court" shall mean a magisterial district court or a court of
19 common pleas.

20 "Department" shall mean the Department of Education of the
21 Commonwealth.

22 "Excused absence" shall mean an absence from school which is
23 permitted under section 1329.

24 "Governing body" shall mean the board of school directors of
25 a school district or any other governing entity of a school.

26 "Habitually truant" shall mean six (6) or more school days of
27 unexcused absences during the current school year by a child
28 subject to compulsory school attendance under this article.

29 "Judge" shall mean a magisterial district judge or a judge of
30 a court of common pleas.

1 "Juvenile act" shall mean the provisions of 42 Pa.C.S. Ch. 63
2 (relating to juvenile matters).

3 "Migratory child" shall mean a child domiciled temporarily in
4 a school district for the purpose of seasonal employment, but
5 not acquiring residence therein, and a child accompanying his or
6 her person in parental relation who is so domiciled.

7 "Offense" shall mean each citation filed under section 1333.1
8 for a violation of the requirement for compulsory school
9 attendance under this article regardless of the number of
10 unexcused absences alleged in the citation.

11 "Person in parental relation" shall mean a:

12 (1) Custodial biological or adoptive parent.

13 (2) Noncustodial biological or adoptive parent.

14 (3) Guardian of the person of a child.

15 (4) Person with whom a child lives and who is acting in a
16 parental role of a child.

17 This definition shall not include any county agency or person
18 acting as an agent of the county agency in the jurisdiction of a
19 dependent child defined under 42 Pa.C.S. § 6302 (relating to
20 definitions). This definition shall not expand the right of a
21 child under any other section of this act.

22 "School" shall mean the educational entity in which the child
23 is enrolled and at which a resident of this Commonwealth may
24 legally fulfill the compulsory school attendance requirements of
25 this article.

26 "School attendance improvement conference" shall mean a
27 conference where the child's absences and reasons therefore are
28 examined in an effort to improve attendance, with or without
29 additional services, and to which the child, the child's person
30 in parental relation, other individuals identified by the person

1 in parental relation who may be a resource, appropriate school
2 personnel and recommended service providers shall be invited.

3 "School day" shall mean the length of time that a child
4 subject to compulsory school attendance is expected to be
5 receiving instruction during a calendar day, as determined by
6 the governing body.

7 "School year" shall have the same meaning as "school term" as
8 defined in section 102, as applicable to a school district, and
9 as further defined in section 1327(b) for a day school which is
10 operated by a bona fide church or other religious body, section
11 1327.1(c) for a day school or boarding school accredited by an
12 accrediting association which is approved by the State Board of
13 Education, section 1327.1(d) for a home education program, and
14 sections 1501 and 1504 for a public kindergarten, elementary or
15 secondary school or a school district.

16 "Truant" shall mean three (3) or more school days of
17 unexcused absences during the current school year by a child
18 subject to compulsory school attendance under this article.

19 "Unexcused absence" shall mean an absence from school which
20 is not permitted by the provisions of section 1329 and for which
21 an approved explanation has not been submitted within the time
22 period and in the manner prescribed by the governing body. An
23 out-of-school suspension may not be considered an unexcused
24 absence.

25 Section 2. Section 1333 of the act, amended November 17,
26 1995 (1st Sp.Sess. P.L.1110, No.29), is amended to read:

27 Section 1333. [Penalties for Violation of Compulsory
28 Attendance Requirements.--(a) (1) Every parent, guardian, or
29 person in parental relation, having control or charge of any
30 child or children of compulsory school age, who shall fail to

1 comply with the provisions of this act regarding compulsory
2 attendance, shall on summary conviction thereof, be sentenced to
3 pay a fine, for the benefit of the school district in which such
4 offending person resides, not exceeding three hundred dollars
5 (\$300) and to pay court costs or be sentenced to complete a
6 parenting education program offered and operated by a local
7 school district, medical institution or other community
8 resources, and, in default of the payment of such fine and costs
9 or completion of the parenting program by the person so
10 offending, shall be sentenced to the county jail for a period
11 not exceeding five (5) days. Any person sentenced to pay any
12 such fine may appeal to the court of common pleas of the proper
13 county, upon entering into a recognizance, with one or more
14 proper sureties, in double the amount of penalty and costs.
15 Before any proceedings are instituted against any parent,
16 guardian, or person in parental relation, for failure to comply
17 with the provisions of this act, the district superintendent,
18 attendance officer, or secretary of the board of school
19 directors, shall give the offending person three (3) days'
20 written notice of such violation. If, after such notice has been
21 given, the provisions of this act regarding compulsory
22 attendance are again violated by the persons so notified, at any
23 time during the term of compulsory attendance, such person, so
24 again offending, shall be liable under the provisions of this
25 section without further notice.

26 (2) The child and every parent, guardian or person in
27 parental relation must appear at a hearing established by the
28 district justice. If the parent, guardian or person in parental
29 relation charged with a summary offense under this subsection
30 shows that he or she took every reasonable step to insure

1 attendance of the child at school, he or she shall not be
2 convicted of the summary offense.

3 (3) Upon a summary conviction, the district justice may
4 suspend, in whole or in part, a sentence in which a parent,
5 guardian or person in parental relation is summoned to pay as
6 required under this section: Provided, That the child no longer
7 is habitually truant from school without justification.

8 (4) In lieu of or in addition to any other sentence imposed
9 under this section, the district justice may order the parent,
10 guardian or person in parental relation to perform community
11 service in the school district in which the offending child
12 resides for a period not to exceed six (6) months.

13 (b) (1) If the parent, guardian or person in parental
14 relation is not convicted of a summary offense because he or she
15 took every reasonable step to insure attendance of the child at
16 school, a child of compulsory school age who has attained the
17 age of thirteen (13) years and fails to comply with the
18 provisions of this act regarding compulsory attendance or who is
19 habitually truant from school without justification commits a
20 summary offense and except as provided in clause (4) shall, upon
21 conviction, be sentenced to pay a fine not exceeding three
22 hundred dollars (\$300) for each offense for the benefit of the
23 school district in which such offending child resides or shall
24 be assigned to an adjudication alternative program pursuant to
25 42 Pa.C.S. § 1520 (relating to adjudication alternative
26 program).

27 (2) For any child who has attained the age of thirteen (13)
28 years who fails to pay the fine under clause (1) or to comply
29 with the adjudication alternative program, the district justice
30 may allege the child to be dependent under 42 Pa.C.S. § 6303(a)

1 (1) (relating to scope of chapter). The failure by the child to
2 pay a fine or comply with the adjudication alternative program
3 shall not constitute a delinquent act under 42 Pa.C.S. Ch. 63
4 (relating to juvenile matters).

5 (3) Upon a summary conviction or assignment to an
6 adjudication alternative program, the district justice may
7 suspend, in whole or in part, a sentence or an adjudication
8 alternative program in which a child who has attained the age of
9 thirteen (13) years must pay or comply with the adjudication
10 alternative program: Provided, That the child no longer is
11 habitually truant from school without justification.

12 (4) Any child who has not attained the age of thirteen (13)
13 years who fails to comply with the compulsory attendance
14 provisions of this act and is habitually truant shall be
15 referred by the school district for services or possible
16 disposition as a dependent child as defined under 42 Pa.C.S. §
17 6302 (relating to definitions). Any child who has attained the
18 age of thirteen (13) years who fails to comply with the
19 compulsory attendance provisions of this act and is habitually
20 truant may, in lieu of a prosecution under clause (1), be
21 referred by the school district for services or possible
22 disposition as a dependent child as defined under 42 Pa.C.S. §
23 6302.

24 (5) The following words, when used in this subsection, shall
25 have the following meaning, except where the context clearly
26 indicates or requires a different meaning:

27 "Community resources" shall mean those agencies and services
28 for children and youth provided by the juvenile court, the
29 county, the Department of Health, the Department of Public
30 Welfare and other public or private institutions.

1 "District justice" shall mean such court as the court of
2 common pleas shall direct in counties not having district
3 justices.

4 "Habitually truant" shall mean absence for more than three
5 (3) school days or their equivalent following the first notice
6 of truancy given under section 1354. A person may be habitually
7 truant after such notice.

8 "Offense" shall mean each citation which goes before a
9 district justice or court of common pleas.

10 "Person in parental relation" shall not include any county
11 agency or person acting as an agent of the county agency in the
12 jurisdiction of a dependent child defined under 42 Pa.C.S. §
13 6302 (relating to definitions).

14 (c) If a child is convicted for a violation of this section,
15 the court, including a court not of record, shall send to the
16 Department of Transportation a certified record of the
17 conviction or other disposition on a form prescribed by the
18 department.

19 (d) Nothing in this section shall be construed to apply to a
20 parent, guardian or person in parental relation whose child or
21 children are in a home education program under section 1327.1.]

22 Procedure When Child is Truant.--(a) (1) When a child is
23 truant the school shall provide written notice to the person in
24 parental relation who resides in the same household as the child
25 of the child's violation of compulsory school attendance within
26 ten (10) school days of the child's third unexcused absence.

27 (2) The notice required under paragraph (1):

28 (i) Shall include a description of the consequences that
29 will follow if the child becomes habitually truant.

30 (ii) Shall be in a form and use language that would be

1 considered reasonably understandable by the person in parental
2 relation.

3 (iii) May include the offer of a school attendance
4 improvement conference.

5 (3) If the individual receiving notification under paragraph
6 (1) is not the biological or adoptive parent, written notice
7 shall also be provided to the child's biological or adoptive
8 parents if their mailing addresses are on file with the school
9 and they are not precluded to receive the information by a court
10 order.

11 (b) (1) If unexcused absences continue after the school has
12 issued the notice required under subsection (a), the school
13 shall offer, by advance written notice, a school attendance
14 improvement conference to the child and person in parental
15 relation unless such a conference was previously held following
16 the notice provided under subsection (a) (1). This subsection
17 shall not be construed to place a legal obligation on the child
18 or the person in parental relation to attend the conference. The
19 conference may occur if the person in parental relation declines
20 to participate.

21 (2) The outcome of the conference shall be documented in a
22 written school attendance improvement plan. The department shall
23 develop a form to be used for this purpose, and each school
24 shall use a form substantially similar to the form developed by
25 the department.

26 (3) The school may not take further legal action to address
27 unexcused absences by the child until after the date for the
28 scheduled school attendance improvement conference has passed.

29 Section 3. The act is amended by adding sections to read:

30 Section 1333.1. Procedure By School When Child Habitually

1 Truant.--(a) When a child is habitually truant and under
2 fifteen (15) years of age at the time of referral, the school:
3 (1) Shall refer the child to either of the following:
4 (i) A school-based or community-based attendance improvement
5 program.
6 (ii) The county children and youth agency for services or
7 for possible disposition as a dependent child under the
8 provisions of 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
9 (2) May file a citation in the office of the appropriate
10 magisterial district judge against the person in parental
11 relation who resides in the same household as the child.
12 (b) When a child is habitually truant and fifteen (15) years
13 of age or older at the time of referral, the school shall
14 either:
15 (1) Refer the child to a school-based or community-based
16 attendance improvement program or service.
17 (2) File a citation in the office of the appropriate
18 magisterial district judge against the child or the person in
19 parental relation who resides in the same household as the
20 child.
21 (c) If a child who is fifteen (15) years of age or older
22 continues to incur additional unexcused absences after being
23 referred to a school-based or community-based attendance
24 improvement program or refuses to participate in a school-based
25 or community-based attendance improvement program as recommended
26 through the school attendance improvement conference, the school
27 may refer the child to the county children and youth agency for
28 possible disposition as a dependent child under the provisions
29 of 42 Pa.C.S. Ch. 63.
30 (d) When referring a habitually truant child to the county

1 children and youth agency or filing a citation with the
2 magisterial district court because a child has been habitually
3 truant, the school shall provide verification that a school
4 attendance improvement conference was offered.

5 Section 1333.2. Procedure Upon Filing of Citation.--(a) The
6 venue for the filing of a citation under section 1333.1 shall be
7 based on the location of the school in which the child is
8 enrolled.

9 (b) When a citation is filed against a child or a person in
10 parental relation who resides in the same household as the child
11 under the provisions of section 1333.1, the magisterial district
12 judge shall provide the following notices:

13 (1) Written notice of the hearing with respect to the
14 citation to the school, the person in parental relation, the
15 child and the county children and youth agency.

16 (2) Notice to the child or person in parental relation who
17 resides in the same household as the child of the availability
18 of a preconviction diversionary program authorized under 42
19 Pa.C.S. § 1520 (relating to adjudication alternative program).

20 (c) At the hearing with respect to the citation, the burden
21 is upon the school to prove beyond a reasonable doubt that the
22 child was habitually truant in noncompliance with the compulsory
23 school attendance requirements of this article.

24 (d) If the citation is filed against the person in parental
25 relation who resides in the same household as the child, it is a
26 defense if the person in parental relation can prove by a
27 preponderance of the evidence that every reasonable step to
28 ensure attendance of the child at school was taken.

29 (e) Before entering a sentence, the judge shall permit the
30 school, person in parental relation or child to present relevant

1 information that will assist the judge in making an informed
2 decision regarding the appropriate sentence. The judge may
3 consider the child's school attendance after the citation was
4 filed and while the proceeding was pending for the purpose of
5 imposing a sentence.

6 Section 1333.3. Penalties for Violating Compulsory School
7 Attendance Requirements.--(a) A person convicted of a summary
8 offense under section 1333.2 may be sentenced:

9 (1) To pay a fine for the benefit of the school in an amount
10 not exceeding three hundred dollars (\$300) for each citation,
11 together with court costs.

12 (2) To perform community service.

13 (3) To complete an appropriate course or program designed to
14 improve school attendance, which has been approved by the
15 president judge of the judicial district.

16 (b) The court may suspend the sentence of a person convicted
17 under the provisions of sections 1333, 1333.1 and 1333.2 and may
18 remit or waive fines and costs if the child attends school in
19 accordance with a plan devised by the court.

20 (c) A person convicted of a summary offense under this
21 section by a magisterial district judge shall have a right to
22 appeal de novo to a court of common pleas of the proper county
23 within thirty (30) days after conviction. Thereafter, the appeal
24 shall proceed as any other appeal of a summary conviction.

25 (d) No citation shall be filed against a child or a person
26 in parental relation who resides in the same household as the
27 child for a subsequent violation of compulsory school attendance
28 if any of the following circumstances apply:

29 (1) A proceeding under sections 1333.1 and 1333.2 is already
30 pending against the child or the person in parental relation who

1 resides in the same household as the child until the judgment
2 has been entered in such proceeding unless a warrant has been
3 issued for failure of that parent or child to appear before the
4 court and the warrant has not yet been served.

5 (2) A referral for services has been made to the county's
6 children and youth agency under section 1333.1 and the agency
7 has not closed the case.

8 (3) A petition has been filed alleging the child is
9 dependent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters)
10 due to being habitually truant and the case remains under the
11 jurisdiction of the juvenile court.

12 (e) Upon a second or subsequent conviction of a child or a
13 person in parental relation who resides in the same household as
14 the child for a violation of the compulsory school attendance
15 requirements of this article in a court within this Commonwealth
16 within a period of three (3) years, the court shall refer the
17 child for services or possible disposition as a dependent child
18 under 42 Pa.C.S. Ch. 63.

19 (f) Upon the willful failure of a person to satisfy a fine
20 or costs imposed under this section, to comply with a payment
21 plan or to comply with any other part of the sentence imposed by
22 the court under subsection (a), the following shall apply:

23 (1) The court may, after finding that the person has the
24 ability to pay the financial obligation imposed:

25 (i) In the case of a person in parental relation who resides
26 in the same household as the child, impose a period of
27 incarceration not to exceed five (5) days.

28 (ii) Impose community service.

29 (2) In the case of a child, the failure shall not be
30 considered a delinquent act, provided that the president judge

1 of the judicial district may adopt a local policy pursuant to 42
2 Pa.C.S. § 6304 (relating to powers and duties of probation
3 officers) and the Pennsylvania Rules of Juvenile Court Procedure
4 to provide that a juvenile probation officer may receive
5 allegations that the child is dependent for the purpose of
6 considering the commencement of proceedings under 42 Pa.C.S. Ch.
7 63.

8 (g) (1) If a child is convicted of a violation of the
9 compulsory school attendance requirements of this article, the
10 court may send the Department of Transportation a certified
11 record of the conviction on a form prescribed by the department
12 only if the child fails to comply with a lawful sentence entered
13 for the violation.

14 (2) The Department of Transportation shall suspend for
15 ninety (90) days the operating privilege of a child upon
16 receiving a certified record that the child was convicted of a
17 summary offense under the compulsory school attendance
18 requirements of this article. If the Department of
19 Transportation receives a certified record of a second or
20 subsequent conviction of a child pursuant to this section, the
21 department shall suspend the child's operating privilege for six
22 (6) months.

23 (3) A child whose record is received by the Department of
24 Transportation under this section and who does not have a
25 driver's license shall be ineligible to apply for a driver's
26 license under 75 Pa.C.S. § 1505 (relating to learners' permits)
27 and 1507 (relating to application for driver's license or
28 learner's permit by minor) for the time period specified in
29 paragraph (2). If the child is under sixteen (16) years of age
30 when convicted, suspension of operating privileges shall

1 commence in accordance with 75 Pa.C.S. § 1541 (relating to
2 period of disqualification, revocation or suspension of
3 operating privilege) for the time specified in paragraph (2).

4 (4) A child whose driving privileges have been suspended or
5 whose eligibility for a permit or license is delayed under this
6 section may have that license or eligibility restored by
7 providing the Department of Transportation with a form developed
8 by the Department of Transportation containing the following
9 information in the form of a certified record from the child's
10 school that the child:

11 (i) Has attended school for a period of at least two (2)
12 months after the first conviction or four (4) months after the
13 second conviction without an unexcused absence or unexcused
14 tardy.

15 (ii) Has no school disciplinary actions pending or has not
16 served a disciplinary sanction during the period of the
17 suspension or delay.

18 (iii) Is attending and passing all classes.

19 (5) An insurer may not increase premiums, impose a surcharge
20 or rate penalty, make a driver record point assignment for
21 automobile insurance or cancel or refuse to renew an automobile
22 insurance policy on account of a suspension under this section.

23 Section 4. Section 1338.1 of the act, added November 17,
24 1995 (1st Sp.Sess. P.L.1110, No.29), is repealed:

25 [Section 1338.1. Suspension of Operating Privilege.--(a)
26 The Department of Transportation shall suspend for 90 days the
27 operating privilege of any child upon receiving a certified
28 record that the child was convicted of violating section 1333.
29 If the department receives a second or subsequent conviction for
30 a child's violation of section 1333, the department shall

1 suspend the child's operating privilege for six months.

2 (b) Any child whose record is received by the department
3 under section 1333(c) and who does not have a driver's license
4 shall be ineligible to apply for a driver's license under 75
5 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507
6 (relating to application for driver's license or learner's
7 permit by minor) for the time periods specified in subsection
8 (a). If the child is under sixteen (16) years of age when
9 convicted, suspension of operating privileges shall commence in
10 accordance with 75 Pa.C.S. § 1541 (relating to period of
11 revocation or suspension of operating privilege) for the time
12 specified in subsection (a).

13 (c) An insurer may not increase premiums, impose any
14 surcharge or rate penalty or make any driver record point
15 assignment for automobile insurance, nor shall an insurer cancel
16 or refuse to renew an automobile insurance policy on account of
17 a suspension under this section.]

18 Section 5. This act shall take effect as follows:

19 (1) The addition of section 1333.3 of the act shall take
20 effect immediately.

21 (2) The remainder of this act shall take effect by the
22 start of the school year beginning nine months after the
23 passage of this act.