

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 98

Special Session No. 1 of
1995

INTRODUCED BY MOWERY, RHOADES, HART, O'PAKE, LOEPER, FISHER,
GERLACH, HELFRICK, ROBBINS, HOLL, MUSTO, SALVATORE, BAKER AND
ULIANA, MAY 22, 1995

REFERRED TO EDUCATION, MAY 22, 1995

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," further providing for penalties for
6 truancy; providing for suspension of operating privilege and
7 for antitrucancy programs; and further providing for arrests
8 of children failing to attend school and for power of arrest.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 1333 of the act of March 10, 1949
12 (P.L.30, No.14), known as the Public School Code of 1949,
13 amended January 14, 1970 (1969 P.L.468, No.192), is amended to
14 read:

15 Section 1333. Penalties for Violation of Compulsory
16 Attendance Requirements.--(a) (1) Every parent, guardian, or
17 person in parental relation, having control or charge of any
18 child or children of compulsory school age, who shall fail to
19 comply with the provisions of this act regarding compulsory
20 attendance, shall on summary conviction thereof, be sentenced to

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

28 (2) After the first offense, for every succeeding offense
29 every parent, guardian or person in parental relation must
30 appear at a hearing established by the district justice. If the

parent, guardian or person in parental relation charged with a summary offense under this subsection shows that he or she took every reasonable step to insure attendance of the child at school, he or she shall not be convicted of the summary offense.

(3) For a first offense, and in addition to any other sentence imposed under this section, the district justice may impose upon the offending child who has attained the age of thirteen (13) years a fine not exceeding three hundred dollars (\$300) or assign the child under 42 Pa.C.S. § 1520 (relating to adjudication alternative program).

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

(b) (1) If the parent, guardian or person in parental relation is not convicted of a summary offense because he or she took every reasonable step to insure attendance of the child at school, a child of compulsory school age who has attained the age of thirteen (13) years and fails to comply with the provisions of this act regarding compulsory attendance or who is habitually truant from school without justification commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding three hundred dollars (\$300) for each offense for the benefit of the school district in which such offending child resides or shall be assigned to an adjudication alternative program pursuant to 42 Pa.C.S. § 1520. The child shall appear at the hearing, established by the district justice, accompanied by his or her parent, guardian, or person

1 in parental relation.

2 (2) For any child who has attained the age of thirteen (13)
3 years who fails to pay the fine under clause (1) or to comply
4 with the adjudication alternative program, the district justice
5 may proceed according to section 1338 of this act. The failure
6 by the child to pay a fine or comply with the adjudication
7 alternative program shall not constitute a delinquent act under
8 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

9 (3) Upon a summary conviction of either the first offense or
10 subsequent offense, the district justice may suspend, in whole
11 or in part, a sentence in which a child who has attained the age
12 of thirteen (13) years must pay or comply with the adjudication
13 alternative program: Provided, That the child no longer is
14 habitually truant from school without justification.

15 (4) Any child who has not attained the age of thirteen (13)
16 years who fails to comply with the compulsory attendance
17 provisions of this act and is habitually truant shall be
18 referred by the school district to the appropriate county agency
19 for disposition as a dependent child as defined under 42 Pa.C.S.
20 § 6302 (relating to definitions).

21 (5) Where authorized by the court of common pleas, the
22 district justice shall have authority to compel service by
23 sheriff, constable or police and secure attendance during the
24 week, day and times that the court is in session.

25 (6) The court of common pleas may elect to hear directly
26 cases brought under this section.

27 (7) The following words, when used in this subsection, shall
28 have the following meaning, except where the context clearly
29 indicates or requires a different meaning:

30 "Habitually truant" shall mean absence for more than three

(3) school days or their equivalent, following the first notice of truancy given under section 1354 of this act. A person may be habitually truant after such notice.

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

Section 2. The act is amended by adding sections to read:

Section 1338.1. Suspension of Operating Privilege.--(a) Whenever a child is adjudicated delinquent under section 1338 of this act, the court shall order the operating privilege of the child suspended for a period of one (1) year from the date of suspension. A copy of the order shall be transmitted to the Department of Transportation.

(b) Any child who is adjudicated delinquent under section 1338 of this act, and who does not have a driver's license shall be ineligible to apply for a learner's permit under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time period of one (1) year. If the child is under sixteen (16) years of age when he is adjudicated delinquent, his suspension of operating privileges shall commence upon his sixteenth birthday for the time period of one (1) year.

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

Section 1338.2. Antitruancy Programs.--The Department of Education shall formulate recommendations for the General Assembly concerning the establishment and funding of effective community-based antitruancy pilot programs. In formulating these

1 recommendations, the Department of Education shall seek advice
2 and counsel from educators, parents, students, district
3 attorneys, law enforcement representatives, attendance officers,
4 social service agencies experienced in providing services to
5 truant children, certified drug and alcohol counselors
6 experienced in treating addicted children and representatives
7 from the Pennsylvania Commission on Crime and Delinquency.

8 Section 3. Section 1341 of the act, amended October 21, 1965
9 (P.L.601, No.312), is amended to read:

10 Section 1341. Duty to Employ; Power of Arrest;
11 Certification.--(a) The board of school directors of every
12 school district of the first, second, or third class, shall, and
13 in any school district of the fourth class may, employ one or
14 more persons to be known as attendance officers, or home and
15 school visitors, whose duties shall be to enforce the provisions
16 of this act regarding compulsory attendance. Such attendance
17 officers, or home and school visitors, shall, in addition to the
18 duties imposed upon them by the provisions of this act, have
19 full police power without warrant, and may arrest or apprehend
20 any child who fails to attend school in compliance with the
21 provisions of this act, or who is incorrigible, insubordinate,
22 or disorderly during attendance at school or on his way to or
23 from school. All home and school visitors shall be legally
24 certified as such by the [Department of Public Instruction]
25 Department of Education, upon meeting such standards as shall be
26 prescribed by the State Board of Education.

27 (b) Any two or more school districts may join in the
28 appointment of an attendance officer on such terms as they may
29 mutually agree upon.

30 (c) Police officers shall have the same arrest powers as

1 attendance officers or home school visitors.

2 Section 4. Section 1343 of the act is amended to read:

3 Section 1343. Arrest of Children Failing to Attend School.--

4 When an attendance officer or police officer arrests or
5 apprehends any child who fails to attend school as required by
6 the provisions of this act, he shall promptly notify the
7 parents, guardian, or person in parental relation to such child,
8 if such person can be found in the district, and unless
9 requested by such parent, guardian, or person in parental
10 relation to place said child in a school other than public
11 school, he shall place said child in the public school in which
12 the child is, or should be, enrolled.

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

14 (1) The amendment of section 1333 of the act shall take
15 effect immediately.

16 (2) This section shall take effect immediately.

17 (3) The remainder of this act shall take effect in 60
18 days.