

AN ACT

RELATING TO COMPULSORY SCHOOL ATTENDANCE; PROVIDING FOR EARLY IDENTIFICATION OF UNEXCUSED ABSENCES AND TRUANCY; PROVIDING FOR ENFORCEMENT OF HABITUAL TRUANCY; PROVIDING FOR THE SUSPENSION OF AN HABITUAL TRUANT'S DRIVER'S LICENSE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Compulsory School Attendance Law is enacted to read:

"UNEXCUSED ABSENCES AND TRUANCY--ATTENDANCE POLICIES.--

A. As used in this section and Sections 22-12-7 and 22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year;

(2) "truant" means a student who has accumulated five unexcused absences within any twenty-day period; and

(3) "unexcused absence" means an absence from school or a class for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Law or rules of the local school board or governing authority of a private school.

B. Each school district shall maintain an

attendance policy that:

(1) provides for early identification of students with unexcused absences, truants and habitual truants and provides intervention strategies that focus on keeping truants in an educational setting and prohibit out-of-school suspension and expulsion as the punishment for truancy; and

(2) requires that class attendance be taken for every instructional day in every public school or school program in the district.

C. School districts shall report truancy and habitual truancy rates to the department in a form and at such times as the department determines."

Section 2. Section 22-12-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 170, as amended) is amended to read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--
RESPONSIBILITY.--

A. Any qualified student and any person who because of his age is eligible to become a qualified student as defined by the Public School Finance Act until attaining the age of majority shall attend a public school, a private school, a home school or a state institution. A person shall be excused from this requirement if:

(1) the person is specifically exempted by law from the provisions of this section;

(2) the person has graduated from a high

school;

(3) the person is at least seventeen years of age and has been excused by the local school board or its authorized representative upon a finding that the person will be employed in a gainful trade or occupation or engaged in an alternative form of education sufficient for the person's educational needs and the parent, guardian or other person having custody and control consents; or

(4) with consent of the parent of the person to be excused, the person is excused from the provisions of this section by the superintendent of schools of the school district in which the person is a resident and the person is under eight years of age.

B. A person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident.

C. Any parent of a person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

D. Each local school board and each governing authority of a private school shall enforce the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools."

Section 3. Section 22-12-7 NMSA 1978 (being Laws 1967, Chapter 16, Section 175, as amended) is amended to read:

"22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL TRUANTS--PENALTY.--

A. Each local school board and each governing authority of a private school shall initiate the enforcement of the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools.

B. To initiate enforcement of the provisions of the Compulsory School Attendance Law against an habitual truant, a local school board or governing authority of a private school or its authorized representatives shall give written notice of the habitual truancy by certified mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the Compulsory School Attendance Law.

C. If unexcused absences continue after written notice of habitual truancy as provided in Subsection B of this section has occurred, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code. In addition to any other disposition, the children's court may

order the habitual truant's driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy.

D. If, after review by the juvenile probation office where the student resides, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred by the juvenile probation office to the district attorney's office or any law enforcement agency having jurisdiction for appropriate investigation and filing of charges allowed under the Compulsory School Attendance Law. Charges against the parent may be filed in metropolitan court, magistrate court or district court.

E. A parent of the student who, after receiving written notice as provided in Subsection B of this section and after the matter has been reviewed in accordance with Subsection D of this section, knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100) may be imposed, or the parent of the student may be ordered to perform community service. If violations of the Compulsory School Attendance Law continue, upon the second and subsequent convictions, the

parent of the student who knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a definite term not to exceed six months or both.

F. The provisions of this section shall apply beginning July 1, 2004."

Section 4. Section 22-12-8 NMSA 1978 (being Laws 1985, Chapter 104, Section 1) is amended to read:

"22-12-8. EARLY IDENTIFICATION--UNEXCUSED ABSENCES AND TRUANCY.--Notwithstanding the provisions of Section 22-12-7 NMSA 1978, if a student is truant, the school district shall contact the student's parent to inform the parent that the student is truant and to discuss possible interventions. The provisions of this section do not apply to any absence if the parent has contacted the school to explain the absence."