

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 456

51st Legislature, 1st Session, 2013

Tracking Number: .192372.1

Short Title: School Truancy Identification & Penalties

Sponsor(s): Representative Mary Helen Garcia and Others

Analyst: Kevin Force

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Bill Summary:

HB 456 proposes to amend the *Compulsory School Attendance Law* and the *Motor Vehicle Code* in several respects. A section-by-section synopsis follows:

Sections 1 through 4 would amend the *Compulsory School Attendance Law*.

Section 1. [Requirements for withdrawing from school]:

- A school-age person subject to the requirements of the attendance law shall not withdraw from school unless:
 - the student's parent provides written documentation that the student is enrolled in another public, private, or home school;
 - the school receives written documentation that the student is ill, or needs to work full-time to help support his or her family;
 - the school receives a court order from a court with jurisdiction over the student; or
 - at an exit interview:
 - the student, his or her parent and the school principal meet to discuss the student's withdrawal;
 - the student and the parent sign an acknowledgement that withdrawal from school is likely to diminish the student's long-term employment and earning potential; and
 - the principal agrees to the withdrawal and also signs the acknowledgement.
- Beginning with school year 2014-2015, a student in grades 8 through 12 who withdraws from school without meeting the requirements noted above, may be certified as being in violation of the *Compulsory School Attendance Law* by the Public Education Department (PED) and be referred to the Motor Vehicle Division (MVD) for a hearing to determine suspension or postponement of driving privileges, which may be suspended or postponed until:
 - the student is no longer school age; or
 - PED certifies that the student is in compliance with the law, whichever event occurs first.

Section 2. [Suspension or postponement of the driving privileges of habitual truants]:

- Beginning with school year 2014-2015, an habitual truant may be certified by PED as being in violation of the *Compulsory School Attendance Law* and referred to the MVD for suspension or postponement of driving privileges, which, as above, may be suspended or postponed until:
 - the student is no longer school age; or
 - PED certifies that the student is in compliance with the law, whichever event occurs first.

Section 3. [Early identification and notice and immediate interventions system to minimize truancy and prevent withdrawal from school]:

- PED must develop the identification, notice and intervention systems for implementation by the school districts.
- After five unexcused absences, the school must meet with the student's parents to discuss:
 - the reason for the absences;
 - immediate interventions to prevent further absences;
 - parental involvement; and
 - potential consequences of continued absence.
- For each student who demonstrates any risk factor that may lead to withdrawal, schools shall provide:
 - immediate intervention, aligned to the student's next step plan; and
 - for the parents and the district, a record of each risk factor demonstrated by the student and the interventions taken to address it.
- "Risk factors" include:
 - multiple discipline referrals;
 - third grade reading scores below proficiency;
 - habitual truancy in grades 6 through 9;
 - failing a course in grades 6 through 9; or
 - a grade point average of 1.5 or lower in ninth grade.

Section 4. [Attendance policies reporting requirements]:

- Each school district and charter school must provide for the early identification and notice system, and immediate intervention system, for keeping habitual truants and students with five or more unexcused absences, or other risk factors, in an educational setting, without out-of-school suspension or expulsion.
- Once per semester, each school shall report to the school district, and once per year, each school district shall report to PED, the number of students who:
 - have five or more unexcused absences;
 - have 10 or more unexcused absences;

- withdrew from school under the provisions of this bill, with or without an exit interview;
- stopped attending school during the semester; or
- failed to return to school after a break.

Finally, in Section 5, HB 456 proposes to amend the *Motor Vehicle Code* to provide criteria for the suspension or postponement of a student’s driver’s license, instructional permit, or provisional license if a student is a habitual truant or in violation of the *Compulsory School Attendance Law*:

- The MVD shall hold a hearing in the county of the student’s residence within 20 days of a student being referred to the division by PED and being certified as truant or in violation of compulsory school attendance.
- The director of MVD may, at his or her discretion, extend the 20-day period, excluding weekends and legal holidays.
- The director may administer oaths and issue subpoenas for the attendance of witnesses, and the discovery of documents, and may require an examination of the student.
- The MVD may suspend or postpone driving privileges of the student until he or she is no longer school age or certified by PED to be in compliance with attendance requirements.

Fiscal Impact:

HB 456 does not contain an appropriation.

Assuming 750 hearings the first year that HB 456 is effective, and 500 each year thereafter, the Taxation and Revenue Department (TRD) reports a recurring impact to the TRD Hearings Bureau budget of:

- for FY 14, \$122,000; and
- for FY 15, \$81,300.

Substantive Issues:

According to PED:

- HB 456 makes clear what is considered a legal withdrawal from school.
- The requirements for a student’s withdrawal from school, particularly the exit interview, allow an additional opportunity to avoid withdrawal, and are modeled after an Indiana program that saw a “significant reduction” in the dropout rate.
- Rio Rancho Public Schools has a similar program of early notice and immediate interventions. The district attributes its increase in graduation rates to early identification and support of students at risk for dropping out.
- Research shows that early intervention involving parents can prevent truancy and harsh consequences such as the suspension or postponement of driving privileges.
- Requiring school districts to comply with the provisions of HB 456 would allow for consistent application of the *Compulsory School Attendance Law*, which currently varies among districts.
- The provisions of HB 456 align with research from The National Dropout Prevention Center/Network that identifies 15 effective strategies that have the most positive impact

on the dropout rate.¹ These strategies have been implemented successfully at all education levels and environments throughout the nation.

- PED would need to enhance current mechanisms or develop, in collaboration with the Juvenile Probation Office of the Judicial District and the MVD, a systematic method for referral, reporting and monitoring the reporting of school-age persons in violation of the *Compulsory School Attendance Law*.
- After discussion with the TRD, it was noted that MVD would be required to have a hearing mechanism in place; to that end, PED and MVD are working together to develop an appropriate mechanism.

According to AOC analysis of SB 393, a bill identical to HB 456:

- The *Motor Vehicle Code* provides a right of appeal to the district court to a person whose license has been cancelled, suspended, or revoked by MVD, except when the cancellation or revocation is mandatory under Chapter 66, Article 5.
- HB 456 *permits* rather than *requires* the MVD to suspend or postpone driving privileges of a school-age person under the outlined conditions.
- Therefore, the division's decision to suspend or postpone driving privileges may be appealed to the district court.

Technical Issues:

According to TRD, HB 456:

- HB 456 may put the MVD in the unaccustomed position of making truancy determinations itself or defending determinations made by PED;
- HB 456 would require MVD to have a hearing whenever it receives a referral from PED;
- other license-suspending actions require a person to request a hearing or the suspension is automatic; and
- HB 456 should be amended to require the student or parent to request a hearing to avoid automatic suspension or postponement of driving privileges.

Background:

The *Compulsory School Attendance Law* defines the term "habitual truant" as a student who has accumulated the equivalent of 10 or more days of unexcused absences in a school year. An "unexcused absence," according to this law, means an absence from school or classes for which the student does not have an excuse allowed under either the law or the rules of the local school board, the governing authority of a charter school, or a private school.

The Center for Education Policy Research (CEPR), at the University of New Mexico, testified before the Legislative Education Study Committee that more than 51,000 students in the state's elementary, middle, and secondary schools were habitual truants in school year 2011-2012. Maps presented as part of this testimony illustrated that truancy rates vary widely among schools within given districts. This testimony also provided an overview of the entities that may take action in the enforcement of penalties for habitually truant students, including:

- the school of the truant student;
- PED;

¹ See <http://www.dropoutprevention.org/effective-strategies>.

- the Probation Services Office of the Children, Youth and Families Department (CYFD);
- the district attorney; and
- law enforcement agencies.

This testimony added that truancy is a symptom of three general factors:

- individual challenges, such as low-academic performance, low-educational aspirations, boredom with school, drug use, or pregnancy;
- relational challenges, such as a lack of caring adults, bullying, or a lack of participation in school sports and activities; and
- structural challenges, such as weak truancy policies, institutional racism and discrimination, and low-income families.

The Department of Health provides the following background regarding truancy, its effects and the efficacy of linking truancy to driving privileges:

- Twenty-seven states have some policy connecting student attendance, behavior, and achievement to driving privileges:
 - seventeen states condition driving privileges on compliance with school attendance requirements;
 - four states combine academic performance and attendance requirements as conditions of driver's license eligibility;
 - three states will revoke a student's driving privilege based on suspensions, expulsions, and other safety infractions;
 - two states will revoke a student's driving privilege based on attendance infractions and suspensions, expulsions, or other safety infractions; and
 - one state places conditions on driving privileges based upon compliance with attendance, behavior, and academic performance.
- State policymakers should consider that, for many teenagers, driving is real currency, and promoting this privilege as a reward for attending and succeeding in school resonates with many students.
- Districts and schools may incur administrative costs in collaborating with the MVD, but still these can be relatively low-cost policies².
- Several states have introduced No Pass No Drive laws that have been effective in reducing truancy and increased time allocated to school³.
- Truancy reduction programs that promote consistent attendance by addressing the underlying causes of truancy can also improve academic achievement while reducing problem behaviors, including substance abuse and delinquency.
- Truancy and chronic absenteeism, often stepping stones to withdrawal from school, have short- and long-term consequences on children and society, including⁴:

² <http://www.ecs.org/clearinghouse/60/10/6010.pdf>

³ *No Pass No Drive: Education and Allocation of Time*, IZA Discussion Paper No. 6464, Barua and Vidal-Fernandez, 2012, at <http://ssrn.com/abstract=2039650>.

- lower grades;
 - greater student retention;
 - higher dropout and expulsions rates; and
 - lower graduation rates from high school than students with fewer unexcused absences.
- Truancy is a risk factor for other problems, including:
 - substance abuse;
 - delinquency;
 - gang activity; and
 - serious criminal behavior.

Committee Referrals:

SEC/SJC

Related Bills:

HB 300a *School Excused Absences for Pregnancy* (Identical to SB 382a)

SB 363 *Early College High Schools*

SB 393 *School Truancy Identification & Penalties* (Identical)

SB 382a *Excused School Absences for Pregnancy* (Identical to HB 300a)

⁴ *Pieces of the Truancy Jigsaw: A Literature Review*, National Center for School Engagement, Heilbrunn, 2007, at <http://www.schoolengagement.org/TruancyPreventionRegistry/Admin/Resources/Resources/PiecesoftheTruancyJigsawALiteratureReview.pdf>