

HOUSE BILL NO. 274  
INTRODUCED BY C. JUNEAU

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SCHOOL COMPULSORY ENROLLMENT AND ATTENDANCE LAWS; REQUIRING A STUDENT TO REMAIN IN SCHOOL UNTIL 18 YEARS OF AGE, COMPLETION OF THE 12TH GRADE, OR COMPLETION OF A GENERAL EQUIVALENCY DEGREE, WHICHEVER COMES FIRST; REVISING THE PROCEDURES FOR GIVING NOTICE OF AN UNEXCUSED ABSENCE; REVISING THE PENALTIES FOR VIOLATIONS OF THE COMPULSORY ENROLLMENT AND ATTENDANCE LAWS; AMENDING SECTIONS 20-5-102, 20-5-103, AND 20-5-106, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-5-102, MCA, is amended to read:

**"20-5-102. Compulsory enrollment and excuses.** (1) Except as provided in subsection (2), ~~any a~~ parent, guardian, or other person who is responsible for the care of ~~any a~~ child who is 7 years of age or older prior to the first day of school in any school fiscal year shall ~~cause enroll~~ the child ~~to be instructed~~ in the program prescribed by the board of public education pursuant to 20-7-111 until the ~~later~~ earlier of the following dates:

- (a) the child's ~~16th~~ 18th birthday;
- (b) the date of completion of the work of the ~~8th~~ 12th grade; or
- (c) the date of passage of the general equivalency degree examination.

(2) A parent, guardian, or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when ~~he~~ the parent, guardian, or other person establishes residence in the district, unless the child is:

- (a) enrolled in a school of another district or state under any of the tuition provisions of this title;
- (b) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;
- (c) excused from compulsory school attendance upon a determination by a district judge that attendance is not in the best interest of the child;
- (d) excused by the board of trustees upon a determination that attendance by a child who has attained the age of ~~16~~ 18 is not in the best interest of the child and the school; or

(e) enrolled in a nonpublic or home school that complies with the provisions of 20-5-109. For the purposes of this subsection (2)(e), a home school is the instruction by a parent of ~~his~~ a child, stepchild, or ward in ~~his~~ the parent's residence and a nonpublic school includes a parochial, church, religious, or private school."

**Section 2.** Section 20-5-103, MCA, is amended to read:

**"20-5-103. Compulsory attendance and excuses -- district attendance policy.** (1) Except as provided in subsection (2), ~~any~~ a parent, guardian, or other person who is responsible for the care of ~~any~~ a child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which ~~he~~ the child is enrolled for the school term and each school day ~~therein~~ of the school term prescribed by the trustees of the district until the ~~later~~ earlier of the following dates:

- (a) the child's ~~46th~~ 18th birthday;
- (b) the date of completion of the work of the ~~8th~~ 12th grade; or
- (c) the date of passage of the general equivalency degree examination.

(2) The provisions of subsection (1) do not apply ~~in the following cases if:~~

- (a) ~~The~~ the child has been excused under one of the conditions specified in 20-5-102-;
- (b) ~~The~~ the child is absent because of illness, bereavement, or other reason prescribed by the policies of the trustees-; or

- (c) ~~The~~ the child has been suspended or expelled under the provisions of 20-5-202.

(3) The trustees of a school district may not deny a student credit in a course or subject solely because of the student's absence from school. The trustees shall specify the conditions under which a student will be permitted to take examinations missed during an absence.

(4) (a) The trustees may establish a policy that allows a student to be assigned to a supervised period of detention or to a supervised directed study program that need not be held during the regular school day. The policy must specify the conditions under which credit will be given for work completed during the period of detention or under the supervised directed study program.

(b) The policy may include a provision allowing a student who is 16 years of age or older to attend a vocational, technical, or adult education program in lieu of attending high school or to attend school on a part-time basis."

**Section 3.** Section 20-5-106, MCA, is amended to read:

**"20-5-106. Truancy.** (1) As used in this section, "truancy" or "truant" means the absence of a child from

school for part or all of 1 or more days during which the attendance officer, principal, or teacher has not been notified by the parent, guardian, or other person responsible for the care of the child as to the cause for the absence. The term includes intermittent attendance carried on for the purpose of circumventing the provisions of this section.

(2) Whenever the attendance officer discovers a child truant from school or a child subject to compulsory attendance who is not enrolled in a school providing the required instruction and has not been excused under the provisions of this title, ~~he~~ the attendance officer shall notify ~~in writing~~ the parent, guardian, or other person responsible for the care of the child that the continued truancy or nonenrollment of ~~his~~ the child ~~shall will~~ result in ~~his~~ prosecution under the provisions of this section. A written record must be kept of all contacts by an attendance officer with a parent, guardian, or other person responsible for the care of the child who is truant.

(3) (a) If the child is not enrolled and in attendance at a school or excused from school within 2 days 1 day after the receipt of the notice, the attendance officer shall file a complaint against such the parent, guardian, or other person responsible for the care of the child in a court of competent jurisdiction.

(b) Each day of continued truancy after the issuance of a complaint by the attendance officer constitutes a separate offense.

~~(2) If convicted, such person shall be fined not less than \$5 or more than \$20. In the alternative, he may be required to give bond in the penal sum of \$100, with sureties, conditioned upon his agreement to cause the enrollment of his child within 2 days thereafter in a school providing the courses of instruction required by this title and to cause the child to attend that school for the remainder of the current school term. If a person refuses to pay a fine and costs or to give a bond as ordered by the court, he shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days."~~

**NEW SECTION. Section 4. Penalties.** (1) Conviction of a first or second offense under 20-5-101 through 20-5-106 shall be punishable by a fine in an amount of not less than \$50 or more than \$100, by imprisonment in the county jail for not more than 5 days, or by both fine and imprisonment.

(2) A third or subsequent conviction is punishable by a fine in an amount of \$100, by imprisonment in the county jail for not more than 10 days, or by both fine and imprisonment.

**NEW SECTION. Section 5. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 20, chapter 5, part 1, and the provisions of Title 20, chapter 5, part 1, apply to [section 4].

NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2003.

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