



Education Interim Committee

68th Montana Legislature

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TO: Education Interim Committee and Education Interim Budget Committee
FROM: Pad McCracken, Committee Staff, and Laura Sankey Keip, Staff Attorney
RE: SB 129 and Chronic Absenteeism
DATE: January 5, 2024

During the Committee's visit to Bonner School in November 2023, one of the teachers raised the issue of elevated absenteeism, especially since the pandemic, and pointed out that Montana's *compulsory attendance* laws only apply to students between the ages of 7 and 16, meaning parents¹ of enrolled kindergartners and first graders, as well as of high school juniors and seniors, cannot be compelled to cause their children to attend. The 2021-2022 Education Interim Committee looked at this issue after the elementary principal at Cut Bank brought it to Sen. Tempel's attention. That committee did not bring a committee bill, but Sen. Tempel did sponsor [SB 129](#) in the 2023 Session which narrowly passed the Senate before being tabled in House Education.

There was a lot of confusion both during the interim and during session about what the bill did and did not do, and much of this has to do with Montana's complicated compulsory education laws which can be summarized as follows:

1. **Trustees have the duty to admit** children from age 5 to 19 to the schools of the district ([20-5-101](#) – Admittance of Child to School).
2. **Parents have the duty to enroll** children ages 7 to 16 (or the date the child finishes 8th grade) in public school, unless the child is homeschooled or attends a nonpublic school, or a couple other rare circumstances ([20-5-102](#) – Compulsory Enrollment And Excuses).
3. **Parents have the duty to ensure a child ages 7 to 16 who is enrolled in public school attends** each school day unless the child is sick, bereaved, suspended, etc. ([20-5-103](#) – Compulsory Attendance And Excuses).

The problem that SB 129 sought to address is that the age parameters underlined in #3 above result in compulsory attendance only applying within those age ranges. The bill basically communicated "if you're in, you're in." Parents don't have to enroll their kids until age 7 (or really at all if they otherwise provide an education for their child) but when parents do enroll their children *in public school*, be it at age 5, 6, 7, or 17, SB 129 required that parents get their children to school.

¹ This memo will use the word "parent" to mean parent, guardian, or other adult responsible for a child.

The bill did not argue that Montana's truancy law ([20-5-106](#)) was effective or touch it in any way, except to ensure that it applied uniformly to all enrolled children, not just those ages 7 to 16 who are compelled to enroll. Montana's truancy law *only applies to students enrolled in public schools* and can be summarized as follows:

1. Truancy means absence for all or part of a school day without an excuse as defined by the school district.
2. The school's attendance officer notifies the truant child's parent that continued truancy *may* lead to the prosecution of the parent.
3. If the child continues to be truant, the attendance officer *can require* that the child's parent meet with a school official and formulate a plan to address the child's truancy.
4. If the parent fails to meet or uphold the plan, the attendance officer *can refer* the matter to the county attorney for *potential* prosecution.
5. Conviction for violating the truancy statute can lead to a parent being ordered to pay a \$100 fine or perform 20 hours of community service. Failure to obey one of these orders can lead to no more than 3 days in jail.
6. A child that is truant more than 9 full days in one school year *can be referred* to youth court as being "habitually truant."

You can see that most of the truancy "sticks" are discretionary, and again SB 129 did not seek to soften or stiffen any of those existing penalties.

It's important not to conflate truancy and absenteeism. Truancy is an unexcused absence; absenteeism is any absence. Chronic absenteeism has been in the news as rates nationwide went up dramatically during the pandemic. According to OPI data, Montana's rates for chronic absenteeism (the percentage of students missing 10% or more of school days) have gone from 25% in the 2018-19 school year to 35% in 2022-23. Correspondingly, the percentage of students with exemplary attendance (95% of school days or better) reported on the state's ESSA report card dropped from 60% in the 2019-20 school year to 30% in 2021-22. Both truancy and absenteeism are complex problems that will not be solved with one "silver bullet" approach. This memo only intends to provide some background on what the committee heard in Bonner and how it relates to a topic that the 2021-22 Education Interim Committee spent time on.

On the following page is the entirety of the one-page SB 129, which only touched the compulsory *attendance* statute and did not amend the compulsory *enrollment* statute in any way.

1 SENATE BILL NO. 129

2 INTRODUCED BY R. TEMPEL, T. WELCH, C. KEOGH, S. O'BRIEN, E. MCCLAFFERTY, M. LANG, J.

3 KASSMIER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL LAWS RELATED TO COMPULSORY
6 ATTENDANCE; ALIGNING COMPULSORY ATTENDANCE WITH ENROLLMENT IN A PUBLIC SCHOOL
7 RATHER THAN AGE; AMENDING SECTION 20-5-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 20-5-103, MCA, is amended to read:

12 "**20-5-103. Compulsory attendance upon enrollment in public schools and excuses.** (1) Except
13 as provided in subsection (2), any parent, guardian, or other person who is responsible for the care of any child
14 who is ~~7 years of age or older prior to the first day of school in any school fiscal year~~ enrolled in a public school
15 shall cause the child to attend the school in which the child is enrolled for the school term and each school day
16 in the term prescribed by the trustees of the district ~~until the later of the following dates:~~

17 ~~(a) the child's 16th birthday; or~~

18 ~~(b) the date of completion of the work of the 8th grade.~~

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

20 (a) The child has been excused from compulsory enrollment under one of the conditions specified
21 in 20-5-102.

22 (b) The child is absent because of illness, bereavement, or other reason prescribed by the policies
23 of the trustees.

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

25 (d) The child is excused pursuant to 20-7-120."

26
27 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 2023.

28 - END -