

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: SB 189a

49th Legislature, 1st Session, 2009

Short Title: School Attendance Notices & Absences

Sponsor(s): Senator Mary Jane M. García and Others

Analyst: Dorinda Fox

Date: March 4, 2009

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AS AMENDED

The Senate Judiciary Committee amendments:

- **strike the Senate Education Committee amendment that required the Public Education Department (PED) to promulgate rules that allow referral to the probation services office of students for certain consistent unexcused absences;**
- **strike language in the bill that would have allowed referral to the probation services office of students who consistently are absent without excuse for one class period or for less than one-half day; and**
- **remove private schools from the attendance policy requirements in the *Compulsory School Attendance Law*.**

The Senate Education Committee amendments:

- **change language to require the Public Education Department (PED) to promulgate rules that allow referral to the probation services office of students for certain consistent unexcused absences; and**
- **change language to require school districts and charter schools to certify their rates of unexcused absences compiled by PED, rather than require PED to verify these rates.**

Original Bill Summary:

SB 189 amends the *Compulsory School Attendance Law* and the *Children's Code* to:

- **replace the term “truant” with the term “a student in need of early intervention”;**
- **allow written parental notices to be delivered by regular mail;**
- **require written parental notices of habitual truancy to include a date, time, and place for the parent to meet with the local school district, charter school, or private school to develop intervention strategies that focus on keeping the student in an educational setting;**
- **allow the probation services office to send a written notice to a parent of the student directing the parent and student to report to the probation services office to discuss services for the student or the family;**
- **include private schools in attendance intervention and notification requirements;**
- **define “a student in need of early intervention” as a student who has accumulated five unexcused absences within a school year;**

- require the unexcused absence of two or more classes up to 50 percent of an instructional day to be counted as a one-half day absence, and the unexcused absence of more than 50 percent of an instructional day to be counted as one full-day absence;
- allow the use of withdrawal, as provided in the *Public School Finance Act*, only after exhausting intervention efforts;
- require schools to document steps taken to notify and meet with parents of habitual truants as well as the intervention strategies implemented to keep the student in school;
- allow school districts, charter schools, and private schools to create policies that allow referral to the probation services office of students who consistently are absent without excuse for one class period or for less than one-half day; and
- require the Public Education Department (PED) to compile reports from school districts and charter schools on rates of unexcused absences and habitual truancy and to verify that the information is being reported consistently.

SB 189 also amends the *Children’s Code* so that a “family in need of court-ordered services” is one whose child has accumulated more than 10 unexcused absences in a school year, rather than a semester.

Fiscal Impact:

SB 189 makes no appropriation.

Issues:

Endorsed by the Legislative Education Study Committee (LESC), SB 189:

- aligns a key definition in the *Children’s Code* with the *Compulsory School Attendance Law* to allow juvenile probation offices to address habitual truancy as defined in school attendance law;
- removes the stigma of being labeled “truant” and places the focus on early intervention for students who accumulate five unexcused absences in a school year;
- requires statewide consistent counting and reports of unexcused absences by schools;
- regarding habitual truants, requires schools to document their efforts to notify parents of student absences, efforts to meet with parents to discuss possible interventions, and the intervention strategies applied;
- allows written parental notification to be delivered via regular US mail; and
- in the enforcement penalty section, requires that written parental notices of unexcused absences include a date, time, and place for the parent to meet with the school or charter school to develop intervention strategies that focus on keeping the student in an educational setting; and allows juvenile probation offices to send written notices to a parent of the student directing the parent and student to report to the juvenile probation office.

According to the Children, Youth and Families Department (CYFD) analysis, the increase in truant student referrals due to the new counting formula may result in an overall decrease in delinquency, because students will be referred to juvenile probation offices earlier than they are now; and because some who never accumulate enough overall absences to warrant a referral, but still engage in delinquent behaviors, will receive intervention services that could assist them.

Also, the CYFD analysis raises a concern about the impact to the juvenile probation services caseload resulting from private school referrals, and further states that an increased focus on non-delinquent referrals may impact the CYFD ability to achieve performance targets to reduce the occurrence of re-adjudication of juvenile offenders.

The PED analysis notes that most of the provisions of SB 189 can be implemented with current staff. Although PED does not currently have the resources or staff to verify district and charter school unexcused absence and habitual truancy reports, the PED analysis also notes that nonpublic schools are not required under *No Child Left Behind* to report truancy rates and that PED does not have the capacity or resources to oversee truancy for nonpublic schools.

According to the National Center for School Engagement (2008):

- Truancy has been identified as one of the early warning signs of students headed for potential delinquent activity, social isolation or educational failure via suspension, expulsion, or dropping out.
- Truancy is considered to be one of the top 10 problems facing schools. Nationally, 80 percent of dropouts were chronically truant before dropping out; 90 percent of youths in detention for delinquent acts were chronically truant.
- If the attendance rate continues to decrease, the graduation rate will be affected.
- Further, dropout and truancy have been correlated to an increase in juvenile crime.

Background:

The LESC has always recognized the importance of regular school attendance. During recent years, the committee's formal focus on truancy has led to LESC-endorsed legislation to amend the *Compulsory School Attendance Law* in the *Public School Code* with regard to parental responsibility and district- and school-level intervention to keep students in school; and the comprehensive school reform legislation that the LESC endorsed in 2003 included the *Family and Youth Resource Act* (FYRA), which, although not directed at truancy *per se*, addresses some of the causes of truancy. In addition, since FY 05, the Legislature has appropriated approximately \$3.8 million for truancy and dropout prevention initiatives, including \$495,000 in FY 09 for school-based projects at 16 sites and in addition to \$1.5 million in FY 09 for FYRA.

Despite these efforts, however, truancy remains a concern. According to a report from PED, there were more than 1.6 million unexcused absences reported during school year 2007-2008; and more than 13 percent of students in regular public schools and charter schools were habitually truant.

In February 2008, at the request of the Chair, the LESC Director convened the LESC 2008 Truancy Work Group comprising representatives from CYFD, PED School and Family Support Bureau, juvenile justice services, school personnel, education organizations, and the LESC. Over the course of five meetings, the group focused on such aspects of truancy as provisions in current law; current practices in school districts; intervention strategies and recognized best practices; and funding of truancy prevention initiatives in New Mexico.

Through its examination of successful programs already operating in the state, the work group identified these practices as most effective:

- the case management approach,
- pre-adjudication training sessions for parents and students,
- age- and grade-level interventions,
- school-based behavioral health services, and
- community coordination teams.

Among its other findings, supplemented by an LESC staff survey of school districts and truancy/dropout prevention programs, the work group determined that district practices vary widely, especially in terms of intervention and enforcement methods; that the *Public School Code* and the *Children's Code* define truancy terms in different ways; that some districts lack an adequate number of trained staff; that the guidance from PED is insufficient; and that a comprehensive approach would be the most effective means of addressing truancy statewide. Of particular concern to the work group was the potentially stigmatizing and counterproductive effect of the term "truant" when, as provided in current law, it is applied to a student with five unexcused absences within a 20-day period. SB 189 reflects the recommendations of the work group to address these issues and concerns.

Related Bills:

None as of 03-04-2009.