

HOUSE BILL 240

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EDUCATION; ADDING AN EARLY WARNING SYSTEM TO THE COMPULSORY SCHOOL ATTENDANCE LAW; PROVIDING FOR TRUANCY AND DROPOUT PREVENTION COACHES; PROVIDING FOR THE SUSPENSION OR POSTPONEMENT OF DRIVING PRIVILEGES OF SCHOOL-AGE PERSONS WHO ARE IN VIOLATION OF THE COMPULSORY SCHOOL ATTENDANCE LAW.

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

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

"22-12-8. EARLY IDENTIFICATION [~~UNEXCUSED ABSENCES AND TRUANCY~~]--EARLY WARNING SYSTEM.--

A. Notwithstanding the provisions of Section 22-12-7 NMSA 1978, if a student is in need of early intervention to prevent habitual truancy, the school district, charter school or private school shall contact the student's

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1 parent to inform the parent that the student has unexcused  
2 absences from school and to discuss possible interventions.  
3 The provisions of this section do not apply [~~to any absence~~] if  
4 the parent has contacted the school to explain the absence.

5 B. Starting with the 2016-2017 school year, each  
6 school in a school district and each charter school shall  
7 implement the department-developed early warning system that  
8 uses data systems to identify students at risk of becoming  
9 habitual truants or dropping out of school. Considerations for  
10 identifying such students may include grades, absences and  
11 behavior citations.

12 C. Starting with the 2016-2017 school year, for a  
13 student who, in a school year, has accumulated:

14 (1) three or more unexcused absences, a school  
15 district or charter school shall notify the parent about the  
16 number and dates of the unexcused absences;

17 (2) five or more unexcused absences, a truancy  
18 prevention team shall meet with the student and parent and  
19 develop a written attendance plan that:

20 (a) prescribes benchmark goals to  
21 improve student attendance; and

22 (b) includes intervention practices to  
23 improve student attendance and, if applicable, programs in  
24 which the student shall participate; and

25 (3) ten or more unexcused absences, a school

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1 district or charter school shall notify the parent that the  
2 student has become a habitual truant."

3 SECTION 2. Section 22-12-9 NMSA 1978 (being Laws 2004,  
4 Chapter 28, Section 1, as amended) is amended to read:

5 "22-12-9. DEFINITIONS--UNEXCUSED ABSENCES AND TRUANCY--  
6 ATTENDANCE POLICIES.--

7 A. As used in [~~this section and Sections 22-12-7~~  
8 ~~and 22-12-8 NMSA 1978~~] the Compulsory School Attendance Law:

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

12 (2) "truancy prevention team" means a group  
13 consisting of a school administrator, a licensed school  
14 employee and a school employee who is responsible for  
15 monitoring student attendance and addressing unexcused  
16 absences. A truancy prevention team may also include  
17 municipal, county, state, tribal or federal officials or  
18 members of organizations to support students at risk of  
19 becoming habitual truants or dropping out of school;

20 [~~2~~] (3) "student in need of early  
21 intervention" means a student who has accumulated five  
22 unexcused absences within a school year; and

23 [~~3~~] (4) "unexcused absence" means an absence  
24 from school or classes for which the student does not have an  
25 allowable excuse pursuant to the Compulsory School Attendance

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1 Law or rules of the local school board or governing authority  
2 of a charter school or private school.

3 B. An unexcused absence of two or more classes up  
4 to fifty percent of an instructional day shall be counted as  
5 one-half day absence, and the unexcused absence of more than  
6 fifty percent of an instructional day shall be counted as one  
7 full-day absence.

8 C. Each school district and charter school shall  
9 maintain an attendance policy that:

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

17 (2) by July 1, 2017, through implementation of  
18 the department-developed early warning system, identifies and  
19 assists students with unexcused absences, students in need of  
20 early intervention and habitual truants pursuant to the  
21 provisions of Section 22-12-8 NMSA 1978;

22 [~~2~~] (3) uses withdrawal as provided in  
23 Section 22-8-2 NMSA 1978 only after exhausting intervention  
24 efforts to keep students in educational settings;

25 [~~3~~] (4) requires that class attendance be

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1 taken for every instructional day in every public school or  
2 school program in the school district; and

3 [~~(4)~~] (5) provides for schools to document the  
4 following for each student identified as an habitual truant:

5 (a) attempts of the school to notify the  
6 parent that the student had unexcused absences;

7 (b) attempts of the school to meet with  
8 the parent to discuss intervention strategies; and

9 (c) intervention strategies implemented  
10 to support keeping the student in school.

11 D. The department shall review and approve school  
12 district and charter school attendance policies.

13 E. School districts and charter schools shall  
14 report unexcused absences and habitual truancy rates to the  
15 department in a form and at such times as the department  
16 determines and shall document intervention efforts made to  
17 keep students in need of early intervention and habitual  
18 truants in educational settings. Locally chartered charter  
19 schools shall provide copies of their reports to the school  
20 district. The department shall compile school district and  
21 charter school reports on rates of unexcused absences and  
22 habitual truancy and require school districts and charter  
23 schools to certify that the information is being reported  
24 consistently."

25 SECTION 3. A new section of the Compulsory School

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1 Attendance Law is enacted to read:

2 "[NEW MATERIAL] TRUANCY AND DROPOUT PREVENTION COACH.--

3 Subject to the availability of funding, a truancy and dropout  
4 prevention coach shall be employed by each public school that  
5 has an habitual truancy rate of greater than fifteen percent  
6 of enrolled students. The minimum duties of a truancy and  
7 dropout prevention coach shall include:

8 A. developing and implementing truancy prevention  
9 measures in accordance with the Compulsory School Attendance  
10 Law, providing formal notices of habitual truancy and  
11 conducting behavior intervention plan meetings with students  
12 and parents;

13 B. identifying students in need of school  
14 attendance interventions;

15 C. developing and implementing a tiered system of  
16 support based on a student's level of need. Such support may  
17 include preventative measures, targeted interventions,  
18 attendance incentives, consequences for unexcused absences or  
19 other actions to improve school attendance;

20 D. incorporating family involvement and  
21 collaborating with community partners; and

22 E. monitoring the progress of students in the  
23 school receiving truancy prevention services."

24 SECTION 4. Section 22-12-7 NMSA 1978 (being Laws 1967,  
25 Chapter 16, Section 175, as amended) is amended to read:

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1 "22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL  
2 TRUANTS--PENALTY--SUSPENSION OR DENIAL OF DRIVING  
3 PRIVILEGES--APPEAL TO SCHOOL DISTRICT, DEPARTMENT AND  
4 DISTRICT COURT.--

5 A. Each local school board and each governing  
6 body of a charter school or private school shall initiate the  
7 enforcement of the provisions of the Compulsory School  
8 Attendance Law for students enrolled in their respective  
9 schools.

10 B. To initiate enforcement of the provisions of  
11 the Compulsory School Attendance Law against ~~[an]~~ a student  
12 who is a habitual truant, a local school board or governing  
13 body of a charter school or private school or its authorized  
14 representatives shall give written notice of the habitual  
15 truancy by mail to or by personal service on the parent of  
16 the student subject to and in noncompliance with the  
17 provisions of the Compulsory School Attendance Law. The  
18 notice shall include a date, time and place for the parent to  
19 meet with the local school district, charter school or  
20 private school to develop intervention strategies that focus  
21 on keeping the student in an educational setting.

22 C. If unexcused absences continue after written  
23 notice of habitual truancy as provided in Subsection B of  
24 this section has occurred, the student shall be reported to  
25 the juvenile probation ~~[services]~~ office of the judicial

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1 district where the student resides for an investigation as to  
2 whether the student shall be considered to be a neglected  
3 child or a child in a family in need of services because of  
4 habitual truancy and thus subject to the provisions of the  
5 Children's Code. The juvenile probation [~~services~~] office  
6 may send a written notice to a parent of the student  
7 directing the parent and student to report to the juvenile  
8 probation [~~services~~] office to discuss services for the  
9 student or the family. [~~In addition to any other~~  
10 ~~disposition, the children's court may order the habitual~~  
11 ~~truant's driving privileges to be suspended for a specified~~  
12 ~~time not to exceed ninety days on the first finding of~~  
13 ~~habitual truancy and not to exceed one year for a subsequent~~  
14 ~~finding of habitual truancy.~~]

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

25 E. A parent of the student who, after receiving

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1 written notice as provided in Subsection B of this section  
2 and after the matter has been reviewed in accordance with  
3 Subsection D of this section, knowingly allows the student to  
4 continue to violate the Compulsory School Attendance Law  
5 ~~[shall be]~~ is guilty of a petty misdemeanor. Upon the first  
6 conviction, a fine of not less than twenty-five dollars  
7 (\$25.00) or more than one hundred dollars (\$100) may be  
8 imposed, or the parent of the student may be ordered to  
9 perform community service. If violations of the Compulsory  
10 School Attendance Law continue, upon the second and  
11 subsequent convictions, the parent of the student who  
12 knowingly allows the student to continue to violate the  
13 Compulsory School Attendance Law ~~[shall be]~~ is guilty of a  
14 petty misdemeanor and shall be subject to a fine of not more  
15 than five hundred dollars (\$500) or imprisonment for a  
16 definite term not to exceed six months or both.

17 F. ~~[The provisions of this section shall apply~~  
18 ~~beginning July 1, 2004.]~~ Starting with the 2017-2018 school  
19 year, when a student in grades eight through twelve  
20 accumulates ten or more unexcused absences in a school year  
21 and becomes an habitual truant:

22 (1) a school shall give to the student's  
23 parent a notice of noncompliance with the Compulsory School  
24 Attendance Law containing:

25 (a) the name, date of birth and

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1 address of the student;

2 (b) a statement that the student is in  
3 noncompliance with the Compulsory School Attendance Law due  
4 to habitual truancy and the number and dates of unexcused  
5 absences; and

6 (c) notice of the opportunity for the  
7 student and the student's parent to request an optional  
8 meeting with the school principal or head administrator  
9 within two weeks to: 1) commit to the student returning to  
10 school and complying with the Compulsory School Attendance  
11 Law; 2) contest the occurrences and number of the student's  
12 unexcused absences; 3) provide evidence that the student is  
13 no longer subject to the Compulsory School Attendance Law; or  
14 4) request a hardship waiver pursuant to department rule to  
15 fulfill unavoidable employment or family medical caregiving  
16 duties;

17 (2) a school district or charter school  
18 shall give to the student's parent and the motor vehicle  
19 division of the taxation and revenue department a state-  
20 provided certification of noncompliance with the Compulsory  
21 School Attendance Law no less than thirty days after the  
22 notice of noncompliance with the Compulsory School Attendance  
23 Law is sent to the parent pursuant to Paragraph (1) of this  
24 subsection if the student remains noncompliant, unless the  
25 student has been granted a hardship waiver pursuant to Item

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1 4) of Subparagraph (c) of Paragraph (1) of this subsection  
2 prior to the issuance of a state-provided certification of  
3 noncompliance;

4 (3) upon the motor vehicle division's  
5 receipt of a state-provided certification of noncompliance  
6 with the Compulsory School Attendance Law, the motor vehicle  
7 division shall suspend or deny the issuance of an instruction  
8 permit, provisional license or driver's license to a student  
9 pursuant to the Motor Vehicle Code until the student reaches  
10 the age of eighteen years; and

11 (4) following the suspension or denial of an  
12 instruction permit, provisional license or driver's license,  
13 the student may:

14 (a) request a meeting with the school  
15 district or charter school to provide evidence supporting a  
16 request that the school district or charter school provide to  
17 the motor vehicle division a certification that the student  
18 is in compliance with or is no longer subject to the  
19 Compulsory School Attendance Law;

20 (b) appeal the school district's or  
21 charter school's determination by requesting a hearing and  
22 final decision from the department pursuant to its rules; and

23 (c) appeal the department's final  
24 decision to the district court for the county in which the  
25 student resides pursuant to Section 39-3-1.1 NMSA 1978."

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1           SECTION 5. A new section of the Public School Code is  
2 enacted to read:

3           "[NEW MATERIAL] REPORTING.--No later than November 15,  
4 2018 and each subsequent year, the department, in  
5 collaboration with the motor vehicle division of the taxation  
6 and revenue department and school districts and charter  
7 schools, shall submit an annual statewide report to the  
8 governor, the legislative education study committee and the  
9 legislative finance committee on the implementation of the  
10 Compulsory School Attendance Law. The annual statewide  
11 report shall include to the extent available:

12           A. aggregate data for each middle school, high  
13 school, school district and charter school regarding  
14 implementation of Subsection F of Section 22-12-7 NMSA 1978  
15 and Section 6 of this 2016 act, including:

16                   (1) the number of students who accumulated  
17 the equivalent of ten days or more of unexcused absences  
18 within a school year;

19                   (2) the number of state-provided  
20 certifications of noncompliance issued pursuant to the  
21 Compulsory School Attendance Law;

22                   (3) the number of students who were denied  
23 the issuance of or incurred the suspension of an instruction  
24 permit, provisional license or driver's license due to  
25 noncompliance with the Compulsory School Attendance Law and

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1 the number of:

2 (a) students who had more than one  
3 denial or suspension; and

4 (b) instruction permits, provisional  
5 licenses or driver's licenses that were denied or suspended  
6 and were subsequently granted or reinstated as a consequence  
7 of compliance with the Compulsory School Attendance Law; and

8 (4) the number of hardship waivers granted  
9 pursuant to Item 4) of Subparagraph (c) of Paragraph (1) of  
10 Subsection F of Section 22-12-7 NMSA 1978; and

11 B. an evaluation of any improvement in academic  
12 achievement attributable to implementation of the Compulsory  
13 School Attendance Law, including, to the extent applicable,  
14 for each middle school, high school, school district and  
15 charter school:

16 (1) the students' mathematics assessment  
17 scores;

18 (2) the students' English language arts  
19 assessment scores;

20 (3) the four-year cohort graduation rate;

21 and

22 (4) the most recent grade received under the  
23 A-B-C-D-F Schools Rating Act."

24 SECTION 6. A new section of the Motor Vehicle Code is  
25 enacted to read:

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1           "[NEW MATERIAL] AUTHORITY OF DEPARTMENT TO SUSPEND  
2 LICENSE OF SCHOOL-AGE PERSON.--

3           A. The department may:

4                   (1) upon receipt of a state-provided  
5 certification of noncompliance with the Compulsory School  
6 Attendance Law, pursuant to Section 22-12-7 NMSA 1978, to  
7 suspend or deny the granting of an instruction permit,  
8 provisional license or driver's license, without a  
9 preliminary hearing, of a school-age person as defined in  
10 Section 22-1-2 NMSA 1978 until the school-age person reaches  
11 the age of eighteen years; and

12                   (2) upon receipt of a state-provided  
13 certification that the school-age person is in compliance  
14 with or is no longer subject to the Compulsory School  
15 Attendance Law, to:

16                           (a) reinstate a suspended instruction  
17 permit, provisional license or driver's license of a school-  
18 age person; or

19                           (b) grant an instruction permit,  
20 provisional license or driver's license to a school-age  
21 person pursuant to the Motor Vehicle Code.

22           B. The division may adopt and promulgate rules to  
23 implement the provisions of this section."

24                                   - 14 -

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