

HOUSE BILL 219

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

## INTRODUCED BY

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AN ACT

RELATING TO SCHOOL ATTENDANCE; REQUIRING GREATER COOPERATION BETWEEN SCHOOLS AND JUVENILE PROBATION SERVICES IN THE ENFORCEMENT OF THE ATTENDANCE FOR SUCCESS ACT; REQUIRING A PRELIMINARY INQUIRY OF A DELINQUENCY COMPLAINT TO INCLUDE A REVIEW OF THE CHILD'S SCHOOL ATTENDANCE; REQUIRING JUVENILE PROBATION SERVICES TO INITIATE OR REVIEW INTERVENTIONS FOR A CHILD SUBJECT TO A DELINQUENCY COMPLAINT WHO IS CHRONICALLY OR EXCESSIVELY ABSENT FROM SCHOOL; REQUIRING A CHILDREN'S COURT ATTORNEY TO INITIATE PROCEEDINGS PURSUANT TO THE FAMILY IN NEED OF COURT-ORDERED SERVICES ACT FOR CERTAIN CHILDREN WHO ARE CHRONICALLY OR EXCESSIVELY ABSENT FROM SCHOOL; AUTHORIZING JUVENILE PROBATION SERVICES TO INITIATE ENFORCEMENT OF THE ATTENDANCE FOR SUCCESS ACT FOR CERTAIN STUDENTS WHO ARE CHRONICALLY OR EXCESSIVELY ABSENT FROM SCHOOL; PROVIDING JUVENILE PROBATION SERVICES WITH IMMEDIATE ACCESS TO A

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1 STUDENT'S ATTENDANCE RECORDS; MAKING CONFORMING AMENDMENTS.

2

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

4 SECTION 1. Section 22-12A-2 NMSA 1978 (being Laws 2019,  
5 Chapter 223, Section 2) is amended to read:

6 "22-12A-2. DEFINITIONS.--As used in the Attendance for  
7 Success Act:

8 A. "absent" means not in attendance for a class or  
9 school day for any reason, whether excused or not; provided  
10 that "absent" does not apply to participation in  
11 interscholastic extracurricular activities;

12 B. "attendance improvement plan" means a tiered  
13 data-informed system for public schools and school districts to  
14 identify students who are chronically or excessively absent and  
15 to aid public schools in developing whole-school prevention  
16 strategies and targeted interventions. Each of the tiers is  
17 defined as follows:

18 (1) "whole school prevention" means universal,  
19 whole-school prevention strategies for all students, including  
20 students who have missed less than five percent of classes or  
21 school days for any reason;

22 (2) "individualized prevention" means targeted  
23 prevention strategies for individual students who are missing  
24 five percent or more but less than ten percent of classes or  
25 school days for any reason;

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(3) "early intervention" means interventions for students who are missing ten percent or more but less than twenty percent of classes or school days for any reason; and

(4) "intensive support" means interventions for students who are missing twenty percent or more of classes or school days for any reason;

C. "attendance team" means a group of school-based administrators, teachers, staff, other school personnel and community members who collaborate to implement an attendance improvement plan;

D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year;

E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;

F. "excessively absent" or "excessive absenteeism" means a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school;

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1                   G. "excused absence" means absence from a class or  
2 school day for a death in the family, medical absence,  
3 religious instruction or tribal obligations or any other  
4 allowable excuse pursuant to the policies of the local school  
5 board;

6                   H. "interscholastic extracurricular activities"  
7 means those activities sponsored by a public school or an  
8 organization whose principal purpose is the regulation,  
9 direction, administration and supervision of interscholastic  
10 extracurricular activities in public schools;

11                  I. "juvenile probation services" means juvenile  
12 probation and parole services provided in accordance with  
13 Section 32A-2-5 NMSA 1978;

14                  [I.] J. "local school board" includes the governing  
15 body of a charter school;

16                  [J.] K. "medical absence" or "medically absent"  
17 means that a student is not in attendance for a class or a  
18 school day for a parent- or doctor-authorized medical reason or  
19 the student is a pregnant or parenting student;

20                  [K.] L. "school day" means a portion of the school  
21 day that is at least one-half of a student's approved program;

22                  [L.] M. "school district" includes a charter  
23 school;

24                  [M.] N. "school principal" includes the head  
25 administrator of a charter school; and

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1                   [N.] O. "unexcused absence" means an absence from a  
2 class or school day for which the student does not have an  
3 allowable excuse pursuant to the Attendance for Success Act or  
4 policies of the local school board."

5                   **SECTION 2.** Section 22-12A-6 NMSA 1978 (being Laws 2019,  
6 Chapter 223, Section 6) is amended to read:

7                   **"22-12A-6. PUBLIC SCHOOL ATTENDANCE POLICIES--**  
8 **REPORTING.--**

9                   A. A public school shall maintain an attendance  
10 policy that:

11                   (1) establishes an early warning system that  
12 includes evidence-based metrics to identify students at risk of  
13 chronic absenteeism or excessive absenteeism;

14                   (2) provides for early identification of  
15 chronically absent and excessively absent students;

16                   (3) employs an attendance improvement plan  
17 that focuses on:

18                   (a) keeping students in an educational  
19 setting;

20                   (b) prohibiting out-of-school suspension  
21 or expulsion as the punishment for absences;

22                   (c) assisting a student's family to  
23 remove barriers to the student's regular school attendance or  
24 attendance in another educational setting; and

25                   (d) providing additional educational

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opportunities to students who are struggling with attendance;

(4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;

(5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;

(6) provides that a public school shall differentiate between different types of absences;

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day;

(b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and

(c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;

(8) requires a student or the parent of a

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1 student who intends to claim excused absence because of medical  
2 condition, pregnancy or parenting to communicate the student's  
3 status to the appropriate school personnel and to provide  
4 required documentation; and

5 (9) encourages and supports compliant data  
6 sharing, pursuant to the federal Family Educational Rights and  
7 Privacy Act of 1974, between a public school and community-  
8 based organizations that provide services to students for the  
9 purpose of providing more personalized interventions and  
10 specialized supports as part of the public school's attendance  
11 improvement plan.

12 B. Local school boards shall review and approve  
13 their public school attendance policies.

14 C. School districts shall report absences, chronic  
15 absences and excessive absences data to the department at each  
16 reporting date and the end of the school year and shall  
17 document intervention efforts made to keep students in an  
18 educational setting. The department shall compile school  
19 district reports as provided in Section ~~[+3 of the Attendance~~  
~~for Success Act]~~ 22-12A-13 NMSA 1978 and require school  
21 districts to certify that the information is being reported  
22 consistently and correctly. The department shall share  
23 information from state-chartered charter schools with the  
24 commission.

25 D. A public school shall provide a copy of the

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public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

(1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;

(2) the prevention strategies that will be implemented to ensure that students attend classes; and

(3) details about consequences of failing to adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools.

G. Immediately upon request, a public school shall provide juvenile probation services with a student's attendance records and records of any attendance interventions and responses to those interventions."

**SECTION 3.** Section 22-12A-12 NMSA 1978 (being Laws 2019, Chapter 223, Section 12) is amended to read:

"22-12A-12. CHRONIC AND EXCESSIVE ABSENTEEISM--

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1 ENFORCEMENT.--

2                   A. Each local school board and each governing body  
3 of a charter school or private school shall initiate the  
4 enforcement of ~~[the provisions of]~~ the Attendance for Success  
5 Act for excessively absent students. Juvenile probation  
6 services shall initiate enforcement of the Attendance for  
7 Success Act for chronically absent students who are subject to  
8 a delinquency complaint.

9                   B. For excessively absent students, if unexcused  
10 absences continue after written notice of excessive absenteeism  
11 as provided in Section ~~[11 of the Attendance for Success Act]~~  
12 22-12A-11 NMSA 1978, the local school board or governing body  
13 of a charter school or private school, after consultation with  
14 the local superintendent or head administrator of a charter  
15 school or private school, shall report the excessively absent  
16 student to the juvenile probation services office of the  
17 judicial district in which the student resides. ~~[for an~~  
18 ~~investigation as to]~~ Upon receiving a report, the juvenile  
19 probation services office shall investigate whether the student  
20 ~~[should be considered to be]~~ is a neglected child or a child in  
21 a family in need of family services because of excessive  
22 absenteeism ~~[and, thus, subject to the provisions of]~~ in  
23 accordance with the Children's Code. The local superintendent  
24 or head administrator of a charter school or private school  
25 shall provide the record of the [public] school's interventions

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1 and the student's and parent's responses to the interventions  
2 [shall be provided] to the juvenile probation services office  
3 [The local superintendent or head administrator of a charter  
4 school or private school shall provide the documentation to the  
5 juvenile probation services office] within ten business days of  
6 the student being identified as excessively absent.

7 C. If the juvenile probation services office  
8 determines that the excessively absent student is a child in a  
9 family in need of family services, a caseworker from the [child  
10 or family in need of family services program] children, youth  
11 and families department shall meet with the family at the  
12 [public school in which the student is enrolled] student's  
13 school to determine if [there are] other intervention services  
14 [that] may be provided. The meeting shall involve the school  
15 principal or other school personnel and, unless the parent  
16 objects in writing, appropriate community partners that provide  
17 services to children and families. The children, youth and  
18 families department shall determine if additional  
19 interventions, including monitoring, will positively affect the  
20 student's behavior. Juvenile probation services may call a  
21 meeting to review interventions for an excessively absent  
22 student at any time; provided that if juvenile probation  
23 services determines that a student who is subject to a  
24 delinquency complaint or petition or who is alleged to be a  
25 serious youthful offender is also an excessively absent

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1 student, juvenile probation services shall immediately schedule  
2 a meeting to review interventions, which shall be held within  
3 five business days.

4 D. For a chronically absent student who is subject  
5 to a delinquency complaint, juvenile probation services shall  
6 schedule a meeting to determine interventions for the student.  
7 Juvenile probation services shall schedule the meeting  
8 immediately upon determining that the student is chronically  
9 absent. The meeting shall be held within ten business days  
10 from the date the meeting is scheduled and shall involve the  
11 child, the child's parents, the school principal or head  
12 administrator and any other school personnel or service  
13 providers deemed necessary by juvenile probation services.  
14 Juvenile probation services may call a meeting to review  
15 interventions for a chronically absent student at any time."

16 SECTION 4. Section 32A-2-7 NMSA 1978 (being Laws 1993,  
17 Chapter 77, Section 36, as amended) is amended to read:

18 "32A-2-7. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY--  
19 NOTICE--TIME WAIVER.--

20 A. [Complaints] A complaint alleging delinquency  
21 shall be referred to probation services, which shall conduct a  
22 preliminary inquiry to determine the best interests of the  
23 child and of the public [with regard to any action to be taken]  
24 and to recommend an appropriate disposition for the case. A  
25 preliminary inquiry shall include a review of the child's

1       school attendance. If the child is chronically or excessively  
2       absent from school as provided in the Attendance for Success  
3       Act, probation services shall call a meeting pursuant to  
4       Section 22-12A-12 NMSA 1978 to initiate or review  
5       interventions. Probation services shall call a meeting to  
6       initiate or review interventions for a chronically or  
7       excessively absent child regardless of the delinquent act  
8       alleged in the complaint and of probation services' recommended  
9       disposition for the case.

10       B. During the preliminary inquiry on a delinquency  
11       complaint, the matter may be referred to another appropriate  
12       agency and conferences may be conducted for the purpose of  
13       effecting adjustments or agreements that will obviate the  
14       necessity for filing a petition. At the commencement of the  
15       preliminary inquiry, the parties shall be advised of their  
16       basic rights pursuant to Section 32A-2-14 NMSA 1978, and no  
17       party may be compelled to appear at any conference, to produce  
18       any papers or to visit any place. The child shall be informed  
19       of the child's right to remain silent. The preliminary inquiry  
20       shall be completed within the time limits set forth in the  
21       Children's Court Rules.

22       C. Prior to a preliminary inquiry being conducted  
23       with a child who is detained, the child's parent, guardian or  
24       custodian or the child's attorney shall be given reasonable  
25       notice by the juvenile probation and parole officer and an

1 opportunity to be present at the preliminary inquiry. If a  
2 child is not detained, the preliminary inquiry shall be  
3 conducted within thirty days of receipt of the referral from  
4 law enforcement. The thirty-day time period may be extended  
5 upon a determination by the department that an extension is  
6 necessary to conduct a thorough preliminary inquiry and that  
7 the extension is not prejudicial to the best interests of the  
8 child.

9                   D. When a child is in detention or custody and the  
10 children's court attorney does not file a petition within the  
11 time limits authorized by the Children's Court Rules, the child  
12 shall be released immediately. If a child is not detained and  
13 a determination is made to file a petition, the petition shall  
14 be filed within sixty days of completion of the preliminary  
15 inquiry, unless a motion is granted to extend the time limit  
16 for good cause shown. If a child is not in custody or  
17 detention, a petition shall not be dismissed for failure to  
18 comply with the time limit set forth in this subsection unless  
19 there is a showing of prejudice to the child.

20                   E. After completion of the preliminary inquiry on a  
21 delinquency complaint involving a misdemeanor, probation  
22 services may notify the children's court attorney and recommend  
23 an appropriate disposition for the case. If the child has been  
24 referred for three or more prior misdemeanors within two years  
25 of the instant offense, probation services shall notify the

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1       children's court attorney and recommend an appropriate  
2       disposition for the case, and if the child is chronically or  
3       excessively absent from school, probation services shall give  
4       notice of the child's absenteeism to the children's court  
5       attorney.

6                   F. Probation services shall notify the children's  
7       court attorney of the receipt of any complaint involving an act  
8       that constitutes a felony under the applicable criminal law.  
9       Probation services shall also recommend a disposition to the  
10      children's court attorney, and if the child is chronically or  
11       excessively absent from school, probation services shall give  
12       notice of the child's absenteeism to the children's court  
13       attorney.

14                  G. The child, through counsel, and the children's  
15       court attorney may agree, without judicial approval, to a  
16       waiver of time limitations imposed after a petition is filed.  
17       A time waiver defers adjudication of the charges. The  
18       children's court attorney may place restrictions on a child's  
19       behavior as a condition of a time waiver. If the child  
20       completes the agreed upon conditions and no new charges are  
21       filed against the child, the pending petition shall be  
22       dismissed. If the children's court attorney files a new  
23       petition against the child, the children's court attorney may  
24       proceed on both the original petition and the new charges. The  
25       department shall become a party if probation services are

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1 requested as a condition of the time waiver.

2                   H. In addition to proceeding with the appropriate  
3                   disposition of a child's case, if the children's court attorney  
4                   received notice that the child is chronically or excessively  
5                   absent from school pursuant to Subsections E and F of this  
6                   section, the children's court attorney shall determine if the  
7                   child's family is a family in need of court-ordered services.  
8                   If the child's family is a family in need of court-ordered  
9                   services, the children's court attorney shall file a petition  
10                  in accordance with the Family in Need of Court-Ordered Services  
11                  Act."

12                  SECTION 5. Section 32A-3B-2 NMSA 1978 (being Laws 1993,  
13 Chapter 77, Section 74, as amended) is amended to read:

14                  "32A-3B-2. [DEFINITIONS] DEFINITION.--As used in Chapter  
15 32A, Article 3B NMSA 1978, "family in need of court-ordered  
16 services" means [the child or the family] a family that has  
17 refused family services, [or] whose child who has refused  
18 family services or for whom the department has exhausted  
19 appropriate and available family services and court  
20 intervention is necessary to provide family services to the  
21 child or family and: [it is a family]

22                  A. whose child [subject to compulsory school  
23 attendance, is absent from school without an authorized excuse  
24 more than ten days during a school year] is chronically or  
25 excessively absent from school as provided in the Attendance

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1       for Success Act;

2               B. whose child is absent from the child's place of  
3       residence for a time period of twelve hours or more without  
4       consent of the child's parent, guardian or custodian;

5               C. whose child refuses to return home and there is  
6       good cause to believe that the child will run away from home if  
7       forced to return to the parent, guardian or custodian;

8               D. in which the child's parent, guardian or  
9       custodian refuses to allow the child to return home and a  
10      petition alleging neglect of the child is not in the child's  
11      best interests; or

12               E. whose child is:

13                       (1) alleged to be engaged in an act that would  
14       be designated as prostitution if committed by an adult; or

15                       (2) a victim of human trafficking as defined  
16       in Section 30-52-1 NMSA 1978."

17               **SECTION 6.** Section 32A-3B-11 NMSA 1978 (being Laws 1993,  
18       Chapter 77, Section 83) is amended to read:

19               **"32A-3B-11. PETITION--ALLEGATIONS.--**

20               A. A petition to initiate a proceeding regarding an  
21       alleged family in need of court-ordered services shall include  
22       the following allegations:

23                       (1) that the child or the family are in need  
24       of court-ordered family services;

25                       (2) that the child and the family participated

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in or refused to participate in a plan for family services and that the department has exhausted appropriate and available services; and

(3) that court intervention is necessary to assist the department in providing necessary services to the child and the family.

B. In addition to the allegations required pursuant to the provisions of Subsection A of this section, a petition that alleges a child's chronic or excessive absence from school shall be accompanied by an affidavit filed by a school official ~~[in accordance with the provisions of Section 32-3A-3 NMSA 1978]~~ or a juvenile probation services officer."

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