

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 369

50th Legislature, 1st Session, 2011

Tracking Number: .183976.1

Short Title: Student Public Assistance Requirement

Sponsor(s): Representative Dennis J. Kintigh and Others

Analyst: Ally Hudson

Date: March 11, 2011

Bill Summary:

In brief, HB 369:

- amends a section of the *Public School Code* to provide for reporting of students not meeting attendance requirements to the Human Services Department (HSD); and
- enacts a new section of the *Compulsory School Attendance Law* to establish a process for termination of student public assistance to parents of students who fail to meet school attendance requirements.

Among its provisions, HB 369 describes the process for termination of student public assistance, including that:

- HSD cancel all state public assistance to a parent who is receiving the public assistance for a student if that student is not meeting school attendance requirements; and
- a student's unsatisfactory school attendance be excused if the absences were due to:
 - personal illness, as evidenced by a note from a doctor or other health professional;
 - a family emergency, for a period not to exceed 30 days;
 - participation in or attendance at cultural and religious activities and the student has parental consent to attend such activities; or
 - the student being a parent of a child under 12 weeks of age.

The bill also delineates certain reporting requirements:

- if a student is not meeting school attendance requirements, the public school, charter school, or private school that the student attends must report the student to the school district or the governing body and to HSD within 14 days of discovering the student is not meeting attendance requirements;
- within 10 days of reporting the student as not meeting school attendance requirements, the school must notify the parent in writing by mail or personal service that the student is not meeting school attendance requirements and HSD has been notified. The notice shall include:
 - a date not more than 15 days from the date of the notice; and
 - time and place for the parent to meet with the school to develop an intervention plan; and

- within 10 days of the meeting between the parent and the school, the school must notify HSD and the school district or the governing body that:
 - the parent and school were able to develop an intervention plan;
 - the parent failed to attend the meeting, without being excused by the school; or
 - the parent and school were unable to develop an intervention plan.

HB 369 also prescribes the process for action:

- if an intervention plan is agreed upon between the school and the parent, the school must notify HSD of the plan and the department shall not terminate state public assistance to that parent;
- if the parent failed to attend the meeting or the school and parent were unable to develop an adequate intervention plan, the school must notify HSD and the department shall remove the student from the parent's public assistance effective the month following the notice by the school; and
- if a student has one or more unexcused absences following the development of an intervention plan approved by the school, the school must notify HSD and the department shall remove the student from the parent's public assistance effective the month following the notice by the school.

The bill further describes the process for regaining eligibility of a student's public assistance. If the student for which the assistance was terminated attends school with no unexcused absences for 30 days or, if during the summer months, the student is promoted, attends summer school, or graduates:

- the parent shall petition HSD for return of the public assistance; and
- HSD must verify with the school that the student has met the requirements of the law.

Finally, HB 369 includes an effective date of July 1, 2011.

Fiscal Impact:

HB 369 does not contain an appropriation.

Fiscal Issues:

According to an analysis by the Public Education Department (PED), the additional reporting requirements included in HB 369 for public schools, charter schools, and private schools could result in increased staff responsibilities for which additional staff may be required.

Substantive Issues:

The PED analysis raises a number of implementation issues:

- Currently school districts report attendance data to the Student Teacher Accountability Reporting System four times a year. To ensure that any student who has violated the *Compulsory School Attendance Law* is detected, as required in HB 369, district reporting would have to occur on a daily basis.

- HB 369 may require memoranda of understanding among PED, HSD and public and private schools to establish the responsibilities of each entity in relation to sharing student data.
- Requiring HSD to cancel all state public assistance because of a student's not meeting school attendance requirements would result in sanctions for *all* children in the family for the truancy of one student.
- Although HB 369 defines excused absences, excused and unexcused absences are currently defined at the local level. Requiring parents to obtain medical notes for student illness could be costly to parents because not every illness requires a visit to a medical professional. For example, in 2009 the Department of Health recommended that parents keep children home if they display signs of the flu and contact a health care professional only under certain circumstances.

Technical Issues:

The PED analysis also raises several legal issues:

- The *Family Educational Rights and Privacy Act* (FERPA) applies to all schools that receive funding under an applicable program of the US Department of Education. By requiring public and private schools to share personally identifiable student education records with HSD (which is not a public educational agency), HB 369 appears to violate FERPA.
- Under the state *Public Assistance Appeals Act*, deprivation of public assistance requires due process; however, the mandatory intervention requirement included in HB 369 does not qualify as due process.
- Finally, HB 369 poses equal protection issues: “namely, [the bill] treats children of a parent entitled to receive public assistance differently than children...who do not receive public assistance.”

Background:

In 2003, legislation endorsed by the Legislative Education Study Committee (LESC) included the *Family and Youth Resource Act*, which, although not directed at truancy *per se*, addressed some of the causes of truancy. To continue to address the issue of truancy, in February 2008, at the request of the Chair, the LESL Director convened the LESL Truancy Work Group. Over the course of the interim, the work group identified several best practices, including:

- 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, the work group determined that:

- district practices vary widely, especially in terms of intervention and enforcement methods;
- the *Public School Code* and the *Children's Code* define truancy terms in different ways;
- some districts lack an adequate number of trained staff: the guidance from PED is insufficient; and
- a comprehensive approach would be the most effective means of addressing truancy statewide.

Most recently, LESC-endorsed legislation in 2009 amended the *Compulsory School Attendance Law* to establish a consistent method to count unexcused absences. The bill also:

- required PED to approve school district and charter school attendance policies;
- changed the term “truant” to “student in need of early intervention”;
- required schools to notify parents by regular mail rather than certified mail;
- required schools to document attempts to provide parental notice and to intervene;
- required PED to compile and verify absence rates;
- permitted the juvenile probation office (JPO) to send a notice to a parent directing the parent and student to report to the JPO to discuss student or family services; and
- amended the *Children's Code* to change the definition of a “family in need of court-ordered services.”

Related Bills:

SB 291a *Compulsory School Attendance Law Enforcement*
SB 311 *Parent Accountability for Child Truancy*