

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 311

50th Legislature, 1st Session, 2011

Tracking Number: .184462.1

Short Title: Parent Accountability for Child Truancy

Sponsor(s): Senator Cynthia Nava

Analyst: James Ball

Date: February 8, 2011

Bill Summary:

SB 311 amends the *Compulsory School Attendance Law* in the *Public School Code* to increase the penalty for a second or subsequent conviction for violation of the statute by a parent to a full misdemeanor, subject to a fine of \$1,000 or imprisonment for a term less than one year, or both.

Fiscal Impact:

SB 311 does not contain an appropriation.

Fiscal Issues:

According to the analysis of SB 311 by the Administrative Office of the Courts, it is possible that the increased penalty for violation of the statute could increase the number of trials for these cases. The increased caseloads in the courts could require additional resources. However, the analysis by the Administrative Office of the District Attorneys does not anticipate a caseload increase because the courts are already processing the cases as petty misdemeanors.

Substantive Issues:

According to the Public Education Department's *Habitually Truant Report*, the following are statewide percentages of students identified as habitual truants:

- school year 2007-2008: 13.3 percent
- school year 2008-2009: 12.5 percent
- school year 2009-2010: 16.7 percent

The federal *No Child Left Behind Act* requires statewide reporting of habitual truancy; however, each state may define habitual truancy differently, making nationwide comparisons impossible.

Penalties against parents of chronically truant children in other states include the following:

- in California,
 - upon a second conviction, a fine of not more than \$250;
 - upon a third or subsequent conviction, a fine of not more than \$500 or in lieu thereof the court may order the offender to be placed in a parent education and counseling program; and
 - if referred to law enforcement, the parent may be charged with a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not to exceed one year, or by both fine and imprisonment;
- in Pennsylvania,
 - a fine of up to \$300 for each offense and court costs, or completing a parenting education program, or completing in lieu thereof or in addition to the previous penalties, community service within the school district for a period of no more than six months; and
 - in cases where the party being sentenced fails to complete the terms of the sentence, a subsequent sentencing to the county jail for no more than five days;
- in Nevada, six months in jail and a fine up to \$1,000;
- in Arizona, a fine of up to \$500 and incarceration for up to 30 days; and
- in Oklahoma and Maryland, loss of eligibility for certain forms of public assistance.

Background:

The Legislative Education Study Committee (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 the Public Education Department (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.

In 2009, based on the recommendations of the LESC work group, LESC-endorsed legislation was enacted to amend the *Compulsory School Attendance Law* to:

- establish a consistent method to count unexcused absences;
- require the PED to approve school district and charter school attendance policies;
- changes the term “truant” to “student in need of early intervention”;
- require schools to notify parents by regular mail rather than certified mail;
- require schools to document attempts to provide parental notice and to intervene;
- require PED to compile and verify absence rates; and
- permit 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.

Related Bills:

SB 290 *Defining “Habitual Truant”*