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HOUSE BILL 94

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR EACH LOCAL SCHOOL BOARD TO AUTHORIZE A SCHOOL DISTRICT EMPLOYEE TO APPEAR AND PROSECUTE IN MAGISTRATE AND METROPOLITAN COURTS PETTY MISDEMEANOR VIOLATIONS OF THE COMPULSORY SCHOOL ATTENDANCE LAW.

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

**SECTION 1.** Section 22-12-7 NMSA 1978 (being Laws 1967, Chapter 16, Section 175, as amended) is amended to read:

"22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL TRUANTS--PENALTY--PROSECUTION.--

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

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1           B. To initiate enforcement of the provisions of the  
2 Compulsory School Attendance Law against ~~an~~ a habitual  
3 truant, a local school board or governing body of a charter  
4 school or private school or its authorized representatives  
5 shall give written notice of the habitual truancy by regular  
6 and registered mail to or by personal service on the parent of  
7 the student subject to and in noncompliance with the provisions  
8 of the Compulsory School Attendance Law. The notice shall  
9 include a date, time and place for the parent to meet with the  
10 local school district, charter school or private school to  
11 develop intervention strategies that focus on keeping the  
12 student in an educational setting.

13           C. If unexcused absences continue, after written  
14 notice of habitual truancy as provided in Subsection B of this  
15 section has occurred, the student shall be reported to the  
16 probation services office of the judicial district where the  
17 student resides for an investigation as to whether the student  
18 shall be considered to be a neglected child or a child in a  
19 family in need of services because of habitual truancy and thus  
20 subject to the provisions of the Children's Code. The  
21 probation services office may send a written notice to a parent  
22 of the student directing the parent and student to report to  
23 the probation services office to discuss services for the  
24 student or the family. In addition to any other disposition,  
25 the children's court may order the habitual truant's driving

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1 privileges to be suspended for a specified time not to exceed  
2 ninety days on the first finding of habitual truancy and not to  
3 exceed one year for a subsequent finding of habitual truancy.

4 D. If, after review by the juvenile probation  
5 office where the student resides, a determination and finding  
6 is made that the habitual truancy by the student may have been  
7 caused by the parent of the student, then the matter will be  
8 referred by the juvenile probation office to the district  
9 attorney's office [~~or any~~], a law enforcement agency having  
10 jurisdiction or the involved local school board for appropriate  
11 investigation and filing of charges allowed under the  
12 Compulsory School Attendance Law. Charges against the parent  
13 may be filed in metropolitan court, magistrate court or  
14 district court, as appropriate.

15 E. If a referral has not yet occurred pursuant to  
16 Subsection D of this section and a local school board has  
17 determined that the habitual truancy by a student may have been  
18 caused by the parent of the student, the local school board may  
19 independently authorize enforcement of the Compulsory School  
20 Attendance Law pursuant to Subsection F of this section.

21 [~~E.~~] F. A parent of the student who, after  
22 receiving written notice as provided in Subsection B of this  
23 section and after the matter has been reviewed in accordance  
24 with Subsection D of this section, knowingly allows the student  
25 to continue to violate the Compulsory School Attendance Law

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1 shall be guilty of a petty misdemeanor. Upon the first  
2 conviction, a fine of not less than twenty-five dollars  
3 (\$25.00) or more than one hundred dollars (\$100) may be  
4 imposed, or the parent of the student may be ordered to perform  
5 community service. If violations of the Compulsory School  
6 Attendance Law continue, upon the second and subsequent  
7 convictions, the parent of the student who knowingly allows the  
8 student to continue to violate the Compulsory School Attendance  
9 Law shall be guilty of a petty misdemeanor and shall be subject  
10 to a fine of not more than five hundred dollars (\$500) or  
11 imprisonment for a definite term not to exceed six months or  
12 both.

13 ~~[F. The provisions of this section shall apply~~  
14 ~~beginning July 1, 2004.]~~

15 G. Each local school board may appoint an employee  
16 of the school district, who need not be an attorney licensed to  
17 practice law in this state, to institute in magistrate court or  
18 metropolitan court an action for a misdemeanor violation of the  
19 Compulsory School Attendance Law when authorized to do so by  
20 the local school board. The employee appointed and authorized  
21 pursuant to this subsection shall appear on behalf of the local  
22 school board and school district and prosecute the action as  
23 provided in the Rules of Criminal Procedure for the Magistrate  
24 Courts or the Rules of Criminal Procedure for the Metropolitan  
25 Courts adopted by the New Mexico supreme court."

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