

**JUVENILE JUSTICE TASK FORCE**  
**Education Workgroup**  
**Truancy Committee**

RECOMMENDATION PRESENTED TO THE CCJJ  
July 13, 2012

**FY13-JJ #2    Revise the Enforcement of Compulsory School Attendance statute to address issues including the definition of absence, policies and procedures regarding attendance, identification of at-risk students, truancy charges, and parental roles.**

**Recommendation:**

Revise CRS 22-33-107 Enforcement of Compulsory School Attendance to address the following:

- More definitively define “absence” which, in the current definition, can include a scheduled school day or portion thereof;
- Add language to the Enforcement of Compulsory School Attendance Statute (CRS 22-33-107) requiring state school boards to adopt policies and procedures regarding student attendance including development of a multi-disciplinary plan to address when the child reaches a 10% absence rate including excused and unexcused absences;
- To provide early identification of and provision of services to at-risk students to avoid future truancy;
- Provide more clarity about when a school should file truancy charges by adding that a multidisciplinary plan be developed and in place that addresses the social, medical, economic and/or academic needs of the child and family before the school can file a truancy petition; and
- Clarify that when a parent(s) refuses to abide by a court order for them or their child to access needed services to address his/her truancy and the child does not attend school as also ordered by the court, ordering a social services investigation for educational neglect or filing of a dependency or neglect petition can be an appropriate course of action.

**Clarification:**

Revise CRS 22-33-107 Enforcement of Compulsory School Attendance, as follows:

**22-33-107 Enforcement of compulsory school attendance**

(3) (a) As used in this subsection (3), a child who is "habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years having four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year. Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of this subsection (3). **Tracking of absences will be pursuant to the Board of Education rules defining absences.**

(b) The board of education of each school district shall adopt and implement policies and procedures **concerning children who are habitually truant regarding student attendance beginning with elementary school to include both unexcused and excused days absent** absences from school. The policies and procedures shall include provisions for the development of a **multi-disciplinary plan to address excessive absences**. The plan shall be developed with the goal of assisting the child to remain **engaged** in school and **when practicable**, with the full participation of **the child, the child's parent, guardian, or legal custodian, and with other agencies that can provide additional services to address the social, medical, economic and/or academic needs of the child and family which are impacting the child's attendance**. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's attendance **deficits**. The policies and procedures may also include but need not be limited to the following:

(I) (Deleted by amendment, L. 96, p. 1808, § 4, effective July 1, 1996.)

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5), **and** requesting that the parent acknowledge in writing awareness of such obligations **and their awareness that services are available if problems regarding attendance arise**;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; **and**

(IV) Establishing a system of monitoring individual **unexcused** absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith,

gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice;~~and~~

~~(V) Establishing a system of monitoring individual ~~excused~~ absences of children which shall provide that, whenever a child who is enrolled in a public school misses **10% or more** of instructional school time ~~school~~ including excused and unexcused absences, even if the parent/guardian reports to school on a regularly scheduled school day and school personnel have received indication that the child's parent is aware of the child's absence. School personnel shall make a reasonable effort to address these absences through a multi-disciplinary staffing and subsequent plan as described in 22-33-107 (3)(b);~~and~~~~

~~(VI) Establishing a system of monitoring and tracking attendance for students engaged in on-line schooling.~~

**22-33-104 (5) (a)** The general assembly hereby declares that two of the most important factors in ensuring a child's educational development are parental involvement and parental responsibility. The general assembly further declares that it is the obligation of every parent to ensure that every child under such parent's care and supervision receives adequate education and training. Therefore, every parent of a child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years shall ensure that such child attends the public school in which such child is enrolled in compliance with this section.

### **22-33-108 Judicial Proceedings**

5) As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options **which must include a multi-disciplinary staffing and subsequent plan developed, implemented and signed by the child and parent/guardian /legal custodian pursuant to 22-33-107(3)(b) C.R.S.** for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article. The school district may combine the notice and summons. If combined, the petition shall state the date on which proceedings will be initiated, which date shall not be less than five days from the date of the notice and summons. The notice shall state the provisions of this article with which compliance is required and shall state that the proceedings will not be brought if the child complies with that provision before the filing of the proceeding.

(6) In the discretion of the court before which a proceeding to compel attendance is brought, an order may be issued against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to

assure the child's attendance. The order should ~~may~~ require the school, child ~~or~~ and parent/guardian/legal custodian ~~or both~~ to follow the multidisciplinary plan developed pursuant to 22-33-107 (3)(b) C.R.S. ~~an appropriate treatment plan~~ that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education.

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent/guardian/legal custodian and the child, the court may order that an investigation be conducted as provided in sections ~~19-3-501, 19-3-307~~ and 19-3-102 (d), ~~19-2-510 (2)~~, C.R.S. ~~unless the department of social services was involved in the development and provision of services identified in the multidisciplinary staffing and subsequent plan developed pursuant to 22-33-107(3)(b) C.R.S.,~~ and the court may order the child to show cause why he or she should not be held in contempt of court.

(b) The court may include as a sanction after a finding of contempt ~~an appropriate treatment plan~~ ~~and~~ additional sanctions that may include, but need not be limited to, community service to be performed by the child, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

(c) ~~If the court finds that the child has failed to comply with the appropriate written multidisciplinary plan prepared by the child's school district pursuant to 22-3107(3)(b), signed by the juvenile and his/her parent/guardian/legal custodian, and approved by the court pursuant to 22-33-108,~~ the court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402, C.R.S., and any rules promulgated by the Colorado supreme court.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

#### **References for citations in above statutes:**

#### **19-3-501 Petition initiation - preliminary investigation - informal adjustment.**

(1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.

**19-3-102 Neglected or dependent child**

(d) A parent, guardian, or legal custodian fails or refuses to provide the child with proper or necessary subsistence, education, medical care, or any other care necessary for his or her health, guidance, or well-being;

**19-2-510. Preliminary investigation.**

(1) Whenever it appears to a law enforcement officer or any other person that a juvenile is or appears to be within the court's jurisdiction, as provided in section 19-2-104, the law enforcement officer or other person may refer the matter conferring or appearing to confer jurisdiction to the district attorney, who shall determine whether the interests of the juvenile or of the community require that further action be taken.

(2) Upon the request of the district attorney, the matter may be referred to any agency for an investigation and recommendation.

**Discussion:**

Chronic absence refers to children missing extended periods of schools and includes both excused and unexcused absences. Missing 10% or more of school over a school year is associated with declining academic performance. Chronic absence in Kindergarten is also associated with lower academic performance in 1<sup>st</sup> grade among all children and most significantly reading proficiency for Latino youngsters. Among poor children, chronic absence in kindergarten predicts the lowest levels of educational achievement at the end of fifth grade. A high level of chronic absence suggests the existence of systemic issues affecting large numbers of students and families <sup>i</sup>

The Commission is recommending that the State begin looking at excused absences along with unexcused absences in an effort to identify and serve, as early as possible, those children at risk of school disengagement. Missing school is also a symptom of other family, school and/or community issues that are contributing to chronic absence and need to be addressed through multi-disciplinary approaches. Multi-disciplinary teams exist in many local communities (for example, through the Colorado Management Program [HB 1451]) located in 33 of the 64 counties which can be used either as the multi-disciplinary body or as a template for developing such a multi-disciplinary body.

All of the recommendations presented here have been developed because Commission members recognize that the short and long term consequences for children not attending school can be severe and there is a need to respond as early as possible to excessive absences, to engage the parents in seeking solutions for their child's disengagement and, finally, to recognize that there are often multiple issues which contribute to truancy suggesting the need for a multi-disciplinary response.

The Commission also recognizes that even when agencies offer services, there may be times when parents and/or the child do not avail themselves of the services and the truant behavior

continues. *The recommendations in this document are intended to be used only as a last resort by the courts, when all other efforts have failed.*

The courts have various options available to them in current statute which includes sentencing the child to detention for failing to obey a court order and sentencing a parent to jail or ordering a fine. *Truancy petitions filed in juvenile court have been gradually increasing each year ultimately rising overall by 5.9% between 2005 and 2011. During the same time period, use of detention for status offenders who do not abide by court orders grew by 73% (from 122 to 467).* There are no records for when parents have been fined or jailed but the courts have anecdotally stated this option is rarely if ever exercised.

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<sup>i</sup> Chang, Hedy. Annie E Casey Foundation. "Chronic Early Absence: What It Matter? What Can we Do?" PowerPoint Presentation at PTA Legislative Conference, March 11, 2009.