

SENATE BILL 113

E3
HB 604/06 – JUD

71r1152

By: **Senators Britt, Muse, Peters, and Rosapepe**
Introduced and read first time: January 24, 2007
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Truancy Reduction Pilot Program in Prince George’s County**

3 **PG 303–07**

4 FOR the purpose of authorizing the establishment of a truancy reduction pilot
5 program in Prince George’s County; establishing that the failure of a child to
6 attend school without a lawful excuse is a Code violation; establishing that the
7 Code violation of failing to attend school without a lawful excuse is not a
8 criminal conviction, and does not result in certain civil disabilities; requiring
9 certain notice to the State’s Attorney for Prince George’s County if a child is
10 alleged to have committed a certain violation; authorizing the State’s Attorney
11 to take certain actions; establishing certain procedures; authorizing the court to
12 take certain actions in making a disposition on a petition; making certain cases
13 eligible for family support services; specifying that certain criminal defendants
14 are subject to certain conditions of probation; authorizing a party to appeal a
15 final judgment in a certain manner; authorizing certain criminal charges to be
16 filed in the juvenile court and assigned to a truancy docket; establishing a
17 certain affirmative defense in certain criminal cases; requiring the Circuit
18 Administrative Judge for the Seventh Circuit to submit a certain report on the
19 pilot program; providing for the termination of this Act; and generally relating
20 to a truancy reduction pilot program in Prince George’s County.

21 BY adding to
22 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–8D–01 through 3–8D–10, inclusive, to be under the new subtitle
2 “Subtitle 8D. Truancy Reduction Pilot Program in Prince George’s
3 County”
4 Annotated Code of Maryland
5 (2006 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article – Education
8 Section 7–301
9 Annotated Code of Maryland
10 (2006 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Courts and Judicial Proceedings**

14 **SUBTITLE 8D. TRUANCY REDUCTION PILOT PROGRAM IN PRINCE GEORGE’S**
15 **COUNTY.**

16 **3–8D–01.**

17 **THIS SUBTITLE APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

18 **3–8D–02.**

19 **THE CIRCUIT ADMINISTRATIVE JUDGE OF THE SEVENTH CIRCUIT MAY**
20 **ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE JUVENILE COURT**
21 **IN PRINCE GEORGE’S COUNTY.**

22 **3–8D–03.**

23 **(A) A CHILD WHO IS REQUIRED TO ATTEND SCHOOL UNDER § 7–301 OF**
24 **THE EDUCATION ARTICLE MAY NOT FAIL TO DO SO WITHOUT LAWFUL EXCUSE.**

25 **(B) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND IS A CIVIL**
26 **OFFENSE.**

27 **(C) ADJUDICATION OF A CODE VIOLATION UNDER THIS SECTION IS NOT**
28 **A CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT IMPOSE ANY OF THE**
29 **CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.**

1 **3-8D-04.**

2 (A) (1) AN AUTHORIZED SCHOOL OFFICIAL SHALL NOTIFY THE
3 STATE'S ATTORNEY FOR PRINCE GEORGE'S COUNTY IF A CHILD IS ALLEGED TO
4 HAVE COMMITTED A VIOLATION OF THIS SUBTITLE.

5 (2) ON RECEIPT OF NOTICE UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION, THE STATE'S ATTORNEY MAY FILE WITH THE JUVENILE COURT A
7 PETITION ALLEGING A VIOLATION OF THIS SUBTITLE.

8 (B) A PETITION ALLEGING A VIOLATION OF THIS SUBTITLE SHALL BE
9 ASSIGNED TO THE TRUANCY DOCKET.

10 **3-8D-05.**

11 (A) A PETITION UNDER THIS SUBTITLE SHALL ALLEGE THAT A CHILD
12 WHO IS REQUIRED TO ATTEND SCHOOL FAILED TO ATTEND SCHOOL WITHOUT
13 LAWFUL EXCUSE AND SHALL SET FORTH IN CLEAR AND SIMPLE LANGUAGE THE
14 FACTS SUPPORTING THE ALLEGATION.

15 (B) (1) WHENEVER A PETITION IS FILED UNDER THIS SUBTITLE THE
16 COURT SHALL HOLD AN ADJUDICATORY HEARING.

17 (2) THE RULES OF EVIDENCE UNDER TITLE 5 OF THE MARYLAND
18 RULES SHALL APPLY AT AN ADJUDICATORY HEARING UNDER THIS SECTION.

19 (3) THE ALLEGATIONS IN A PETITION UNDER THIS SUBTITLE
20 SHALL BE PROVED BY A PREPONDERANCE OF THE EVIDENCE.

21 **3-8D-06.**

22 (A) UNLESS A PETITION FILED UNDER THIS SUBTITLE IS DISMISSED,
23 THE COURT SHALL HOLD A SEPARATE DISPOSITION HEARING AFTER THE
24 ADJUDICATORY HEARING.

25 (B) THE COURT SHALL HOLD A DISPOSITION HEARING ON THE SAME
26 DAY AS THE ADJUDICATORY HEARING UNLESS, ON ITS OWN MOTION OR MOTION

1 **OF A PARTY, THE COURT FINDS GOOD CAUSE TO DELAY THE DISPOSITION**
2 **HEARING TO A LATER DAY.**

3 **(C) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD**
4 **NO LATER THAN 15 DAYS AFTER THE CONCLUSION OF THE ADJUDICATORY**
5 **HEARING UNLESS GOOD CAUSE IS SHOWN.**

6 **(D) IN MAKING A DISPOSITION ON A PETITION FILED UNDER THIS**
7 **SUBTITLE, THE COURT MAY ORDER THE CHILD TO:**

8 **(1) ATTEND SCHOOL;**

9 **(2) PERFORM COMMUNITY SERVICE;**

10 **(3) ATTEND COUNSELING, INCLUDING FAMILY COUNSELING;**

11 **(4) ATTEND SUBSTANCE ABUSE EVALUATION AND TREATMENT;**

12 **(5) ATTEND MENTAL HEALTH EVALUATION AND TREATMENT;**

13 **(6) KEEP A CURFEW WITH THE HOURS SET BY THE COURT;**

14 **(7) BE PLACED IN COMMUNITY DETENTION;**

15 **(8) PARTICIPATE IN A PROGRAM OF ELECTRONIC MONITORING;**

16 **OR**

17 **(9) PARTICIPATE IN OTHER ACTIVITIES OR TAKE OTHER ACTION**
18 **AS THE COURT CONSIDERS APPROPRIATE.**

19 **(E) CASES UNDER THIS SUBTITLE ARE ELIGIBLE FOR FAMILY SUPPORT**
20 **SERVICES AS PROVIDED IN THE MARYLAND RULES.**

21 **3-8D-07.**

22 **A RESPONDENT UNDER THIS SUBTITLE MAY BE SUBJECT TO:**

23 **(1) ANY CONDITIONS OF PROBATION AUTHORIZED UNDER**
24 **§ 6-220 OF THE CRIMINAL PROCEDURE ARTICLE; AND**

1 **(2) ANY ADDITIONAL CONDITION OF PROBATION THAT WOULD**
2 **PROMOTE THE CHILD’S ATTENDANCE IN SCHOOL.**

3 **3-8D-08.**

4 **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE MARYLAND**
5 **RULES GOVERN THE FORMAT OF THE PETITION AND THE PROCEDURES TO BE**
6 **FOLLOWED BY THE COURT AND THE PARTIES UNDER THIS SUBTITLE.**

7 **3-8D-09.**

8 **THE COURT SHALL RETAIN JURISDICTION UNDER THIS SUBTITLE UNTIL**
9 **EVERY CONDITION OF THE COURT’S ORDER IS SATISFIED.**

10 **3-8D-10.**

11 **A PARTY MAY APPEAL A FINAL JUDGMENT ENTERED UNDER THIS**
12 **SUBTITLE AS PROVIDED IN TITLE 12 OF THIS ARTICLE AND IN THE MARYLAND**
13 **RULES.**

14 **Article – Education**

15 **7-301.**

16 (a) (1) Except as otherwise provided in this section, each child who
17 resides in this State and is 5 years old or older and under 16 shall attend a public
18 school regularly during the entire school year unless the child is otherwise receiving
19 regular, thorough instruction during the school year in the studies usually taught in
20 the public schools to children of the same age.

21 (2) In accordance with regulations of the State Board of Education, a
22 child who resides in this State and is 5 years old may be exempted from mandatory
23 school attendance for 1 year if the child’s parent or guardian files a written request
24 with the local school system asking that the child’s attendance be delayed due to the
25 child’s level of maturity.

26 (3) Except as provided in subsection (f) of this section or in regulations
27 of the State Board of Education, each child who resides in this State shall attend a
28 kindergarten program regularly during the school year prior to entering the first

1 grade unless the child is otherwise receiving regular, thorough instruction in the skills
2 and studies usually taught in a kindergarten program of a public school.

3 (b) A county superintendent, school principal, or an individual authorized by
4 the county superintendent or principal may excuse a student for a lawful absence.

5 (c) Each person who has legal custody or care and control of a child who is 5
6 years old or older and under 16 shall see that the child attends school or receives
7 instruction as required by this section.

8 (d) (1) This section applies to any child who has a mental, emotional, or
9 physical handicap.

10 (2) This section does not apply to a child:

11 (i) Whose mental, emotional, or physical condition makes his
12 instruction detrimental to his progress; or

13 (ii) Whose presence in school presents a danger of serious
14 physical harm to others.

15 (3) With the advice of the school principal, supervisor, pupil personnel
16 supervisor, or visiting teacher and with the written recommendation of a licensed
17 physician or a State Department of Education certified or licensed psychologist, the
18 county superintendent may:

19 (i) Make other appropriate provisions for the free education of
20 any student excepted from attendance under paragraph (2) of this subsection; or

21 (ii) Permit the parents or guardians of that student to withdraw
22 him from public school, for as long as the attendance of the child in a public school
23 would be detrimental to his progress or his presence in school would present a danger
24 of serious physical harm to others.

25 (4) If a child is withdrawn from a public school under this subsection,
26 the county board shall make other appropriate provisions for the education of the
27 child.

28 (5) If an appropriate educational placement is not available
29 immediately, the county board shall make interim provisions for the education of the
30 child until an appropriate placement becomes available.

1 (e) (1) Any person who induces or attempts to induce a child to absent
2 himself unlawfully from school or employs or harbors any child who is absent
3 unlawfully from school while school is in session is guilty of a misdemeanor and on
4 conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30
5 days, or both.

6 (2) Any person who has legal custody or care and control of a child
7 who is 5 years old or older and under 16 who fails to see that the child attends school
8 or receives instruction under this section is guilty of a misdemeanor and:

9 (i) For a first conviction is subject to a fine not to exceed \$50
10 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

11 (ii) For a second or subsequent conviction is subject to a fine not
12 to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or
13 both.

14 (3) As to any sentence imposed under this section, the court may
15 suspend the fine or the prison sentence and establish terms and conditions which
16 would promote the child's attendance. The suspension authority provided for in this
17 subsection is in addition to and not in limitation of the suspension authority under §
18 6-221 of the Criminal Procedure Article.

19 (e-1) (1) This subsection applies only in Dorchester County, Somerset
20 County, Wicomico County, and Worcester County.

21 (2) A charge under this section may be filed in the juvenile court and
22 assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts
23 Article.

24 (3) For a person with legal custody or care and control of a child at the
25 time of an alleged violation of this section, it is an affirmative defense to a charge
26 under this section that the person made reasonable and substantial efforts to see that
27 the child attended school as required by law but was unable to cause the child to
28 attend school.

29 (4) If the court finds the affirmative defense is valid, the court shall
30 dismiss the charge under this section against the defendant.

31 **(E-2) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S**
32 **COUNTY.**

1 **(2) A CHARGE UNDER THIS SECTION MAY BE FILED IN THE**
2 **JUVENILE COURT AND ASSIGNED TO A TRUANCY DOCKET FOR DISPOSITION**
3 **UNDER TITLE 3, SUBTITLE 8D OF THE COURTS ARTICLE.**

4 **(3) FOR A PERSON WITH LEGAL CUSTODY OR CARE AND CONTROL**
5 **OF A CHILD AT THE TIME OF AN ALLEGED VIOLATION OF THIS SECTION, IT IS AN**
6 **AFFIRMATIVE DEFENSE TO A CHARGE UNDER THIS SECTION THAT THE PERSON**
7 **MADE REASONABLE AND SUBSTANTIAL EFFORTS TO SEE THAT THE CHILD**
8 **ATTENDED SCHOOL AS REQUIRED BY LAW BUT WAS UNABLE TO CAUSE THE**
9 **CHILD TO ATTEND SCHOOL.**

10 **(4) IF THE COURT FINDS THE AFFIRMATIVE DEFENSE IS VALID,**
11 **THE COURT SHALL DISMISS THE CHARGE UNDER THIS SECTION AGAINST THE**
12 **DEFENDANT AND DIRECT THAT A PETITION BE FILED AGAINST THE CHILD IN**
13 **ACCORDANCE WITH TITLE 3, SUBTITLE 8D OF THE COURTS ARTICLE.**

14 (f) A child may be exempted from attending kindergarten if a parent or
15 guardian of the child files a written request with the local school system and verifies
16 that the child is enrolled:

17 (1) Full time in a licensed child care center;

18 (2) Full time in a registered family day care home; or

19 (3) Part time in a Head Start 5 year old program.

20 (g) Kindergarten programs are not subject to the requirements of
21 § 7–103(a) of this title relating to minimum days or hours of operation.

22 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,
23 2009, the Circuit Administrative Judge for the Seventh Circuit shall report to the
24 General Assembly, in accordance with § 2–1246 of the State Government Article, on
25 the effectiveness of a truancy reduction pilot program established under this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30,
28 2010, with no further action required by the General Assembly, this Act shall be
29 abrogated and of no further force and effect.