

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 506
 Judiciary

(Prince George’s County Delegation)

**Juvenile Law - Truancy Reduction Pilot Program in Prince George’s County
 PG 303-07**

This bill authorizes the establishment of a Truancy Reduction Pilot Program in the juvenile court in Prince George’s County.

The bill takes effect July 1, 2007 and terminates on June 30, 2010.

Fiscal Summary

State Effect: General fund expenditures could increase by an estimated \$394,515 in FY 2008 for the Administrative Office of the Courts, depending on the number of cases filed by the State’s Attorney. Out-years reflect annualization and inflation. Additional potential significant increase for the Department of Juvenile Services (DJS) and the Office of the Public Defender to handle additional workload.

| (in dollars) | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|----------------|-------------|-------------|-------------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 394,500 | 547,100 | 568,900 | 0 | 0 |
| Net Effect | (\$394,500) | (\$547,100) | (\$568,900) | \$0 | \$0 |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in circuit court expenditures to accommodate the increase in caseload. Additional State’s Attorneys may be required to handle truancy referrals. It is assumed that the school system could refer truant students to the State’s Attorney with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes the circuit administrative judge of the seventh circuit to establish a truancy reduction pilot program in the juvenile court in Prince George's County. The bill establishes a code violation and a civil offense for a child in the county who is required to attend school and fails to do so without lawful excuse. Adjudication of a code violation under the bill is not a criminal conviction and does not carry any of the civil disabilities ordinarily imposed by a criminal conviction.

Authorized school personnel are required to notify the State's Attorney for Prince George's County if a child fails to attend school without lawful excuse. The State's Attorney may then file a petition with the juvenile court.

In an action against a parent or legal guardian on the truancy docket, it is an affirmative defense that a parent made reasonable and substantial efforts to ensure attendance but that the efforts have been unsuccessful. If the court determines that this defense is valid, the court must dismiss the charges against the parent or legal guardian. A petition against a child can then be filed in truancy court.

A petition against a child must set forth in clear and simple language the facts supporting the truancy allegation. An adjudicatory hearing must be held for the child, and allegations must be proved by a preponderance of the evidence. If the case is not dismissed, a separate disposition hearing must be held on the same day unless the court finds that there is good cause to delay the disposition hearing to a later date. If the court delays a disposition hearing, it must be held no later than 15 days after the conclusion of the adjudicatory hearing unless good cause is shown.

In making a disposition on a petition under the bill, the court may order the child to: (1) attend school; (2) perform community service; (3) attend counseling; (4) attend substance abuse evaluation and treatment; (5) attend mental health evaluation and treatment; (6) keep a curfew set by the court; (7) be placed in community detention; (8) participate in electronic monitoring; or (9) participate in other activities deemed appropriate by the court.

Cases on the truancy docket are eligible for family support services. The court may also order probation before judgment and may impose any additional conditions of probation that would promote the child's attendance in school. The court retains jurisdiction over a truancy case until all terms of the court's order are satisfied.

The circuit administrative judge for the seventh circuit is required to report to the General Assembly the results of the program by July 1, 2009. The program sunsets on June 30, 2010.

Current Law: Under current law, a child who is required by law to attend school and is habitually truant can be designated a child in need of supervision (CINS). A student is habitually truant if the student is unlawfully absent from school in excess of 20% of the school days within any marking period, semester, or year. Local school systems have the authority to define habitual truancy more narrowly. CINS cases are under the jurisdiction of the juvenile court.

Except as otherwise provided, each child who resides in Maryland and is 5 years or older and under 16 years must attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year. Each person who has legal custody or care and control of a child who is at least 5 years, but less than 16 years, must see that the child attends school or receives instruction.

Current statutory penalties focus on parents and guardians rather than children. Any person who induces or attempts to induce a child to be unlawfully absent from school, or who employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor. That person is subject to a maximum fine of \$500, or imprisonment not to exceed 30 days, or both.

Any person who has legal custody or care and control of a child who is at least 5 years, but less than 16 years, who fails to see that the child attends school or receives instruction is guilty of a misdemeanor. For a first conviction, the violator is subject to a maximum fine of \$50 per unlawful day of absence, or imprisonment not to exceed 10 days, or both. For a second or subsequent conviction, the violator is subject to a maximum fine of \$100 per day of unlawful absence, or imprisonment not to exceed 30 days, or both. The court may suspend the fine or prison sentence imposed and establish terms and conditions that would promote the child's attendance.

The principal or head teacher of each public or private school in Maryland must immediately report to the county superintendent, the supervisor of pupil personnel, or any other designated official the name of each child enrolled in the school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out. On receipt of such a report, the appropriate school system representative must initiate an investigation into the cause of the child's truancy, and may provide counseling regarding

available social, health, and educational services. Following the investigation or intervention, the representative may notify DJS that the student has been habitually truant, without lawful excuse.

Background: Chapter 551 of 2004 authorized the establishment of a Truancy Pilot Program in the juvenile courts of Dorchester, Somerset, Wicomico, and Worcester counties. The first truancy court was established in Wicomico County in January 2005. Since that time the truancy court program has expanded to include Dorchester, Somerset, and Worcester counties.

Similar to drug courts, truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. Participants graduate when they have remained in the program for 90 days with no unexcused absences.

A total of 162 students have participated in the pilot program since its inception in 2005. More than 90% of the cases have been heard in Wicomico and Somerset counties. The Judiciary's fiscal 2008 budget request includes \$105,320 to continue these programs. Unless the program is reauthorized by the General Assembly, the program will terminate June 30, 2007.

These programs differ from the proposed Prince George's County program in that a civil charge can only be filed against children 12 years or older or against children younger than 12 whose parents have asserted an affirmative defense that they have made reasonable attempts to compel the child to attend school.

State and Local Fiscal Effect: According to the Maryland State Department of Education, Prince George's County reported 5,553 habitually truant students for school year 2005-2006. In another measure of truancy, 29.1% of Prince George's County high school students were absent from school 20 or more days during the school year, equivalent to 16,559 students.

According to the terms of the bill, Prince George's County school officials are responsible for reporting truant students to the State's Attorney, who would then file a petition with the juvenile court. The number of petitions filed as a result of this bill will depend on the amount of reporting from the school system and the discretion of the State's Attorney.

Using the experience of the existing Truancy Reduction Pilot Program as a guide, the Administrative Office of the Courts advises that approximately 4% of students with 20 or

more absences are referred to the truancy court. At that rate Prince George's County could expect 662 students to participate in the pilot program each year. Because the referral process is more inclusive under the proposed Prince George's County pilot program, it is possible that caseload could exceed 4%.

Estimated costs to the Administrative Office of the Courts for a caseload of 662 students are detailed in **Exhibit 1**. Based on the experience of the current truancy pilot program, each case involves an average of 5.6 hearings, which could result in increased workload equivalent to one half-time judge, one half-time courtroom clerk, and one half-time file clerk. In addition, a truancy court coordinator would negotiate memoranda of understanding among parties, identify local service providers, coordinate service referrals, attend hearings, and track statistics. Mental health evaluations are estimated at \$340 per participant and drug assessments at \$75 per participant based on the experience of the existing pilot program.

Exhibit 1
Estimated Fiscal 2008 Expenditures for the
Administrative Office of the Courts

| | |
|-----------------------------|------------------|
| Program coordinator | \$57,300 |
| 0.5 judge | 65,800 |
| 0.5 courtroom clerk | 46,900 |
| 0.5 file clerk | 18,400 |
| Assessments | 287,970 |
| Drug testing | <u>49,650</u> |
| Total | \$526,020 |
| Less three-month start-up | <u>-131,505</u> |
| Fiscal 2008 estimate | \$394,515 |

Potentially significant additional expenses could accrue to other public agencies involved in the prosecution, evaluation, and rehabilitation of students referred to the truancy court. These agencies include:

- **State's Attorney:** Potentially significant costs to Prince George's County to handle all referrals from the local school system.

- **Office of the Public Defender:** Prince George's County comprises District Five of the Office of the Public Defender, in which the average juvenile court attorney handles 178 cases per year. One or more attorneys could be needed to handle the additional caseload for the truancy court.
- **Department of Juvenile Services:** The bill authorizes the judge to order community detention or electronic monitoring for students referred to truancy court, resulting in potentially significant costs for additional case management personnel, community detention officers, electronic monitoring, and other expenses.

The total cost of the program has the potential to vary widely based on the number of students referred to the truancy court and the course of action ordered by the courts.

Additional Information

Prior Introductions: HB 604 of 2006 is identified as a prior introduction although it is different.

Cross File: None designated although SB 113 is identical.

Information Source(s): Prince George's County, Department of Juvenile Services, Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Office of the Public Defender, Department of Legislative Services

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Analysis by: Suzanne O. Potts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510