

SENATE BILL 239

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CF HB 723

By: **Senators Pugh, King, Conway, Currie, Exum, Forehand, Frosh, Garagiola, Glassman, Harrington, Jones, Kasemeyer, Kelley, Kramer, Lenett, Madaleno, McFadden, Muse, Peters, Raskin, Robey, and Rosapepe**

Introduced and read first time: January 22, 2010

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 15, 2010

CHAPTER _____

1 AN ACT concerning

2 **Education – Age of Compulsory Attendance – Exemptions**

3 FOR the purpose of altering the age at which certain children are required to attend a
4 public school regularly during the entire school year, subject to certain
5 exceptions; altering the age of certain children for which certain persons are
6 responsible for the child's attendance at school or receipt of certain instruction;
7 making certain stylistic changes; providing for delayed effective dates; making
8 this Act subject to certain contingencies; and generally relating to the age of
9 compulsory school attendance.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 7–301
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2009 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Education
17 Section 7–301(a), (a–1)(1), (c), and (e)(2)
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2009 Supplement)
20 (As enacted by Section 1 of this Act)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 Article – Education

4 7–301.

5 (a) THIS SECTION DOES NOT APPLY TO A CHILD UNDER THE AGE OF 17
6 YEARS WHO:

7 (1) ~~HAS OBTAINED A MARYLAND HIGH SCHOOL DIPLOMA, AN~~
8 ~~EQUIVALENT OUT OF STATE HIGH SCHOOL DIPLOMA, OR COMPLETED A~~
9 PROGRAM OF SECONDARY EDUCATION OR OBTAINED A GED;

10 (2) IS A STUDENT WITH DISABILITIES AND HAS COMPLETED THE
11 REQUIREMENTS FOR A MARYLAND HIGH SCHOOL CERTIFICATE OF
12 COMPLETION;

13 (3) IS RECEIVING REGULAR, THOROUGH INSTRUCTION DURING
14 THE SCHOOL YEAR IN THE STUDIES USUALLY TAUGHT IN THE PUBLIC SCHOOLS
15 TO CHILDREN OF THE SAME AGE, INCLUDING HOME SCHOOLING UNDER
16 COMAR 13A.10.01;

17 (4) IS SEVERELY ILL AND REQUIRES HOME OR HOSPITAL
18 INSTRUCTION;

19 (5) IS MARRIED;

20 (6) IS IN MILITARY SERVICE;

21 (7) IS COMMITTED BY COURT ORDER TO AN INSTITUTION
22 WITHOUT AN EDUCATIONAL PROGRAM;

23 (8) PROVIDES FINANCIAL SUPPORT TO THE CHILD'S FAMILY AS
24 DOCUMENTED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES;

25 (9) SUBJECT TO THE APPROVAL OF THE COUNTY
26 SUPERINTENDENT, HAS BEEN EXPELLED UNDER § 7–305 OF THIS SUBTITLE;

27 (10) IS PREGNANT OR A PARENT AND IS ENROLLED IN AN
28 ALTERNATIVE EDUCATIONAL PROGRAM;

29 (11) ATTENDS AN ALTERNATIVE EDUCATIONAL PROGRAM;

1 **(12) SUBJECT TO WRITTEN PARENTAL CONSENT AND WRITTEN**
2 **AGREEMENT WITH THE COUNTY BOARD, ATTENDS A PUBLIC SCHOOL ON A**
3 **PART-TIME BASIS AND ATTENDS A PRIVATE CAREER SCHOOL AS DEFINED**
4 **UNDER § 10-101 OF THIS ARTICLE OR PARTICIPATES IN GED COURSES ON A**
5 **PART-TIME BASIS; OR**

6 **(13) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY THE**
7 **STATE SUPERINTENDENT.**

8 **(A-1)** (1) Except as otherwise provided in this section, each child who
9 resides in this State and is 5 years old or older and under [16] **17** shall attend a public
10 school regularly during the entire school year [unless the child is otherwise receiving
11 regular, thorough instruction during the school year in the studies usually taught in
12 the public schools to children of the same age].

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

18 (3) Except as provided in subsection (f) of this section or in regulations
19 of the State Board of Education, each child who resides in this State shall attend a
20 kindergarten program regularly during the school year prior to entering the first
21 grade unless the child is otherwise receiving regular, thorough instruction in the skills
22 and studies usually taught in a kindergarten program of a public school.

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

25 (c) Each person who has legal custody or care and control of a child who is 5
26 years old or older and under [16] **17** shall see that the child attends school or receives
27 instruction as required by this section.

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

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

31 (i) Whose mental, emotional, or physical condition makes [his]
32 **THE CHILD'S** instruction detrimental to [his] **THE CHILD'S** progress; or

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

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

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

7 (ii) Permit the parents or guardians of that student to withdraw
8 [him] **THE CHILD** from public school, for as long as the attendance of the child in a
9 public school would be detrimental to [his] **THE CHILD'S** progress or [his] **THE**
10 **CHILD'S** presence in school would present a danger of serious physical harm to others.

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

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

17 (e) (1) Any person who induces or attempts to induce a child to [absent
18 himself] **BE ABSENT** unlawfully from school or employs or harbors any child who is
19 absent unlawfully from school while school is in session is guilty of a misdemeanor and
20 on conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30
21 days, or both.

22 (2) Any person who has legal custody or care and control of a child
23 who is 5 years old or older and under [16] **17** who fails to see that the child attends
24 school or receives instruction under this section is guilty of a misdemeanor and:

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

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

30 (3) As to any sentence imposed under this section, the court may
31 suspend the fine or the prison sentence and establish terms and conditions which
32 would promote the child's attendance. The suspension authority provided for in this
33 subsection is in addition to and not in limitation of the suspension authority under §
34 6-221 of the Criminal Procedure Article.

35 (e-1) (1) This subsection applies only:

1 (i) In a county in which the circuit administrative judge has
2 established a Truancy Reduction Pilot Program under § 3–8C–02 of the Courts Article;
3 and

4 (ii) To the extent that funds are provided in an annual State
5 budget for a Truancy Reduction Pilot Program.

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

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

14 (ii) If the court finds the affirmative defense is valid, the court
15 shall dismiss the charge under this section against the defendant.

16 (4) The court may condition marking a charge under this section set
17 on participation of the defendant in the appropriate Truancy Reduction Pilot Program
18 under Title 3, Subtitle 8C of the Courts Article.

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

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
26 read as follows:

27 **Article – Education**

28 7–301.

29 (a) This section does not apply to a child under the age of [17] 18 years who:

30 (1) Has obtained a Maryland high school diploma, an equivalent
31 out-of-state high school diploma, or a GED;

1 (2) Is a student with disabilities and has completed the requirements
2 for a Maryland high school certificate of completion;

3 (3) Is receiving regular, thorough instruction during the school year in
4 the studies usually taught in the public schools to children of the same age including
5 home schooling under COMAR 13A.10.01;

6 (4) Is severely ill and requires home or hospital instruction;

7 (5) Is married;

8 (6) Is in military service;

9 (7) Is committed by court order to an institution without an
10 educational program;

11 (8) Provides financial support to the child's family as documented by a
12 local department of social services;

13 (9) Subject to the approval of the county superintendent, has been
14 expelled under § 7-305 of this subtitle;

15 (10) Is pregnant or a parent and is enrolled in an alternative
16 educational program;

17 (11) Attends an alternative educational program;

18 (12) Subject to written parental consent and written agreement with
19 the county board, attends a public school on a part-time basis and attends a private
20 career school as defined under § 10-101 of this article or participates in GED courses
21 on a part-time basis; or

22 (13) Is waived from the provisions of this section by the State
23 Superintendent.

24 (a-1) (1) Except as otherwise provided in this section, each child who
25 resides in this State and is 5 years old or older and under [17] 18 shall attend a public
26 school regularly during the entire school year.

27 (c) Each person who has legal custody or care and control of a child who is 5
28 years old or older and under [17] 18 shall see that the child attends school or receives
29 instruction as required by this section.

30 (e) (2) Any person who has legal custody or care and control of a child
31 who is 5 years old or older and under [17] 18 who fails to see that the child attends
32 school or receives instruction under this section is guilty of a misdemeanor and:

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

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

6 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
7 take effect July 1, 2014, contingent on the inclusion in the fiscal 2015 State budget as
8 enacted by the General Assembly of at least \$71,000,000 to implement Section 2 of this
9 Act beginning in the 2014–2015 school year, and, if the fiscal 2015 State budget as
10 enacted by the General Assembly does not include at least \$71,000,000 to implement
11 Section 2 of this Act beginning in the 2014–2015 school year, Section 2 of this Act shall
12 be null and void without the necessity of further action by the General Assembly.

13 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
14 Section 3 of this Act, this Act shall take effect June 1, 2012, contingent on the
15 inclusion in the fiscal 2013 State budget as enacted by the General Assembly of at
16 least \$48,800,000 to implement this Act beginning in the 2012–2013 school year and, if
17 the fiscal 2013 State budget does not include at least \$48,800,000 to implement this
18 Act beginning in the 2012–2013 school year, this Act shall be null and void without the
19 necessity of further action by the General Assembly.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.