

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1035

By: Rosecrants, Pae, and
Provenzano of the House

6 and

7 Pemberton of the Senate

8
9 [schools - student attendance - exceptions for
10 mental health counseling and occupational therapy
11 appointments - certification of absence - effective
12 date]

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 70 O.S. 2021, Section 10-105, is
15 amended to read as follows:

16 Section 10-105. A. It shall be unlawful for a parent,
17 guardian, or other person having custody of a child who is over the
18 age of five (5) years, and under the age of eighteen (18) years, to
19 neglect or refuse to cause or compel ~~such~~ the child to attend and
20 comply with the rules of some public, private, or other school,
21 unless other means of education are provided for the full term the
22 schools of the district are in session or the child is excused as
23 provided in this section. One-half (1/2) day of kindergarten shall
24 be required of all children five (5) years of age or older unless

1 the child is excused from kindergarten attendance as provided in
2 this section. A child who is five (5) years of age shall be excused
3 from kindergarten attendance until the next school year after the
4 child is six (6) years of age if a parent, guardian, or other person
5 having custody of the child notifies the superintendent of the
6 district where the child is a resident by certified mail prior to
7 enrollment in kindergarten, or at any time during the first school
8 year that the child is required to attend kindergarten pursuant to
9 this section, of election to withhold the child from kindergarten
10 until the next school year after the child is six (6) years of age.
11 A kindergarten program shall be directed toward developmentally
12 appropriate objectives for such children. The program shall require
13 that any teacher employed on and after January 1, 1993, to teach a
14 kindergarten program within the public school system shall be
15 certified in early childhood education. All teachers hired to teach
16 a kindergarten program within the public school system prior to
17 January 1, 1993, shall be required to obtain certification in early
18 childhood education on or before the 1996-97 school year in order to
19 continue to teach a kindergarten program.

20 B. It shall be unlawful for any child who is over the age of
21 twelve (12) years and under the age of eighteen (18) years, and who
22 has not finished four (4) years of high school work, to neglect or
23 refuse to attend and comply with the rules of some public, private,
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1 or other school, or receive an education by other means for the full
2 term the schools of the district are in session.

3 Provided, that this section shall not apply:

4 1. If any child is prevented from attending school by reason of
5 mental or physical disability, to be determined by the board of
6 education of the district upon a certificate of the school physician
7 or public health physician, or, if no such physician is available, a
8 duly licensed and practicing physician;

9 2. If any child is excused from attendance at school, due to an
10 emergency, by the principal ~~teacher~~ of the school in which ~~such~~ the
11 child is enrolled, at the request of the parent, guardian,
12 custodian, or other person having ~~control~~ custody of ~~such~~ the child;

13 3. If any child who has attained his or her sixteenth birthday
14 is excused from attending school by written, joint agreement
15 between:

16 a. the school administrator of the school district where
17 the child attends school, and

18 b. the parent, guardian, or custodian of the child.

19 Provided, further, that no child shall be excused from
20 attending school by ~~such~~ the joint agreement between a
21 school administrator and the parent, guardian, or
22 custodian of the child unless and until it has been
23 determined that ~~such~~ the action is for the best
24 interest of the child and/or the community, and that

1 ~~said~~ the child shall thereafter be under the
2 supervision of the parent, guardian, or custodian
3 until the child has reached the age of eighteen (18)
4 years;

5 4. If any child is excused from attending school for the
6 purpose of observing religious holy days if before the absence, the
7 parent, guardian, or other person having custody or control of the
8 ~~student~~ child submits a written request for the excused absence.

9 The school district shall excuse a ~~student~~ child pursuant to this
10 subsection for the days on which the religious holy days are
11 observed and for the days on which the ~~student~~ child must travel to
12 and from the site where the ~~student~~ child will observe the holy
13 days; ~~or~~

14 5. If any child is excused from attending school for the
15 purpose of participating in a military funeral honors ceremony upon
16 approval of the school principal; or

17 6. If any child is excused from attending school for the
18 purpose of receiving mental health counseling or occupational
19 therapy if before the absence, the parent, guardian, or other person
20 having custody of the child submits a written request for the
21 excused absence. The school district shall excuse the child
22 pursuant to this subsection upon receipt of documentation from the
23 mental health or occupational therapy provider evidencing the

1 child's absence due to participation in mental health counseling or
2 occupational therapy.

3 C. It shall be the duty of the attendance officer to enforce
4 the provisions of this section. In the prosecution of a parent,
5 guardian, or other person having custody of a child for violation of
6 any provision of this section, it shall be an affirmative defense
7 that the parent, guardian, or other person having custody of the
8 child has made substantial and reasonable efforts to comply with the
9 compulsory attendance requirements of this section but is unable to
10 cause the child to attend school. If the court determines the
11 affirmative defense is valid, it shall dismiss the complaint against
12 the parent, guardian, or other person having custody of the child
13 and shall notify the school attendance officer who shall refer the
14 child to the district attorney for the county in which the child
15 resides for the filing of a Child in Need of Supervision petition
16 against the child pursuant to the Oklahoma Juvenile Code.

17 D. Any parent, guardian, custodian, child, or other person
18 violating any of the provisions of this section, upon conviction,
19 shall be guilty of a misdemeanor, and shall be punished as follows:

20 1. For the first offense, a fine ~~of~~ not less than Twenty-five
21 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or
22 imprisonment for not more than five (5) days, or both such fine and
23 imprisonment;

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1 2. For the second offense, a fine ~~of~~ not less than Fifty
2 Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or
3 imprisonment for not more than ten (10) days, or both such fine and
4 imprisonment; and

5 3. For the third or subsequent offense, a fine ~~of~~ not less than
6 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty
7 Dollars (\$250.00), or imprisonment for not more than fifteen (15)
8 days, or both such fine and imprisonment.

9 Each day the child remains out of school after ~~the~~ an oral and
10 documented or written warning has been given to the parent,
11 guardian, custodian, child, or other person or the child has been
12 ordered to school by the juvenile court shall constitute a separate
13 offense.

14 E. At the trial of any person charged with violating the
15 provisions of this section, the attendance records of the child or
16 ward may be presented in court by any authorized employee of the
17 school district.

18 F. The court may order the parent, guardian, or other person
19 having custody of the child to perform community service in lieu of
20 the fine set forth in this section. The court may require that all
21 or part of the community service be performed for a public school
22 district.

23 G. The court may order as a condition of a deferred sentence or
24 as a condition of sentence upon conviction of the parent, guardian,

1 or other person having custody of the child any conditions as the
2 court considers necessary to obtain compliance with school
3 attendance requirements. The conditions may include, but are not
4 limited to, the following:

- 5 1. Verifying attendance of the child with the school;
- 6 2. Attending meetings with school officials;
- 7 3. Taking the child to school;
- 8 4. Taking the child to the bus stop;
- 9 5. Attending school with the child;
- 10 6. Undergoing an evaluation for drug, alcohol, or other
11 substance abuse and following the recommendations of the evaluator;
12 and

13 7. Taking the child for drug, alcohol, or other substance abuse
14 evaluation and following the recommendations of the evaluator,
15 unless excused by the court.

16 SECTION 2. This act shall become effective November 1, 2023.

17 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
18 April 4, 2023 - DO PASS AS AMENDED BY CS

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