

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3502

By: Hardin (David)

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2021,
8 Section 10-105, which relates to school attendance;
9 modifying age requirement for compulsory school
10 attendance; and declaring an emergency.

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

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

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

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

19 B. It shall be unlawful for any child who is over the age of
20 twelve (12) years and under the age of ~~eighteen (18)~~ nineteen (19)
21 years, and who has not finished four (4) years of high school work,
22 to neglect or refuse to attend and comply with the rules of some
23 public, private or other school, or receive an education by other
24 means for the full term the schools of the district are in session.

1 Provided, that this section shall not apply:

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

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

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

- 14 a. the school administrator of the school district where
15 the child attends school, and
- 16 b. the parent, guardian or custodian of the child.

17 Provided, further, that no child shall be excused from
18 attending school by such joint agreement between a
19 school administrator and the parent, guardian or
20 custodian of the child unless and until it has been
21 determined that such action is for the best interest
22 of the child and/or the community, and that said child
23 shall thereafter be under the supervision of the
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1 parent, guardian or custodian until the child has
2 reached the age of eighteen (18) years;

3 4. If any child is excused from attending school for the
4 purpose of observing religious holy days if before the absence, the
5 parent, guardian, or person having custody or control of the student
6 submits a written request for the excused absence. The school
7 district shall excuse a student pursuant to this subsection for the
8 days on which the religious holy days are observed and for the days
9 on which the student must travel to and from the site where the
10 student will observe the holy days; or

11 5. If any child is excused from attending school for the
12 purpose of participating in a military funeral honors ceremony upon
13 approval of the school principal.

14 C. It shall be the duty of the attendance officer to enforce
15 the provisions of this section. In the prosecution of a parent,
16 guardian, or other person having custody of a child for violation of
17 any provision of this section, it shall be an affirmative defense
18 that the parent, guardian, or other person having custody of the
19 child has made substantial and reasonable efforts to comply with the
20 compulsory attendance requirements of this section but is unable to
21 cause the child to attend school. If the court determines the
22 affirmative defense is valid, it shall dismiss the complaint against
23 the parent, guardian, or other person having custody of the child
24 and shall notify the school attendance officer who shall refer the

1 child to the district attorney for the county in which the child
2 resides for the filing of a Child in Need of Supervision petition
3 against the child pursuant to the Oklahoma Juvenile Code.

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

7 1. For the first offense, a fine of not less than Twenty-five
8 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or
9 imprisonment for not more than five (5) days, or both such fine and
10 imprisonment;

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

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

19 Each day the child remains out of school after the oral and
20 documented or written warning has been given to the parent,
21 guardian, custodian, child or other person or the child has been
22 ordered to school by the juvenile court shall constitute a separate
23 offense.

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1 E. At the trial of any person charged with violating the
2 provisions of this section, the attendance records of the child or
3 ward may be presented in court by any authorized employee of the
4 school district.

5 F. The court may order the parent, guardian, or other person
6 having custody of the child to perform community service in lieu of
7 the fine set forth in this section. The court may require that all
8 or part of the community service be performed for a public school
9 district.

10 G. The court may order as a condition of a deferred sentence or
11 as a condition of sentence upon conviction of the parent, guardian,
12 or other person having custody of the child any conditions as the
13 court considers necessary to obtain compliance with school
14 attendance requirements. The conditions may include, but are not
15 limited to, the following:

- 16 1. Verifying attendance of the child with the school;
- 17 2. Attending meetings with school officials;
- 18 3. Taking the child to school;
- 19 4. Taking the child to the bus stop;
- 20 5. Attending school with the child;
- 21 6. Undergoing an evaluation for drug, alcohol, or other
22 substance abuse and following the recommendations of the evaluator;
- 23 and

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1 7. Taking the child for drug, alcohol, or other substance abuse
2 evaluation and following the recommendations of the evaluator,
3 unless excused by the court.

4 SECTION 2. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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