

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3502

By: Hardin (David) of the House

and

Pemberton of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to schools; amending 70 O.S. 2021,
12 Section 10-105, which relates to school attendance;
13 requiring compulsory school attendance for certain
14 students who are eighteen; providing exceptions;
15 prescribing punishment for violations; and declaring
16 an emergency.

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

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

20 Section 10-105. A. It shall be unlawful for a parent,
21 guardian, or other person having custody of a child who is over the
22 age of five (5) years, and under the age of eighteen (18) years, to
23 neglect or refuse to cause or compel such child to attend and comply
24 with the rules of some public, private or other school, unless other
means of education are provided for the full term the schools of the

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

23 B. It shall be unlawful for any child who is over the age of
24 twelve (12) years and under the age of eighteen (18) years, and who

1 has not finished four (4) years of high school work, to neglect or
2 refuse to attend and comply with the rules of some public, private
3 or other school, or receive an education by other means for the full
4 term the schools of the district are in session.

5 Provided, that this section shall not apply:

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

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

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

18 a. the school administrator of the school district where
19 the child attends school, and

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

21 Provided, further, that no child shall be excused from
22 attending school by such joint agreement between a
23 school administrator and the parent, guardian or
24 custodian of the child unless and until it has been

1 determined that such action is for the best interest
2 of the child and/or the community, and that said child
3 shall thereafter be under the supervision of the
4 parent, guardian or custodian until the child has
5 reached the age of eighteen (18) years;

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

17 C. It shall be unlawful for any student who is eighteen (18)
18 years of age, and who has not completed four (4) years of high
19 school work, to neglect or refuse to attend and comply with the
20 rules of some public, private, or other school, or receive an
21 education by other means for the full term the schools of the
22 district are in session. Provided, that this section shall not
23 apply:
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1 1. If any student is prevented from attending school by reason
2 of mental or physical disability, to be determined by the board of
3 education of the district upon a certificate of the school physician
4 or public health physician, or, if no physician is available, a duly
5 licensed and practicing physician;

6 2. If any student is excused from attending school due to an
7 emergency by the administrator of the school where the student is
8 enrolled;

9 3. If any student who has attained his or her eighteenth
10 birthday is excused from attending school by written, joint
11 agreement between:

- 12 a. the school principal of the school district where the
13 student attends school, and
14 b. the student;

15 4. If any student is excused from attending school for the
16 purpose of observing religious holy days if before the absence the
17 student submits a written request for the excused absence. The
18 school district shall excuse a student pursuant to this paragraph
19 for the days on which the religious holy days are observed and for
20 the days on which the student must travel to and from the site where
21 the student will observe the holy days; or

22 5. If any student is excused from attending school for the
23 purpose of participating in a military funeral honors ceremony upon
24 approval of the school principal.

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

16 ~~D.~~ E. Any parent, guardian, custodian, student who is eighteen
17 (18) years of age, child or other person violating any of the
18 provisions of this section, upon conviction, shall be guilty of a
19 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 or student remains out of school after the
10 oral and documented or written warning has been given to the parent,
11 guardian, custodian, student, child or other person or the child has
12 been ordered to school by the juvenile court shall constitute a
13 separate offense.

14 ~~E.~~ F. At the trial of any person charged with violating the
15 provisions of this section, the attendance records of the student
16 who is eighteen (18) years of age, child, or ward may be presented
17 in court by any authorized employee of the school district.

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

23 ~~G.~~ H. The court may order as a condition of a deferred sentence
24 or as a condition of sentence upon conviction of the student who is

1 eighteen (18) years of age, parent, guardian, or other person having
2 custody of the child any conditions as the court considers necessary
3 to obtain compliance with school attendance requirements. The
4 conditions may include, but are not 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 or the student who is eighteen (18)
14 years of age attending drug, alcohol, or other substance abuse
15 evaluation and following the recommendations of the evaluator,
16 unless excused by the court.

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

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22 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03/02/2022
23 - DO PASS, As Amended and Coauthored.
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