

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 359 Session of 2015

INTRODUCED BY GREENLEAF, SCHWANK, KITCHEN, BREWSTER, AUMENT, VANCE, COSTA, HUGHES, RAFFERTY, BAKER, FONTANA, MENSCH AND VOGEL, JANUARY 30, 2015

SENATOR SMUCKER, EDUCATION, AS AMENDED, MARCH 22, 2016

AN ACT

1 ~~Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An <--~~
2 ~~act relating to the public school system, including certain~~
3 ~~provisions applicable as well to private and parochial~~
4 ~~schools; amending, revising, consolidating and changing the~~
5 ~~laws relating thereto," in pupils and attendance, further~~
6 ~~providing for penalties for violation of compulsory~~
7 ~~attendance requirements.~~

8 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An <--
9 act relating to the public school system, including certain
10 provisions applicable as well to private and parochial
11 schools; amending, revising, consolidating and changing the
12 laws relating thereto," in enforcing attendance, further
13 providing for definitions; providing for attendance policy at
14 charter and cyber charter schools; further providing for
15 reports of enrollments, attendance and withdrawals and public
16 and private schools, and for penalties for violation of
17 compulsory attendance requirements; providing for procedure
18 by school when child habitually truant, for procedure upon
19 filing of citation and for penalties for violating compulsory
20 school attendance requirements; and repealing provisions
21 relating to suspension of operating privilege.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 ~~Section 1. Section 1333 of the act of March 10, 1949 <--~~
25 ~~(P.L.30, No.14), known as the Public School Code of 1949,~~
26 ~~amended November 17, 1995 (1st Sp.Sess., P.L.1110, No.29), is~~
27 ~~amended to read:~~

1 ~~Section 1333. Penalties for Violation of Compulsory~~
2 ~~Attendance Requirements. (a) (1) Every parent, guardian, or~~
3 ~~person in parental relation, having control or charge of any~~
4 ~~child or children of compulsory school age, who shall fail to~~
5 ~~comply with the provisions of this act regarding compulsory~~
6 ~~attendance, shall on summary conviction thereof, be sentenced to~~
7 ~~pay a fine, for the benefit of the school district in which such~~
8 ~~offending person resides, not exceeding three hundred dollars~~
9 ~~(\$300) and to pay court costs or be sentenced to complete a~~
10 ~~parenting education program offered and operated by a local~~
11 ~~school district, medical institution or other community~~
12 ~~resources[, and, in default of the payment of such fine and~~
13 ~~costs or completion of the parenting program by the person so~~
14 ~~offending, shall be sentenced to the county jail for a period~~
15 ~~not exceeding five (5) days]. Any person sentenced to pay any~~
16 ~~such fine may appeal to the court of common pleas of the proper~~
17 ~~county, upon entering into a recognizance, with one or more~~
18 ~~proper sureties, in double the amount of penalty and costs.~~
19 ~~Before any proceedings are instituted against any parent,~~
20 ~~guardian, or person in parental relation, for failure to comply~~
21 ~~with the provisions of this act, the district superintendent,~~
22 ~~attendance officer, or secretary of the board of school~~
23 ~~directors, shall give the offending person three (3) days'~~
24 ~~written notice of such violation. If, after such notice has been~~
25 ~~given, the provisions of this act regarding compulsory~~
26 ~~attendance are again violated by the persons so notified, at any~~
27 ~~time during the term of compulsory attendance, such person, so~~
28 ~~again offending, shall be liable under the provisions of this~~
29 ~~section without further notice.~~

30 ~~(2) The child and every parent, guardian or person in~~

1 ~~parental relation must appear at a hearing established by the~~
2 ~~magisterial district [justice] judge. If the parent, guardian or~~
3 ~~person in parental relation charged with a summary offense under~~
4 ~~this subsection shows that he or she took every reasonable step~~
5 ~~to insure attendance of the child at school, he or she shall not~~
6 ~~be convicted of the summary offense.~~

7 ~~(3) Upon a summary conviction, the magisterial district~~
8 ~~[justice] judge may suspend, in whole or in part, a sentence in~~
9 ~~which a parent, guardian or person in parental relation is~~
10 ~~summoned to pay as required under this section: Provided, That~~
11 ~~the child no longer is habitually truant from school without~~
12 ~~justification.~~

13 ~~(4) In lieu of or in addition to any other sentence imposed~~
14 ~~under this section, the magisterial district [justice] judge may~~
15 ~~order the parent, guardian or person in parental relation to~~
16 ~~perform community service in the school district in which the~~
17 ~~offending child resides for a period not to exceed six (6)~~
18 ~~months.~~

19 ~~(5) (i) Except as part of an individualized truancy~~
20 ~~elimination plan provided for in this paragraph, a school~~
21 ~~district shall not refer a child for services or possible~~
22 ~~disposition as a dependent child under 42 Pa.C.S. § 6302~~
23 ~~(relating to definitions) unless the school district has~~
24 ~~exercised due diligence in its attempts to compel the child's~~
25 ~~compliance with the compulsory attendance provisions of this act~~
26 ~~and shall not refer a case to a magisterial district judge under~~
27 ~~this section unless it has exercised such due diligence. Due~~
28 ~~diligence shall include development of an individualized truancy~~
29 ~~elimination plan developed cooperatively with teachers and~~
30 ~~appropriate school personnel through a conference with the~~

1 ~~child's family following the first notice of truancy given under~~
2 ~~section 1354.~~

3 ~~(ii) The truancy elimination plan developed through the~~
4 ~~conference with the child's family shall assess and identify the~~
5 ~~causes of truancy and include a mutually agreed upon plan to~~
6 ~~assure regular school attendance. The truancy elimination plan~~
7 ~~shall include best practices in truancy prevention. The plan may~~
8 ~~include referring the child and family to evidence based~~
9 ~~intervention programs for at risk children and families.~~

10 ~~(iii) If the child's family refuses to participate in the~~
11 ~~development of a truancy elimination plan, due diligence shall~~
12 ~~include the development of a truancy elimination plan for the~~
13 ~~child by the school district and documentation of the school~~
14 ~~district's efforts to include the family in the development of~~
15 ~~the plan.~~

16 ~~(b) (1) If the parent, guardian or person in parental~~
17 ~~relation is not convicted of a summary offense because he or she~~
18 ~~took every reasonable step to insure attendance of the child at~~
19 ~~school, a child of compulsory school age who has attained the~~
20 ~~age of thirteen (13) years and fails to comply with the~~
21 ~~provisions of this act regarding compulsory attendance or who is~~
22 ~~habitually truant from school without justification commits a~~
23 ~~summary offense and except as provided in clause (4) shall, upon~~
24 ~~conviction, be sentenced to pay a fine not exceeding three~~
25 ~~hundred dollars (\$300) for each offense for the benefit of the~~
26 ~~school district in which such offending child resides or shall~~
27 ~~be assigned to an adjudication alternative program pursuant to~~
28 ~~42 Pa.C.S. § 1520 (relating to adjudication alternative~~
29 ~~program).~~

30 ~~(2) For any child who has attained the age of thirteen (13)~~

1 ~~years who fails to pay the fine under clause (1) or to comply~~
2 ~~with the adjudication alternative program, the magisterial~~
3 ~~district [justice] judge may allege the child to be dependent~~
4 ~~under 42 Pa.C.S. § 6303(a)(1) (relating to scope of chapter).~~
5 ~~The failure by the child to pay a fine or comply with the~~
6 ~~adjudication alternative program shall not constitute a~~
7 ~~delinquent act under 42 Pa.C.S. Ch. 63 (relating to juvenile~~
8 ~~matters).~~

9 ~~(3) Upon a summary conviction or assignment to an~~
10 ~~adjudication alternative program, the magisterial district~~
11 ~~[justice] judge may suspend, in whole or in part, a sentence or~~
12 ~~an adjudication alternative program in which a child who has~~
13 ~~attained the age of thirteen (13) years must pay or comply with~~
14 ~~the adjudication alternative program: Provided, That the child~~
15 ~~no longer is habitually truant from school without~~
16 ~~justification.~~

17 ~~(4) Any child who has not attained the age of thirteen (13)~~
18 ~~years who fails to comply with the compulsory attendance~~
19 ~~provisions of this act and is habitually truant shall be~~
20 ~~referred by the school district for services or possible~~
21 ~~disposition as a dependent child as defined under 42 Pa.C.S. §~~
22 ~~6302 (relating to definitions). Any child who has attained the~~
23 ~~age of thirteen (13) years who fails to comply with the~~
24 ~~compulsory attendance provisions of this act and is habitually~~
25 ~~truant may, in lieu of a prosecution under clause (1), be~~
26 ~~referred by the school district for services or possible~~
27 ~~disposition as a dependent child as defined under 42 Pa.C.S. §~~
28 ~~6302.~~

29 ~~(5) The following words, when used in this subsection, shall~~
30 ~~have the following meaning, except where the context clearly~~

1 ~~indicates or requires a different meaning:~~

2 ~~"Community resources" shall mean those agencies and services~~
3 ~~for children and youth provided by the juvenile court, the~~
4 ~~county, the Department of Health, the Department of [Public~~
5 ~~Welfare] Human Services and other public or private~~
6 ~~institutions.~~

7 ~~["District justice" shall mean such court as the court of~~
8 ~~common pleas shall direct in counties not having district~~
9 ~~justices.]~~

10 ~~"Habitually truant" shall mean absence for more than three~~
11 ~~(3) school days or their equivalent following the first notice~~
12 ~~of truancy given under section 1354. A person may be habitually~~
13 ~~truant after such notice.~~

14 ~~"Magisterial district judge" shall mean such court as the~~
15 ~~court of common pleas shall direct in counties not having~~
16 ~~magisterial district judges.~~

17 ~~"Offense" shall mean each citation which goes before a~~
18 ~~magisterial district [justice] judge or court of common pleas.~~

19 ~~"Person in parental relation" shall not include any county~~
20 ~~agency or person acting as an agent of the county agency in the~~
21 ~~jurisdiction of a dependent child defined under 42 Pa.C.S. §~~
22 ~~6302 (relating to definitions).~~

23 ~~(c) If a child is convicted for a violation of this section,~~
24 ~~the court, including a court not of record, shall send to the~~
25 ~~Department of Transportation a certified record of the~~
26 ~~conviction or other disposition on a form prescribed by the~~
27 ~~department.~~

28 ~~(d) Nothing in this section shall be construed to apply to a~~
29 ~~parent, guardian or person in parental relation whose child or~~
30 ~~children are in a home education program under section 1327.1.~~

1 ~~Section 2. This act shall take effect in 60 days.~~

2 SECTION 1. SECTION 1326 OF THE ACT OF MARCH 10, 1949 <--
3 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS
4 AMENDED TO READ:

5 SECTION 1326. DEFINITIONS.--WHEN USED IN THIS SUBDIVISION,
6 THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE FOLLOWING
7 MEANINGS:

8 THE TERM "CITATION" SHALL MEAN A NON-TRAFFIC CITATION OR
9 PRIVATE CRIMINAL COMPLAINT.

10 THE TERM ["COMPULSORY SCHOOL AGE," AS HEREINAFTER USED,]
11 "COMPULSORY SCHOOL AGE" SHALL MEAN THE PERIOD OF A CHILD'S LIFE
12 FROM THE TIME THE CHILD'S PARENTS ELECT TO HAVE THE CHILD ENTER
13 SCHOOL, WHICH SHALL BE NOT LATER THAN AT THE AGE OF EIGHT (8)
14 YEARS, UNTIL THE AGE OF SEVENTEEN (17) YEARS. THE TERM SHALL NOT
15 INCLUDE ANY CHILD WHO HOLDS A CERTIFICATE OF GRADUATION FROM A
16 REGULARLY ACCREDITED LICENSED, REGISTERED OR APPROVED SENIOR
17 HIGH SCHOOL.

18 THE TERM "CONVICTION" SHALL MEAN A CONVICTION UNDER SECTION
19 1333, 1333.1, 1333.2 OR 1333.3 FOR VIOLATION OF THE COMPULSORY
20 SCHOOL ATTENDANCE REQUIREMENTS.

21 THE TERM "COURT" SHALL MEAN A MAGISTERIAL DISTRICT COURT OR A
22 COURT OF COMMON PLEAS.

23 THE TERM "EXCUSED ABSENCE" SHALL MEAN AN ABSENCE FROM SCHOOL
24 WHICH IS PERMITTED UNDER SECTION 1329.

25 THE TERM "HABITUALLY TRUANT" SHALL MEAN HAVING INCURRED
26 UNEXCUSED ABSENCES FOR SIX (6) OR MORE DAYS DURING THE CURRENT
27 SCHOOL YEAR BY A CHILD SUBJECT TO COMPULSORY SCHOOL ATTENDANCE.

28 THE TERM "JUDGE" SHALL MEAN A MAGISTERIAL DISTRICT JUDGE OR
29 JUDGE OF A COURT OF COMMON PLEAS.

30 THE TERM ["MIGRATORY CHILD," WHEREVER USED IN THIS

1 SUBDIVISION OF THIS ARTICLE,] "MIGRATORY CHILD" SHALL INCLUDE
2 ANY CHILD DOMICILED TEMPORARILY IN ANY SCHOOL DISTRICT FOR THE
3 PURPOSE OF SEASONAL EMPLOYMENT, BUT NOT ACQUIRING RESIDENCE
4 THEREIN, AND ANY CHILD ACCOMPANYING HIS [PARENT OR GUARDIAN] OR
5 HER PERSON IN PARENTAL RELATION WHO IS SO DOMICILED.

6 THE TERM "OFFENSE" SHALL MEAN EACH CITATION FILED UNDER
7 SECTION 1333, 1333.1, 1333.2 OR 1333.3 FOR A VIOLATION OF THE
8 COMPULSORY SCHOOL ATTENDANCE REQUIREMENT REGARDLESS OF THE
9 NUMBER OF UNEXCUSED ABSENCES AVERRED IN THE CITATION.

10 THE TERM "PERSON IN PARENTAL RELATION" SHALL MEAN A:

- 11 (1) BIOLOGICAL OR ADOPTIVE PARENT;
- 12 (2) NONCUSTODIAL BIOLOGICAL OR ADOPTIVE PARENT;
- 13 (3) GUARDIAN OF THE PERSON OF THE CHILD; OR
- 14 (4) PERSON WITH WHOM THE CHILD LIVES AND WHO IS ACTING
15 IN A PARENTAL ROLE FOR A CHILD OF COMPULSORY SCHOOL AGE.

16 THE TERM DOES NOT INCLUDE A COUNTY AGENCY OR PERSON ACTING AS
17 AN AGENT OF THE COUNTY AGENCY IN THE JURISDICTION OF A DEPENDENT
18 CHILD AS DEFINED UNDER 42 PA.C.S. § 6302 (RELATING TO
19 DEFINITIONS). THIS DEFINITION SHALL NOT BE CONSTRUED TO EXPAND
20 THE RIGHT OF A CHILD UNDER ANY OTHER PROVISION OF THIS ACT.

21 THE TERM "SCHOOL" SHALL MEAN THE EDUCATIONAL ENTITY IN WHICH
22 THE CHILD IS ENROLLED.

23 THE TERM "SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE" SHALL
24 MEAN A CONFERENCE WHERE THE CHILD'S ABSENCES AND THE REASONS FOR
25 THE ABSENCES ARE EXAMINED IN AN EFFORT TO IMPROVE ATTENDANCE,
26 WITH OR WITHOUT ADDITIONAL SERVICES. THE FOLLOWING INDIVIDUALS
27 SHALL BE INVITED:

- 28 (1) THE CHILD.
- 29 (2) THE CHILD'S PERSON IN PARENTAL RELATION.
- 30 (3) OTHER INDIVIDUALS IDENTIFIED BY THE PERSON IN PARENTAL

1 RELATION WHO MAY BE A RESOURCE.

2 (4) APPROPRIATE SCHOOL PERSONNEL.

3 (5) RECOMMENDED SERVICE PROVIDERS.

4 THE TERM "SCHOOL DAY" SHALL MEAN THE LENGTH OF TIME THAT A
5 CHILD SUBJECT TO COMPULSORY ATTENDANCE IS EXPECTED TO BE
6 RECEIVING INSTRUCTION DURING A CALENDAR DAY, AS DETERMINED BY
7 THE SCHOOL.

8 THE TERM "SCHOOL OR COMMUNITY-BASED ATTENDANCE IMPROVEMENT
9 PROGRAM" SHALL MEAN ANY PROGRAM DESIGNED TO IMPROVE SCHOOL
10 ATTENDANCE BY SEEKING TO IDENTIFY AND ADDRESS THE UNDERLYING
11 REASONS FOR A CHILD'S ABSENCES.

12 THE TERM "SCHOOL YEAR" SHALL HAVE THE SAME MEANING AS THE
13 TERM "SCHOOL YEAR" AS DEFINED IN SECTION 102 AND AS FURTHER
14 DEFINED IN SECTION 1327(B) FOR PAROCHIAL SCHOOLS, SECTION
15 1327.1(C) FOR HOME EDUCATION PROGRAMS, SECTIONS 1501 AND 1504
16 FOR ALL PUBLIC SCHOOLS, SECTION 1715-A(9) FOR CHARTER SCHOOLS
17 AND SECTION 1749-(A) (A) (1) FOR CYBER CHARTER SCHOOLS.

18 THE TERM "TRUANT" SHALL MEAN HAVING INCURRED UNEXCUSED
19 ABSENCES OF THREE (3) OR MORE SCHOOL DAYS DURING THE CURRENT
20 SCHOOL YEAR BY A CHILD SUBJECT TO COMPULSORY SCHOOL ATTENDANCE.

21 THE TERM "UNEXCUSED ABSENCE" SHALL MEAN AN ABSENCE FROM
22 SCHOOL WHICH IS NOT PERMITTED UNDER SECTION 1329 AND WHERE AN
23 APPROVED EXPLANATION HAS NOT BEEN SUBMITTED WITHIN THE TIME
24 PERIOD SPECIFIED. AN OUT-OF-SCHOOL SUSPENSION MAY NOT BE
25 CONSIDERED AN UNEXCUSED ABSENCE.

26 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
27 SECTION 1327.2. ATTENDANCE POLICY AT CHARTER AND CYBER
28 CHARTER SCHOOLS.--(A) EACH CHARTER AND CYBER CHARTER SCHOOL
29 SHALL ESTABLISH AN ATTENDANCE POLICY DESIGNED TO ACCURATELY
30 DETERMINE WHEN A CHILD WHO IS ENROLLED IN A CHARTER OR CYBER

1 CHARTER SCHOOL HAS AN UNEXCUSED ABSENCE, WHICH MAY DIFFER FROM
2 THE POLICY OF THE HOME SCHOOL DISTRICT OF THE CHILD. THE POLICY
3 MUST CONFORM TO THE PROVISIONS OF THIS ACT RELATING TO
4 COMPULSORY ATTENDANCE.

5 (B) THE DEPARTMENT SHALL, IN CONSULTATION WITH CYBER CHARTER
6 SCHOOLS, DEVELOP GUIDELINES SETTING FORTH ALTERNATIVE METHODS OF
7 CALCULATING UNEXCUSED ABSENCES FOR THE PURPOSES OF DETERMINING
8 WHETHER A CHILD ENROLLED IN A CYBER CHARTER SCHOOL HAS AN
9 UNEXCUSED ABSENCE.

10 (C) WHEN PROCEEDING UNDER SECTION 1333.2 FOR THE FILING OF A
11 CITATION, VENUE SHALL BE BASED UPON THE RESIDENCE OF THE CHILD.
12 PARTICIPATION BY ANY CYBER CHARTER SCHOOL IN THE PROCEEDINGS MAY
13 BE CONDUCTED IN PERSON OR VIA VIDEO CONFERENCING.

14 SECTION 3. SECTION 1332 OF THE ACT, AMENDED JANUARY 14, 1970
15 (1969 P.L.468, NO.192), IS AMENDED TO READ:

16 SECTION 1332. REPORTS OF ENROLLMENTS; ATTENDANCE AND
17 WITHDRAWALS; PUBLIC AND PRIVATE SCHOOLS.--EVERY PRINCIPAL OR
18 TEACHER IN EVERY PUBLIC SCHOOL, AND EVERY PRINCIPAL, TEACHER OR
19 TUTOR IN EVERY SCHOOL OTHER THAN A PUBLIC SCHOOL, AND IN EVERY
20 INSTITUTION FOR CHILDREN, AND EVERY PRIVATE TEACHER IN EVERY
21 SCHOOL DISTRICT, SHALL, IMMEDIATELY AFTER THEIR ADMISSION TO
22 SUCH SCHOOL OR INSTITUTION, OR AT THE BEGINNING OF SUCH PRIVATE
23 TEACHING, FURNISH TO THE DISTRICT SUPERINTENDENTS, ATTENDANCE
24 OFFICERS, HOME AND SCHOOL VISITORS, OR SECRETARIES OF THE BOARDS
25 OF SCHOOL DIRECTORS OF THE DISTRICTS WHEREIN THE PARENTS OR
26 GUARDIANS OF SUCH CHILDREN RESIDE, LISTS OF THE NAMES AND
27 RESIDENCES OF ALL CHILDREN BETWEEN [SIX (6)] EIGHT (8) AND
28 EIGHTEEN (18) YEARS OF AGE ENROLLED IN SUCH SCHOOL OR
29 INSTITUTION, OR TAUGHT BY SUCH PRIVATE TEACHERS; AND SHALL
30 FURTHER REPORT AT ONCE TO SUCH DISTRICT SUPERINTENDENT, OR

1 SECRETARY OF THE BOARD OF SCHOOL DIRECTORS, THE NAME AND DATE OF
2 WITHDRAWAL OF ANY SUCH PUPIL WITHDRAWING FROM ANY SUCH SCHOOL OR
3 INSTITUTION, OR FROM SUCH PRIVATE INSTRUCTION, IF SUCH
4 WITHDRAWAL OCCURS DURING THE PERIOD OF COMPULSORY ATTENDANCE IN
5 SAID DISTRICT. EVERY PRINCIPAL OR TEACHER IN A SCHOOL OTHER THAN
6 A PUBLIC SCHOOL, AND EVERY PRIVATE TEACHER, SHALL ALSO REPORT AT
7 ONCE TO THE SUPERINTENDENT, ATTENDANCE OFFICER, HOME AND SCHOOL
8 VISITOR, OR SECRETARY OF THE BOARD OF SCHOOL DIRECTORS OF THE
9 DISTRICT, ANY SUCH CHILD WHO HAS BEEN ABSENT THREE (3) DAYS, OR
10 THEIR EQUIVALENT, DURING THE TERM OF COMPULSORY ATTENDANCE,
11 WITHOUT LAWFUL EXCUSE. CHARTER AND CYBER CHARTER SCHOOLS SHALL
12 REPORT UNEXCUSED ABSENCES DIRECTLY TO THE DEPARTMENT OF
13 EDUCATION VIA THE ANNUAL PENNSYLVANIA INFORMATION MANAGEMENT
14 SYSTEM (PIMS) IN ACCORDANCE WITH POLICIES AND GUIDELINES
15 ESTABLISHED UNDER SECTION 1327.2.

16 SECTION 4. SECTION 1333 OF THE ACT, AMENDED NOVEMBER 17,
17 1995 (1ST SP.SESS., P.L.1110, NO.29), IS AMENDED TO READ:

18 SECTION 1333. [PENALTIES FOR VIOLATION OF COMPULSORY
19 ATTENDANCE REQUIREMENTS.-- (A) (1) EVERY PARENT, GUARDIAN, OR
20 PERSON IN PARENTAL RELATION, HAVING CONTROL OR CHARGE OF ANY
21 CHILD OR CHILDREN OF COMPULSORY SCHOOL AGE, WHO SHALL FAIL TO
22 COMPLY WITH THE PROVISIONS OF THIS ACT REGARDING COMPULSORY
23 ATTENDANCE, SHALL ON SUMMARY CONVICTION THEREOF, BE SENTENCED TO
24 PAY A FINE, FOR THE BENEFIT OF THE SCHOOL DISTRICT IN WHICH SUCH
25 OFFENDING PERSON RESIDES, NOT EXCEEDING THREE HUNDRED DOLLARS
26 (\$300) AND TO PAY COURT COSTS OR BE SENTENCED TO COMPLETE A
27 PARENTING EDUCATION PROGRAM OFFERED AND OPERATED BY A LOCAL
28 SCHOOL DISTRICT, MEDICAL INSTITUTION OR OTHER COMMUNITY
29 RESOURCES, AND, IN DEFAULT OF THE PAYMENT OF SUCH FINE AND COSTS
30 OR COMPLETION OF THE PARENTING PROGRAM BY THE PERSON SO

1 OFFENDING, SHALL BE SENTENCED TO THE COUNTY JAIL FOR A PERIOD
2 NOT EXCEEDING FIVE (5) DAYS. ANY PERSON SENTENCED TO PAY ANY
3 SUCH FINE MAY APPEAL TO THE COURT OF COMMON PLEAS OF THE PROPER
4 COUNTY, UPON ENTERING INTO A RECOGNIZANCE, WITH ONE OR MORE
5 PROPER SURETIES, IN DOUBLE THE AMOUNT OF PENALTY AND COSTS.
6 BEFORE ANY PROCEEDINGS ARE INSTITUTED AGAINST ANY PARENT,
7 GUARDIAN, OR PERSON IN PARENTAL RELATION, FOR FAILURE TO COMPLY
8 WITH THE PROVISIONS OF THIS ACT, THE DISTRICT SUPERINTENDENT,
9 ATTENDANCE OFFICER, OR SECRETARY OF THE BOARD OF SCHOOL
10 DIRECTORS, SHALL GIVE THE OFFENDING PERSON THREE (3) DAYS'
11 WRITTEN NOTICE OF SUCH VIOLATION. IF, AFTER SUCH NOTICE HAS BEEN
12 GIVEN, THE PROVISIONS OF THIS ACT REGARDING COMPULSORY
13 ATTENDANCE ARE AGAIN VIOLATED BY THE PERSONS SO NOTIFIED, AT ANY
14 TIME DURING THE TERM OF COMPULSORY ATTENDANCE, SUCH PERSON, SO
15 AGAIN OFFENDING, SHALL BE LIABLE UNDER THE PROVISIONS OF THIS
16 SECTION WITHOUT FURTHER NOTICE.

17 (2) THE CHILD AND EVERY PARENT, GUARDIAN OR PERSON IN
18 PARENTAL RELATION MUST APPEAR AT A HEARING ESTABLISHED BY THE
19 DISTRICT JUSTICE. IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL
20 RELATION CHARGED WITH A SUMMARY OFFENSE UNDER THIS SUBSECTION
21 SHOWS THAT HE OR SHE TOOK EVERY REASONABLE STEP TO INSURE
22 ATTENDANCE OF THE CHILD AT SCHOOL, HE OR SHE SHALL NOT BE
23 CONVICTED OF THE SUMMARY OFFENSE.

24 (3) UPON A SUMMARY CONVICTION, THE DISTRICT JUSTICE MAY
25 SUSPEND, IN WHOLE OR IN PART, A SENTENCE IN WHICH A PARENT,
26 GUARDIAN OR PERSON IN PARENTAL RELATION IS SUMMONED TO PAY AS
27 REQUIRED UNDER THIS SECTION: PROVIDED, THAT THE CHILD NO LONGER
28 IS HABITUALLY TRUANT FROM SCHOOL WITHOUT JUSTIFICATION.

29 (4) IN LIEU OF OR IN ADDITION TO ANY OTHER SENTENCE IMPOSED
30 UNDER THIS SECTION, THE DISTRICT JUSTICE MAY ORDER THE PARENT,

1 GUARDIAN OR PERSON IN PARENTAL RELATION TO PERFORM COMMUNITY
2 SERVICE IN THE SCHOOL DISTRICT IN WHICH THE OFFENDING CHILD
3 RESIDES FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS.

4 (B) (1) IF THE PARENT, GUARDIAN OR PERSON IN PARENTAL
5 RELATION IS NOT CONVICTED OF A SUMMARY OFFENSE BECAUSE HE OR SHE
6 TOOK EVERY REASONABLE STEP TO INSURE ATTENDANCE OF THE CHILD AT
7 SCHOOL, A CHILD OF COMPULSORY SCHOOL AGE WHO HAS ATTAINED THE
8 AGE OF THIRTEEN (13) YEARS AND FAILS TO COMPLY WITH THE
9 PROVISIONS OF THIS ACT REGARDING COMPULSORY ATTENDANCE OR WHO IS
10 HABITUALLY TRUANT FROM SCHOOL WITHOUT JUSTIFICATION COMMITS A
11 SUMMARY OFFENSE AND EXCEPT AS PROVIDED IN CLAUSE (4) SHALL, UPON
12 CONVICTION, BE SENTENCED TO PAY A FINE NOT EXCEEDING THREE
13 HUNDRED DOLLARS (\$300) FOR EACH OFFENSE FOR THE BENEFIT OF THE
14 SCHOOL DISTRICT IN WHICH SUCH OFFENDING CHILD RESIDES OR SHALL
15 BE ASSIGNED TO AN ADJUDICATION ALTERNATIVE PROGRAM PURSUANT TO
16 42 PA.C.S. § 1520 (RELATING TO ADJUDICATION ALTERNATIVE
17 PROGRAM) .

18 (2) FOR ANY CHILD WHO HAS ATTAINED THE AGE OF THIRTEEN (13)
19 YEARS WHO FAILS TO PAY THE FINE UNDER CLAUSE (1) OR TO COMPLY
20 WITH THE ADJUDICATION ALTERNATIVE PROGRAM, THE DISTRICT JUSTICE
21 MAY ALLEGE THE CHILD TO BE DEPENDENT UNDER 42 PA.C.S. § 6303(A)
22 (1) (RELATING TO SCOPE OF CHAPTER) . THE FAILURE BY THE CHILD TO
23 PAY A FINE OR COMPLY WITH THE ADJUDICATION ALTERNATIVE PROGRAM
24 SHALL NOT CONSTITUTE A DELINQUENT ACT UNDER 42 PA.C.S. CH. 63
25 (RELATING TO JUVENILE MATTERS) .

26 (3) UPON A SUMMARY CONVICTION OR ASSIGNMENT TO AN
27 ADJUDICATION ALTERNATIVE PROGRAM, THE DISTRICT JUSTICE MAY
28 SUSPEND, IN WHOLE OR IN PART, A SENTENCE OR AN ADJUDICATION
29 ALTERNATIVE PROGRAM IN WHICH A CHILD WHO HAS ATTAINED THE AGE OF
30 THIRTEEN (13) YEARS MUST PAY OR COMPLY WITH THE ADJUDICATION

1 ALTERNATIVE PROGRAM: PROVIDED, THAT THE CHILD NO LONGER IS
2 HABITUALLY TRUANT FROM SCHOOL WITHOUT JUSTIFICATION.

3 (4) ANY CHILD WHO HAS NOT ATTAINED THE AGE OF THIRTEEN (13)
4 YEARS WHO FAILS TO COMPLY WITH THE COMPULSORY ATTENDANCE
5 PROVISIONS OF THIS ACT AND IS HABITUALLY TRUANT SHALL BE
6 REFERRED BY THE SCHOOL DISTRICT FOR SERVICES OR POSSIBLE
7 DISPOSITION AS A DEPENDENT CHILD AS DEFINED UNDER 42 PA.C.S. §
8 6302 (RELATING TO DEFINITIONS). ANY CHILD WHO HAS ATTAINED THE
9 AGE OF THIRTEEN (13) YEARS WHO FAILS TO COMPLY WITH THE
10 COMPULSORY ATTENDANCE PROVISIONS OF THIS ACT AND IS HABITUALLY
11 TRUANT MAY, IN LIEU OF A PROSECUTION UNDER CLAUSE (1), BE
12 REFERRED BY THE SCHOOL DISTRICT FOR SERVICES OR POSSIBLE
13 DISPOSITION AS A DEPENDENT CHILD AS DEFINED UNDER 42 PA.C.S. §
14 6302.

15 (5) THE FOLLOWING WORDS, WHEN USED IN THIS SUBSECTION, SHALL
16 HAVE THE FOLLOWING MEANING, EXCEPT WHERE THE CONTEXT CLEARLY
17 INDICATES OR REQUIRES A DIFFERENT MEANING:

18 "COMMUNITY RESOURCES" SHALL MEAN THOSE AGENCIES AND SERVICES
19 FOR CHILDREN AND YOUTH PROVIDED BY THE JUVENILE COURT, THE
20 COUNTY, THE DEPARTMENT OF HEALTH, THE DEPARTMENT OF PUBLIC
21 WELFARE AND OTHER PUBLIC OR PRIVATE INSTITUTIONS.

22 "DISTRICT JUSTICE" SHALL MEAN SUCH COURT AS THE COURT OF
23 COMMON PLEAS SHALL DIRECT IN COUNTIES NOT HAVING DISTRICT
24 JUSTICES.

25 "HABITUALLY TRUANT" SHALL MEAN ABSENCE FOR MORE THAN THREE
26 (3) SCHOOL DAYS OR THEIR EQUIVALENT FOLLOWING THE FIRST NOTICE
27 OF TRUANCY GIVEN UNDER SECTION 1354. A PERSON MAY BE HABITUALLY
28 TRUANT AFTER SUCH NOTICE.

29 "OFFENSE" SHALL MEAN EACH CITATION WHICH GOES BEFORE A
30 DISTRICT JUSTICE OR COURT OF COMMON PLEAS.

1 "PERSON IN PARENTAL RELATION" SHALL NOT INCLUDE ANY COUNTY
2 AGENCY OR PERSON ACTING AS AN AGENT OF THE COUNTY AGENCY IN THE
3 JURISDICTION OF A DEPENDENT CHILD DEFINED UNDER 42 PA.C.S. §
4 6302 (RELATING TO DEFINITIONS).

5 (C) IF A CHILD IS CONVICTED FOR A VIOLATION OF THIS SECTION,
6 THE COURT, INCLUDING A COURT NOT OF RECORD, SHALL SEND TO THE
7 DEPARTMENT OF TRANSPORTATION A CERTIFIED RECORD OF THE
8 CONVICTION OR OTHER DISPOSITION ON A FORM PRESCRIBED BY THE
9 DEPARTMENT.

10 (D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO APPLY TO A
11 PARENT, GUARDIAN OR PERSON IN PARENTAL RELATION WHOSE CHILD OR
12 CHILDREN ARE IN A HOME EDUCATION PROGRAM UNDER SECTION 1327.1.]
13 PROCEDURE WHEN CHILD IS TRUANT.--(A) WHEN A CHILD IS TRUANT,
14 THE SCHOOL SHALL NOTIFY IN WRITING THE PERSON IN PARENTAL
15 RELATION WITH THE CHILD WHO RESIDES IN THE SAME HOUSEHOLD AS THE
16 CHILD OF THE CHILD'S VIOLATION OF COMPULSORY SCHOOL ATTENDANCE
17 WITHIN TEN (10) SCHOOL DAYS OF THE CHILD'S THIRD UNEXCUSED
18 ABSENCE. THE NOTICE:

19 (1) SHALL INCLUDE A DESCRIPTION OF THE CONSEQUENCES THAT
20 WILL FOLLOW IF THE CHILD BECOMES HABITUALLY TRUANT;

21 (2) SHALL BE IN A FORM AND USE LANGUAGE THAT WOULD BE
22 CONSIDERED REASONABLY UNDERSTANDABLE BY THE PERSON IN PARENTAL
23 RELATION;

24 (3) MAY INCLUDE THE OFFER OF A SCHOOL ATTENDANCE IMPROVEMENT
25 CONFERENCE; OR

26 (4) WHEN TRANSMITTED TO A PERSON WHO IS NOT THE BIOLOGICAL
27 OR ADOPTIVE PARENT, SHALL ALSO BE PROVIDED TO THE CHILD'S
28 BIOLOGICAL OR ADOPTIVE PARENT IF THE PARENT'S MAILING ADDRESS IS
29 ON FILE WITH THE SCHOOL AND THE PARENT IS NOT PRECLUDED FROM
30 RECEIVING THE INFORMATION BY COURT ORDER.

1 (B) IF THE CHILD CONTINUES TO INCUR UNEXCUSED ABSENCES AFTER
2 THE SCHOOL HAS ISSUED THE NOTICE UNDER SUBSECTION (A), THE
3 SCHOOL SHALL THEN OFFER BY ADVANCE WRITTEN NOTICE A SCHOOL
4 ATTENDANCE IMPROVEMENT CONFERENCE, UNLESS PREVIOUSLY HELD
5 FOLLOWING THE NOTICE PROVIDED UNDER SUBSECTION (A). THE
6 FOLLOWING SHALL APPLY:

7 (1) THIS SUBSECTION DOES NOT PLACE A LEGAL REQUIREMENT UPON
8 THE CHILD OR PERSON IN PARENTAL RELATION TO ATTEND THE
9 CONFERENCE. THE CONFERENCE MAY OCCUR IF THE PERSON IN PARENTAL
10 RELATION DECLINES TO PARTICIPATE.

11 (2) THE OUTCOME OF THE CONFERENCE SHALL BE DOCUMENTED IN A
12 WRITTEN SCHOOL ATTENDANCE IMPROVEMENT PLAN. THE DEPARTMENT SHALL
13 DEVELOP A FORM TO BE USED FOR THIS PURPOSE, AND EACH SCHOOL
14 SHALL USE A FORM SUBSTANTIALLY SIMILAR TO THE FORM DEVELOPED BY
15 THE DEPARTMENT.

16 (3) FURTHER LEGAL ACTION MAY NOT BE TAKEN BY THE SCHOOL TO
17 ADDRESS UNEXCUSED ABSENCES BY THE CHILD UNTIL AFTER THE DATE FOR
18 THE SCHEDULED SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE HAS
19 PASSED.

20 SECTION 5. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

21 SECTION 1333.1. PROCEDURE BY SCHOOL WHEN CHILD HABITUALLY
22 TRUANT.--(A) WHEN A CHILD IS HABITUALLY TRUANT AND IS UNDER
23 FIFTEEN (15) YEARS OF AGE AT THE TIME OF REFERRAL, THE SCHOOL:

24 (1) SHALL REFER THE CHILD TO EITHER OF THE FOLLOWING:

25 (I) A SCHOOL OR COMMUNITY-BASED ATTENDANCE IMPROVEMENT
26 PROGRAM; OR

27 (II) THE COUNTY CHILDREN AND YOUTH AGENCY FOR SERVICES OR
28 FOR POSSIBLE DISPOSITION AS A DEPENDENT CHILD UNDER THE
29 PROVISIONS OF 42 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS).

30 (2) MAY FILE A CITATION IN THE OFFICE OF THE APPROPRIATE

1 MAGISTERIAL DISTRICT JUDGE AGAINST THE PERSON IN PARENTAL
2 RELATION WITH THE CHILD WHO RESIDES IN THE SAME HOUSEHOLD AS THE
3 CHILD.

4 (B) WHEN A CHILD IS HABITUALLY TRUANT AND IS FIFTEEN (15)
5 YEARS OF AGE OR OLDER AT THE TIME OF REFERRAL, THE SCHOOL SHALL
6 EITHER:

7 (1) REFER THE CHILD TO A SCHOOL OR COMMUNITY-BASED
8 ATTENDANCE IMPROVEMENT PROGRAM; OR

9 (2) FILE A CITATION IN THE OFFICE OF THE APPROPRIATE
10 MAGISTERIAL DISTRICT JUDGE AGAINST THE CHILD OR THE PERSON IN
11 PARENTAL RELATION WITH THE CHILD WHO RESIDES IN THE SAME
12 HOUSEHOLD AS THE CHILD. JURISDICTION SHALL BE BASED ON THE
13 RESIDENCE OF THE CHILD.

14 (C) IF A CHILD CONTINUES TO INCUR ADDITIONAL UNEXCUSED
15 ABSENCES AFTER BEING REFERRED TO A SCHOOL OR COMMUNITY-BASED
16 ATTENDANCE IMPROVEMENT PROGRAM OR REFUSES TO PARTICIPATE IN A
17 SCHOOL OR COMMUNITY-BASED ATTENDANCE IMPROVEMENT PROGRAM AS
18 RECOMMENDED THROUGH THE SCHOOL ATTENDANCE IMPROVEMENT
19 CONFERENCE, THE SCHOOL MAY REFER THE CHILD TO THE COUNTY
20 CHILDREN AND YOUTH AGENCY FOR POSSIBLE DISPOSITION AS A
21 DEPENDENT CHILD UNDER THE PROVISIONS OF 42 PA.C.S. CH. 63 IF THE
22 CHILD IS FIFTEEN (15) YEARS OF AGE OR OLDER.

23 (D) WHEN REFERRING A CASE TO THE COUNTY CHILDREN AND YOUTH
24 AGENCY OR THE MAGISTERIAL DISTRICT COURT BECAUSE THE CHILD HAS
25 BEEN HABITUALLY TRUANT, THE SCHOOL SHALL PROVIDE VERIFICATION
26 THAT A SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE WAS OFFERED.

27 SECTION 1333.2. PROCEDURE UPON FILING OF CITATION.-- (A) THE
28 VENUE FOR THE FILING OF A CITATION SHALL BE THE LOCATION OF THE
29 SCHOOL IN WHICH THE CHILD IS ENROLLED OR SHOULD BE ENROLLED
30 EXCEPT WHERE SECTION 1327.2(C) APPLIES.

1 (B) WHEN A CITATION IS FILED AGAINST A CHILD OR A PERSON IN
2 PARENTAL RELATION WITH THE CHILD WHO RESIDES IN THE SAME
3 HOUSEHOLD AS THE CHILD UNDER SECTION 1333.1, THE MAGISTERIAL
4 DISTRICT JUDGE SHALL PROVIDE THE FOLLOWING NOTICES:

5 (1) NOTICE OF THE HEARING IN WRITING TO THE SCHOOL, THE
6 PERSON IN PARENTAL RELATION, THE CHILD AND THE COUNTY CHILDREN
7 AND YOUTH AGENCY; AND

8 (2) NOTICE TO THE CHILD OR PERSON IN PARENTAL RELATION WITH
9 THE CHILD WHO RESIDES IN THE SAME HOUSEHOLD AS THE CHILD OF THE
10 AVAILABILITY OF A PRECONVICTION DIVERSIONARY PROGRAM AUTHORIZED
11 UNDER 42 PA.C.S. § 1520 (RELATING TO ADJUDICATION ALTERNATIVE
12 PROGRAM) .

13 (C) AT THE HEARING THE BURDEN IS ON THE SCHOOL TO PROVE
14 BEYOND A REASONABLE DOUBT THAT THE CHILD WAS HABITUALLY TRUANT
15 IN NONCOMPLIANCE WITH THE COMPULSORY SCHOOL ATTENDANCE
16 REQUIREMENTS.

17 (D) THE FOLLOWING AFFIRMATIVE DEFENSE TO A CITATION FILED
18 UNDER THIS SUBDIVISION OF THIS ARTICLE AGAINST A PERSON IN
19 PARENTAL RELATION TO THE CHILD WHO RESIDES IN THE SAME HOUSEHOLD
20 AS THE CHILD IS AVAILABLE:

21 (1) THE PERSON IN PARENTAL RELATION TO THE CHILD WHO RESIDES
22 IN THE SAME HOUSEHOLD AS THE CHILD TOOK EVERY REASONABLE STEP TO
23 ENSURE ATTENDANCE OF THE CHILD AT SCHOOL.

24 (2) AN AFFIRMATIVE DEFENSE UNDER THIS SUBSECTION MUST BE
25 PROVEN BY A PREPONDERANCE OF THE EVIDENCE.

26 (E) BEFORE ENTERING A SENTENCE THE JUDGE SHALL PERMIT THE
27 SCHOOL, PERSON IN PARENTAL RELATION OR CHILD TO PRESENT RELEVANT
28 INFORMATION THAT WILL ASSIST THE JUDGE IN MAKING AN INFORMED
29 DECISION REGARDING THE APPROPRIATE SENTENCE. THE CHILD'S SCHOOL
30 ATTENDANCE AFTER THE CITATION HAS BEEN FILED AND WHILE THE

1 PROCEEDING IS PENDING MAY BE CONSIDERED FOR THE PURPOSE OF
2 IMPOSING A SENTENCE.

3 SECTION 1333.3. PENALTIES FOR VIOLATING COMPULSORY SCHOOL
4 ATTENDANCE REQUIREMENTS.-- (A) A PERSON CONVICTED OF AN OFFENSE
5 MAY BE:

6 (1) SENTENCED TO PAY A FINE FOR THE BENEFIT OF THE SCHOOL
7 THAT IS RESPONSIBLE FOR THE TRUANCY PROCEEDINGS IN AN AMOUNT NOT
8 EXCEEDING THREE HUNDRED DOLLARS (\$300) FOR EACH CITATION
9 TOGETHER WITH COURT COSTS;

10 (2) SENTENCED TO PERFORM COMMUNITY SERVICE; OR

11 (3) REQUIRED TO COMPLETE AN APPROPRIATE COURSE OR PROGRAM
12 DESIGNED TO IMPROVE SCHOOL ATTENDANCE WHICH HAS BEEN APPROVED BY
13 THE PRESIDENT JUDGE OF THE JUDICIAL DISTRICT.

14 (B) THE COURT MAY SUSPEND THE SENTENCE OF A PERSON CONVICTED
15 OF AN OFFENSE AND MAY REMIT OR WAIVE FINES AND COSTS IF THE
16 CHILD ATTENDS SCHOOL IN ACCORDANCE WITH A PLAN DEVISED BY THE
17 COURT.

18 (C) A PERSON CONVICTED OF AN OFFENSE SHALL HAVE A RIGHT TO
19 APPEAL DE NOVO TO A COURT OF COMMON PLEAS OF THE PROPER COUNTY
20 WITHIN THIRTY (30) DAYS OF THE CONVICTION. AFTER THIRTY (30)
21 DAYS, THE APPEAL SHALL PROCEED AS ANY OTHER APPEAL OF A SUMMARY
22 CONVICTION.

23 (D) NO CITATION MAY BE FILED AGAINST A CHILD OR A PERSON IN
24 PARENTAL RELATION WITH THE CHILD WHO RESIDES IN THE SAME
25 HOUSEHOLD AS THE CHILD FOR A SUBSEQUENT VIOLATION OF COMPULSORY
26 SCHOOL ATTENDANCE IF ANY OF THE FOLLOWING CIRCUMSTANCES APPLY:

27 (1) A PROCEEDING IS ALREADY PENDING UNDER SECTIONS 1333.1
28 AND 1333.2 AGAINST THE CHILD OR A PERSON IN PARENTAL RELATION
29 WITH THE CHILD WHO RESIDES IN THE SAME HOUSEHOLD AS THE CHILD
30 AND JUDGMENT IN THE FIRST PROCEEDING HAS NOT YET BEEN ENTERED,

1 UNLESS A WARRANT HAS BEEN ISSUED FOR FAILURE OF THE CHILD OR
2 PERSON IN PARENTAL RELATION TO APPEAR BEFORE THE COURT AND THE
3 WARRANT HAS NOT YET BEEN SERVED.

4 (2) A REFERRAL FOR SERVICES HAS BEEN MADE TO THE COUNTY
5 CHILDREN AND YOUTH AGENCY UNDER THIS SUBDIVISION OF THIS ARTICLE
6 AND THE AGENCY HAS NOT CLOSED THE CASE.

7 (3) A PETITION HAS BEEN FILED ALLEGING THE CHILD IS
8 DEPENDENT DUE TO BEING HABITUALLY TRUANT UNDER 42 PA.C.S. CH. 63
9 (RELATING TO JUVENILE MATTERS) AND THE CASE REMAINS UNDER THE
10 JURISDICTION OF THE JUVENILE COURT.

11 (E) UPON A SECOND OR SUBSEQUENT CONVICTION OF A CHILD OR A
12 PERSON IN PARENTAL RELATION WITH THE CHILD WHO RESIDES IN THE
13 SAME HOUSEHOLD AS THE CHILD FOR A VIOLATION OF THE REQUIREMENTS
14 OF COMPULSORY SCHOOL ATTENDANCE IN A COURT WITHIN THIS
15 COMMONWEALTH WITHIN A THREE YEAR PERIOD, THE COURT SHALL REFER
16 THE CHILD FOR SERVICES OR POSSIBLE DISPOSITION AS A DEPENDENT
17 CHILD UNDER 42 PA.C.S. CH. 63.

18 (F) UPON THE WILLFUL FAILURE OF A PERSON TO SATISFY A FINE
19 OR COSTS IMPOSED UNDER THIS SECTION OR UPON WILLFUL FAILURE TO
20 COMPLY WITH A PAYMENT PLAN, THE COURT MAY, AFTER FINDING THAT
21 THE PERSON HAS THE ABILITY TO PAY THE FINANCIAL OBLIGATION
22 IMPOSED, IMPOSE COMMUNITY SERVICE. THE FOLLOWING SHALL APPLY:

23 (1) IN THE CASE OF A CHILD, THE FAILURE TO SATISFY A FINE OR
24 COSTS IMPOSED UNDER THIS SECTION SHALL NOT BE CONSIDERED A
25 DELINQUENT ACT.

26 (2) THE PRESIDENT JUDGE OF A JUDICIAL DISTRICT MAY ADOPT A
27 LOCAL POLICY UNDER 42 PA.C.S. § 6304 (RELATING TO POWERS AND
28 DUTIES OF PROBATION OFFICERS) AND THE PENNSYLVANIA RULES OF
29 JUVENILE COURT PROCEDURE TO PROVIDE THAT A JUVENILE PROBATION
30 OFFICER MAY RECEIVE ALLEGATIONS THAT THE CHILD WHO FAILS TO

1 SATISFY A FINE OR COSTS IMPOSED UNDER THIS SECTION IS DEPENDENT
2 FOR THE PURPOSE OF CONSIDERING THE COMMENCEMENT OF PROCEEDINGS
3 UNDER 42 PA.C.S. CH. 63.

4 (G) IF A CHILD IS CONVICTED OF A VIOLATION OF THIS SECTION,
5 THE FOLLOWING MAY OCCUR:

6 (1) THE COURT MAY TRANSMIT TO THE DEPARTMENT OF
7 TRANSPORTATION A CERTIFIED RECORD OF THE CONVICTION ON A FORM
8 PRESCRIBED BY THE DEPARTMENT ONLY IF THE CHILD FAILS TO COMPLY
9 WITH A LAWFUL SENTENCE ENTERED FOR THE VIOLATION.

10 (2) THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND FOR
11 NINETY (90) DAYS THE OPERATING PRIVILEGE OF A CHILD UPON
12 RECEIVING A CERTIFIED RECORD THAT THE CHILD WAS CONVICTED OF AN
13 OFFENSE UNDER THIS SECTION. THE DEPARTMENT OF TRANSPORTATION
14 SHALL SUSPEND THE CHILD'S OPERATING PRIVILEGES FOR SIX (6)
15 MONTHS UPON RECEIVING A CERTIFIED RECORD THAT THE CHILD WAS
16 CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE UNDER THIS SECTION.

17 (3) A CHILD WHOSE RECORD IS RECEIVED BY THE DEPARTMENT OF
18 TRANSPORTATION UNDER THIS SECTION AND WHO DOES NOT HAVE A
19 DRIVER'S LICENSE SHALL BE INELIGIBLE TO APPLY FOR A DRIVER'S
20 LICENSE UNDER 75 PA.C.S. §§ 1505 (RELATING TO LEARNERS' PERMITS)
21 AND 1507 (RELATING TO APPLICATION FOR DRIVER'S LICENSE OR
22 LEARNER'S PERMIT BY MINOR) FOR THE TIME PERIOD SPECIFIED IN
23 CLAUSE (2). IF THE CHILD IS UNDER SIXTEEN (16) YEARS OF AGE WHEN
24 CONVICTED, SUSPENSION OF OPERATING PRIVILEGES SHALL COMMENCE IN
25 ACCORDANCE WITH 75 PA.C.S. § 1541 (RELATING TO PERIOD OF
26 DISQUALIFICATION, REVOCATION OR SUSPENSION OF OPERATING
27 PRIVILEGE) FOR THE TIME SPECIFIED IN CLAUSE (2).

28 (4) THE DEPARTMENT OF TRANSPORTATION MAY RESTORE THE LICENSE
29 OR ELIGIBILITY OF A CHILD WHOSE DRIVING PRIVILEGE HAS BEEN
30 SUSPENDED OR WHOSE ELIGIBILITY FOR A PERMIT OR LICENSE IS

1 DELAYED UNDER THIS SECTION. THE DEPARTMENT OF TRANSPORTATION
2 SHALL MAKE THIS RESTORATION WITH A FORM THAT IT DEVELOPS. THE
3 FORM SHALL CONTAIN CERTIFICATIONS PROVIDED BY THE CHILD'S SCHOOL
4 IN THE FORM OF A CERTIFIED RECORD THAT THE CHILD:

5 (I) HAS ATTENDED SCHOOL WITHOUT AN UNEXCUSED ABSENCE OR AN
6 UNEXCUSED TARDY FOR A PERIOD OF AT LEAST TWO (2) MONTHS AFTER
7 THE FIRST CONVICTION OR FOUR (4) MONTHS AFTER THE SECOND OR
8 SUBSEQUENT CONVICTION.

9 (II) HAS NO SCHOOL DISCIPLINARY ACTIONS PENDING AND HAS BEEN
10 SUBJECT TO NO DISCIPLINARY SANCTION DURING THE PERIOD DESCRIBED
11 UNDER SUBCLAUSE (I).

12 (III) IS ATTENDING AND PASSING ALL CLASSES.

13 (5) AN INSURER MAY NOT INCREASE PREMIUMS, IMPOSE A SURCHARGE
14 OR RATE PENALTY, MAKE A DRIVER RECORD POINT ASSIGNMENT FOR
15 AUTOMOBILE INSURANCE OR CANCEL OR REFUSE TO RENEW AN AUTOMOBILE
16 INSURANCE POLICY BECAUSE OF A SUSPENSION UNDER THIS SECTION.

17 SECTION 6. SECTION 1338.1 OF THE ACT IS REPEALED:

18 [SECTION 1338.1. SUSPENSION OF OPERATING PRIVILEGE.-- (A)
19 THE DEPARTMENT OF TRANSPORTATION SHALL SUSPEND FOR 90 DAYS THE
20 OPERATING PRIVILEGE OF ANY CHILD UPON RECEIVING A CERTIFIED
21 RECORD THAT THE CHILD WAS CONVICTED OF VIOLATING SECTION 1333.
22 IF THE DEPARTMENT RECEIVES A SECOND OR SUBSEQUENT CONVICTION FOR
23 A CHILD'S VIOLATION OF SECTION 1333, THE DEPARTMENT SHALL
24 SUSPEND THE CHILD'S OPERATING PRIVILEGE FOR SIX MONTHS.

25 (B) ANY CHILD WHOSE RECORD IS RECEIVED BY THE DEPARTMENT
26 UNDER SECTION 1333(C) AND WHO DOES NOT HAVE A DRIVER'S LICENSE
27 SHALL BE INELIGIBLE TO APPLY FOR A DRIVER'S LICENSE UNDER 75
28 PA.C.S. §§ 1505 (RELATING TO LEARNERS' PERMITS) AND 1507
29 (RELATING TO APPLICATION FOR DRIVER'S LICENSE OR LEARNER'S
30 PERMIT BY MINOR) FOR THE TIME PERIODS SPECIFIED IN SUBSECTION

1 (A). IF THE CHILD IS UNDER SIXTEEN (16) YEARS OF AGE WHEN
2 CONVICTED, SUSPENSION OF OPERATING PRIVILEGES SHALL COMMENCE IN
3 ACCORDANCE WITH 75 PA.C.S. § 1541 (RELATING TO PERIOD OF
4 REVOCATION OR SUSPENSION OF OPERATING PRIVILEGE) FOR THE TIME
5 SPECIFIED IN SUBSECTION (A).

6 (C) AN INSURER MAY NOT INCREASE PREMIUMS, IMPOSE ANY
7 SURCHARGE OR RATE PENALTY OR MAKE ANY DRIVER RECORD POINT
8 ASSIGNMENT FOR AUTOMOBILE INSURANCE, NOR SHALL AN INSURER CANCEL
9 OR REFUSE TO RENEW AN AUTOMOBILE INSURANCE POLICY ON ACCOUNT OF
10 A SUSPENSION UNDER THIS SECTION.]

11 SECTION 7. THE AMENDMENT, ADDITION OR REPEAL OF THE
12 FOLLOWING PROVISIONS SHALL APPLY TO SCHOOL YEARS WHICH BEGIN AT
13 LEAST NINE MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION:

- 14 (1) SECTION 1326 OF THE ACT.
- 15 (2) SECTION 1327.2 OF THE ACT.
- 16 (3) SECTION 1332 OF THE ACT.
- 17 (4) SECTION 1333 OF THE ACT.
- 18 (5) SECTION 1333.1 OF THE ACT.
- 19 (6) SECTION 1333.2 OF THE ACT.
- 20 (7) SECTION 1338.1 OF THE ACT.

21 SECTION 8. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.