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Footnote Online Supplement: State Truancy Law Compilation

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COMPILATION OF STATE TRUANCY LAWS[†]

ALABAMA

Ala. Code § 12-15-202 (2009)

(Current through 2012)

Rights when taken into custody – (a) explain reason to child in language understandable to child; (b) right to communicate with parent, legal guardian, or legal custodian; (c) if necessary reasonable means will be provided for a child to do so; and (d) right to communicate with an attorney or one will be appointed for the child with reasonable means provided to communicate with attorney.

Rights when being questioned while in custody – (a) right to attorney; (b) if child or parent unable to pay for attorney, one will be appointed; (c) right to communicate with parent and/or legal guardian or custodian; and (d) reasonable means provided to do so.

Rights of the child upon detention in juvenile court intake office, juvenile detention facility, or shelter care facility – (a) intake officer ensures that the parent or legal guardian or custodian are notified of the whereabouts of the child, reason for detention, right to counsel, right of child to remain silent “However, if the child has been read his or her rights, understands those rights, and knowingly, voluntarily, and intelligently waives those rights, then it is not necessary that the parent, legal guardian, or legal custodian be notified of the rights of the child or be present during the interrogation. This notification to the parent, legal guardian, or legal custodian, if practicable, shall be made in person or by telephone; otherwise, the communication shall be by the best means practicable.” This info should be shared at first meeting, but if parent fails to appear within 24 hours, then must be mailed.

Rights of parties once petition is filed à attorney.

Ala. Code § 12-15-102 (2009)

Definitions – adults, aftercare, child, child in need of supervision, child’s attorney, delinquent act, delinquent child, dependent child, detention, guardian ad litem, intake officer, juvenile court, juvenile detention facility, law enforcement officer, legal custodian, legal custody, legal guardian, minor, parent, pick-up order, probation, residential facility, residual parental rights and responsibilities, secure custody, and shelter care.

Ala. Code § 16-28-12 (2009)

Failure to attend – penalty – written policy – failure to report violations.

Each parent, guardian, or other person having control or any custody of child required to attend school or private tutor . . . fails to enroll child in school . . . private tutor . . . or compel child to properly conduct as a pupil in any academic place . . . guilty of misdemeanor and \$100 fine.

Each board of education should have a written policy for school behavior, signed by parent or guardian to show receipt.

[†] This compilation is an updated version of the laws listed in the Juvenile Law Center’s excellent *amicus curiae* brief in *Bellevue School District v. E.S.*, Brief of Juvenile Law Center, *et al.*, As Amicus Curiae on Behalf of Respondent, *Bellevue Sch. Dist. v. E.S.*, 257 P.3d 570 (Wash. 2011) (No. 83024-0), available at <http://www.jlc.org/legal-docket/bellevue-school-district-v-es> (click on link for “Related Content”).

Any parent or guardian who fails to require his/her child to go to school and abide by written policy . . . must be reported by principal . . . who must report to the superintendent . . . who must report to DA within 10 days. Child may be suspended. Violation to not report is Class C misdemeanor.

ALASKA

Alaska Stat. § 14.30.010 (2009)

Mandatory attendance for ages 7 to 16 to a public school unless . . . enrolled in private school or comparable or “has a physical or mental condition that a competent medical authority determines will make attendance impractical.”

ARIZONA

Ariz. Rev. Stat. Ann. § 8-221 (2009)

Right to counsel.

If indigent, appoint counsel.

“Before any court appearance which may result in institutionalization or mental health hospitalization of a juvenile, the court shall appoint counsel for the juvenile if counsel has not been retained by or for the juvenile, unless counsel is waived by both the juvenile and a parent or guardian with whom the juvenile resides or resided prior to the filing of a petition. The juvenile, parent, or guardian may withdraw the waiver of counsel at any time.”

Public defender may act as attorney.

If abuse or neglect in child’s case, assign guardian ad litem.

Guardian or counsel must meet with juvenile before preliminary protective hearing if possible or within 14 days after and must meet before all substantive hearings.

ARKANSAS

Ark. Code Ann. § 6-18-222 (2009)

Attendance policy – includes certain number of excessive absences that may be used as a basis of denial for course credit, promotion, or graduation.

However, excessive absences are not a basis for expulsion or dismissal of a student.

The legislative intent is that a student having excessive absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

Truancy board shall be notified if absences equal 1/2 of the total number of absences permitted per semester. Notify parents. Inform board via letter.

Before student reaches max absences, special arrangements need to be made to address student’s absences.

If special arrangement is made, then it must be formalized into a written agreement. Parent, student, and school administration designee must sign agreement.

When student exceeds absences or violates agreement, the school district must notify prosecuting authority or truancy board.

Parents subject to civil penalty through a family in need of services action in circuit court (9-27-310) or entered into a diversion agreement (9-27-323).

9-27-323 – Child voluntarily admits to “delinquency”? Intake officer and prosecuting authority make this determination. Written Agreement. Diversion includes non-judicial probation, participation in a court-approved program of education, counseling, treatment, participation in a court-approved teen court, participation in a juvenile drug court program, and enrollment in the Regional Education Career Alternative School.

Ark. Code Ann. § 9-27-303 (2009)

Definitions only.

“Truancy” not mentioned.

Ark. Code Ann. § 9-27-316 (2009)

Right to counsel for delinquency.

“Truancy” not mentioned.

Ark. Code Ann. § 9-27-332 (2009)

Not related to truancy.

Family services to rehabilitate juvenile and/or juvenile’s family.

CALIFORNIA

Cal. Welf. & Inst. Code § 601 (2009)

If four or more truanies or probation officer or school attendance review board decides that public and private services are ineffective for correcting the habitual truancy, then child is in the jurisdiction of juvenile court and may be adjudicated as ward of the court. However, if ward of court within this section only, child shall not be removed from custody of parents except during school hours.

Cal. Welf. & Inst. Code § 634 (2009)

Right to counsel if it appears that minor or parents would desire counsel.

If child appears at the hearing, court must appoint counsel, unless child gives an “intelligent” waiver.

If child unable to afford, counsel will be appointed.

If no public defender available, county must pay compensation for services of appointed counsel.

COLORADO

C.R.S. § 22-33-107 (current through 2012)

Board of education of each school district designates one or more attendance officers.

Attendance officer has duty to counsel children and their parents regarding non-attendance and to investigate the causes of non-attendance.

“Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy.”

Annually at beginning of each school year parents must be notified of attendance obligations and sign in agreement.

School should keep a record of parents' contact info.

If child is absent on a regularly-scheduled school day and school has received no indication that parent is aware of child's absence, then school personnel or a volunteer under guidance of school personnel must make a reasonable effort to notify the parents. Any person who, in good faith, fails to give notice shall be immune from liability (civil and criminal).

Code only mentions terms like juvenile delinquent, habitual juvenile offender, and delinquent act. Not status offense, child in need of services or supervision, or habitually truant, etc. “Delinquent” defined as violation of any statute or ordinance that is non-felonious.

Under “School Attendance Law of 1963,” Article 33 of Title 22, C.R.S., court may appoint counsel OR GAL. If court determines both are necessary, then may appoint both. Also, “the court shall make available to the child's parent or guardian ad litem information concerning the truancy process.”

CONNECTICUT

Conn. Gen. Stat. § 46b-149 (2009)

If true, would be sufficient to meet the definition of a family with service needs, provided a complaint alleging that a child is a truant or habitual truant shall not be determined to be insufficient to meet the definition of a family with service needs solely because it was filed during the months of April, May, or June.

Conn. Gen. Stat. § 46b-149f (2009)

Child adjudicated as from a family in need of services that violates VCO has right to counsel and evidentiary hearing.

Subject to supervision of probation officer unless less restrictive alternative is found effective.

If all fails, child will be ordered to custody of Commissioner of Children and Families for 18 months.

No child shall be held prior to hearing for more than 24 hours.

If child a threat to surrounding, must be removed from such surrounding for a period of 45 days, every 15 of which court must review whether continued placement is appropriate and at the end of

which child may return to community and be under supervision of probation officer or existing commitment to the Commissioner, or be committed to Dept. of Children and Families for 18 months.

Conn. Gen. Stat. § 46b-120 (2009)

Definitions – child, delinquent, family with service needs, neglect, and serious juvenile offender.

DELAWARE

Del. Code Ann. tit. 14, § 2702 (2009)

Ages 5 to 16 – mandatory attendance.

“A student who has been absent from school without a valid excuse for more than 3 school days in a school year is a truant.” A truant and the parent of a truant are subject to the administrative proceedings set out in subchapter II of this chapter.

“Following the 10th day of unexcused absence by a student, the school shall immediately notify the parent or parents or guardian and a visiting teacher for the district shall visit the student's home.”

“Following the fifteenth day of unexcused absence by a student, the student's parent or parents or guardian shall be notified by certified mail to appear at the school within 10 days of notification for a conference and counseling.” (Parents will sign contract agreeing to have the child abide by school code, attend regularly, and provide written documentation for reason of absences.)

“Following the 20th day of unexcused absence by a student, the school shall refer the case for prosecution.”

“Following the completion of prosecution of the case and the subsequent failure of the student to return to school within 5 school days thereof, the school shall immediately notify the Department of Services for Children, Youth and Their Families requesting intervention services by the Department. The Department shall contact the family within 10 business days.”

Subchapter II – all about truancy.

No indication of right to counsel in Subchapter II Procedure for Truancy Adjudication.

DISTRICT OF COLUMBIA

D.C. Code § 16-2301 (2009)

Definitions – neglected and maltreated child.

D.C. Code § 16-2304 (2009)

Delinquent has right to counsel.

FLORIDA

Fla. Stat. Ann. § 984.17 (2009)

At time petition is filed, court may appoint a GAL.

Prior to adjudicatory hearing, parent or child may be advised about right to counsel.

Fla. Stat. Ann. § 984.151 (2009)

If 15 unexcused absences in a 90-day period, the superintendent of schools may file a truancy petition.

Fla. Stat. Ann. § 1003.27 (2009)

“Designated school representative shall refer a student who is habitually truant and the student’s family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee.”

“Proceedings or prosecutions under this chapter may be commenced by the district school superintendent, by a designated school representative, by the probation officer of the county, by the executive officer of any court of competent jurisdiction, by an officer of any court of competent jurisdiction, or by a duly authorized agent of the Department of Education or the Department of Juvenile Justice.”

Sanctions against child or parent (i.e., 25 hours community service for each day absent or civil penalty of \$2 to 5 based on student’s ability to pay).

GEORGIA

Ga. Code Ann. § 15-11-2 (2009)

Status offense = truancy is a status offense = only a crime because the perpetrator is not an adult.

Delinquent child = one who commits delinquent act = crime by law of the state.

Unruly child = truant (habitually absent when subject to compulsory school attendance); commits delinquent act and in need of supervision but not of treatment or rehabilitation; underage drinking; wanders or loiters beyond midnight; without just cause abandons home; commits offense only applicable to a child; or habitually and unreasonably disobedient towards law, parents, and/or guardians.

Ga. Code Ann. § 15-11-6 (2009)

Right to counsel.

Court must determine whether or not party is aware of this right.

If indigent, court must provide for counsel upon request by party.

“A party is entitled to representation by legal counsel at all stages of any proceedings alleging delinquency, unruliness, incorrigibility, or deprivation and if, as an indigent person, a party is

unable to employ counsel, he or she is entitled to have the court provide counsel for him or her. If a party appears without counsel, the court shall ascertain whether such party knows of his or her right to counsel and to be provided with counsel by the court if he or she is an indigent person. The court may continue the proceeding to enable a party to obtain counsel and shall provide counsel for an unrepresented indigent person upon the request of such a person. Counsel must be provided for a child not represented by the child's parent, guardian, or custodian.”

HAWAII

Haw. Rev. Stat. § 302A-1135 (2009)

Schoolteachers, any other officers or agents of the department, or police officers can file a proper petition, citation, or complaint if any child is persistently absent.

Child and person in charge of child must appear in front of the judge.

Upon its being proved that the person responsible for the child had not used proper diligence to enforce the child's regular attendance at school, the responsible party shall be guilty of a petty misdemeanor.

Haw. Rev. Stat. § 571-87 (2009)

Indigent status = appointment of counsel or GAL.

Court must determine amount of reasonable compensation for counsel or GAL.

IDAHO

Idaho Code Ann. § 16-1602 (2009)

Definitions only.

Does not mention “truancy,” “delinquency,” “status offense,” or “unruly.”

Idaho Code Ann. § 16-1614 (2009)

Court must appoint GAL for child and counsel for the GAL and in some cases also a separate counsel for the child.

For child under 12, counsel may have GAL duties; for child over age of 12, may not.

County must pay for counsel unless child has an independent estate sufficient to pay costs.

Idaho Code Ann. § 20-514 (2009)

Right to counsel.

Counsel will be appointed for the child on a financial-needs basis.

County will pay for the attorney fees.

Separate attorneys may be hired for parent and juvenile if conflict of interest.

County may seek reimbursement from parent or person liable for support of juvenile.

Prosecuting attorney may sue on behalf of county if parent or person liable or their estates have not reimbursed within 5 years after date of appointment.

Idaho Code Ann. § 20-516 (2009)

Peace officer or private citizen may detain a juvenile until he/she can be delivered into custody of peace officer if “juvenile has committed an act, which would be a misdemeanor or felony if committed by an adult;” violated local, state, or federal law or ordinance; or committed status offense (i.e., truancy or run away). Juvenile shall NOT be placed in any jail facility (except juvenile shelter care facilities), except for runaways, who shall be placed in *detention* when there is a request sent from foreign jurisdiction to hold juvenile pending transportation arrangements.

Idaho Code Ann. § 33-207 (2009)

If child enrolled in public school is habitually truant, then action may be filed (directly) against the parent(s) or guardian(s). If parent has failed, neglected, or knowingly allowed child to become a habitual truant, then guilty of misdemeanor.

School board shall notify prosecuting attorney in the county of child’s residence and recommend a petition to be filed in the magistrates division of district court of child’s residential county.

Petition shall set forth in plain language: “(1) the facts which bring the juvenile within the purview of this act; (2) the name, age, and residence of the juvenile; (3) the names and residences of his parents and spouse, if any; (4) the name and residence of his legal guardian, if there be one, or the person or persons having custody or control of the juvenile, or of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner the petition shall so state.” See Idaho Code § 20-510 . . . Petition . . . For child under 18.

ILLINOIS

105 Ill. Comp. Stat. Ann. § 5/26-10 (2009)

Class C misdemeanor – 30 days imprisonment or \$500 fine.

Parent or custodian knowingly, willfully, and with notice allows child’s absence or truancy to persist.

105 Ill. Comp. Stat. Ann. § 5/26-12 (2009)

“No punitive action including out of school suspensions, expulsions or court action, shall be taken against chronic truants for such truancy unless available supportive services and other school resources have been provided to the student.”

705 Ill. Comp. Stat. Ann. § 405/1-5 (2009)

No hearing on any petition or motion filed under this Act may be commenced unless the minor, who is the subject of the proceeding, has counsel or attorney.

705 Ill. Comp. Stat. Ann. § 405/3-33.5 (2009)

Chronic truancy = child in need of supervision.

Service plan, counseling, referral to community youth service agency, subject to fine and/or community service if absent without valid cause, and driving privileges revoked.

INDIANA

Ind. Code Ann. § 20-33-2-27 (2009)

Service of process for parent's violation of compulsory attendance law.

Personal notice of violation.

Deliver personally.

Send a copy.

Leaving copy at last or usual place of residence.

Ind. Code Ann. § 20-33-2-44 (2009)

Violation of this chapter Class B misdemeanor.

Ind. Code Ann. § 31-32-2-2 (2009)

Child charged with delinquency.

Right to counsel.

Refrain from testifying.

Confront witnesses.

Ind. Code Ann. § 31-32-4-2 (2009)

Court has to appoint counsel for delinquent child for any proceeding if child has not lawfully waived right to counsel or there is a conflict of interest.

Ind. Code Ann. § 31-37-2-3 (2009)

A child commits a delinquent act if, before age 18, the child violates compulsory school attendance.

IOWA

Iowa Code § 232.89 (2009)

Upon petition, right to counsel.

Court shall appoint counsel.

Court shall appoint GAL.

If not appointed, court shall order parent or guardian to attain an attorney for the child.

Determine whether or not parent can pay for counsel and whether or not parent paying for counsel will have an effect on relationship between parent and child.

Iowa Code § 299.8 (2009)

Truant = absence without reasonable excuse.

Truant does not necessarily mean child in need of assistance under Ch. 232.

KANSAS

Kan. Stat. Ann. § 38-2202 (2009)

Definitions for Ch. 38.

Juvenile detention distinct and separate from adult jail.

Kan. Stat. Ann. § 38-2205 (2009)

Right to counsel.

Right to GAL.

KENTUCKY

Ky. Rev. Stat. Ann. § 159.180 (2009)

Parent, guardian, or custodian - legally responsible.

Before proceeding against them, receive written notice.

One day allotted to fix violation.

If happens again, no notice.

Ky. Rev. Stat. Ann. § 159.990 (2009)

\$100 fine on any parent, guardian, or custodian.

Class B misdemeanor.

Ky. Rev. Stat. Ann. § 610.010 (2009)

Jurisdiction under 18.

Juvenile court has exclusive jurisdiction over habitual truants and runaways.

Status offense action.

Ky. Rev. Stat. Ann. § 610.060 (2009)

Inform parent and child of their respective right to counsel.

Explain right against self-incrimination, waiver of rights, right to appeal, and right to confront party accusing defendant child.

Notice should be given because parties have right to attend all related proceedings.

No court shall accept plea or admission from any child accused of any offense . . . including violation of VCO.

Ky. Rev. Stat. Ann. § 630.020 (2009)

Exclusive jurisdiction over habitual truants, runaways, tobacco and alcohol offenders, and others beyond control of parent.

LOUISIANA

La. Rev. Stat. § 17:221 (2009)

16 to 18-year-olds can request alternative education or vocational technical education program.

MAINE

20 A M.R.S. § 5051-A

Truant – completed grade 6 and has 10 full days of unexcused absences or 7 consecutive days of unexcused absences during school year, or is at least 7 years of age, has not completed grade 6, and has equivalent of 7 full days or 5 consecutive days of unexcused absences during school year.

Procedure – principal must notify superintendent within 5 school days of last unexcused absence. Student must be referred to school’s student assistance team designated by superintendent. SAT must determine cause of truancy and assess effect of absences. If negative effects exist, SAT shall develop an intervention plan to address absences and negative effects.

An intervention plan may include, but is not limited to, frequent communication between the teacher and family; change in the learning environment; mentoring; student counseling; tutoring, including peer tutoring; placement into different classes; consideration of multiple pathways; attendance contracts; referral to other agencies or family services; and other interventions or referrals.

If intervention plan is unable to correct truancy, superintendent must serve parent with notice and hold a meeting. If truancy persists after 3 days of notice, then superintendent can notify law enforcement.

15 M.R.S. § 3306

Court shall appoint counsel for juvenile.

MARYLAND

Md. Code Ann. Cts. & Jud. Proc. § 3-813 (2009)

Confidentiality of records regarding abuse, sexual abuse, neglect, and exploitation of any person.

Assistance of counsel.

Md. Code Ann. Educ. § 7-301 (2009)

Compulsory attendance (subject to amendment effective July 1, 2015) – 5 to 16 years old.

“This section does not apply to any child whose mental, emotional, or physical condition makes his instruction detrimental to his progress or whose presence in school presents a danger of serious physical harm to others. [However,] this section applies to any child who has a mental, emotional, or physical handicap.”

Special provision for free education of students excepted from attendance.

Custodian of child - violation of this section - 1st attempt \$50 max. fine and 10 days imprisonment max; 2nd attempt \$100 max. fine and 30-day-imprisonment max.

MASSACHUSETTS

Mass. Gen. Laws Ch. 119 § 21 (2009)

Amended in 2010, 2011, 2012, and 2013.

Sec. 9, 10, 18 to 22 - applies to 18 to 22-year-olds.

Deleted “child in need of services” with “child requiring assistance,” “habitually truant,” or “family requiring assistance.”

“Child requiring assistance” redefined.

Mass. Gen. Laws Ch. 119 § 39F (2009)

CHINS - right to counsel.

Court must appoint counsel if child cannot afford one.

Fee for counsel \$300 unless indigent.

MICHIGAN

Mich. Comp. Law § 380.1561 (2009)

Child turning 11 or entering grade 6 before Dec. 1, 2009 - 6 to 16 must be enrolled (continuous and consecutive attendance).

Child turning 11 or entering grade 6 after Dec. 1, 2009 - 6 to 18 must be enrolled (continuous and consecutive attendance).

Does not need to attend public school if at non-public state approved school; resides 2 1/2 miles away and no proper transportation by district; 12 to 13 years old and attends confirmation classes for period of 5 months or less; attends religious classes for more than two hours per week; graduated from or fulfilled H.S. requirements; or home schooled by legal guardian, custodian, or parent.

For a child who turns 11 after Dec. 1, 2009, or enters grade 6 in 2009 or later, once 16, can get written notice from parent not to attend school.

MINNESOTA

Minn. Stat. § 120A.34 (2009)

Any person who fails or refuses to provide instruction to child of whom he/she has legal custody will be fined and found guilty of petty misdemeanor.

Minn. Stat. § 260C.007 (2009)

Child in need of services includes habitual truant.

“Subd. 19. Habitual truant. ‘Habitual truant’ means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.”

Minn. Stat. § 260C.163 (2009)

Amended effective Aug. 1, 2013.

“Subd. 3. Appointment of counsel. (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.

(b) Except in proceedings where the sole basis for the petition is habitual truancy, if the child, parent, guardian, or custodian desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older under section 611.14, clause (4), or the parent, guardian, or custodian in any case in which it feels that such an appointment is appropriate if the person would be financially unable to obtain counsel under the guidelines set forth in section 611.17.

(c) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with this subdivision.

(d) Counsel for the child shall not also act as the child's guardian ad litem.”

“Subd. 11. Presumptions regarding truancy or educational neglect. (a) A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence that the child is habitually truant. A child's absence from

school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120A.22 and 120A.24.”

MISSISSIPPI

Miss. Code Ann. § 97-5-39

Parent, custodian, or guardian contributing to neglect or delinquency of child will be found guilty of misdemeanor.

Miss. Unif Rule Youth Ct. Proc. 24

Both delinquent youth and children in need of supervision have a right to counsel.

Miss. Unif Rule Youth Ct. Proc. 33

Truant child alleged as child in need of supervision or neglected child.

Right to counsel.

Attendance officer must make attempt to secure enrollment or attendance.

If this does not happen, then file report with the youth court intake unit. Sheriffs, deputy sheriffs, and municipal law enforcement officers fully authorized to investigate all cases of non-attendance or unlawful absences.

Petition pursuant to Rule 20(b) – not for delinquency – . . . for child in need of supervision . . .

“The petition shall be filed within five (5) days from the date of a detention hearing continuing non-secure placement custody. Unless another period of time is authorized by the court, in non-custody cases the petition shall be filed within ten (10) days of the court order authorizing the filing of a petition.”

MISSOURI

Mo. Rev. Stat. § 167.091

Any school district with 10,000 or more inhabitants may establish and maintain from public school funds a special school for truant kids.

The statute describes the kids as vicious, immoral, and habitual wanderers or loiterers.

The city or county shall pay this school \$10 per month for the expenses of the child.

MONTANA

Mont. Code Ann. § 41-5-103

“Habitual truancy” means recorded absences of 9 days or more of unexcused absences in a year or absences without prior written approval of a parent or a guardian.

“Youth in need of intervention’ means a youth who is adjudicated as a youth and who:

commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who: violates any Montana municipal or state law regarding alcoholic beverages; or continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention.”

Mont. Code Ann. § 41-5-1413

Right to counsel; assignment of counsel.

If youth does not have counsel, court shall ask office of public defender to appoint one.

NEBRASKA

Neb. Rev. Stat. § 43-245

Age of majority means 19.

Juvenile any person under age of 18.

Status offense – underage drinking.

Neb. Rev. Stat. § 43-272

Court shall inform child about right to counsel, and if it appears that child cannot afford counsel, one will be appointed.

Neb. Rev. Stat. § 62B.320

Child in need of supervision à habitually truant from school.

Neb. Rev. Stat. § 62D.030

Juvenile court must appoint attorney if parents have not retained and if child is indigent.

NEVADA

Nev. Rev. Stat. Ann. § 392.150

Attendance officer.

Nev. Rev. Stat. Ann. § 392.210

Parent guilty of misdemeanor if fails to prevent child's subsequent truancy upon notice.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. § 169-D:2

"Delinquent" and "child in need of services" do not overlap.

"Habitual truant" and "truancy" not mentioned.

N.H. Rev. Stat. Ann. § 169-D:12

Court shall appoint counsel for child's initial appearance.

If court finds that the child has minor cognitive, emotional, learning, or sensory disability, then court will require minor to consult counsel.

Child can waive counsel only if parent, guardian, or custodian has not filed the petition; both child and parent, guardian, or custodian are in agreement; and child waives voluntarily with full understanding of consequences.

NEW JERSEY

N.J. Stat. § 18A: 38-27

"Truancy" and "juvenile delinquency" defined – "Any child between the ages of six and 16 years who shall repeatedly be absent from school, and any child of such age found away from school during school hours whose parent, guardian or other person having charge and control of the child is unable to cause him to attend school and any pupil who is incorrigible, actually vagrant, vicious, or immoral in conduct, shall be deemed to be a juvenile delinquent and shall be proceeded against as such." (Truancy = delinquent act.)

N.J. Stat. § 18A: 38-28

When attendance officer finds a truant child, he/she must take child to his/her parent or legal custodian.

N.J. Stat. § 18A: 38-25

Attendance mandatory for ages 6 to 16. Exceptions mentioned in title but not listed.

N.J. Stat. § 18A: 38-29

“The attendance officer shall examine into all violations of this article, shall warn any child violating any of the provisions of this article and the parent, guardian or other person having charge and control of the child of the consequences of the violation if persisted in, and shall notify such person in writing to cause the child to attend school within five days from the date on which notice is served, and regularly thereafter. The attendance officer shall have full police power to enforce the provisions of this article and may arrest without warrant any vagrant child or habitual truant or any child who is habitually incorrigible or who is vicious or immoral in conduct or illegally absent from school.”

N.J. Stat. § 18A: 38-30

Sheriffs and police officers must assist attendance officers in their duties.

N.J. Court Rules, R. 7:3-2

A juvenile has a right to counsel in a delinquency proceeding and where juvenile may be committed or institutionalized.

NEW MEXICO

N.M. Stat. § 22-12-7

“B. To initiate enforcement of the provisions of the Compulsory School Attendance Law against an habitual truant, a local school board or governing body of a charter school or private school or its authorized representatives shall give written notice of the habitual truancy by mail to or by personal service on the parent of the student subject to and in noncompliance with the provisions of the Compulsory School Attendance Law. The notice shall include a date, time and place for the parent to meet with the local school district, charter school or private school to develop intervention strategies that focus on keeping the student in an educational setting.

C. If unexcused absences continue after written notice of habitual truancy as provided in Subsection B of this section has occurred, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy and thus subject to the provisions of the Children's Code. The probation services office may send a written notice to a parent of the student directing the parent and student to report to the probation services office to discuss services for the student or the family. In addition to any other disposition, the children's court may order the habitual truant's driving privileges to be suspended for a specified time not to exceed ninety days on the first finding of habitual truancy and not to exceed one year for a subsequent finding of habitual truancy.

D. If, after review by the juvenile probation office where the student resides, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred by the juvenile probation office to the district attorney's office or any law enforcement agency having jurisdiction for appropriate investigation and filing of

charges allowed under the Compulsory School Attendance Law. Charges against the parent may be filed in metropolitan court, magistrate court or district court.

E. A parent of the student who, after receiving written notice as provided in Subsection B of this section and after the matter has been reviewed in accordance with Subsection D of this section, knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor. Upon the first conviction, a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100) may be imposed, or the parent of the student may be ordered to perform community service. If violations of the Compulsory School Attendance Law continue, upon the second and subsequent convictions, the parent of the student who knowingly allows the student to continue to violate the Compulsory School Attendance Law shall be guilty of a petty misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a definite term not to exceed six months or both.

F. ...”

NEW YORK

N.Y. Fam. Ct. Act § 712

Defines “person in need of supervision” – out-of-control child – but does not define “delinquent” or “truant.”

N.Y. Fam. Ct. Act § 741

Advised of the right to remain silent and for counsel.

NORTH CAROLINA

N.C. Gen. Stat. § 7B-2000

Right to counsel for all juveniles.

“All juveniles shall be conclusively presumed to be indigent, and it shall not be necessary for the court to receive from any juvenile an affidavit of indigency.”

N.C. Gen. Stat. § 115C-380

“Any parent, guardian or other person violating the provisions of this Part shall be guilty of a Class 1 misdemeanor.”

NORTH DAKOTA

N.D. Cent. Code § 27-20-02

“Unruly child’ means a child who: [i]s habitually and without justification truant from school.”

N.D. Cent. Code § 27-20-26

Indigent child has right to counsel.

OHIO

Ohio Rev. Code Ann. § 2151.23

Defines juvenile court jurisdiction.

Ohio Rev. Code Ann. § 2151.35

Hearing procedure – pertains more to delinquency and unruly child.

Evidence or hearsay.

Ohio Rev. Code Ann. § 2151.352

Parents of child should be advised of right to counsel and provided with counsel if unable to get one on their own. If parent and child interests conflict, separate counsel appointed for each party. Child without parent shall be appointed counsel.

Ohio Rev. Code Ann. § 3321.38

Violation of Compulsory Attendance laws – bond.

“The juvenile court, which has exclusive original jurisdiction over any violation of this section pursuant to section 2151.23 of the Revised Code, may require a person convicted of violating this division to give bond in a sum of not more than five hundred dollars with sureties to the approval of the court, conditioned that the person will cause the child under the person's charge to attend upon instruction as provided by law, and remain as a pupil in the school or class during the term prescribed by law. If the juvenile court adjudicates the child as an unruly or delinquent child for being an habitual or chronic truant pursuant to section 2151.35 of the Revised Code, the court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication of that nature involving the child may result in a criminal charge against the parent, guardian, or other person having care of the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.”

OKLAHOMA

Okla. Stat. tit. 70, § 10-105

Neglect or refusal to compel child to attend school – exceptions – enforcement.

5 to 12 must attend school.

12 to 18 must have completed 4 years of high school work.

Guilty parent – misdemeanor.

Exceptions – physical and mental disability, religious holidays, or excused by principal.

OREGON

Or. Rev. Stat. § 339.080

Parent shall receive formal notice of non-attendance.

Or. Rev. Stat. § 339.090

Attendance supervisor has the responsibility to determine whether or not parents have cooperated with the notice. If A.S. finds that parents have not, then A.S. must inform district superintendent within 3 days of having knowledge of failure to comply.

PENNSYLVANIA

24 Pa. Cons. Stat. § 13.1333

“Habitually truant” shall mean absence for more than three school days or their equivalent following the first notice of truancy given.

Parent in violation – \$300 fine, complete parenting education program, or default 5 days in jail.

Offending parent shall receive 3 days of written notice by the attendance officer, district superintendent, or secretary of school board.

If parent not in violation – under 13 years of age . . . possible disposition as dependent child.

Over the age of 13 . . . \$300 fine or adjudication alternative program.

Failure to do either shall not constitute a delinquent act.

Possible disposition as a dependent child meaning . . . *See also* 42 Pa. Cons. Stat. § 6302.

42 Pa. Cons. Stat. § 6337

“A party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party other than a child appears at a hearing without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel.”

RHODE ISLAND

R.I. Gen. Laws § 14-1-3

“Wayward” – habitually absent and disobedient to school laws.

R.I. Gen. Laws § 14-1-31

“Prior to the commencement of any hearing, the justice shall advise the parent or guardian of any child, or the adult involved, as the case may be, that if he or she is financially unable to engage

counsel, he or she is entitled to the services of the public defender. The public defender shall, at the request of a justice of the family court, appear in court on behalf of that person.”

R.I. Gen. Laws 14-1-58

“Public defender shall, at the direction of the court, appear in criminal cases on behalf of defendants who are found by the court to be financially unable to engage counsel.”

SOUTH CAROLINA

S.C. Code Ann. § 59-65-20

Each day the child is absent = separate offense.

Parent shall be fined not more than \$50 or imprisoned not more than 30 days for each offense if convicted for child’s failure to attend school.

S.C. Code Ann. § 63-19-20

Child or juvenile = person less than 17.

Truancy is a status offense.

S.C. R. Fam. Ct. 36

In a delinquency case, child and parent shall be served with notice of right to be represented by an attorney, and if the parties cannot afford one, then court will appoint one for them.

SOUTH DAKOTA

S.D. Codified Laws § 13-27-11

Parent’s failure to send child to school – Class 2 misdemeanor.

S.D. Codified Laws § 13-27-20

Any truancy officer, teacher, school officer, or citizen may file a truancy complaint.

S.D. Codified Laws § 26-7A-31 (2009)

If child or parent requests an attorney and court finds the party without sufficient financial means to afford an attorney, court shall appoint an attorney for their representation. If request is not made but court finds representation necessary, court shall appoint attorney for party. Attorney, if employed per county contract, shall be paid according to contract with county.

S.D. Codified Laws § 26-8B-2 (2009)

A child in need of supervision ÷ habitually absent.

TENNESSEE

Tenn. Code Ann. § 37-1-102 (2009)

“Unruly child’ means a child in need of treatment and rehabilitation who: [h]abitually and without justification is truant from school while subject to compulsory school attendance.”

Tenn. Code Ann. §49-6-3009 (2009)

Parent in violation – Class C misdemeanor – guilty of educational neglect.

TEXAS

Tex. Educ. Code Ann. § 25.094 (2009)

Jurisdiction – older than 12, younger than 18.

Tex. Fam. Code Ann. § 51.03 (2009)

“Delinquent conduct” is different from “conduct indicating need for supervision.”

Unexcused absences fall under need for supervision.

Tex. Fam. Code Ann. § 51.10 (2009)

Court must order parents to hire attorney, and if that is not possible, then appoint one for the child.

UTAH

Utah Code Ann. § 53A-11-101.5 (2009)

Class B misdemeanor - parents intentionally or recklessly fail to send child to school.

Parents shall receive notice of compulsory education violation.

Utah Code Ann. § 78A-6-105 (2009)

Definitions only.

“Truancy” not mentioned

Utah Code Ann. § 78A-6-1111 (2009)

Right to counsel.

Cost of counsel for indigent minor paid by county.

VERMONT

Vt. Stat. Ann. tit. 33, § 5102 (2009)

CHINS à “child in need of care or supervision” à “habitually and without justification truant.”

Vt. Stat. Ann. tit. 33, § 5112 (2009)

Court shall appoint counsel and a guardian ad litem for the child who is party to a juvenile proceeding.

VIRGINIA

Va. Code Ann. § 16.1-266 (2009)

Right to an attorney and/or guardian ad litem or both.

Va. Code Ann. § 22.1-263 (2009)

Violation constitutes misdemeanor.

Va. Code Ann. § 22.1-267 (2009)

Child in need of supervision → habitually absent when allowed by parents or legal custodian.

WASHINGTON

Wash. Rev. Code Ann. § 28A.225.020

After one unexcused absence = inform parents.

After two unexcused absences = schedule conference with parents.

Remedial steps.

Promote school attendance.

Amended as of 2009 – referral to community truancy board → juvenile court civil action petition → community truancy board → truancy prevention officer for supervision → no resolution → 1st hearing under juvenile court jurisdiction → child may not be required to attend → parents, C.T.B., and school district present → no right to counsel at 1st hearing → school may have a non-attorney representative at the initial hearing → court order → if child violates court order = detention (time period for civil contempt) or community restitution center → does not apply to 6 and 7-year-olds. See 2009 Wa. SB 5881.

Wash. Rev. Code Ann. § 28A.225.090

Same as above . . . petition → attend current school and set forth minimum attendance requirements, including suspensions → attend another public school or education program → attend non-sectarian school or program → referral to community truancy board → submit to controlled substances or alcohol testing → court order → contempt = detention

WEST VIRGINIA

W. Va. Code § 18-8-2 (2009)

Person responsible for child under 18 is in violation if child is excessively and unjustifiably absent from school despite receiving notice. Guilty of misdemeanor – first-offense fine between \$50 to 100; second offense fine between \$50 to 100 and accompany child through school day or jail for 5 to 20 days. Each day missed constitutes a separate offense.

“Any person eighteen years of age or older who is enrolled in school who, after receiving due notice, fails to attend school in violation of the provisions of this article or without just cause, shall be guilty of a misdemeanor.”

First offense be fined \$50 to 100 together with the costs of prosecution and required to attend school and remain throughout the school day. “The magistrate or judge, upon conviction and pronouncing sentence, may delay the imposition of a fine for a period of sixty school days provided the person is in attendance every day during said sixty-day period.”

“Following the sixty-day period, if said student was present at school every day, the delayed sentence may be suspended and not enacted.”

Second-offense fine may be imposed \$50 to 100 together with the costs of prosecution, and “the person may be required to go to school and remain throughout the school day until such time as the person graduates or withdraws from school or confined in jail not less than five nor more than twenty days.”

Every day a student is out of school constitutes a separate offense.

Third offense – 18-year-old or older still in school will be withdrawn from school during the remainder of that school year. “Enrollment of that person in school during the next school year or years thereafter shall be conditional upon all absences being excused as defined in law, state board policy and county board of education policy. More than one unexcused absence of such a student shall be grounds for the director of attendance to authorize the school to withdraw the person for the remainder of the school year.”

W. Va. Code § 49-1-4 (2009)

Truancy (habitually absent without good cause) is a status offense.

W. Va. Code § 49-5-9 (2009)

Inform juvenile of a right to counsel at all stages of judicial proceeding, waiver of representation, and right to jury trial.

W. Va. Code § 49-5-11 (2009)

The adjudication process is different for status offenders and delinquents. *See* 49-5-11a.

Special services - services may include, but are not limited to, referral of juveniles and parents, guardians or custodians, and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the

needs of the juvenile and his/her family.

Department may request a VCO.

Inquire from juvenile if appeal is desired. (Any order providing disposition other than mandatory referral to the department for services is subject to appeal to the supreme court of appeals.)

“At the outset of an adjudicatory hearing, the court shall inquire of the juvenile whether he or she wishes to admit or deny the allegations in the petition. The juvenile may elect to stand mute, in which event the court shall enter a general denial of all allegations in the petition.”

WISCONSIN

Wis. Stat. Ann. § 118.15 (2009)

6 to 18 years old = juvenile or minors and mandatory attendance.

17 – may be excused if they join alternative education program.

Wis. Stat. Ann. § 938.13 (2009)

Juveniles in need of protection or services à habitually truant from school.

Wis. Stat. Ann. § 938.23 (2009)

Juvenile has a right to counsel.

Court may provide counsel at its discretion.

Court shall refer child to public defender for counsel.

Wis. Stat. Ann. § 938(1m) (2009)

Possibly pertaining to delinquency.

WYOMING

Wyo. Stat. Ann. § 14-6-402 (2009)

Definitions only.

Status offense – not a crime if adult, only a crime because minor.

Wyo. Stat. Ann. § 14-6-422 (2009)

At the first appearance, child and parent must be advised about right to counsel.

Court may appoint counsel if parties request and verify their financial circumstances under oath.