

An Act

ENROLLED HOUSE
BILL NO. 1940

By: Strom and Caldwell (Trey)
of the House

and

Hicks and Ikley-Freeman of
the Senate

An Act relating to school attendance; amending 70 O.S. 2011, Section 10-105, which relates to compulsory school attendance; providing certain exemption for a child granted certain valid excuse for an absence; amending 70 O.S. 2011, Section 10-106, which relates to attendance records; excusing absence due to school-approved activities and approved extracurricular activities; and providing an effective date.

SUBJECT: School attendance

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 10-105, is amended to read as follows:

Section 10-105. A. It shall be unlawful for a parent, guardian, or other person having custody of a child who is over the age of five (5) years, and under the age of eighteen (18) years, to neglect or refuse to cause or compel such child to attend and comply 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 district are in session or the child is excused as provided in this section. One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older unless the child is excused from kindergarten attendance as provided in this section. A child who is five (5) years of age shall be excused from kindergarten attendance until the next school year after the child

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

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

Provided, that this section shall not apply:

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

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

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

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

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

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

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

6. If any child has been granted a valid excuse for his or her absence from school as provided for in Section 10-106 of this title.

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

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

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

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

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

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

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

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

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

1. Verifying attendance of the child with the school;
2. Attending meetings with school officials;
3. Taking the child to school;

4. Taking the child to the bus stop;

5. Attending school with the child;

6. Undergoing an evaluation for drug, alcohol, or other substance abuse and following the recommendations of the evaluator; and

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

SECTION 2. AMENDATORY 70 O.S. 2011, Section 10-106, is amended to read as follows:

Section 10-106. A. It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of

days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title 10A of the Oklahoma Statutes.

B. As used in this section, "valid excuse" includes, but is not limited to, absences for:

1. Any school-approved activity; or

2. Participation in extracurricular activities approved by the board of education or the school principal.

SECTION 3. This act shall become effective November 1, 2019.

Passed the House of Representatives the 8th day of May, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 2nd day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____