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TRUANCY POLICIES AND PENALTIES

House Bills 4207-4209

Sponsor: Rep. Artina Tinsley Hardman

Committee: Education

Complete to 2-14-03

A SUMMARY OF HOUSE BILLS 4207 - 4209 AS INTRODUCED 2-12-03

The bills would clarify school attendance procedures, include county prosecutors in the development of school district and charter school truancy policies, and increase the penalties imposed on parents for their children's truancy from school. Under certain conditions, the family division of circuit court would have court jurisdiction over parents and guardians of truants, and a truant juvenile's driver license could be suspended or denied. The bills are tied together so that none could become law unless the others also were enacted.

House Bill 4207 would amend the Revised School Code (MCL 380.1599 and 380.1590) to require the intermediate school board and the county prosecutor for each county in the territory of the intermediate school district to develop a local truancy policy within 180 days after the bills effective date. The truancy policy would apply to all school districts in the intermediate school district's jurisdiction unless a school district employed its own attendance officer, and the school board of that school district and the county prosecutor met to develop a local truancy policy for the particular district.

Under the bill, a local truancy policy would be required to clearly state all school attendance requirements and truancy prevention steps, including at least all of the following:

- a definition of a truant child;
- protocols to notify parents of a truant child (including at least requirements for i) written notice by registered mail; ii) parental response to the notice; and, iii) advising parents of their possible criminal prosecution if truancy continues);
- protocols to notify appropriate people and agencies if a parent does not respond to the written notice, or continues to failed to comply (including a requirement that the attendance officer of the intermediate school district or the school district notify the county prosecutor in a timely fashion); and,
- protocols for a school district, attendance officer, or county prosecutor to file a complaint with the appropriate court or to petition an appropriate court for intervention or other action.

Under the bill, local and intermediate school boards would submit their adopted truancy policies to the state board of education, which would promptly approve them if the state board determined that the policies were consistent with the purposes and procedures of the bill. If any

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policy were not approved, the state board would be required to work with the local or intermediate school board to promptly develop an acceptable policy. After a local truancy policy was approved, each affected school district and county prosecutor would be required to ensure compliance with it.

House Bill 4207 would define “school board” to mean the board of a school district or local act school district, or the board of directors of a public school academy. Further, “school district” would be defined to mean a school district, local act school district, or public school academy.

Under the bill, if a parent failed to comply, he or she would be guilty of a misdemeanor punishable by any combination of a) a fine of not less than \$50 or more than \$500; b) imprisonment for not less than two days or more than 93 days; and, c) community service of not more than 50 hours. However, the bill specifies that this provision would not prohibit charging a person with, convicting a person of, or punishing a person for any other crime, including any other violation of law arising from the same act or omission as the violation of this provision. Currently a misdemeanor violation of the code’s requirements for parental responsibility for their children’s attendance is punishable by a fine of not less than \$5 nor more than \$50, or imprisonment for not less than 2 nor more than 90 days, or both.

House Bill 4208 would amend the Probate Code of 1939 (MCL 712A.2 et al.) to specify that the court would have authority and jurisdiction if a juvenile is truant as defined in the state approved local truancy policy established under House Bill 4844, and if applicable, a parent or other person in parental relationship fails to respond to written notice required by the policy, or the parent or other person in parental relationship continues to fail to comply with the state approved local truancy policy. Further, under the bill the court would have jurisdiction over an adult who violates section 1599 of the Revised School Code (the section that sets a misdemeanor penalty for parents who violate the compulsory attendance law), and who is the parent or guardian of a juvenile over whom the court has jurisdiction under the Probate Code. Further, a proceeding under this provision would be a criminal proceeding that would be conducted in the same manner and with all the same procedural protections and guarantees as a trial in a court of general criminal jurisdiction. The bill also would require that a parent or guardian of a juvenile who is within the court’s jurisdiction attend hearings unless excused by the court, and that a parent or guardian who failed to attend a juvenile’s hearing could be held in contempt and subject to fines.

House Bill 4208 specifies that only the school district superintendent, intermediate school district superintendent (or his or her designee), or the prosecuting attorney could file a petition requesting the court to take jurisdiction of a juvenile for truancy. If the petition were filed, the court would be required to hold a hearing within 10 days. If the court determined that the allegations in the petition were supported, the court would be required to authorize the filing of a petition to obtain formal jurisdiction, and to notify the prosecuting attorney (unless the petition originated with the prosecuting attorney). If the court acquired jurisdiction over a juvenile, the prosecuting attorney could file a complaint alleging a violation of the Revised School Code by the juvenile’s parent or guardian in the same manner as for the district court.

Finally, House Bill 4208 specifies that within 10 days after acquiring jurisdiction over a juvenile, the court would be required to hold a hearing, and to provide an opportunity for the juvenile, the parent, the school superintendent (or a designee, who could be an administrator or teacher), and any interested party to propose a resolution to the student's attendance problems. Under the bill, the court would be required to enter an order of disposition within five days after the hearing to: a) order the juvenile to attend school, b) require that the secretary of state suspend a juvenile's driver's license for not more than two years under certain conditions, and c) require any other action by the parties involved to resolve the attendance problem. (The bill also specifies that if the juvenile's license were already suspended when the court entered a driver's license suspension order for truancy, the new license suspension would begin at the end of the suspension then in effect.) In addition, the court's order could contain any provision under section 18 of the Probate Code (which concerns orders pertaining to the disposition of children, including but not limited to placement in foster care homes or private agencies, the conduct of parents and guardians, reimbursement for services, conditions of probation, and restitution). Under the bill, the court could shorten or end the driver's license suspension or license denial period (and, in turn, order the secretary of state to shorten or end it), if the juvenile satisfied school attendance requirements.

House Bill 4209 would amend the Michigan Vehicle Code (MCL 257.303 and 257.319) to prohibit the secretary of state from issuing a driver's license to an unlicensed person for the period prescribed in an order entered under section 17e(2)(b) or (4) of Chapter XXIA of the Probate Code (as proposed in House Bill 4845). Further, the bill would require the secretary of state to suspend immediately a person's license for the period prescribed in an order entered under these sections of the code.

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.