

Truancy

Truancy is a risk factor for other problems

--Truancy has been clearly identified as one of the early warning signs of students headed for potential delinquent activity, social isolation, or educational failure via suspension, expulsion, or dropping out.

Huizinga, D., Loeber, R., Thornberry, T. P. & Cothorn, L. (2000, November). Co-occurrence of delinquency and other problem behaviors. *Juvenile Justice Bulletin*, OJJDP.

Huizinga, D., Loeber, R., & Thornberry, T. P. (1994, March). *Urban delinquency and substance abuse: Initial findings*, OJJDP

Morris, J. D., Ehren, B. J., & Lenz, B. K. (1991). Building a model to predict which fourth through eighth graders will drop out in high school. *Journal of Experimental Education*, 59(3), 286-292.

--Lack of commitment to school has been established by several studies as a risk factor for substance abuse, delinquency, teen pregnancy, and school dropout.

U. S. Department of Health and Human Services, Youth Violence: A Report of the Surgeon General, Rockville, MD: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; Substance Abuse and Mental Health Services Administration, Center for Mental Health Services; and National Institutes of Health, National Institute of Mental Health, 2001.

--After the police opened a truancy center in North Miami Beach and began picking up school aged youth on the street during school hours, crime diminished substantially in the targeted neighborhoods. For example, vehicle burglaries decreased by 22%, and residential burglaries criminal mischief both decreased by 19%.

Berger, W., and Susan Wind, "Police Eliminating Truancy: A PET Project," *FBI Law Enforcement Bulletin*, Vol. 69, No. 2, Feb. 2000, p. 16-19.

--A combined analysis of survey data from 28 communities collected between 1980 and 2000, shows that truancy is a particularly good predictor of middle school drug use. Truant 8th graders were 4.5 times more likely than regular school attenders to smoke marijuana.

Halfors, D., et. al., "Truancy, Grade Point Average, and Sexual Activity: A Meta-Analysis of Risk Indicators for Youth Substance Use, *Journal of Sch* As of 1997, 41% of prison inmates, and 31% percent of probationers 18 years and older had not graduated from high school or earned a GED, compared with 18% of the general Population.

Harlow, C. W., "Education and Correctional Populations," Bureau of Justice Statistics Special Report, January 2003, NCJ 195670.ool Health, Col. 72, No. 5, May, 2002, p. 205-211

--For every race and gender group, high school dropouts claim more in government-funded social services expenditures than high school graduates. For men in particular, dropouts incur more in criminal justice costs. The average dropout costs more than \$200,000 in current dollars over the course of his or her lifetime.

TITLE 14, CHAPTER 27. SCHOOL ATTENDANCE

Subchapter I. School Attendance Requirements

§ 2701. Free public schools.

Subject to other provisions of this title, all the public schools of this State shall be free to all children who are residents of the State and who are of the ages required or authorized for attendance in a public school.

§ 2702. Compulsory attendance requirements; evaluation of readiness

(a) Except as otherwise provided, the following provisions are applicable to school attendance in this State:

(1) Every person in this State who has legal custody, guardianship of the person, or legal control of a child between 5 and 16 years of age, including any person acting as a caregiver pursuant to the provisions of §202(f) of this title, shall enroll the child in a public school in the school district of the person's residence.

(2) Every person who has legal custody, guardianship of the person, or legal control of a student, including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title, who is enrolled in a public school of this State shall send the student to the school each day of the minimum school term and to any academic improvement activities required by § 153 of this title.

(3) Every student who is enrolled in a public school of this State shall attend the school each day of the minimum school term and any academic improvement activities required by § 153 of this title. 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 procedures and court proceedings set out in subchapter II of this Chapter.

(d) The following provisions shall be applicable in regard to statewide minimum mandatory attendance requirements in each school year for children in grades K through 5.

(1) 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;

(2) Following the 15th 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;

(3) Following the 30th day of unexcused absence by a student, the school shall refer the case for prosecution;

(4) 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.

(e) Following the tenth unexcused day of attendance by a student in grades 6 through 12 inclusive, the building principal shall notify a visiting teacher of such unexcused days.

(f) If contacted by the school pursuant to paragraph (d)(2) of this section, each parent or guardian of a student shall sign a contract with the district agreeing they will make every reasonable effort to:

- (1) Have their child or children abide by the school code of conduct;
- (2) Make certain their child attends school regularly; and
- (3) Provide written documentation for the reasons for any absence.

(g) Any day of summer school, any session of after school or Saturday extra instruction, or any session of mentoring which a child is required to attend as an academic improvement activity in conformity with § 153 of this title shall be considered a school day for purposes of this chapter, and for purposes of § 901 of Title 10, § 1103 of Title 11, and § 301 of Title 31 of this Code, or wherever the term school day or its equivalent is used in a provision of this Code designed to minimize or punish truancy.

§ 2703. Private school attendance or other educational instruction.

Section 2702 of this title shall not apply to any student enrolled in a private school who is receiving regular and thorough instruction in the subjects prescribed for the public schools of the State in a manner suitable to children of the same age and stage of advancement, provided that such private school is subject to and in compliance with § 2704 of this title. For the purposes of this section, any student who is home-schooled in any manner provided for in § 2703A of this title shall also be exempt from the provisions of § 2702 of this title.

Notwithstanding the foregoing, the Justice of the Peace Court may retain jurisdiction over any case of truancy filed pursuant to § 2729 (failure to send) of this title or § 2730 (failure to attend) of this title prior to a student withdrawing from the public school bringing the charge and enrolling in a private or nonpublic school of this State.

§ 2703A. Homeschools defined.

For purposes of this chapter, a "homeschool" shall be considered a non-public school and there shall be three types of homeschools defined as follows:

(1) "Multi-family homeschool" means the education of children, primarily by the parents(s) or legal guardian(s) of such children mainly in one or several residences, or other facilities, when such children are not all related to each other as brother or sister. A person shall act as a liaison to the Department of Education for reporting enrollment and attendance information for all families involved.

(2) "Single-family homeschool" means the education of one's own child(ren) primarily by the parent(s) or legal guardian(s) of such child(ren) mainly in their own residence.

(3) "Single-family homeschool coordinated with the local school district" means the education of child(ren) primarily by the parent(s) or legal guardian(s) of such child(ren) mainly in their own residence using a curriculum approved by the local superintendent or the local superintendent's designee. The local superintendent shall determine in writing that the student is or will be provided with regular and thorough instruction by the student's parent(s) or legal guardian(s) in the subjects prescribed for the public schools of the State and in a manner suitable to children of the same age and stage of advancement.

§ 2704. Report of non-public schools to Department.

(a) All persons conducting nonpublic schools shall report end of the year attendance information to the Department of Education annually, on or before the July 31, on such forms as shall be prescribed by the Department of Education.

(b) Such persons shall also submit annually, on or before the October 31, a statement of pupil enrollment as of the last school day in September, on such forms as prescribed by the Department of Education.

§ 2705. Exemption of children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from § 2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist, as the case may require. The request and documentation shall be addressed to the superintendent of schools of the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individuals with Disabilities Education Act [20 U.S.C. §§ 1411 et seq.] shall apply.

Subchapter II. Truancy

§ 2721. Definitions.

In this chapter:

- (1) "Court" means a Justice of the Peace Court.
- (2) "Parent" means a biological or natural parent, an adoptive parent, a person legally charged with the care or custody of a person under 18 years of age, a person who has assumed responsibility for the care of a person under 18 years of age, or a person acting as a caregiver pursuant to the provisions of § 202(f) of this title who has enrolled the pupil in grades kindergarten through 12 of a public school in this State.
- (3) "Principal" means the highest administrative official of a public school and includes a person or group of persons designated by the principal to deal with school attendance.
- (4) "Record" means written materials and exhibits forwarded to a court by the school with a referral under this subchapter or admitted into evidence at a court hearing.

(5) "School year" means the period of attendance determined by a pupil's local school board pursuant to § 1049 of this title, or in the case of a charter school as determined by the board of directors of the charter school consistent with the school's charter, and any additional academic improvement activities identified in § 2702(g) of this title that a pupil may be required to attend during or following such period of attendance.

(6) "Student" means a person who is enrolled in kindergarten through grade 12 of a public school of this State.

(7) "Truant" means a student who has been absent from school without valid excuse for more than 3 school days during a school year.

(8) "Valid excuse" means an excuse which is approved in the regulations of the district board of education of the school district in which the pupil is or should be enrolled pursuant to the provisions of this title, or in the case of a pupil enrolled in a charter school, by the board of directors of the charter school.

§ 2722. Absences and truancy.

(a) Subject to the rules and regulations of the local school board, pupils enrolled in the Free public schools may be excused by the superintendent of schools or persons authorized by the superintendent. Pupils enrolled in charter schools may be excused by the principal of the school or persons authorized by the principal, subject to rules and regulations promulgated by the board of directors of the charter school.

(b) No pupil who could otherwise legally fail to attend school pursuant to § 2702(a) of this title may do so without the written consent of such person or persons having legal control of that pupil.

§ 2723. Responsibility of police officers.

(a) Any pupil under the age of 16 identified by a police officer as being off school property without official authorization may be returned to that pupil's home school.

(b) Any pupil under the age of 16 identified by a police officer as being off school Property without official authorization may be detained by the police for a period not to exceed 2 hours for the purpose of notification of parent or guardian. This detention may be within the police station but not in a criminally confined area.

§ 2724. Notification to parents and students.

At the beginning of a school year each school district or public school shall notify each student and the parent of each student of the school attendance requirements of this Code, including the procedures and penalties applicable to truancy. The school district or school may determine the form of the notification.

§ 2725. Absences without excuse; truancy conferences.

(a) If a student has been absent from school without a valid excuse 1 or more days, the principal of the school may take such action as the principal considers appropriate.

(b) If a student is truant, the principal may schedule a truancy conference with the student, the student's parent and the principal pursuant to § 2726 of this title. The conference may be attended by other persons as the principal may include.

(c) Following a truancy conference the school shall decide whether or not to file a charge against the parent for a violation of § 2702 of this title; provided, however, that the principal shall refer the case for prosecution following the 30th day of unexcused absence by a student during the school year, in compliance with § 2702(d) of this title, and may refer the case before the 30th day of unexcused absence if the principal determines it is appropriate to do so.

(d) The fact that a student or student's parent may attend or has attended a truancy conference does not bar the principal filing a complaint with a court. The principal's failure to hold a truancy conference does not bar the filing of a complaint with a court and adjudication by a court.

§ 2726. Procedure for truancy conferences.

The provisions of § 4122 of this title shall apply to truancy conferences. The principal shall determine the date, time and place of the conference and shall give all participants notice at least 1 week prior to the conference. In conducting a truancy conference, the principal may exclude any person, including a parent or a student, from the conference or part of a conference.

§ 2727. Notice of violation and compliance.

No person shall be prosecuted for violation of § 2702 of this title if that person, within 3 days from the time that the person is notified by the superintendent of schools or persons authorized by the superintendent, presents an excuse in writing satisfactory to such superintendent of schools, and complies with the requirements of such § 2702 of this title. The mailing of a notice to the usual address of the offending party shall be sufficient notification.

§ 2728. Procedure for court adjudication.

(a) When the school charges a parent or a student with a violation of § 2702 of this title, the school shall file a written complaint in the court. The complaint shall be on such form(s) as the court may require. The school shall be the complainant and the parent or the student shall be the defendant. The court must determine whether probable cause exists to issue a warrant or summons against the person charged. When there is probable cause to find that a student is truant, probable cause to issue a warrant or summons for a parent shall exist when the parent is named as the parent or guardian on the student's school records and the parent resides in Delaware.

(b) The school shall attach to the complaint any record relevant to the allegations of the complaint.

(c) When a complaint is filed, all sanctions imposed by the principal shall remain in effect unless suspended or terminated by the principal or stayed by the court.

(d) The school may request that the court postpone adjudication. The court in its discretion may postpone the proceedings and may impose conditions on the student or parent.

§ 2729. Failure to send; affirmative defense; penalties.

(a) If a charge is filed against a parent for a violation of § 2702 of this title, the court shall determine whether the evidence establishes beyond a reasonable doubt that the parent has violated the section.

(b) In the prosecution of a parent for a violation of § 2702 of this title, it shall be an affirmative defense that the parent has made substantial and reasonable efforts to comply with the compulsory attendance requirements of § 2702 but is unable to cause the child to attend school. It shall also be an affirmative defense that the parent does not have legal custody of the student. Other affirmative defenses may be permitted as required in the interests of justice. If the court determines the affirmative defense is valid it shall dismiss the complaint against the parent and the school may file a complaint against the student pursuant to § 2730 of this title.

(c) This section shall not apply to a parent whose child is receiving instruction pursuant to § 2703 of this title, to children exempted from compulsory attendance requirements pursuant to § 2705 of this title, or whose children are in compliance with school attendance requirements.

(d) A parent who is determined to have violated § 2702 of this title is guilty of an unclassified misdemeanor and shall be sentenced as follows:

- (1) For a first offense, a fine of not less than \$25 nor more than \$300, or imprisonment for not more than 10 days or both;
- (2) For a second offense, a fine of not less than \$50 nor more than \$500, or imprisonment for not more than 20 days or both;
- (3) For a third or subsequent offense, a fine of not less than \$230 nor more than \$1,150, or imprisonment for not more than 30 days or both.

(e) To the extent possible the fine shall be commensurate with the number of days the student was absent from school without valid excuse.

(f) The court may order the parent to perform unpaid community service in lieu of a fine. The court may require that all or part of the service may be performed for a public school district.

(g) The court may also order as conditions of release prior to judgment or as conditions of sentence upon conviction such conditions as the court considers necessary to obtain compliance with school attendance requirements. These conditions include but are not limited to the following:

- (1) Verifying the child's attendance with the school;
- (2) Meeting 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 medical, psychological or psychiatric evaluations and following the evaluator's recommendations;
- (7) Undergoing an evaluation for drug, alcohol, or other substance abuse and following the evaluator's recommendations; and
- (8) Taking the child for medical, psychological or psychiatric evaluation or for drug, alcohol or other substance abuse evaluation and following the evaluator's recommendations.

(h) Upon conviction, the name and address of the parent and a summary of the disposition of any offenses for which the parent was convicted shall be reported by the Court to the Division of Family Services of the Department of Services for Children, Youth and Their Families and to the Division of Social Services of the Department of Health and Social Services.

(i) The provisions of § 4218 of Title 11 (probation before judgment) shall apply to a parent charged with violation of § 2702 of this title.

§ 2730. Failure to attend; penalties.

(a) The school may file a civil charge of truancy against the student in the Justice of the Peace Court if:

- (1) The student is age 12 or older; and/or
- (2) The Court determines that a parent who is charged with violating § 2702 of this title has a valid affirmative defense under § 2729(b) of this title.

(b) The court shall determine whether a preponderance of the evidence establishes that the student has violated § 2702 of this title.

(c) If the Court determines the student has violated § 2702 of this title, it shall adjudicate the student a truant and may order the following remedial dispositions:

- (1) Community service;
- (2) Counseling;
- (3) Substance abuse evaluation and treatment;
- (4) Mental health evaluation and treatment;
- (5) A curfew with hours set by the court;
- (6) Suspension or revocation of any permit held by the student, including a work permit or a driver's permit;
- (7) Suspension or revocation of any license held by the student, including a driver's license or a hunting license;
- (8) Prohibition of the student's participation in or attendance at any extra-curricular activity or social event which is an official school event or is sponsored by the school or held on school property;

- (9) A recommendation that the student enroll in the school in alternative educational and related services in accordance with Chapter 16 of this title; and
- (10) Such other action as is permitted by statute or by court rule.

The court shall not suspend or revoke a student's permit or license if the student demonstrates to the court that suspension or revocation would impose an economic hardship on the parent or on the student's family.

(d) Where the court has ordered the suspension or revocation of a student's permit or license, the student is prohibited from applying for a new permit or license without permission of the court as long as the student is under the jurisdiction of the court.

§ 2731. Enforcement of court order.

(a) The court shall retain jurisdiction of the matter until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if the court determines a student has not complied with the terms of the court's order, it may charge the noncompliant student with criminal contempt pursuant to § 1271 of Title 11, and fully adjudicate the matter in the Justice of the Peace Court.

§ 2732. Appeals.

(a) A parent convicted of a violation of § 2702 of this title may appeal to the Court of Common Pleas in the county in which the judgment was given. The appeal shall be filed within 15 days from the date of conviction. On appeal the Court shall make a de novo determination.

(b) No stay shall be granted pending an appeal pursuant to subsection (a) of this section unless the person appealing shall, at the time the appeal is taken, give bond in any amount with surety to be fixed by the Court.

(c) A student who has been adjudicated truant pursuant to § 2730 of this title, or has been adjudicated in contempt pursuant to § 2731 of this title, may appeal to the Family Court in the county in which the adjudication occurred. The appeal shall be filed within 15 days of the date of the adjudication. On appeal the Court shall make a de novo determination based on the record below.

(d) No appeal of the adjudication of truancy or truancy-related contempt pursuant to subsection (c) of this section shall stay execution of the remedial disposition unless a judge of the Family Court orders a stay.

§ 2733. Jurisdiction; venue.

(a) The Justice of the Peace Court shall have exclusive original jurisdiction of complaints filed pursuant to this title.

(b) All complaints under this title shall be filed in a Justice of the Peace Court in the county where the school the child is required to attend is located or in the county in which the office of the school district which contains the child's school is located.

(c) In the event that a student withdraws from school for any reason other than age and does not re-enroll in another public school, the court, in its discretion, may retain jurisdiction for the purpose of ensuring that the student's alternative educational environment was not an attempt to avoid the compulsory attendance requirements of § 2702 of this title.

§ 2734. Disposition and accounting of fines.

The fines provided for by § 2729 of this title shall, when collected, be paid over by the officers collecting the same to the treasurer of the board of education of a reorganized school district according to the residence of the person convicted, to be accounted for by such treasurer or by the Department of Education as other moneys raised for school purposes.

§ 2735. Special procedure for expungement of truancy records.

(a) At the time that a case is closed because there has been compliance with all court orders issued pursuant to this subchapter, the following shall be automatically expunged:

- (1) Any records of charges against or the conviction of a parent or guardian for failure to send; or
- (2) Any records of the charges or adjudication of truancy against a student.

(b) In any case which was closed because there was compliance with all court orders and the automatic expungement required by subsection (a) of this section did not occur either due to error or omission on the part of the Court or the prosecuting agency or because such expungement was not authorized at the time the case was closed, the Justice of the Peace Court shall grant such expungement upon motion of a parent, guardian or student. There shall be no filing fee for such applications.

(c) Following the closing of a case for any reason other than compliance with all court orders, the records listed in subsection (a) of this section may only be expunged upon application to the Justice of the Peace Court. The Justice of the Peace Court may, in its discretion, grant or deny the request or make the granting of such request subject to such reasonable terms and conditions as may be appropriate. The civil filing fee shall apply to such applications.

(d) Upon either the automatic expungement of records or the issuance of an order expunging truancy records:

(1) The State Bureau of Identification shall take all necessary steps to ensure that the expunged records or the information contained therein is not released for any reason except as specified in this section. In response to requests from persons other than law-enforcement officers for such information or records, the State Bureau of Identification, law-enforcement officers or Truancy Court officials in the course of another truancy case involving the same parent or child and departments shall reply that there is no record.

(2) Except for the disclosure to law-enforcement officers acting in the lawful performance of their duties in investigating criminal activity or to Truancy Court officials in the course of another truancy case involving the same parent or child, it shall be unlawful for any person having or acquiring access to an expunged truancy record to open or review it or to disclose to another person any information from it without a Court order.

(3) Disclosure to law-enforcement officers shall be permitted only for the purpose of investigating particular criminal activity in which the person, whose records have been expunged, is considered a suspect and the crime being investigated is a felony or, with regard to records of parents or guardians for failure to send, pursuant to an investigation of an employment application as an employee of a law-enforcement agency.

(4) Nothing herein shall require the destruction or deletion of records of the Department of Justice, DELJIS or court records, including electronic records. However, all court DELJIS and Department of Justice records relating to a charge or case which has been expunged shall be so handled as to ensure that any information contained therein shall not be disclosed to the public.

(5) An offense for which records have been expunged pursuant to this section shall not have to be disclosed by the person for any reason.

(6) Any person who violates paragraph (d)(2) of this section shall be guilty of a class B misdemeanor, and shall be punished accordingly.

TITLE 14, CHAPTER 41. GENERAL REGULATORY PROVISIONS

§ 4122. Parent's failure to attend school conference with superintendent; subpoena to compel attendance.

(a) "Parent" as used in this section means natural parent, adoptive parent, any person legally charged with the care or custody of a student under 18 years of age, or any person who has assumed responsibility for the care of a student under 18 years of age including any person acting as a caregiver pursuant to the provisions of § 202(f) of this title.

(b) When a parent fails to attend, participate or respond to a public school or charter school superintendent's request for a conference to discuss matters involving alleged violations of school rules or regulations by the parent's child, the public school or charter school superintendent or the superintendent's designee may request that the Justice of the Peace Court issue a subpoena to compel the presence of the parent at a conference with the superintendent.

(c) Prior to the issuance of a subpoena to compel the presence of a parent, the superintendent or a designee must provide evidence that the superintendent or a designee has:

- (1) Made a reasonable attempt to schedule the conference at a time that does not conflict with the employment hours of the parent; and
- (2) Sent written notice of the conference by regular United States mail to the address of record of the parent, which notice shall include the reason for the conference and a statement that failure to schedule or attend the conference may result in the issuance of a subpoena.

(d) After verifying that the superintendent or a designee has sent the required notice, the Justice of the Peace Court may, in its discretion, issue a subpoena pursuant to Justice of the Peace Civil Rule 18 which shall compel the presence of the parent at a conference with the superintendent.

(e) If a parent fails to obey a subpoena properly served under this section, the superintendent may file a motion for an order holding the parent in contempt of court. The Justice of the Peace Court shall have jurisdiction over this matter. A parent found guilty of contempt for failure to appear at a conference after receiving a subpoena may be ordered by the Court to attend school with the student, attend family counseling, and/or comply with such other conditions as the Court may order.

(f) Proceedings against a parent of a suspended or expelled child may also be filed pursuant to subchapter II of Chapter 27 of this title for each day that the child is absent beyond the period of suspension or expulsion without a valid excuse as a result of the parent's failure to attend or schedule a conference after having received notification of the suspension or expulsion.

Court Process

Summons vs. Warrant

Arraignment: Juvenile vs. Adult Defendants

Adjudication: Trial vs. Responsible/Guilty Plea

Case Reviews

- Court ordered remedies, e.g. mental health/ substance abuse treatment
- "Acting in the child's best interest"

Violations of Court Orders

- Adult sentencing
- Juvenile contempt
- Juvenile and adult probation

Discharge

TRUANCY TASK FORCE

Task Force Origin and Mission

The Truancy Task Force was established by the Juvenile Justice Collaborative as part of a multipronged effort to address the needs of the critically at-risk members of Delaware's juvenile population. Specific to the Truancy Task Force, our charge included the following:

- Assess the truancy problem in Delaware
- Make recommendations for improving intervention processes and procedures
- Make recommendations for establishing and augmenting truancy resources

All such Task Force activities were set against the backdrop that is the goal of improving student attendance and academic achievement.

Task Force Members

Prior to the establishment of the Truancy Task Force, the Criminal Contempt Subgroup (established by the Justice of the Peace Court) had been working on the development of processes and procedures associated with JP Court's newly acquired jurisdiction over juvenile criminal contempt charges. The completion of the Subgroup's work coincided with the establishment of the Truancy Task Force. Given this timing and the relevance of the Subgroup's core members to the topic of truancy, the group naturally morphed and expanded into the Truancy Task Force in its current form. The Task Force includes representatives from the following:

- Attorney General's Office
- Delaware Association of Visiting Teachers
- Department of Education
- Division of Family Services
- Division of Prevention and Behavioral Health Services
- Division of Youth Rehabilitative Services
- Justice of the Peace Court
- Public Defender's Office

Statement of the Problem

As described above, a Delaware student is considered truant when, during the course of the school year, he/she has been absent from school for more than three days without a Valid excuse. For the 2009-2010 school year, 846 new truancy charges were filed with the Justice of the Peace Court statewide. The following table details the number of filings with Truancy Court over the last four years.

	2006-2007	2007-2008	2008-2009	2009-2010
New Castle County	466	585	426	459
Kent County	330	276	153	183
Sussex County	230	222	189	204
TOTAL	1026	1083	768	846

To better understand the nature and severity of this problem, however, it is important to delve not only into the root causes of truancy, but also assess the system that exists to address it. This has been the charge of the Truancy Task Force. Before examining the systemic issues, every member of our group echoed a long-standing sentiment: only by responding to the early indicators can we hope to bring about sustainable positive change for such a critically at-risk segment of Delaware's population. Task Force members further agreed that the current approach to addressing truancy is reactive in both philosophy and process. This reactive approach not only impacts case outcomes, but also inhibits the system's ability to capitalize on the inherent strengths of the affected students and families.

The Root Causes of Truancy

So why are students truant? The medical community considers school attendance a key indicator of physical wellness, just as mental health professionals consider school attendance an indicator of emotional well-being.

Task Force members spent considerable time discussing the many reasons why children fail to attend school. The reasons are varied but often include one or more of the following:

- Chronic health conditions and illness (e.g., asthma, ADHD)
- Alienation from people of authority
- Little or no interest in education or available academic curricula
- Poor academic performance
- Perceived lack of parental commitment to education, insufficient parental supervision
- Behavioral health challenges (e.g., Depression, Anxiety, Oppositional Defiant Disorder, Conduct Disorder)
- Lack of age-appropriate rewards/reinforcers and consequences
- Taking on responsibilities usually reserved for adults (working, childcare) due to dysfunctional/unavailable parents
- Fear of violence in the community or in the school setting, including bullying
- Educator indifference
- Learning disabilities/special education needs
- Teen pregnancy
- Lack of connectedness to school
- Alcohol and drug use

In January 2010, the Regional Education Laboratory, Middle Atlantic, released a report that describes key indicators of high school dropout for the State of Delaware. The data revealed the most significant relationships were: attendance, students' math course grades, students' English Language Arts course grades and retention. School districts are beginning to use these indicators to develop Early Warning Systems, which identify high-risk students, recognize student trends and patterns associated with high dropouts (Heppen & Therriault 2008) and engage school intervention services earlier. The Delaware Department of Education's Early Warning System is being created to "flag" students identified with risk indicators in order to expedite support services. Students with increased indicators are at greater risk for truancy or dropping out.

Not only do we encourage all school districts to participate in this program, we recommend a statewide mandate requiring districts to utilize this resource for those students demonstrating the identified risk factors.

The Recommendations

1. A team approach to addressing truancy at the school level
2. Increase the use of available pre-court services
3. Code change regarding the mandatory filing of truancy charges
4. Utilize Title 14, Chapter 41, § 4122, which allows the school to request a subpoena to compel parent attendance at school conferences
5. Statewide minimum standards for handling truancy cases
6. Increase parent accountability
7. Address the need for closer monitoring of Truancy Court cases
8. Dedicated resources to respond to truancy capiases
9. Expansion and Support of Career & Technical Education (CTE) Programs
10. Improve Data Sharing and Statistical Analysis
11. Establishment of Truancy Abatement Centers (TAC)

Next Steps

The submission of this document to the Juvenile Justice Collaborative concludes a Portion of the Truancy Task Force's work. Task Force members have agreed to continue Meeting quarterly to enable ongoing systemic assessment with a focus on the following.

- Advocating for increased recognition and support for Visiting Teachers
- Advocating for statewide standardized truancy intervention procedures
- Assessment of the role of the Children's Department in the truancy intervention process
- Assessment of Truancy Court effectiveness
- Engaging decision-makers from participating organizations
- Ensuring consistent application of the Delaware Code as it relates to truancy
- Improving communication and information sharing for truancy intervention partners
- Increasing resources at the school and community levels

ADDENDUM TO THE REPORT OF THE TRUANCY TASK FORCE

December 5, 2011

This Addendum modifies and supplements the attached *Report of the Truancy Task Force* (originally presented to the JJC on 9/28/11). The suggestions and modifications contained herein came as a result of feedback from the JJC and a follow-up meeting of the Truancy Task Force on 11/17/11.

TASK FORCE SUGGESTIONS

Truancy Task Force members request that the JJC prioritize the eleven Recommendations. We suggest that the following three recommendations are of the utmost importance.

Recommendation 3: Code change regarding the mandatory filing of truancy charges

We suggest that the legislative committee of the JJC draft a bill to be presented to the legislature that will:

1. Allow truancy charges to be filed on the 20th day of unexcused absence (rather than the 30th day as prescribed by current statute). This change would bring key resources to at-risk students earlier in the process, when they and their families are more likely to have a positive response to school and community interventions.

2. Extend the mandatory filing requirements to students in grades 6 through 12 (with the above amendment). Currently, the mandatory filing requirement only applies to grades K through 5.

Recommendation 5: Statewide minimum standards for handling truancy cases

We suggest that the JJC chairs or representatives request a meeting with the Department of Education, the Visiting Teacher Association and individual district representatives to define the responsibilities of visiting teachers and require that they are standardized and consistent throughout the state. Per DE code Title 14 Chapter 1 §122 (b)(10):

“The Department shall prescribe rules and regulations: Providing for the enforcement of school attendance laws of this State, controlling the necessary absence of pupils enrolled in the public schools, and determining the circumstances under which such absence shall be considered necessary. Rules and regulations on this subject shall be proposed by the Secretary subject to approval by the State Board of Education;”

Thus, by code, the Department of Education has the authority to enforce the laws that govern school attendance.

The Truancy Task Force suggests that a formal communication be distributed to the districts from the Department of Justice to enforce compliance with the statute.

Recommendation 6: Increased parent accountability

The Truancy Task Force asks for the support of the JJC chairs and its members in requesting that DELJIS (via their respective DELJIS board representatives) allow visiting teachers to access DELJIS to ascertain parents' dates of birth. If this information is accessible by the visiting teachers, it will enable them to file truancy charges against parents.

We would also like to see House Bill #23 re-introduced to the legislature in the next session to support these efforts. The Bill provided for the Justice of the Peace Court to impose sanctions/consequences on parents or guardians in cases where they are not compliant with their children's treatment.

REPORT MODIFICATIONS

We would like to replace Recommendation 11 (establishment of truancy abatement centers) with the following:

Recognizing the non-criminal nature of truancy as well as its root causes, the Truancy Task Force suggests that we consider disposition of truancy cases through the civil citation process. Truancy is oftentimes symptomatic of other social, family, environmental, or medical issues that a child is experiencing. Children do not attend school for a variety of reasons, many of which are not within their control. Children who are truant can often benefit from and require the assistance of our social service and treatment agencies, particularly in the areas of mental health, dependency and neglect, and special education advocacy. In order to combat the truancy problem, we need to address the causes that underlie the problem at the outset.

During the last year, agency partners and stakeholders have reviewed and discussed the concept of civil citation and its potential implementation in Delaware's juvenile justice system. If this concept were to be implemented in Delaware, it would provide a forum for the disposition of truancy cases that would not only treat these matters as civil in nature, but it would also provide an opportunity for children affected by truancy to have access to a variety of wraparound services at the earliest stages. Civil citation has the capacity to recognize that truancy is not a criminal justice problem. Rather, it is societal and family problem that needs to be addressed by appropriate services, early intervention, and rehabilitation.