

Introduced by Senator Leno

February 19, 2010

An act to amend Section 48260 of the Education Code, and to add Section 270.1 to the Penal Code, relating to truancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Leno. Truancy.

~~(1) Under existing law, a truant is a pupil who is subject to compulsory full-time education or to compulsory continuation education and who is absent from school without valid excuse 3 full days in one school year or tardy or absent for more than any 30-minute period during the schoolday without a valid excuse on 3 occasions in one school year, or any combination thereof. Existing law requires that a truant be reported to the attendance supervisor or to the superintendent of the school district and that, on a pupil's initial classification as a truant, the school district send a notice to the pupil's parent or guardian that includes certain information regarding the truancy and the parent's or guardian's obligations.~~

~~This bill would define as a chronic truant any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse for 10% or more of the schooldays in one school year.~~

~~(2)~~

~~(1) Existing law provides that, if a person is a parent of a minor child, he or she is guilty of a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment, if he or she willfully~~

omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance, or other remedial care for the child.

Under existing law the parent or guardian of a pupil who is subject to compulsory full-time education or to compulsory continuation education, whose child is habitually truant, as defined, is guilty of an infraction.

This bill would provide that a parent or guardian of an elementary school pupil subject to compulsory full-time education or to compulsory continuation education, whose child is a chronic truant ~~as defined in the bill, is also guilty of a misdemeanor punishable as described in the paragraph above~~ *by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment.* ~~By expanding the scope of an existing offense creating a new crime,~~ this bill would impose a state-mandated local program.

The bill would authorize a superior court to establish a deferred entry of judgment program, meeting specified conditions, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants. The bill would authorize a deferred entry of judgment program established under the bill to refer defendant parents or guardians for services, including, but not necessarily limited to, case management, mental and physical health services, parenting classes and support, substance abuse treatment, and child care and housing. The bill would authorize the deferment of entry of judgment in these cases upon the defendant's compliance with terms and conditions set forth by the court.

This bill would state that it would only become operative if Senate Bill 1148 of the 2009–10 Regular Session is enacted and adds a provision to the Education Code that this bill references to define the term “chronic truant.”

(3)

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.~~ Section 48260 of the Education Code is amended
2 to read:

3 ~~48260. (a) Any pupil subject to compulsory full-time education~~
4 ~~or to compulsory continuation education who is absent from school~~
5 ~~without valid excuse three full days in one school year or tardy or~~
6 ~~absent for more than any 30-minute period during the schoolday~~
7 ~~without a valid excuse on three occasions in one school year, or~~
8 ~~any combination thereof, is a truant, and shall be reported to the~~
9 ~~attendance supervisor or to the superintendent of the school district.~~

10 ~~(b) Any pupil subject to compulsory full-time education or to~~
11 ~~compulsory continuation education who is absent from school~~
12 ~~without valid excuse for 10 percent or more of the schooldays in~~
13 ~~one school year is a chronic truant. A parent or guardian of a~~
14 ~~chronic truant who is an elementary school pupil may be the subject~~
15 ~~of prosecution under Section 270.1 of the Penal Code.~~

16 ~~(c) Notwithstanding subdivisions (a) and (b), it is the intent of~~
17 ~~the Legislature that school districts shall not change the method~~
18 ~~of attendance accounting provided for in existing law, and shall~~
19 ~~not be required to employ period-by-period attendance accounting.~~

20 ~~SEC. 2.~~

21 ~~SECTION 1.~~ Section 270.1 is added to the Penal Code, to read:

22 ~~270.1. (a) A parent or guardian of an elementary school pupil~~
23 ~~subject to compulsory full-time education or compulsory~~
24 ~~continuation education, whose child is a chronic truant as defined~~
25 ~~in Section ~~48260~~ 48263.6 of the Education Code, is guilty of a~~
26 ~~misdemeanor punishable by a fine not exceeding two thousand~~
27 ~~dollars (\$2,000), or by imprisonment in the county jail not~~
28 ~~exceeding one year, or by both ~~the~~ that fine and imprisonment. A~~
29 ~~parent or guardian guilty of a misdemeanor under this subdivision~~
30 ~~may participate in the deferred entry of judgment program defined~~
31 ~~in subdivision (b).~~

32 ~~(b) A superior court may establish a deferred entry of judgment~~
33 ~~program that includes the components listed in paragraphs (1) to~~
34 ~~(6), inclusive, to adjudicate cases involving parents or guardians~~
35 ~~of elementary school pupils who are chronic truants as defined in~~
36 ~~Section ~~48260~~ 48263.6 of the Education Code:~~

37 ~~(1) A dedicated court calendar.~~

38 ~~(2) Leadership by a judge of the superior court in that county.~~

1 (3) Service referrals for parents or guardians, including, but not
2 necessarily limited to, all of the following:

- 3 (A) Case management.
- 4 (B) Mental and physical health services.
- 5 (C) Parenting classes and support.
- 6 (D) Substance abuse treatment.
- 7 (E) Child care and housing.

8 (4) A clear statement that, in lieu of trial, the court may grant
9 deferred entry of judgment with respect to the current crime or
10 crimes charged if the defendant pleads guilty to each charge and
11 waives time for the pronouncement of judgment and that, upon
12 the defendant's compliance with the terms and conditions set forth
13 by the court and agreed to by the defendant upon the entry of his
14 or her plea, and upon the motion of the prosecuting attorney, the
15 court will dismiss the charge or charges against the defendant and
16 Sections 851.90 and 1203.4 shall apply.

17 (5) A clear statement that failure to comply with any condition
18 under the program may result in the prosecuting attorney or the
19 court making a motion for entry of judgment, whereupon the court
20 will render a finding of guilty to the charge or charges pled, enter
21 judgment, and schedule a sentencing hearing as otherwise provided
22 in this code.

23 (6) An explanation of criminal record retention and disposition
24 resulting from participation in the deferred entry of judgment
25 program and the defendant's rights relative to answering questions
26 about his or her arrest and deferred entry of judgment following
27 successful completion of the program.

28 ~~SEC. 3.~~

29 *SEC. 2.* No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

38 *SEC. 3.* *This bill shall become operative only if Senate Bill*
39 *1148 of the 2009–10 Regular Session is enacted, adds Section*

- 1 48263.6 to the Education Code, and becomes operative on or
- 2 before January 1, 2011.

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