

Introduced by Senator Rubio

February 9, 2011

An act to amend Section 270.1 of the Penal Code, relating to truancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 240, as amended, Rubio. ~~Truancy~~–*Truancy: collective action.*

Existing law establishes the system of public elementary and secondary schools in this state. Existing law provides that each person between the ages of 6 and 18 years, with specified exceptions, is subject to compulsory full-time education. Existing law specifies that any pupil subject to compulsory full-time education or compulsory continuation education 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, is a truant.

Existing law requires that any pupil subject to compulsory full-time education or compulsory continuation education who is absent from school without a valid excuse for 10% or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate district officer or employee has complied with prescribed provisions. Existing law provides that a parent or guardian of a pupil of 6 years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or compulsory continuation education, whose child is a chronic truant, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's

truancy, 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.

~~This bill would express the intent of the Legislature to enact legislation that would make changes in the statutes related to truancy to provide the parents and legal guardians of pupils with the civil rights they need to address attendance-related problems in the worst performing public schools in the state.~~ *prohibit a parent or guardian from being subject to prosecution under this provision because of an absence due to collective action, as defined. The bill would define collective action as an action in which the parents or guardians of a majority of the pupils enrolled in a grade level at a public elementary or secondary school withhold their children from attendance at that school because of a grievance these parents, guardians, pupils, or other members of the school community are presenting to the administration of the school or school district. The bill would prescribe a procedure for the commencement of a collective action under the bill. This procedure would require the presentation of a petition setting forth the grounds for the grievance to the school principal, schoolsite council if one exists, and the secretary or presiding officer of the governing board of the school district.*

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

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

1 SECTION 1. Section 270.1 of the Penal Code is amended to
2 read:
3 270.1. (a) (1) A parent or guardian of a pupil of six years of
4 age or more who is in kindergarten or any of grades 1 to 8,
5 inclusive, and who is subject to compulsory full-time education
6 or compulsory continuation education, whose child is a chronic
7 truant as defined in Section 48263.6 of the Education Code, who
8 has failed to reasonably supervise and encourage the pupil's school
9 attendance, and who has been offered language accessible support
10 services to address the pupil's truancy, is guilty of a misdemeanor
11 punishable by a fine not exceeding two thousand dollars (\$2,000),
12 or by imprisonment in a county jail not exceeding one year, or by
13 both that fine and imprisonment. A parent or guardian guilty of a

1 misdemeanor under this subdivision may participate in the deferred
2 entry of judgment program defined in subdivision (b).

3 (2) (A) *Notwithstanding paragraph (1), a parent or guardian*
4 *shall not be subject to prosecution under this section because of*
5 *any absence due to a collective action, as defined in subparagraph*
6 *(B).*

7 (B) *For purposes of this paragraph, “collective action” means*
8 *an action in which the parents or guardians of a majority of the*
9 *pupils enrolled in a grade level at a public elementary or secondary*
10 *school withhold their children from attendance at that school*
11 *because of a grievance these parents, guardians, pupils, or other*
12 *members of the school community are presenting to the*
13 *administration of the school or school district.*

14 (C) *For purposes of this paragraph, a collective action*
15 *commences when a petition setting forth the grounds for the*
16 *grievance, and signed by the parents or guardians of a majority*
17 *of the pupils enrolled in a grade level at the public elementary or*
18 *secondary school, is presented to the principal of the school, to*
19 *the schoolsite council if one exists at that school, and to the*
20 *secretary or presiding officer of the governing board of the school*
21 *district in which the school is located. Presentation of the petition*
22 *shall be accomplished by delivery, during regular business hours,*
23 *of an original or copy of the petition to the school office, with*
24 *respect to presentation of the petition to the principal or the*
25 *schoolsite council, and by delivery of an original or copy of the*
26 *petition to the school district office, with respect to presentation*
27 *of the petition to the secretary or presiding officer of the governing*
28 *board of the school district.*

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

34 (1) A dedicated court calendar.

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

36 (3) Meetings, scheduled and held periodically, with school
37 district representatives designated by the chronic truant’s school
38 district of enrollment. Those representatives may include school
39 psychologists, school counselors, teachers, school administrators,

1 or other educational service providers deemed appropriate by the
2 school district.

3 (4) Service referrals for parents or guardians, as appropriate to
4 each case that may include, but are not limited to, all of the
5 following:

6 (A) Case management.

7 (B) Mental and physical health services.

8 (C) Parenting classes and support.

9 (D) Substance abuse treatment.

10 (E) Child care and housing.

11 (5) A clear statement that, in lieu of trial, the court may grant
12 deferred entry of judgment with respect to the current crime or
13 crimes charged if the defendant pleads guilty to each charge and
14 waives time for the pronouncement of judgment and that, upon
15 the defendant's compliance with the terms and conditions set forth
16 by the court and agreed to by the defendant upon the entry of his
17 or her plea, and upon the motion of the prosecuting attorney, the
18 court will dismiss the charge or charges against the defendant and
19 the same procedures specified for successful completion of a drug
20 diversion program or a deferred entry of judgment program
21 pursuant to Section 851.90 and the provisions of Section 1203.4
22 shall apply.

23 (6) A clear statement that failure to comply with any condition
24 under the program may result in the prosecuting attorney or the
25 court making a motion for entry of judgment, whereupon the court
26 will render a finding of guilty to the charge or charges pled, enter
27 judgment, and schedule a sentencing hearing as otherwise provided
28 in this code.

29 (7) An explanation of criminal record retention and disposition
30 resulting from participation in the deferred entry of judgment
31 program and the defendant's rights relative to answering questions
32 about his or her arrest and deferred entry of judgment following
33 successful completion of the program.

34 (c) Funding for the deferred entry of judgment program pursuant
35 to this section shall be derived solely from nonstate sources.

36 (d) A parent or guardian of an elementary school pupil who is
37 a chronic truant, as defined in Section 48263.6 of the Education
38 Code, may not be punished for a violation of both this section and
39 the provisions of Section 272 that involve criminal liability for
40 parents and guardians of truant children.

1 (e) If any district attorney chooses to charge a defendant with
2 a violation of subdivision (a) and the defendant is found by the
3 prosecuting attorney to be eligible or ineligible for deferred entry
4 of judgment, the prosecuting attorney shall file with the court a
5 declaration in writing, or state for the record, the grounds upon
6 which that determination is based.

7 ~~SECTION 1. It is the intent of the Legislature to enact~~
8 ~~legislation that would make changes in Article 5 (commencing~~
9 ~~with Section 48260) of Chapter 2 of Part 27 of Division 4 of Title~~
10 ~~2 of the Education Code to provide the parents and legal guardians~~
11 ~~of pupils with the civil rights they need to address~~
12 ~~attendance-related problems in the worst performing public schools~~
13 ~~in the state.~~