

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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HOUSE BILL 102

Short Title: Extend Compulsory Attendance Age. (Public)

(Public)

Sponsors: Representatives Lemmond; Burton, J. Preston, and Wilson.

Referred to: Education.

February 14, 1994

4 The General Assembly of North Carolina enacts:

5 Section 1, G.S. 115C-378 reads as rewritten:

6 "§ 115C-378. Children required to attend.

7 Every parent, guardian or other person in this State having charge or control of a
8 child between the ages of seven and 16-18 years shall cause such child to attend school
9 continuously for a period equal to the time which the public school to which the child is
10 assigned shall be in session. session, unless (i) the child is a high school graduate, (ii)
11 the child is enrolled full time in a vocational course of study or an adult high school
12 diploma program at an institution within the community college system, (iii) the child
13 successfully completed a vocational course of study or an adult high school diploma
14 program at an institution within the community college system, (iv) the child received a
15 passing score on the General Educational Development Test, or (v) the child's parent or
16 guardian, the principal of the school, and the superintendent agree that it is in the best
17 interest of the child to withdraw from school. Every parent, guardian, or other person in
18 this State having charge or control of a child under age seven who is enrolled in a public
19 school in grades kindergarten through two shall also cause such child to attend school
20 continuously for a period equal to the time which the public school to which the child is
21 assigned shall be in session unless the child has withdrawn from school. No person shall
22 encourage, entice or counsel any such child to be unlawfully absent from school. The
23 parent, guardian, or custodian of a child shall notify the school of the reason for each
24 known absence of the child, in accordance with local school policy.

1 The principal, superintendent, or teacher who is in charge of such school shall have
2 the right to excuse a child temporarily from attendance on account of sickness or other
3 unavoidable cause which does not constitute unlawful absence as defined by the State
4 Board of Education. The term "school" as used herein is defined to embrace all public
5 schools and such nonpublic schools as have teachers and curricula that are approved by
6 the State Board of Education.

7 All nonpublic schools receiving and instructing children of a compulsory school age
8 shall be required to keep such records of attendance and render such reports of the
9 attendance of such children and maintain such minimum curriculum standards as are
10 required of public schools; and attendance upon such schools, if the school refuses or
11 neglects to keep such records or to render such reports, shall not be accepted in lieu of
12 attendance upon the public school of the district to which the child shall be assigned:
13 Provided, that instruction in a nonpublic school shall not be regarded as meeting the
14 requirements of the law unless the courses of instruction run concurrently with the term
15 of the public school in the district and extend for at least as long a term.

16 The principal or his designee shall notify the parent, guardian, or custodian of his
17 child's excessive absences after the child has accumulated three unexcused absences in a
18 school year. After not more than six unexcused absences, the principal shall notify the
19 parent, guardian, or custodian by mail that he may be in violation of the Compulsory
20 Attendance Law and may be prosecuted if the absences cannot be justified under the
21 established attendance policies of the State and local boards of education. Once the
22 parents are notified, the school attendance counselor shall work with the child and his
23 family to analyze the causes of the absences and determine steps, including adjustment
24 of the school program or obtaining supplemental services, to eliminate the problem. The
25 attendance counselor may request that a law-enforcement officer accompany him if he
26 believes that a home visit is necessary.

27 After 10 accumulated unexcused absences in a school year the principal shall review
28 any report or investigation prepared under G.S. 115C-381 and shall confer with the
29 student and his parent, guardian, or custodian if possible to determine whether the
30 parent, guardian, or custodian has received notification pursuant to this section and
31 made a good faith effort to comply with the law. If the principal determines that parent,
32 guardian, or custodian has not, he shall notify the district attorney. If he determines that
33 parent, guardian, or custodian has, he may file a complaint with the juvenile intake
34 counselor under G.S. 7A-561 that the child is habitually absent from school without a
35 valid excuse. Evidence that shows that the parents, guardian, or custodian were notified
36 and that the child has accumulated 10 absences which cannot be justified under the
37 established attendance policies of the local board shall establish a **prima facie** case that
38 the child's parent, guardian, or custodian is responsible for the absences."

39 Sec. 2. G.S. 7A-517 reads as rewritten:

40 **"§ 7A-517. Definitions.**

41 Unless the context clearly requires otherwise, the following words have the listed
42 meanings:

43 (1) **Abused Juveniles.** – Any juvenile less than 18 years of age whose
44 parent, guardian, custodian, or caretaker:

- 1 a. Inflicts or allows to be inflicted upon the juvenile a serious
2 physical injury by other than accidental means; or
3 b. Creates or allows to be created a substantial risk of serious
4 physical injury to the juvenile by other than accidental means;
5 or
6 b1. Uses or allows to be used upon the juvenile cruel or grossly
7 inappropriate procedures or cruel or grossly inappropriate
8 devices to modify behavior; or
9 c. Commits, permits, or encourages the commission of a violation
10 of the following laws by, with, or upon the juvenile: first degree
11 rape, as provided in G.S. 14-27.2; second degree rape as
12 provided in G.S. 14-27.3; first degree sexual offense, as
13 provided in G.S. 14-27.4; second degree sexual offense, as
14 provided in G.S. 14-27.5; sexual act by a custodian, as provided
15 in G.S. 14-27.7; crime against nature, as provided in G.S. 14-
16 177; incest, as provided in G.S. 14-178 and 14-179; preparation
17 of obscene photographs, slides or motion pictures of the
18 juvenile, as provided in G.S. 14-190.5; employing or permitting
19 the juvenile to assist in a violation of the obscenity laws as
20 provided in G.S. 14-190.6; dissemination of obscene material to
21 the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8;
22 displaying or disseminating material harmful to the juvenile as
23 provided in G.S. 14-190.14 and G.S. 14-190.15; first and
24 second degree sexual exploitation of the juvenile as provided in
25 G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution
26 of the juvenile as provided in G.S. 14-190.18; and taking
27 indecent liberties with the juvenile, as provided in G.S. 14-
28 202.1, regardless of the age of the parties; or
29 d. Creates or allows to be created serious emotional damage to the
30 juvenile. Serious emotional damage is evidenced by a
31 juvenile's severe anxiety, depression, withdrawal or aggressive
32 behavior toward himself or others; or
33 e. Encourages, directs, or approves of delinquent acts involving
34 moral turpitude committed by the juvenile.
- 35 (2) Aftercare. – The supervision of a juvenile who has been returned to the
36 community on conditional release after having been committed to the
37 Division of Youth Services.
- 38 (3) Administrator for Juvenile Services. – The person who is responsible
39 for the planning, organization, and administration of a statewide
40 system of juvenile intake, probation, and aftercare services.
- 41 (4) Director of the Division of Youth Services. – The person responsible
42 for the supervision of the administration of institutional and detention
43 services.

- (5) **Caretaker.** – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, or any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility. "Caretaker" also means any person who has the responsibility for the care of a juvenile in a child day care home or child day care facility as defined in Article 7 of Chapter 110 of the General Statutes and includes any person who has the approval of the care provider to assume responsibility for the juveniles under the care of the care provider. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of Chapter 7A of the General Statutes only.
- (6) **Chief Court Counselor.** – The person responsible for administration and supervision of juvenile intake, probation, and aftercare in each judicial district, operating under the supervision of the Administrator for Juvenile Services.
- (7) **Clerk.** – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (8) **Community-Based Program.** – A program providing nonresidential or residential treatment to a juvenile in the community where his family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (9) **Court.** – The District Court Division of the General Court of Justice.
- (10) **Court Counselor.** – A person responsible for probation and aftercare services to juveniles on probation or on conditional release from the Division of Youth Services under the supervision of the chief court counselor.
- (11) **Custodian.** – The person or agency that has been awarded legal custody of a juvenile by a court.
- (12) **Delinquent Juvenile.** – Any juvenile less than 16 years of age who has committed a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- (13) **Dependent Juvenile.** – A juvenile in need of assistance or placement because he has no parent, guardian, or custodian responsible for the juvenile's care or supervision or whose parent, guardian, or custodian, due to physical or mental incapacity and the absence of an appropriate alternative child care arrangement, is unable to provide for the care or supervision.

- (14) Detention. – The confinement of a juvenile pursuant to an order for secure custody pending an adjudicatory or dispositional hearing or admission to a placement with the Division of Youth Services.
- (15) Detention Home. – An authorized facility providing secure custody for juveniles.
- (15a) District. – Any district court district as established by G.S. 7A-133.
- (16) Holdover Facility. – A place in a jail which has been approved by the Department of Human Resources as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.
- (16.1) **In Loco Parentis.** – A person acting **in loco parentis** means one, other than parents or legal guardian, who has assumed the status and obligation of a parent without being awarded the legal custody of a juvenile by a court.
- (17) Intake Counselor. – A person who screens a petition alleging that a juvenile is delinquent or undisciplined to determine whether the petition should be filed.
- (18) Interstate Compact on Juveniles. – An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee or runaway, to his home state.
- (19) Judge. – Any district court judge.
- (19a) Judicial District. – Any district court district as established by G.S. 7A-133.
- (20) Juvenile. –Any Except as otherwise provided in subdivisions (12) and (28) of this section, a juvenile is any person who has not reached his eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States. For the purposes of subdivisions (12) and (28) of this section, a juvenile is any person who has not reached his sixteenth birthday and is not married, emancipated, or a member of the armed forces. – A juvenile who is married, emancipated, or a member of the armed forces, shall be prosecuted as an adult for the commission of a criminal offense. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- (21) Neglected Juvenile. – A juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of abuse or neglect or lives in a

1 home where another juvenile has been subjected to sexual abuse or
2 severe physical abuse by an adult who regularly lives in the home.
3 (22) Petitioner. – The individual who initiates court action, whether by the
4 filing of a petition or of a motion for review alleging the matter for
5 adjudication.
6 (23) Probation. – The status of a juvenile who has been adjudicated
7 delinquent, is subject to specified conditions under the supervision of a
8 court counselor, and may be returned to the court for violation of those
9 conditions during the period of probation.
10 (24) Prosecutor. – The assistant district attorney assigned by the district
11 attorney to juvenile proceedings.
12 (25) Protective Supervision. – The status of a juvenile who has been
13 adjudicated delinquent or undisciplined and is under the supervision of
14 a court counselor.
15 (26) Regional Detention Home. – A state-supported and administered
16 regional facility providing detention care.
17 (27) Shelter Care. – The temporary care of a juvenile in a physically
18 unrestricting facility pending court disposition.
19 (28) Undisciplined Juvenile. – ~~A juvenile less than 16 years of age who is unlawfully absent from school; or who is regularly disobedient to his parent, guardian, or custodian and beyond their disciplinary control; or who is regularly found in places where it is unlawful for a juvenile to be; or who has run away from home.~~ A juvenile who is:
20 a. Less than 18 years of age and unlawfully absent from school; or
21 b. Less than 16 years of age who:
22 1. Is regularly disobedient to and beyond the disciplinary
23 control of the juvenile's parent, guardian, or custodian;
24 2. Is regularly found in places where it is unlawful for a
25 juvenile to be; or
26 3. Has run away from home.
27 (29) Director of the Department of Social Services. – The director of the
28 county department of social services in the county in which the
29 juvenile resides or is found, or his representative as authorized in G.S.
30 108A-14.
31 The singular includes the plural, the masculine singular includes the feminine
32 singular and masculine and feminine plural unless otherwise specified."
33
34 Sec. 3. This act becomes effective August 15, 1994. Section 1 of this act
35 does not apply to children who are between the ages of 16 and 18 years on August 15,
36 1994, and who withdrew from school prior to August 15, 1994.