

HOUSE BILL 1507

F1, D4

8lr3483

By: **Delegate Angel**

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Compulsory School Attendance – Truancy Violations – Reporting of Neglect**

3 FOR the purpose of requiring a school employee to report any person to the local
4 department of social services for neglect of a child if the person has legal custody or
5 care and control of a child who is between certain ages and fails to see that the child
6 attends school or receives certain instruction; repealing certain provisions of law
7 providing a criminal penalty for certain persons; altering a certain definition;
8 making conforming changes; and generally relating to the reporting of truancy
9 violations as child neglect.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 7–301
13 Annotated Code of Maryland
14 (2014 Replacement Volume and 2017 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Family Law
17 Section 5–701(a) and 5–704
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Family Law
22 Section 5–701(s)
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2017 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Education

2 7–301.

3 (a) This section does not apply to a child under the age of 18 years who:

4 (1) Has obtained a Maryland high school diploma, an equivalent
5 out-of-state high school diploma, or a GED;6 (2) Is a student with disabilities and has completed the requirements for a
7 Maryland high school certificate of completion;8 (3) Is receiving regular, thorough instruction during the school year in the
9 studies usually taught in the public schools to children of the same age;

10 (4) Has completed an instruction program under item (3) of this subsection;

11 (5) Is severely ill and requires home or hospital instruction;

12 (6) Is married;

13 (7) Is in military service;

14 (8) Is committed by court order to an institution without an educational
15 program;16 (9) Provides financial support to the child's family as documented by a local
17 department of social services;18 (10) Subject to the approval of the county superintendent, has been expelled
19 under § 7–305 of this subtitle;20 (11) Is pregnant or a parent and is enrolled in an alternative educational
21 program;

22 (12) Attends an alternative educational program;

23 (13) Subject to written parental consent and written agreement with the
24 county board, attends a public school on a part-time basis and attends a private career
25 school as defined under § 10–101 of this article; or26 (14) Is waived from the provisions of this section by the State
27 Superintendent.28 (a–1) (1) Except as otherwise provided in this section, each child who resides in
29 this State and is 5 years old or older and under 18 shall attend a public school regularly
30 during the entire school year.

1 (2) In accordance with regulations of the State Board of Education, a child
2 who resides in this State and is 5 years old may be exempted from mandatory school
3 attendance for 1 year if the child's parent or guardian files a written request with the local
4 school system asking that the child's attendance be delayed due to the child's level of
5 maturity.

6 (3) Except as provided in subsection [(f)] (H) of this section or in
7 regulations of the State Board of Education, each child who resides in this State shall
8 attend a kindergarten program regularly during the school year prior to entering the first
9 grade unless the child is otherwise receiving regular, thorough instruction in the skills and
10 studies usually taught in a kindergarten program of a public school.

11 (b) A county superintendent, school principal, or an individual authorized by the
12 county superintendent or principal may excuse a student for a lawful absence.

13 (c) Each person who has legal custody or care and control of a child who is 5 years
14 old or older and under 18 shall see that the child attends school or receives instruction as
15 required by this section.

16 (d) (1) This section applies to any child who has a mental, emotional, or
17 physical handicap.

18 (2) This section does not apply to a child:

19 (i) Whose mental, emotional, or physical condition makes the child's
20 instruction detrimental to the child's progress; or

21 (ii) Whose presence in school presents a danger of serious physical
22 harm to others.

23 (3) With the advice of the school principal, supervisor, pupil personnel
24 supervisor, or visiting teacher and with the written recommendation of a licensed physician
25 or a State Department of Education certified or licensed psychologist, the county
26 superintendent may:

27 (i) Make other appropriate provisions for the free education of any
28 student excepted from attendance under paragraph (2) of this subsection; or

29 (ii) Permit the parents or guardians of that student to withdraw the
30 child from public school, for as long as the attendance of the child in a public school would
31 be detrimental to the child's progress or the child's presence in school would present a
32 danger of serious physical harm to others.

33 (4) If a child is withdrawn from a public school under this subsection, the
34 county board shall make other appropriate provisions for the education of the child.

1 (5) If an appropriate educational placement is not available immediately,
2 the county board shall make interim provisions for the education of the child until an
3 appropriate placement becomes available.

4 (E) A SCHOOL EMPLOYEE SHALL REPORT ANY PERSON TO THE LOCAL
5 DEPARTMENT OF SOCIAL SERVICES FOR NEGLECT OF A CHILD, IN ACCORDANCE
6 WITH § 5-704 OF THE FAMILY LAW ARTICLE, IF THE PERSON HAS LEGAL CUSTODY
7 OR CARE AND CONTROL OF A CHILD WHO IS 5 YEARS OLD OR OLDER AND UNDER 18
8 AND FAILS TO SEE THAT THE CHILD ATTENDS SCHOOL OR RECEIVES INSTRUCTION
9 AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

10 [(e)] (F) (1) Any person who induces or attempts to induce a child to be
11 absent unlawfully from school or employs or harbors any child who is absent unlawfully
12 from school while school is in session is guilty of a misdemeanor and on conviction is subject
13 to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

14 [(2) Any person who has legal custody or care and control of a child who is
15 5 years old or older and under 18 who fails to see that the child attends school or receives
16 instruction under this section is guilty of a misdemeanor and:

17 (i) For a first conviction is subject to a fine not to exceed \$50
18 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

19 (ii) For a second or subsequent conviction is subject to a fine
20 not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or
21 both.]

22 [(3)] (2) (i) As to any sentence imposed under this section, the court
23 may suspend the fine or the prison sentence and establish terms and conditions that would
24 promote the child's attendance.

25 (ii) The suspension authority provided for under subparagraph (i) of
26 this paragraph is in addition to and not in limitation of the suspension authority under §
27 6-221 of the Criminal Procedure Article.

28 [(e-1)](G) (1) This subsection applies only:

29 (i) In a county in which the circuit administrative judge has
30 established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

31 (ii) To the extent that funds are provided in an annual State budget
32 for a Truancy Reduction Pilot Program.

33 (2) A charge under this section may be filed in the juvenile court and
34 assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

1 (3) (i) For a person with legal custody or care and control of a child at
2 the time of an alleged violation of this section, it is an affirmative defense to a charge under
3 this section that the person made reasonable and substantial efforts to see that the child
4 attended school as required by law but was unable to cause the child to attend school.

5 (ii) If the court finds the affirmative defense is valid, the court shall
6 dismiss the charge under this section against the defendant.

7 (4) The court may condition marking a charge under this section set on
8 participation of the defendant in the appropriate Truancy Reduction Pilot Program under
9 Title 3, Subtitle 8C of the Courts Article.

10 **[(f)] (H)** A child may be exempted from attending kindergarten if a parent or
11 guardian of the child files a written request with the local school system and verifies that
12 the child is enrolled:

13 (1) Full time in a licensed child care center;

14 (2) Full time in a registered family child care home; or

15 (3) Part time in a Head Start 5 year old program.

16 **[(g)] (I)** Subject to data being available through the Maryland Longitudinal
17 Data System established under § 24–702 of this article and except as otherwise provided in
18 this section, a child under the age of 18 years shall return to attendance at a public school
19 regularly during the school year as required by this section, if the child:

20 (1) Is no longer participating in GED courses; and

21 (2) Has not obtained a passing score on the GED test that resulted in the
22 issuance of a Maryland high school diploma.

23 Article – Family Law

24 5–701.

25 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the
26 following words have the meanings indicated.

27 (s) **(1)** “Neglect” means the leaving of a child unattended or other failure to
28 give proper care and attention to a child by any parent or other person who has permanent
29 or temporary care or custody or responsibility for supervision of the child under
30 circumstances that indicate:

31 **[(1)] (I)** that the child’s health or welfare is harmed or placed at
32 substantial risk of harm; or

1 [(2)] (II) mental injury to the child or a substantial risk of mental injury.

2 (2) “NEGLECT” INCLUDES THE FAILURE OF ANY PERSON WHO HAS
3 LEGAL CUSTODY OR CARE AND CONTROL OF A CHILD WHO IS 5 YEARS OLD OR OLDER
4 AND UNDER 18 TO SEE THAT THE CHILD ATTENDS SCHOOL OR RECEIVES
5 INSTRUCTION UNDER § 7-301 OF THE EDUCATION ARTICLE.

6 5-704.

7 (a) Notwithstanding any other provision of law, including any law on privileged
8 communications, each health practitioner, police officer, educator, or human service
9 worker, acting in a professional capacity in this State:

10 (1) who has reason to believe that a child has been subjected to abuse or
11 neglect, shall notify the local department or the appropriate law enforcement agency; and

12 (2) if acting as a staff member of a hospital, public health agency, child care
13 institution, juvenile detention center, school, or similar institution, shall immediately
14 notify and give all information required by this section to the head of the institution or the
15 designee of the head.

16 (b) (1) An individual who notifies the appropriate authorities under subsection
17 (a) of this section shall make:

18 (i) an oral report, by telephone or direct communication, as soon as
19 possible to the local department or appropriate law enforcement agency; and

20 (ii) a written report:

21 1. to the local department not later than 48 hours after the
22 contact, examination, attention, or treatment that caused the individual to believe that the
23 child had been subjected to abuse or neglect; and

24 2. with a copy to the local State’s Attorney.

25 (2) (i) An agency to which an oral report of suspected abuse or neglect
26 is made under paragraph (1) of this subsection shall immediately notify the other agency.

27 (ii) This paragraph does not prohibit a local department and an
28 appropriate law enforcement agency from agreeing to cooperative arrangements.

29 (c) Insofar as is reasonably possible, an individual who makes a report under this
30 section shall include in the report the following information:

31 (1) the name, age, and home address of the child;

1 (2) the name and home address of the child’s parent or other person who is
2 responsible for the child’s care;

3 (3) the whereabouts of the child;

4 (4) the nature and extent of the abuse or neglect of the child, including any
5 evidence or information available to the reporter concerning possible previous instances of
6 abuse or neglect; and

7 (5) any other information that would help to determine:

8 (i) the cause of the suspected abuse or neglect; and

9 (ii) the identity of any individual responsible for the abuse or neglect.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2018.