

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0695.01 Jane Ritter x4342

HOUSE BILL 18-1156

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HOUSE SPONSORSHIP

Lee, Lundeen

SENATE SPONSORSHIP

Holbert,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON PENALTIES FOR TRUANCY.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill clarifies in the Colorado Children's Code and in the "School Attendance Law of 1963" that a "delinquent act" does not include truancy or habitual truancy. A child who is habitually truant and who refuses to follow a plan to rehabilitate his or her truancy may be subject to various sanctions by the court in a truancy proceeding, but the sanctions must not include placement in a juvenile detention facility.

The bill removes the authority of a judge or magistrate to issue a warrant to take a juvenile into temporary custody for a truancy action,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

including contempt proceedings for refusal to comply with a truancy plan, or for failure to appear for a truancy or contempt action. The court may, however, issue an order to show cause requiring the juvenile's appearance in court and may impose additional age-appropriate sanctions.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 22-33-102, **amend**  
3 the introductory portion and (5); and **add** (3.5) as follows:

4 **22-33-102. Definitions.** As used in this ~~article~~ ARTICLE 33, unless  
5 the context otherwise requires:

6 (3.5) "CHILD WHO IS HABITUALLY TRUANT" MEANS A CHILD WHO  
7 IS SIX YEARS OF AGE ON OR BEFORE AUGUST 1 OF THE YEAR IN QUESTION  
8 AND IS UNDER SEVENTEEN YEARS OF AGE AND WHO HAS FOUR UNEXCUSED  
9 ABSENCES FROM PUBLIC SCHOOL IN ANY ONE MONTH OR TEN UNEXCUSED  
10 ABSENCES FROM PUBLIC SCHOOL DURING ANY ACADEMIC YEAR. ABSENCES  
11 DUE TO SUSPENSION OR EXPULSION OF A CHILD ARE CONSIDERED EXCUSED  
12 ABSENCES FOR PURPOSES OF THIS ARTICLE 33.

13 (5) "Delinquent act" ~~has the same meaning as set forth in section~~  
14 ~~19-1-103(36), C.R.S.~~ MEANS A VIOLATION OF ANY STATUTE, ORDINANCE,  
15 OR ORDER ENUMERATED IN SECTION 19-2-104 (1)(a). IF A JUVENILE IS  
16 ALLEGED TO HAVE COMMITTED OR IS FOUND GUILTY OF A DELINQUENT  
17 ACT, THE CLASSIFICATION AND DEGREE OF THE OFFENSE IS DETERMINED BY  
18 THE STATUTE, ORDINANCE, OR ORDER THAT THE PETITION ALLEGES WAS  
19 VIOLATED. "DELINQUENT ACT" DOES NOT INCLUDE TRUANCY OR HABITUAL  
20 TRUANCY.

21 **SECTION 2.** In Colorado Revised Statutes, 22-33-104.5, **amend**  
22 (3) introductory portion and (3)(b) as follows:

23 **22-33-104.5. Home-based education - legislative declaration -**

1 **definitions - guidelines.** (3) The following guidelines shall apply to a  
2 nonpublic home-based educational program:

3 (b) A child who is participating in a nonpublic home-based  
4 educational program shall IS not be subject to compulsory school  
5 attendance as provided in this ~~article~~ ARTICLE 33; except that any child  
6 who is habitually truant, as defined in ~~section 22-33-107 (3)~~ SECTION  
7 22-33-102 (3.5), at any time during the last six months that the child  
8 attended school before proposed enrollment in a nonpublic home-based  
9 educational program may not be enrolled in the program unless the child's  
10 parents first submit a written description of the curricula to be used in the  
11 program along with the written notification of establishment of the  
12 program required in ~~paragraph (c) of this subsection (3)~~ SUBSECTION  
13 (3)(e) OF THIS SECTION to any school district within the state.

14 **SECTION 3.** In Colorado Revised Statutes, 22-33-107, **amend**  
15 (3)(b) introductory portion and (4); and **repeal** (3)(a)(I) as follows:

16 **22-33-107. Enforcement of compulsory school attendance -**  
17 **definitions.** (3) (a) As used in this subsection (3):

18 (I) ~~"Child who is habitually truant" means a child who has attained~~  
19 ~~the age of six years on or before August 1 of the year in question and is~~  
20 ~~under the age of seventeen years and who has four unexcused absences~~  
21 ~~from public school in any one month or ten unexcused absences from~~  
22 ~~public school during any school year. Absences due to suspension or~~  
23 ~~expulsion of a child are considered excused absences for purposes of this~~  
24 ~~subsection (3).~~

25 (b) The board of education of each school district shall adopt and  
26 implement policies and procedures concerning elementary and secondary  
27 school attendance, including but not limited to policies and procedures to

1 work with children who are habitually truant. The policies and procedures  
2 must include provisions for the development of a plan. The plan must be  
3 developed with the goal of assisting the child to remain in school and,  
4 when practicable, with the full participation of the child's parent,  
5 guardian, or legal custodian. Appropriate school personnel shall make all  
6 reasonable efforts to meet with the parent, guardian, or legal custodian of  
7 the child to review and evaluate the reasons for the child's truancy. The  
8 appropriate school personnel are encouraged to work with the local  
9 community services group to develop the plan. THE PLAN MUST BE IN  
10 COMPLIANCE WITH SECTION 22-33-108 (7) AND INCLUDE APPROPRIATE  
11 SANCTIONS OTHER THAN PLACEMENT IN A JUVENILE DETENTION FACILITY  
12 FOR A CHILD WHO IS HABITUALLY TRUANT AND WHO HAS REFUSED TO  
13 COMPLY WITH THE PLAN. The policies and procedures may also include  
14 but need not be limited to the following:

15 (4) On or before September 15, 2010, and on or before September  
16 15 each year thereafter, the board of education of each school district  
17 shall report to the department of education the number of ~~students~~  
18 ~~identified as~~ CHILDREN WHO ARE habitually truant, as defined in  
19 ~~paragraph (a) of subsection (3) of this section~~ SECTION 22-33-102 (3.5),  
20 for the preceding academic year. The department shall post this  
21 information for each school district on its website for the public to access  
22 and may post additional information reported by school districts related  
23 to truancy.

24 **SECTION 4.** In Colorado Revised Statutes, 22-33-108, **amend**  
25 (7)(b); and **repeal** (7)(c) as follows:

26 **22-33-108. Judicial proceedings.** (7) (b) The court may impose  
27 sanctions after a finding of contempt that may include, but need not be

1 limited to, community service to be performed by the child, supervised  
2 activities, participation in services for at-risk students, as described by  
3 section 22-33-204, and other activities having ~~goals that shall ensure~~ THE  
4 GOAL OF ENSURING that the child has an opportunity to obtain a quality  
5 education. SANCTIONS IMPOSED PURSUANT TO THIS SECTION MUST NOT  
6 INCLUDE PLACEMENT IN ANY JUVENILE DETENTION FACILITY.

7 (c) ~~If the court finds that the child has refused to comply with the~~  
8 ~~plan created for the child pursuant to section 22-33-107(3), the court may~~  
9 ~~impose on the child as a sanction for contempt of court a sentence of~~  
10 ~~detention for no more than five days in a juvenile detention facility~~  
11 ~~operated by or under contract with the department of human services~~  
12 ~~pursuant to section 19-2-402, C.R.S., and any rules promulgated by the~~  
13 ~~Colorado supreme court.~~

14 **SECTION 5.** In Colorado Revised Statutes, 19-1-103, **amend**  
15 (36) as follows:

16 **19-1-103. Definitions.** As used in this title 19 or in the specified  
17 portion of this title 19, unless the context otherwise requires:

18 (36) "Delinquent act", as used in article 2 of this ~~title~~ TITLE 19,  
19 means a violation of any statute, ordinance, or order enumerated in  
20 section 19-2-104 (1)(a). If a juvenile is alleged to have committed or is  
21 found guilty of a delinquent act, the classification and degree of the  
22 offense ~~shall be~~ IS determined by the statute, ordinance, or order that the  
23 petition alleges was violated. "DELINQUENT ACT" DOES NOT INCLUDE  
24 TRUANCY OR HABITUAL TRUANCY.

25 **SECTION 6.** In Colorado Revised Statutes, 19-2-503, **add** (4) as  
26 follows:

27 **19-2-503. Issuance of a lawful warrant taking a juvenile into**

1 **custody - exceptions.** (4) (a) THE PROVISIONS OF THIS SECTION DO NOT  
2 APPLY TO A CHILD WHO IS HABITUALLY TRUANT, AS DEFINED IN SECTION  
3 22-33-102 (3.5).

4 (b) A JUDGE OR MAGISTRATE OF ANY COURT SHALL NOT ISSUE A  
5 WARRANT THAT AUTHORIZES THE TAKING INTO TEMPORARY CUSTODY A  
6 JUVENILE WHO:

7 (I) IS THE SUBJECT OF A TRUANCY ACTION, INCLUDING BUT NOT  
8 LIMITED TO A JUVENILE WHO IS THE SUBJECT OF CONTEMPT PROCEEDINGS  
9 FRO REFUSAL TO COMPLY WITH THE PLAN CREATED PURSUANT TO SECTION  
10 22-33-107 (3); OR

11 (II) HAS FAILED TO APPEAR FOR A COURT HEARING FOR A TRUANCY  
12 OR CONTEMPT ACTION.

13 (c) THE COURT MAY, AT ITS DISCRETION, ISSUE AN ORDER TO SHOW  
14 CAUSE REQUIRING THE JUVENILE'S APPEARANCE IN COURT AND MAY,  
15 AFTER FULL CONSIDERATION OF THE FACTS AND CIRCUMSTANCES, IMPOSE  
16 ADDITIONAL AGE-APPROPRIATE SANCTIONS.

17 **SECTION 7. Act subject to petition - effective date.** This act  
18 takes effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly (August  
20 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
21 referendum petition is filed pursuant to section 1 (3) of article V of the  
22 state constitution against this act or an item, section, or part of this act  
23 within such period, then the act, item, section, or part will not take effect  
24 unless approved by the people at the general election to be held in  
25 November 2018 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.