

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 102

Short Title: Extend Compulsory Attendance Age.

(Public)

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

Referred to: Education.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO RAISE THE COMPULSORY SCHOOL ATTENDANCE AGE TO
EIGHTEEN.

The General Assembly of North Carolina enacts:

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

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

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equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school.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

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

- 1 (14) Detention. – The confinement of a juvenile pursuant to an order for
2 secure custody pending an adjudicatory or dispositional hearing or
3 admission to a placement with the Division of Youth Services.
- 4 (15) Detention Home. – An authorized facility providing secure custody for
5 juveniles.
- 6 (15a) District. – Any district court district as established by G.S. 7A-133.
- 7 (16) Holdover Facility. – A place in a jail which has been approved by the
8 Department of Human Resources as meeting the State standards for
9 detention as required in G.S. 153A-221 providing close supervision
10 where the juvenile cannot converse with, see, or be seen by the adult
11 population.
- 12 (16.1) **In Loco Parentis.** – A person acting **in loco parentis** means one,
13 other than parents or legal guardian, who has assumed the status and
14 obligation of a parent without being awarded the legal custody of a
15 juvenile by a court.
- 16 (17) Intake Counselor. – A person who screens a petition alleging that a
17 juvenile is delinquent or undisciplined to determine whether the
18 petition should be filed.
- 19 (18) Interstate Compact on Juveniles. – An agreement ratified by 50 states
20 and the District of Columbia providing a formal means of returning a
21 juvenile, who is an absconder, escapee or runaway, to his home state.
- 22 (19) Judge. – Any district court judge.
- 23 (19a) Judicial District. – Any district court district as established by G.S.
24 7A-133.
- 25 (20) Juvenile. —~~Any~~ Except as otherwise provided in subdivisions (12) and
26 (28) of this section, a juvenile is any person who has not reached his
27 eighteenth birthday and is not married, emancipated, or a member of
28 the armed services of the United States. For the purposes of subdivisions
29 (12) and (28) of this section, a juvenile is any person who has not reached
30 his sixteenth birthday and is not married, emancipated, or a member of the
31 armed forces.—A juvenile who is married, emancipated, or a member of
32 the armed forces, shall be prosecuted as an adult for the commission of
33 a criminal offense. Wherever the term "juvenile" is used with
34 reference to rights and privileges, that term encompasses the attorney
35 for the juvenile as well.
- 36 (21) Neglected Juvenile. – A juvenile who does not receive proper care,
37 supervision, or discipline from the juvenile's parent, guardian,
38 custodian, or caretaker; or who has been abandoned; or who is not
39 provided necessary medical care; or who is not provided necessary
40 remedial care; or who lives in an environment injurious to the
41 juvenile's welfare; or who has been placed for care or adoption in
42 violation of law. In determining whether a juvenile is a neglected
43 juvenile, it is relevant whether that juvenile lives in a home where
44 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~~
20 ~~unlawfully absent from school; or who is regularly disobedient to his~~
21 ~~parent, guardian, or custodian and beyond their disciplinary control; or~~
22 ~~who is regularly found in places where it is unlawful for a juvenile to~~
23 ~~be; or who has run away from home.~~ A juvenile who is:
- 24 a. Less than 18 years of age and unlawfully absent from school; or
25 b. Less than 16 years of age who:
- 26 1. Is regularly disobedient to and beyond the disciplinary
27 control of the juvenile's parent, guardian, or custodian;
28 2. Is regularly found in places where it is unlawful for a
29 juvenile to be; or
30 3. Has run away from home.
- 31 (29) Director of the Department of Social Services. – The director of the
32 county department of social services in the county in which the
33 juvenile resides or is found, or his representative as authorized in G.S.
34 108A-14.

35 The singular includes the plural, the masculine singular includes the feminine
36 singular and masculine and feminine plural unless otherwise specified."

37 Sec. 3. This act becomes effective August 15, 1994. Section 1 of this act
38 does not apply to children who are between the ages of 16 and 18 years on August 15,
39 1994, and who withdrew from school prior to August 15, 1994.