



SENATE BILL No. 140

January 26, 1993, Introduced by Senators DE GROW, GAST, SCHWARZ, EMMONS, DUNASKISS, BOUCHARD, DILLINGHAM, MC MANUS and DI NELLO and referred to the Committee on Education.

A bill to require certain children to meet certain school attendance requirements; to provide monitoring of attendance; to impose certain penalties for noncompliance; and to prescribe certain powers and duties of certain state departments and school districts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "higher attendance in Michigan's schools act".

3 Sec. 2. The purpose of this act is to encourage parents of
4 students enrolled in elementary grades in public schools to keep
5 their children in school by strengthening the monitoring and
6 reporting of attendance and imposing penalties on parents who
7 continue to fail to meet their responsibilities.

8 Sec. 3. As used in this act:

SENATE BILL No. 140

1 (a) "Caretaker relative" means the mother, father,
2 grandmother, grandfather, brother, sister, stepmother,
3 stepfather, stepbrother, stepsister, uncle, aunt, first cousin,
4 nephew, or niece of a student in grades K to 5 with whom the stu-
5 dent is living in a place of residence maintained by the care-
6 taker relative as his or her own home. For purposes of determin-
7 ing whether a taxpayer may claim a personal exemption attribut-
8 able to a student under section 30(2) of the income tax act of
9 1967, being section 206.30 of the Michigan Compiled Laws, care-
10 taker relative means the taxpayer otherwise eligible to claim a
11 personal exemption attributable to the student under section
12 30(2) of the income tax act of 1967.

13 (b) "Excused absence" means an absence for a full day that
14 the school district determines to be with good cause, as defined
15 in this section.

16 (c) "Good cause" means any of the following reasons for the
17 student's failure to meet the school attendance requirements of
18 this act:

19 (i) A reason described in section 4(1).

20 (ii) Illness, injury, or incapacity of the student.

21 (iii) Court-ordered appearance.

22 (iv) Medical or dental appointments for the student.

23 (v) Death of a relative.

24 (vi) Observance of a religious holiday.

25 (vii) Unavailability of public or private transportation, if
26 the student needs transportation to attend school.

1 (viii) Any other circumstance determined by the school
2 district to be beyond the control of the student.

3 (d) "Income tax act of 1967" means Act No. 281 of the Public
4 Acts of 1967, being sections 206.1 to 206.532 of the Michigan
5 Compiled Laws.

6 (e) "Monthly attendance requirement" means that a student
7 shall not have more than 2 full days of unexcused absence in a
8 calendar month, as described in section 4(2).

9 (f) "Pupil membership count day" means that term as defined
10 in the school code of 1976.

11 (g) "School code of 1976" means Act No. 451 of the Public
12 Acts of 1976, being sections 380.1 to 380.1852 of the Michigan
13 Compiled Laws.

14 (h) "School district" means a school district, local act
15 school district, charter school, or intermediate school district,
16 as those terms are defined in the school code of 1976, and does
17 not include a nonpublic school or home school.

18 (i) "Social welfare act" means Act No. 280 of the Public
19 Acts of 1939, being sections 400.1 to 400.119b of the Michigan
20 Compiled Laws.

21 (j) "Student enrolled in a school district" or "student"
22 means a child who meets 1 of the following:

23 (i) Was counted as a full-time member in a school district
24 on the pupil membership count day.

25 (ii) Transferred into a school district after the pupil mem-
26 bership count day and would have been included in the full-time

1 member count in the school district if he or she had been in the
2 school district on the pupil membership count day.

3 (iii) Was not included in the full-time member count in any
4 school district on the pupil membership count day, but the
5 student's status has changed and if he or she had been in the
6 current new status on the pupil membership count day, the student
7 would have been counted as a full-time member in a school
8 district.

9 (k) "Unexcused absence" means an absence for a full day that
10 the school district determines to be without good cause.

11 Sec. 4. (1) A student in grades K to 5 shall attend school
12 in accordance with this section unless 1 or more of the following
13 apply:

14 (a) The student is excused from attending school under sec-
15 tion 1561 of the school code of 1976, being section 380.1561 of
16 the Michigan Compiled Laws.

17 (b) The student is prohibited from attending school during a
18 suspension or during the pendency of an expulsion under section
19 1311 of the school code of 1976, being section 380.1311 of the
20 Michigan Compiled Laws.

21 (c) The student was expelled from a school under section
22 1311 of the school code of 1976, and there is no public or pri-
23 vate transportation available to another school.

24 (2) If a student who is subject to this section has more
25 than 2 full days of unexcused absences from school during a
26 school year or its equivalent or the student's previous
27 attendance cannot be verified, the appropriate school official

1 shall meet with the student and his or her caretaker relative to
2 discuss the unexcused absences and to notify the student and
3 caretaker relative of the school attendance requirements of this
4 act and of the penalties for noncompliance. After this meeting
5 has been made available, the student is subject to a monthly
6 attendance requirement that the student shall not have more than
7 2 full days of unexcused absences in a calendar month. If a stu-
8 dent who is subject to the monthly attendance requirement fails
9 to meet the monthly attendance requirement, the student and his
10 or her caretaker relative are subject to penalties as provided in
11 section 8.

12 (3) The caretaker relative of a student who is subject to
13 this section shall cooperate in providing information needed to
14 verify enrollment and attendance including, but not limited to,
15 consenting to the release of school attendance records for the
16 purposes of this act and providing to the school district in
17 which the student is enrolled the address of the student and
18 caretaker relative. The caretaker relative shall also partici-
19 pate in the meeting with a school official as required under
20 subsection (2). If the caretaker relative does not cooperate in
21 providing the information or participate in the required meeting,
22 the caretaker relative is subject to penalties as provided in
23 section 8.

24 Sec. 5. (1) A school district shall notify the caretaker
25 relative of each student enrolled in the school district in
26 grades K to 5 of all of the following:

1 (a) The definition of excused and unexcused absences and a
2 description of the attendance requirements of this act.

3 (b) The requirement that the student attend school according
4 to this act, unless exempted pursuant to section 4(1), and the
5 penalties that will be applied if a student fails to meet the
6 attendance requirements of this act.

7 (c) The requirements that the caretaker relative cooperate
8 in providing information needed to verify the student's enroll-
9 ment and attendance, consent to the release of the student's
10 enrollment and attendance records from the school for the pur-
11 poses of this act, and participate in the meeting described in
12 section 4(2); and the penalties that will be applied if the care-
13 taker relative fails to meet the requirements. The notice shall
14 specify the requirements under section 4(3) for the caretaker
15 relative.

16 (d) The student's or caretaker relative's right to a hearing
17 by the school district board on the issue of whether an absence
18 should be an excused absence or an unexcused absence, and the
19 right to appeal the determination of the school district board to
20 the circuit court.

21 (2) For the purposes of this act, a school district shall
22 review each absence from school of each student enrolled in the
23 school district who is subject to section 4 to determine whether
24 the absence is an excused absence or an unexcused absence and
25 shall record that determination in the student's attendance
26 record and shall monitor the compliance of students and their

1 caretaker relatives with the requirements of section 4(2) and
2 (3).

3 (3) Not later than 2 school days after making a determina-
4 tion that a student's absence was an unexcused absence or that a
5 student or his or her caretaker relative has failed to comply
6 with the requirements of section 4(2) or (3), a school district
7 shall notify the student's caretaker relative of that determina-
8 tion and of the availability of a hearing to contest the
9 determination. The notice shall include a description of the
10 manner and time limits for requesting a hearing before the school
11 district board.

12 (4) If a student's caretaker relative makes a written
13 request to the school district not later than 5 school days after
14 receiving a notice under subsection (3) for a hearing to contest
15 the determination, the board of the school district or its desig-
16 nee shall hold the hearing not later than 5 school days after
17 receiving the request. After the hearing, the board or its des-
18 ignee shall make written findings of fact, shall either reaffirm
19 or reverse the determination, and shall notify the caretaker rel-
20 ative of the outcome of the hearing. If the hearing results in
21 the reversal of a determination that an absence was an unexcused
22 absence, the board or its designee shall change the absence to an
23 excused absence in the student's attendance record. The decision
24 of the board or its designee is final unless it is appealed to
25 the circuit court for the county in which the majority of the
26 territory of the school district is located.

1 (5) A caretaker relative has all of the following rights in
2 a hearing conducted under subsection (4):

3 (a) The right to be represented, accompanied, and advised by
4 counsel.

5 (b) The right to present evidence and confront,
6 cross-examine, and compel the attendance of any official, employ-
7 ee, or agent of the school district who may have relevant
8 evidence.

9 (c) The right to prohibit the introduction of any evidence
10 or the direct testimony of any witness who has not been disclosed
11 to the caretaker relative at least 2 calendar days before the
12 hearing.

13 (d) The right to obtain a written or electronic verbatim
14 record of the hearing in the caretaker relative's native
15 language.

16 (e) The right to obtain written findings of fact and
17 decisions.

18 (6) For the purposes of subsections (7) and (8), the
19 attendance officer or other appropriate official of a school dis-
20 trict shall monitor the number of unexcused absences of each stu-
21 dent enrolled in the school district who is subject to section
22 4.

23 (7) If a school district determines that a student enrolled
24 in the school district who is subject to section 4 has more than
25 2 full days of unexcused absences from school during a school
26 year or its equivalent, or if the student's previous attendance
27 cannot be verified, the appropriate official of the school

1 district shall meet with the student and his or her caretaker
2 relative as described in section 4(2) and shall verify to the
3 department of education that the meeting has been held and that
4 appeal rights have been provided.

5 (8) Not later than 5 working days after the last day of each
6 month in which its schools are in session, an attendance officer
7 or other appropriate authority of a school district shall deter-
8 mine whether any student enrolled in the school district who is
9 subject to the monthly attendance requirement under section 4(2)
10 has failed to meet that requirement, whether a student or his or
11 her caretaker relative has failed to attend the meeting described
12 in section 4(2), or whether a student's caretaker relative has
13 failed to cooperate as required under section 4(3). For those
14 students, not later than 7 working days after the last day of
15 each month in which its schools are in session, the attendance
16 officer or other appropriate authority of the school district
17 shall report to the department of education all of the following
18 information: the student's name and address; the caretaker
19 relative's name and address; if the student has failed to meet
20 the monthly attendance requirement, identification of the month
21 in which the monthly attendance requirement was not met; if the
22 student or caretaker relative has failed to attend the meeting
23 described in section 4(2), identification of the month in which
24 that requirement was not met; and, if the caretaker relative has
25 failed to cooperate as required under section 4(3), identifica-
26 tion of the month in which that requirement was not met. For a
27 report concerning a student who has failed to meet the monthly

1 attendance requirement, the report shall also include the
2 student's attendance record for that month. The attendance
3 record shall show each of the student's absences from school
4 during the month and shall indicate whether each absence is an
5 excused absence or an unexcused absence. The attendance record
6 shall also show any unexcused absences from a previous month that
7 have been changed to an excused absence as a result of a hearing
8 under subsection (4). Provision of the attendance records is
9 subject to the requirements of section 438 of subpart 2 of part c
10 of the general education provisions act, title IV of Public Law
11 90-247, 20 U.S.C. 1232g, commonly referred to as the family edu-
12 cational rights and privacy act of 1974.

13 (9) For each student for whom it receives a report from a
14 school district under subsection (8), not later than 10 days
15 after receiving the report the department of education shall pro-
16 vide to the state departments of social services and treasury all
17 of the following information: the student's name and address;
18 the caretaker relative's name and address; if the student has
19 failed to meet the monthly attendance requirement, identification
20 of the month in which the monthly attendance requirement was not
21 met; if the student or caretaker relative has failed to attend
22 the meeting described in section 4(2), identification of the
23 month in which that requirement was not met; and, if the care-
24 taker relative has failed to cooperate as required under
25 section 4(3), identification of the month in which that require-
26 ment was not met.

1 (10) For the purposes of subsections (8) and (9), a student
2 shall not be considered to have failed to meet the monthly
3 attendance requirement unless the student and his or her care-
4 taker relative have exhausted all appeal rights concerning the
5 failure.

6 Sec. 6. (1) For each family that includes a student in
7 grades K to 5 receiving aid to families with dependent children
8 or state family assistance under the social welfare act, the
9 state department of social services shall do all of the
10 following:

11 (a) Notify the student's caretaker relative of all of the
12 following:

13 (i) The definition of excused and unexcused absences and a
14 description of the attendance requirements of this act.

15 (ii) That, unless exempted pursuant to section 4(1), the
16 student is required to attend school according to this act, and
17 that penalties will be applied if a student fails to meet the
18 attendance requirements of this act.

19 (iii) That the caretaker relative is required to cooperate
20 in providing information needed to verify the student's enroll-
21 ment and attendance, to consent to the release of the student's
22 enrollment and attendance records from the school for the pur-
23 poses of this act, and to otherwise cooperate as required under
24 this act, and that penalties will be applied if the caretaker
25 relative fails to meet the requirements. The notice shall spec-
26 ify the requirements under section 4(3) for the caretaker
27 relative.

1 (b) Hold hearings on grant reductions as required by law.

2 (2) Upon receipt of information from the department of edu-
3 cation that a student subject to section 4 has failed to meet the
4 monthly attendance requirement described in that section, the
5 state department of social services shall provide written notice
6 to the caretaker relative that specifies all of the following:

7 (a) That a penalty will be imposed pursuant to section 8 in
8 the next possible payment month because the student failed to
9 meet the monthly attendance requirement.

10 (b) The beginning date of the penalty and the student to
11 whom the penalty applies.

12 (c) The student or caretaker relative's right to request a
13 hearing on reduction of a grant.

14 Sec. 7. The department of treasury shall include in state
15 income tax forms the necessary information to notify taxpayers of
16 the requirements of this act for claiming a personal exemption
17 attributable to a student under section 30(2) of the income tax
18 act of 1967, being section 206.30 of the Michigan Compiled Laws,
19 and of the effect of noncompliance with the requirements of this
20 act on the taxpayer's ability to claim a personal exemption
21 attributable to the student.

22 Sec. 8. (1) For a student who is receiving aid to families
23 with dependent children or state family assistance under the
24 social welfare act and who is subject to the monthly attendance
25 requirement under section 4(2), if the meeting described in sec-
26 tion 4(2) has been made available to the student and the
27 student's caretaker relative, the state department of social

1 services shall reduce the grant to the student's household by
2 \$25.00 per month, up to a maximum of \$98.00 per household per
3 month for a household in which more than 1 such student resides,
4 upon the occurrence of any of the following:

5 (a) The student fails to meet the monthly attendance
6 requirement and there is no appeal pending on that question or
7 if, after an appeal hearing, the hearing body finds that the stu-
8 dent has failed to meet the monthly attendance requirement.

9 (b) The student or the student's caretaker relative fails to
10 attend the meeting required under section 4(2).

11 (c) The student's caretaker relative fails to cooperate as
12 required under section 4(3).

13 (2) The penalties specified in subsection (1) are not cumu-
14 lative in a particular month and the state department of social
15 services shall not impose a grant reduction to a household of
16 more than \$25.00 per month per student. The state department of
17 social services shall apply a penalty pursuant to subsection
18 (1)(a) for 1 month for each month a student subject to subsection
19 (1) fails to meet the monthly attendance requirement and there is
20 no appeal pending on that question or the hearing body finds that
21 the student has failed to meet the monthly attendance
22 requirement. The state department of social services shall apply
23 a penalty pursuant to subsection (1)(b) or (c) for 1 month for
24 each month for which the state department is notified that the
25 student or caretaker relative has not complied with an applicable
26 requirement.

1 (3) The state department of social services shall keep
2 separate any money it does not pay because of the imposition of a
3 penalty under subsection (1) and shall hold that money in escrow
4 for the benefit of the affected student. If the family complies
5 with this act for a period of 1 year after the date of the ini-
6 tial penalty, the state department of social services shall
7 return the money held in escrow to the family from which it was
8 withheld.

9 (4) For a student who is subject to the monthly attendance
10 requirement under section 4(2) and who is not subject to
11 subsection (1), if the meeting described in section 4(2) has been
12 made available to the student and caretaker relative, the student
13 or the student's caretaker relative shall not claim a personal
14 exemption attributable to the student under section 30(2) of the
15 income tax act, being section 206.30 of the Michigan Compiled
16 Laws, in any tax year in which any of the following occur:

17 (a) The student fails to meet the monthly attendance
18 requirement and there is no appeal pending on that question or,
19 after an appeal hearing, the hearing body finds that the student
20 has failed to meet the monthly attendance requirement.

21 (b) The student or the student's caretaker relative fails to
22 attend the meeting described in section 4(2).

23 (c) The student's caretaker relative fails to cooperate as
24 required under section 4(3).

25 Sec. 9. (1) The state department of social services shall
26 request a waiver from the secretary of the United States
27 department of health and human services under section 1115(a) of

1 the social security act, 42 U.S.C. 1315(a), to permit the
2 application of the school attendance requirements of this act to
3 recipients of aid to families with dependent children. The state
4 department of social services shall request the waiver for a
5 period of 36 months or for the period the secretary finds neces-
6 sary to enable the state to implement this act.

7 (2) A provision of this act for which a federal waiver is
8 required shall not be applied to a recipient of aid to families
9 with dependent children unless the federal waiver is in effect.
10 If a waiver is granted for parts of this act but not for others,
11 the state department of social services shall implement those
12 parts of the program for which the waiver has been granted.

13 Sec. 10. The state board of education, state department of
14 social services, and department of treasury shall promulgate
15 rules as necessary to implement this act pursuant to the adminis-
16 trative procedures act of 1969, Act No. 306 of the Public Acts of
17 1969, being sections 24.201 to 24.328 of the Michigan Compiled
18 Laws.

19 Sec. 11. The school attendance requirements of this act
20 shall not be construed to conflict with or diminish the compul-
21 sory school attendance requirements of part 24 of the school code
22 of 1976, being sections 380.1561 to 380.1599 of the Michigan
23 Compiled Laws.

24 Sec. 12. The auditor general shall conduct an annual review
25 of the effectiveness of this act and the compliance with this act
26 by school districts and state departments. The auditor general
27 shall report the findings of the review to the legislature.