



# *ENACTMENT NEWS*

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## **House Bill 410** **Truancy Reform** Effective April 2017

House Bill 410, signed by the Governor on January 4, 2017, reforms Ohio's truancy laws. The bill eliminates the designation "chronic truant" and allows for adjudication of a "habitual truant" as an unruly child. An unruly habitual truant may be further adjudicated a "delinquent child" if the court order regarding the unruly adjudication is violated. The bill also prevents a school district from applying the district's zero tolerance policy for "excessive truancy", and prohibits a school from suspending, expelling, or removing a student based solely on absences, among other changes. Most provisions of the bill will go in effect in April 2017, with some provisions effective later.

### **Definition Changes**

The bill eliminates all references to "chronic truant" and, instead provides that a child of compulsory school age who has already been adjudicated an "habitual truant" and who violates the court order regarding that adjudication, may be further adjudicated a "delinquent child" (RC 2151.011 & RC 2152.02).

The bill modifies the threshold calculation for a "habitual truant" from a specified consecutive number of days absent without excuse (five consecutive, seven in one school month, or 12 in a school year) to a specified number of hours (30 consecutive, 42 in one school month, or 72 in a school year) (RC 2151.011).

The bill simplifies the "unruly child" statute to include "[a]ny child who is an habitual truant from school," eliminating a reference to habitual truants "who previously had not been adjudicated an unruly child for being an habitual truant" (RC 2151.022).

### **Annual Juvenile Court Report Changes**

Currently, juvenile courts are required to submit an annual report to the county commissioners under R.C. 2151.18. The bill changes the annual juvenile court report requirements to include the following information: (1) the number of children placed in diversion for a unruly child complaint filed based solely on a child being an habitual truant, (2) the number who successfully completed those diversion programs, and (3) the number who failed to complete the programs and were adjudicated unruly. Additionally, juvenile courts will now be required to file this annual report with the Supreme Court of Ohio (RC 2151.18).

## **Juvenile Court Jurisdiction and Procedure Changes**

The bill modifies juvenile court jurisdiction to include a child who is alleged to be a delinquent child for violating a court order regarding the child's prior adjudication as an unruly habitual truant (RC 2151.23).

The juvenile court, upon the filing of a complaint that a child is unruly based on the child's habitual truancy, must consider an alternative to adjudication including diversion from the juvenile court system, as long as the child has not already failed to complete an available alternative. The "court shall consider the complaint only as a matter of last resort." The bill also allows the child to assert an affirmative defense that the child participated in and made satisfactory progress on an absence intervention plan or other alternatives to adjudication (RC 2151.27).

The bill mandates that the parent, guardian, or other person having control over the child is to be summoned to a hearing and directed to bring the child to the hearing in cases alleging delinquency for violating a court order regarding the child's prior adjudication as an unruly habitual truant (RC 2151.28).

If a child is adjudicated an unruly child for being a habitual truant, or a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being an habitual truant, the court must provide notice to the child's school within 10 days (RC 2151.354 & RC 2152.19).

Any person having knowledge of a child who appears to be a delinquent child for violating a court order regarding the child's adjudication as an unruly child for being an habitual truant may file a sworn complaint against the child or child and parent, guardian, or person having care of the child (RC 2152.021).

## **School District Requirement Changes**

The bill eliminates "excessive truancy" from a school district's zero tolerance policy for violent, disruptive, or inappropriate behavior (RC 3313.534). A school is prohibited from suspending, expelling, or removing a student based solely on absences without legitimate excuse beginning July 1, 2017 (RC 3313.668).

A school district is prohibited from carrying over any remaining part of an out-of-school suspension at the end of the school year into the following year, but is permitted to require the student to participate in a community service or alternative consequence for the number of hours equal to the remaining period of the suspension. A school district may allow the student to complete any assignments missed because of suspension (RC 3313.66).

Starting the in the 2017-18 school year, school districts must adopt a new or amended policy on addressing and ameliorating student absences. The school district's policy must provide a truancy intervention plan for excessively absent students – the plan does not have to be individualized. The bill eliminated a requirement that the school incorporate into the policy an intervention strategy of assigning the habitual truant to an alternative school (RC 3321.191).

If a child is absent with or without legitimate excuse for thirty-eight or more hours in one school month, or sixty-five hours in one school year (just below the thresholds for habitual truancy) the attendance office must notify the child's parent, guardian, or custodian of the absences in writing within seven days after the date of the triggering absence (RC 3321.191).

Beginning in the 2017-18 school year, the school shall report to the Ohio Department of Education when a required notice is submitted to a parent, guardian, or custodian, when a child has been absent without legitimate excuse in excess of the threshold for an habitual truant, when a child that has been adjudicated an unruly child for being an habitual truant violates the court order regarding that adjudication, and when an absence intervention plan has been implemented for a child (RC 3321.191).

### **School Attendance Officer Changes**

A school attendance officer must file a complaint in juvenile court on the sixty-first day after implementation of an absence intervention plan if the student 1) was absent without legitimate excuse the specified number of hours to be an habitual truant, 2) the school district made meaningful attempts to re-engage the student, and 3) the student refused to participate or did not made meaningful progress on the plan. If the sixty-first day falls over summer break, the school has discretion to extend the plan for thirty days into the next school year (RC 3321.13).

During the implementation phase of a student's absence intervention plan, if the student is absent without legitimate excuse for thirty or more consecutive hours or forty-two or more hours in one school month, the school attendance officer must file a complaint, unless the student has made substantial progress on the plan (RC 3321.13).

### **Absence Intervention Team**

If the child is considered a habitual truant, the school shall assign the student to an absence intervention team within 10 days, but the bill exempts school districts with a chronic absenteeism percentage of less than 5% (RC 3321.19).

Within 14 days of a student's assignment to an absence intervention team, the team shall develop an intervention plan. Within seven days of the development of the plan, the school shall make reasonable efforts to notify the parent, guardian, custodian or guardian ad litem with written notice of the plan. The school has discretion to contact the juvenile court to ask to have the student informally enrolled in an alternative to adjudication. If the child becomes habitually truant within the final 21 days of the school year, the school may assign one official to work on an absence intervention plan during the summer (RC 3321.191).

Required membership of each absence intervention team includes a representative from the child's school district or school, another representative from the school district or school that knows the child, and the child's parent, guardian, guardian ad litem. The school must select the team within seven school days of the triggering absence. Within that period of seven days, the school shall make at least three meaningful, good faith attempts to secure participation from the parents, guardian, custodian, or guardian ad litem. If the parent, guardian, custodian, or guardian ad litem fail to respond within seven days, the school shall investigate whether the failure triggers mandatory reporting to a public children services agency, and develop an invention plan notwithstanding the absence (RC 3321.191).

## **Additional Consequences for Truancy**

Contributing to the Unruliness or Delinquency of a Child (R.C. 2919.24) now includes the act of contributing to an adjudication of a delinquent child based on the child's violation of a court order adjudicating the child unruly for being a habitual truant.

The bill specifies that a parent, guardian, or custodian of an adjudicated truant child must provide a surety bond in the sum of not more than \$500 as required by the court (RC 3321.38).