

HOUSE BILL No. 5753

April 13, 1992, Introduced by Reps. Robertson, Middaugh, Willis Bullard, Allen, McBryde, Jaye, Dalman, Dresch, Horton, Dobb and O'Connor 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:

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 400.121 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 a 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 a 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, as
11 defined in this section.

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

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

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

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

25 (2) If a student who is subject to this section has more
26 than 2 full days of unexcused absences from school during a
27 school year or its equivalent or the student's previous

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

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

25 Sec. 5. (1) A school district shall notify the caretaker
26 relative of each student enrolled in the school district in
27 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, a school
5 district shall notify the student's caretaker relative of that
6 determination and of the availability of a hearing to contest the
7 determination. The notice shall include a description of the
8 manner and time limits for requesting a hearing before the school
9 district board.

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

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

25 (a) The right to be represented, accompanied, and advised by
26 counsel.

1 (b) The right to present evidence and confront,
2 cross-examine, and compel the attendance of any official,
3 employee, or agent of the school district who may have relevant
4 evidence.

5 (c) The right to prohibit the introduction of any evidence
6 or the direct testimony of any witness who has not been disclosed
7 to the caretaker relative at least 2 calendar days before the
8 hearing.

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

12 (e) The right to obtain written findings of fact and
13 decisions.

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

19 (7) If a school district determines that a student enrolled
20 in the school district who is subject to section 4 has more than
21 2 full days of unexcused absences from school during a school
22 year or its equivalent, or if the student's previous attendance
23 cannot be verified, the appropriate official of the school dis-
24 trict shall meet with the student and his or her caretaker rela-
25 tive as described in section 4(2) and shall verify to the depart-
26 ment of education that the meeting has been held and that appeal
27 rights have been provided.

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

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

9 (9) For each student for whom it receives a report from a
10 school district under subsection (8), the department of education
11 shall provide to the state departments of social services and
12 treasury the following information: the student's name and
13 social security number; the caretaker relative's name and social
14 security number; if the student has failed to meet the monthly
15 attendance requirement, identification of the month in which the
16 monthly attendance requirement was not met; if the student or
17 caretaker relative has failed to attend the meeting described in
18 section 4(2), identification of the month in which that require-
19 ment was not met; and, if the caretaker relative has failed to
20 cooperate as required under section 4(3), identification of the
21 month in which that requirement was not met.

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

1 (a) Notify the student's caretaker relative of all of the
2 following:

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

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

9 (iii) That the caretaker relative is required to cooperate
10 in providing information needed to verify the student's enroll-
11 ment and attendance, to consent to the release of the student's
12 enrollment and attendance records from the school for the pur-
13 poses of this act, and to otherwise cooperate as required under
14 this act, and that penalties will be applied if the caretaker
15 relative fails to meet the requirements. The notice shall spec-
16 ify the requirements under section 4(3) for the caretaker
17 relative.

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

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

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

1 (b) The beginning date of the penalty and the student to
2 whom the penalty applies.

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

5 Sec. 7. The department of treasury shall include in state
6 income tax forms the necessary information to notify taxpayers of
7 the requirements of this act for claiming a personal exemption
8 attributable to a student under section 30(2) of the income tax
9 act of 1967, being section 206.30 of the Michigan Compiled Laws,
10 and of the effect of noncompliance with the requirements of this
11 act on the taxpayer's ability to claim a personal exemption
12 attributable to the student.

13 Sec. 8. (1) For a student who is receiving aid to families
14 with dependent children or state family assistance under the
15 social welfare act and who is subject to the monthly attendance
16 requirement, if the meeting described in section 4(2) has been
17 made available to the student and the student's caretaker rela-
18 tive, the state department of social services shall reduce the
19 grant to the student's household by \$25.00 per month, up to a
20 maximum of \$98.00 per household per month for a household in
21 which more than 1 such student resides, upon the occurrence of
22 any of the following:

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

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

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

5 (2) The penalties specified in subsection (1) are not cumu-
6 lative in a particular month and the state department of social
7 services shall not impose a grant reduction to a household of
8 more than \$25.00 per month per student. The state department of
9 social services shall apply a penalty pursuant to subsection
10 (1)(a) for 1 month for each month a student subject to subsection
11 (1) fails to meet the monthly attendance requirement. The state
12 department of social services shall apply a penalty pursuant to
13 subsection (1)(b) or (c) for 1 month for each month for which the
14 state department is notified that the student or caretaker rela-
15 tive has not complied with an applicable requirement.

16 (3) For a student who is subject to the monthly attendance
17 requirement and who is not subject to subsection (1), if the
18 meeting described in section 4(2) has been made available to the
19 student and caretaker relative, the student's caretaker relative
20 shall not claim a personal exemption attributable to the student
21 under section 30(2) of the income tax act, being section 206.30
22 of the Michigan Compiled Laws, in any tax year in which any of
23 the following occur:

24 (a) The student fails to meet the monthly attendance
25 requirement and there is no appeal pending on that question or,
26 after an appeal hearing, the hearing body finds that the student
27 has failed to meet the monthly attendance requirement.

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

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

5 Sec. 9. (1) The state department of social services shall
6 request a waiver from the secretary of the United States depart-
7 ment of health and human services under section 1115(a) of the
8 social security act, 42 U.S.C. 1315(a), to permit the application
9 of the school attendance requirements of this act to recipients
10 of aid to families with dependent children. The state department
11 of social services shall request the waiver for a period of 36
12 months or for the period the secretary finds necessary to enable
13 the state to implement this act.

14 (2) A provision of this act for which a federal waiver is
15 required shall not be applied to a recipient of aid to families
16 with dependent children unless the federal waiver is in effect.
17 If a waiver is granted for parts of this act but not for others,
18 the state department of social services shall implement those
19 parts of the program for which the waiver has been granted.

20 Sec. 10. The state board of education, state department of
21 social services, and department of treasury shall promulgate
22 rules as necessary to implement this act pursuant to the adminis-
23 trative procedures act of 1969, Act No. 306 of the Public Acts of
24 1969, being sections 24.201 to 24.328 of the Michigan Compiled
25 Laws.

26 Sec. 11. The school attendance requirements of this act
27 shall not be construed to conflict with or diminish the

1 compulsory school attendance requirements of part 24 of the
2 school code of 1976, being sections 380.1561 to 380.1599 of the
3 Michigan Compiled Laws.

4 Sec. 12. The auditor general shall conduct an annual review
5 of the effectiveness of this act and the compliance with this act
6 by school districts and state departments. The auditor general
7 shall report the findings of the review to the legislature.