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TRUANCY PENALTIES

House Bills 5198 - 5200

Sponsor: Rep. Gilda Jacobs

Committee: Education

Complete to 12-29-99

A SUMMARY OF HOUSE BILLS 5198 - 5200 AS INTRODUCED 12-9-99

The bills would clarify school attendance procedures, and increase the penalties imposed on parents for their children's truancy from school. Under certain conditions, the family division of circuit court would have court jurisdiction over parents and guardians of truants, and a truant juvenile's driver license could be suspended or denied. The bills are tie-barred to each other so that none could become law unless the others also were enacted.

House Bill 5198 would amend the Revised School Code (MCL 380.1578 et al.) to require that at the beginning of the school year, a parent or legal guardian of each child described in section 1561(3)(f) (a provision of the code that allows home schooling) furnish the name and age of the child to the superintendent of schools of the district in which the child resides or to the intermediate superintendent.

The bill also specifies that if a child were absent from school without a valid excuse twice in 30 school days, then the attendance officer would be required to notify, by registered mail, the parent or other person in parental relationship to come to the school (or to another designated place) at a specified time to discuss the child's attendance. If a child were absent from school without valid excuse five times in 30 school days, the superintendent of schools (or a designee) or the intermediate superintendent (or a designee) would be required to enter into an agreement with the child and the parent. That agreement would establish the school attendance requirements and resolve the child's attendance problem. If a child were absent seven or more times in 30 school days, or 10 or more times in the school year, the parent refused to enter into an agreement, or the child or the parent breached an agreement, the superintendent of schools would be required to file a petition alleging that the child was within the court's jurisdiction under section 2(a)(5) of Chapter XIIA of Public Act 288 of 1939 (which is the chapter of the Probate Code concerning juveniles and the juvenile division, the section of that chapter regarding the court's jurisdiction, and the provision within that section addressed to neglectful parents of juveniles under 18 years).

Under the bill, "absent from school without valid excuse" is defined to mean that the child does not attend on a scheduled school day for a reason other than one or more of the following: a legal excuse under the code; an excuse authorized by the school's policy; a valid medical reason; personal matters involving the child's family; suspension or expulsion from school; or, the school

House Bills 5198 - 5200 (12-29-99)

and the parent or other person in parental relationship agree that it is necessary or appropriate for the child to be absent. If a parent failed to comply, he or she would be guilty of a misdemeanor punishable by any combination of a) a fine of not less than \$50 or more than \$500; b) imprisonment for not less than two days or more than 90 days; and, c) community service of not more than 50 hours. Currently the misdemeanor is punishable by a fine of not less than \$5 nor more than \$50, or imprisonment for not less than 2 nor more than 90 days, or both.

House Bill 5199 would amend the Probate Code of 1939 (MCL 712A.2 et al.) to specify that the court would have authority and jurisdiction if a juvenile is absent from school without valid excuse as defined in House Bill 5198 and, if applicable, a parent or other person in parental relationship refused to enter into an agreement as provided in that bill. Further, under the bill the court would have jurisdiction over an adult who violates section 1599 of the Revised School Code (the section that sets a misdemeanor penalty for parents who violate the compulsory attendance law), and who is the parent or guardian of a juvenile over whom the court has jurisdiction under the Probate Code. Further, a proceeding under this subdivision would be a criminal proceeding that would be conducted in the same manner and with all the same procedural protections and guarantees as a trial in a court of general criminal jurisdiction. The bill also would require that a parent or guardian of a juvenile who is within the court's jurisdiction attend hearings unless excused by the court, and that a parent or guardian who failed to attend a juvenile's hearing could be held in contempt and subject to fines.

House Bill 5199 specifies that only the school district superintendent, intermediate school district superintendent (or his or her designee), or the prosecuting attorney could file a petition requesting the court to take jurisdiction of a juvenile for truancy. If the petition were filed, the court would be required to hold a hearing within 10 days. If the court determined that the allegations in the petition were supported, the court would be required to authorize the filing of a petition to obtain formal jurisdiction, and to notify the prosecuting attorney (unless the petition originated with the prosecuting attorney). If the court acquired jurisdiction over a juvenile, the prosecuting attorney could file a complaint alleging a violation of the Revised School Code by the juvenile's parent or guardian in the same manner as for the district court.

Finally, House Bill 5199 specifies that within 10 days after acquiring jurisdiction over a juvenile, the court would be required to hold a hearing, and to provide an opportunity for the juvenile, the parent, the school superintendent (or a designee, who could be an administrator or teacher), and any interested party to propose a resolution to the student's attendance problems. Under the bill, the court would be required to enter an order of disposition within five days after the hearing to: a) order the juvenile to attend school, b) specify that the secretary of state suspend a juvenile's driver's license for not more than two years under certain conditions, and c) require any other action by the parties involved to resolve the attendance problem. (The bill also specifies that if the juvenile's license were already suspended when the court entered a driver's license suspension order for truancy, the new license suspension would begin at the end of the suspension then in effect.) In addition, the court's order could contain any provision under section 18 of the Probate

Code (which concerns orders pertaining to the disposition of children, including but not limited to placement in foster care homes or private agencies, the conduct of parents and guardians, reimbursement for services, conditions of probation, and restitution). Under the bill, the court could shorten or end the driver's license suspension or license denial period (and, in turn, order the secretary of state to shorten or end it), if the juvenile satisfied school attendance requirements.

House Bill 5200 would amend the Michigan Vehicle Code (MCL 257.303 and 257.319) to prohibit the secretary of state from issuing a driver's license to an unlicensed person for the period prescribed in an order entered under section 17e(2)(b) or (4) of Chapter XXIA of the Probate Code (as proposed in House Bill 5199). Further, the bill would require the secretary of state to suspend immediately a person's license for the period prescribed in an order entered under these sections of the code.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.