

HOUSE BILL No. 2705

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning compulsory school attendance; relating to material
2 change of circumstances; truancy; amending K.S.A. 2013 Supp. 23-
3 3218 and 72-1113 and repealing the existing sections.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 23-3218 is hereby amended to read as
7 follows: 23-3218. (a) Subject to the provisions of the uniform child
8 custody jurisdiction and enforcement act~~(, K.S.A. 2013 Supp. 23-37,101~~
9 ~~through 23-37,405, and amendments thereto)~~, the court may change or
10 modify any prior order of custody, residency, visitation and parenting time,
11 when a material change of circumstances is shown, but no ex parte order
12 shall have the effect of changing residency of a minor child from the
13 parent who has had the sole de facto residency of the child to the other
14 parent unless there is sworn testimony to support a showing of
15 extraordinary circumstances. If an interlocutory order is issued ex parte,
16 the court shall hear a motion to vacate or modify the order within 15 days
17 of the date that a party requests a hearing whether to vacate or modify the
18 order.

19 (b) The court may order physical or mental examinations of the
20 parties if requested pursuant to K.S.A. 2013 Supp. 60-235, and
21 amendments thereto.

22 (c) *Failure of a custodial parent to comply with compulsory school*
23 *attendance as required by law shall be deemed a material change of*
24 *circumstances.*

25 Sec. 2. K.S.A. 2013 Supp. 72-1113 is hereby amended to read as
26 follows: 72-1113. (a) Each board of education shall designate one or more
27 employees who shall report to the secretary~~of social and rehabilitation~~
28 ~~services for children and families~~, or a designee thereof, or to the
29 appropriate county or district attorney pursuant to an agreement as
30 provided in this section, all cases of children who are less than 13 years of
31 age and are not attending school as required by law, and to the appropriate
32 county or district attorney, or a designee thereof, all cases of children who
33 are 13 or more years of age but less than 18 years of age and are not
34 attending school as required by law. The designation shall be made no later
35 than September 1 of each school year and shall be certified no later than
36 10 days thereafter by the board of education to the secretary~~of social and~~

1 ~~rehabilitation services for children and families~~, or the designee thereof, to
2 the county or district attorney, or the designee thereof, and to the
3 commissioner of education. The commissioner of education shall compile
4 and maintain a list of the designated employees of each board of
5 education. The local area office of the department ~~of social and~~
6 ~~rehabilitation services for children and families~~ may enter into an
7 agreement with the appropriate county or district attorney to provide that
8 the designated employees of such board of education shall make the report
9 as provided in this section for all cases of children who are less than 13
10 years of age and are not attending school as provided by law to the county
11 or district attorney in lieu of the secretary, or the secretary's designee. If
12 such agreement is made, the county or district attorney shall carry out all
13 duties as otherwise provided by this subsection conferred on the secretary
14 or the secretary's designee. A copy of such agreement shall be provided to
15 the director of such area office of the department ~~of social and~~
16 ~~rehabilitation services for children and families~~ and to the school districts
17 affected by the agreement.

18 (b) Whenever a child is required by law to attend school, and the
19 child is not enrolled in a public or nonpublic school, the child shall be
20 considered to be not attending school as required by law and a report
21 thereof shall be made in accordance with the provisions of subsection (a)
22 by a designated employee of the board of education of the school district
23 in which the child resides. The provisions of this subsection are subject to
24 the provisions of subsection (d).

25 (c) (1) Whenever a child is required by law to attend school and is
26 enrolled in school, and the child is inexcusably absent therefrom on either
27 three consecutive school days or five school days in any semester or seven
28 school days in any school year, whichever of the foregoing occurs first, the
29 child shall be considered to be not attending school as required by law. A
30 child is inexcusably absent from school if the child is absent therefrom all
31 or a significant part of a school day without a valid excuse acceptable to
32 the school employee designated by the board of education to have
33 responsibility for the school attendance of such child.

34 (2) Each board of education shall adopt rules for determination of
35 valid excuse for absence from school and for determination of what shall
36 constitute a "significant part of a school day" for the purpose of this
37 section.

38 (3) Each board of education shall designate one or more employees,
39 who shall each be responsible for determining the acceptability and
40 validity of offered excuses for absence from school of specified children,
41 so that a designee is responsible for making such determination for each
42 child enrolled in school.

43 (4) Whenever a determination is made in accordance with the

1 provisions of this subsection that a child is not attending school as required
2 by law, the designated employee who is responsible for such determination
3 shall make a report thereof in accordance with the provisions of subsection
4 (a) *and shall make a report of the case to the appropriate law enforcement*
5 *agency for criminal prosecution as truancy.*

6 (5) The provisions of this subsection are subject to the provisions of
7 subsection (d).

8 (d) (1) Prior to making any report under this section that a child is not
9 attending school as required by law, the designated employee of the board
10 of education shall serve written notice thereof, by personal delivery or by
11 first class mail, upon a parent ~~or~~, *legal guardian, custodian, non-*
12 *residential custodial parent and any person acting as parent of the child.*
13 The notice shall inform the parent ~~or~~, *legal guardian, custodian, non-*
14 *residential custodial parent and any person acting as parent that continued*
15 *failure of the child to attend school without a valid excuse will result in a*
16 *report being made to the secretary of social and rehabilitation services for*
17 *children and families or to the county or district attorney. Upon failure, on*
18 *the school day next succeeding personal delivery of the notice or within*
19 *three school days after the notice was mailed, of attendance at school by*
20 *the child or of an acceptable response, as determined by the designated*
21 *employee, to the notice by a parent ~~or~~, legal guardian, custodian, non-*
22 *residential custodial parent and any person acting as parent of the child,*
23 *the designated employee shall make a report thereof in accordance with*
24 *the provisions of subsection (a). The designated employee shall submit*
25 *with the report a certificate verifying the manner in which notice was*
26 *provided to the parent ~~or~~, legal guardian, custodian, non-residential*
27 *custodial parent and any person acting as parent.*

28 (2) Whenever a law enforcement officer assumes temporary custody
29 of a child who is found away from home or school without a valid excuse
30 during the hours school is actually in session, and the law enforcement
31 officer delivers the child to the school in which the child is enrolled or to a
32 location designated by the school in which the child is enrolled to address
33 truancy issues, the designated employee of the board of education shall
34 serve notice thereof upon a parent ~~or~~, *legal guardian, custodian, non-*
35 *residential custodial parent and any person acting as parent of the child.*
36 The notice may be oral or written and shall inform the parent ~~or~~, *legal*
37 *guardian, custodian, non-residential custodial parent and any person*
38 *acting as parent of the child that the child was absent from school without*
39 *a valid excuse and was delivered to school by a law enforcement officer.*

40 (e) Whenever the secretary ~~of social and rehabilitation services for~~
41 *children and families* receives a report required under this section, the
42 secretary shall investigate the matter. If, during the investigation, the
43 secretary determines that the reported child is not attending school as

1 required by law, the secretary shall institute proceedings under the revised
2 Kansas code for care of children. ~~If, during the investigation, the secretary~~
3 ~~determines that a criminal prosecution should be considered, the secretary~~
4 *and shall make a report of the case to the appropriate law enforcement*
5 *agency for criminal prosecution of truancy.*

6 (f) Whenever a *law enforcement agency or county or district attorney*
7 receives a report required under this section, the *law enforcement agency*
8 *or county or district attorney shall investigate the matter. If, ~~during the~~*
9 *after investigation, the county or district attorney determines that the*
10 *reported child is not attending school as required by law, the county or*
11 *district attorney ~~shall~~ may prepare and file a petition alleging that the child*
12 *is a child in need of care. If, ~~during the~~ after investigation, the county or*
13 *district attorney determines that a criminal prosecution is necessary, the*
14 *county or district attorney shall commence such action.*

15 (g) As used in this section, "board of education" means the board of
16 education of a school district or the governing authority of a nonpublic
17 school. The provisions of this act shall apply to both public and nonpublic
18 schools.

19 (h) *It shall be unlawful, with no requirement of a culpable mental*
20 *state, for any child, parent, legal guardian, custodian, non-residential*
21 *custodial parent or person acting as the parent of the child to fail to*
22 *comply with compulsory school attendance as required by law. Violation*
23 *of this subsection is a class B misdemeanor.*

24 Sec. 3. K.S.A. 2013 Supp. 23-3218 and 72-1113 are hereby repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.