



# OHIO LEGISLATIVE SERVICE COMMISSION

*Anthony Kremer*

---

## Fiscal Note & Local Impact Statement

---

**Bill:** H.B. 410 of the 131st G.A.

**Date:** December 8, 2016

**Status:** As Enacted

**Sponsor:** Reps. Rezabek and Hayes

**Local Impact Statement Procedure Required:** Yes

**Contents:** Habitual truancy and compulsory school attendance; Ohio National Guard Scholarship liability for recipients that enlist in the active duty component of the U.S. Armed Forces

### State Fiscal Highlights

#### Habitual truancy and compulsory school attendance

- The bill requires the Ohio Department of Education (ODE) to collect data reported by public schools on the occurrence of certain triggering events with respect to a student's absences beginning in FY 2018. The collection of this data will result in additional administrative duties for ODE, the effect of which is expected to be minimal.
- The bill requires the State Board of Education to develop a model policy for violent, disruptive, or inappropriate behavior, including excessive absence, and requires ODE to develop materials to assist school districts in implementing the model policy. This work will increase the administrative responsibilities of ODE, which provides administrative support to the State Board.
- The bill requires the Ohio Family and Children First Cabinet Council (OFCF) to establish a multidisciplinary truancy team pilot program that would operate in lieu of the bill's absence intervention team and intervention plan process in participating school districts for the 2017-2018 and 2018-2019 school years. OFCF will experience an increase in administrative responsibilities to carry out the pilot program.

#### Ohio National Guard Scholarship repayment liability

- The bill eliminates repayment liability for an Ohio National Guard (ONG) Scholarship recipient who fails to complete the recipient's term of enlistment in the ONG due to enlistment in the active duty component of the U.S. Armed Forces. Accordingly, the bill reduces, by an uncertain amount, potential collections associated with individuals who receive the ONG Scholarship but do not complete the term of enlistment.

- The bill also applies retroactively to an ONG Scholarship recipient who became liable for repayment on or before September 30, 2016 because of enlistment in the active duty component of the U.S. Armed Forces. As a result of this provision, collections from individuals who are currently repaying scholarship funds will be reduced and state expenditures will increase in FY 2017 and FY 2018 to refund moneys previously recovered from qualifying scholarship recipients under current law, as required by the bill.

## **Local Fiscal Highlights**

- The bill requires public districts and schools whose chronic absenteeism percentage is more than 5% to set up an absence intervention team and intervention plan for a habitually truant student in an effort to reduce or eliminate further absences and to report additional data to ODE. The fiscal effect of these provisions will depend highly on the rates of truancy in each district or school. For urban districts, where the rates of truancy tend to be higher, there could be a significant cost to implement and then monitor intervention plans.
  - The additional interventions by school districts may also reduce the number of complaints filed in juvenile courts that are successful, potentially reducing court caseloads and costs.
  - Public school systems, partnering local governments, and individuals from the child welfare system, the mental health and addiction services system, and youth services agencies that opt to participate in the multidisciplinary truancy team pilot program created by the bill are likely to experience an increase in workload to assess each child, develop an intervention plan, and collect and submit the required data to OFCF.
- 

## **Detailed Fiscal Analysis**

### **Habitual truancy and compulsory school attendance**

#### **Overview**

The bill makes a number of changes to the law regarding habitual truancy and compulsory school attendance in an effort to keep children, who may otherwise be suspended or expelled, in school. To do so, the bill prohibits school suspensions or expulsions solely on the basis of unexcused absences and requires additional interventions by most school districts before a criminal complaint is considered. The fiscal implications of these provisions on school districts, local courts, and the state are discussed in more detail below.

## **School districts and community schools**

### **Suspensions and expulsions for truancy prohibited**

Effective July 1, 2017, the bill prohibits any public school from suspending, expelling, or removing a student from school solely on the basis of a student's unexcused absences. Further, public districts and schools may only file truancy cases in the juvenile court system after a child refuses to take part in or fails to complete additional interventions required by the bill. Beginning with the 2017-2018 school year, public districts and schools must also adopt new or amended policies to guide employees in addressing and ameliorating student absences in accordance with the bill's specifications. That year, they must also begin reporting additional data to ODE concerning habitual truant students.

### **Absence intervention teams**

Under the bill, schools will be required to notify parents within seven days after a student surpasses certain excessive absence thresholds specified by the bill, which are near to those defining an habitual truant.<sup>1</sup> The bill requires school districts whose chronic absenteeism percentage is 5% or more, as reported on the district's most recent report card, to assign students to an absence intervention team within ten days after a student surpasses the threshold for an habitual truant.<sup>2</sup> The absence intervention team must consist of a representative from the child's school district or school, another representative from the child's school district or school who knows the child, and the child's parent or guardian. It may also include a school psychologist, counselor, social worker, or an outside agency or nonprofit entity that assists students and families in reducing absences. The bill requires the superintendent or principal or chief administrator to select the members of an absence intervention team within seven school days of the triggering absence. The school district must make at least three meaningful good faith attempts to secure participation of the student's parent or guardian within that time period. In addition, the school district is required to inform the parent of the parent's right to appear by designee if the student's parent responds to the attempts to secure participation, but is unable to participate for any reason. In the event the parent or guardian fails to respond, the bill requires the school district to investigate whether the failure to respond triggers mandatory reporting to the public children services agency (PCSA) for the county in which the child resides and to

---

<sup>1</sup> The threshold for a habitual truant under the bill is 30 or more consecutive hours, 42 or more hours in one school month, or 72 hours or more in a school year. The thresholds are essentially the same as under current law, except that the bill converts the thresholds from days to the equivalent number of hours. Note also that, under continuing law, school attendance officers already have the authority to investigate cases of nonattendance, take actions the district superintendent or school chief administrator deems proper, and initiate enforcement proceedings against persons violating compulsory attendance laws.

<sup>2</sup> The chronic absenteeism percentage represents the percentage of students in a district with individual attendance rates less than 90%.

instruct the absence intervention team to develop a plan for the child without the child's parent or guardian.

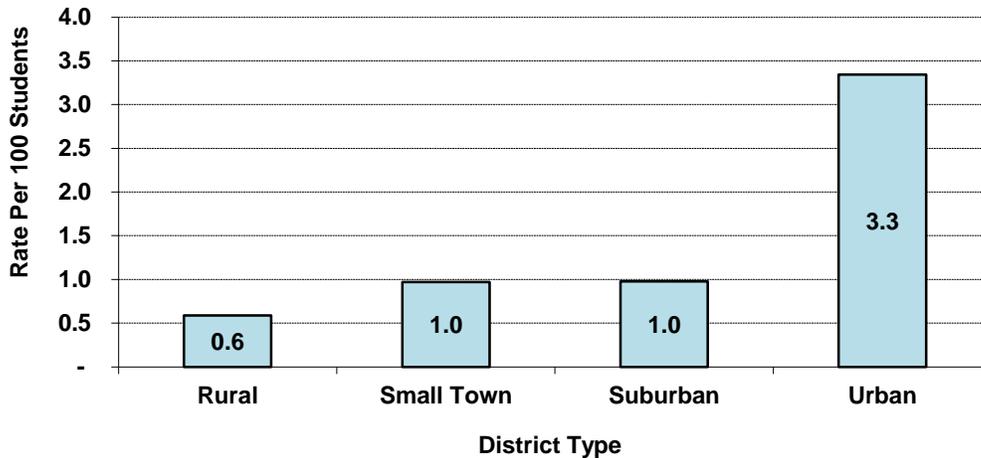
### **Absence intervention plans**

Within 14 school days of the assignment, the team must develop an intervention plan for the student, with the aim of reducing or eliminating further absences. Each plan must vary based on the individual needs of the student and clearly state that the attendance officer is required to file a complaint 61 days after the date the plan was implemented if the child has refused to participate in, or failed to make satisfactory progress on, the intervention plan or an alternative to adjudication. Further, the bill requires the school district or school, within seven days after the development of the plan, to make reasonable efforts to provide the student's parent or guardian with written notice of the plan. The bill includes provisions accommodating implementation of the bill's requirements when certain events or timelines fall near to or during the summer months.

### **Fiscal effects**

Statewide, 530 (87.2%) school districts have a chronic absenteeism percentage equal to or greater than 5%, according to the report cards for the 2015-2016 school year, and thus are required to implement the bill's absence intervention team and plan requirements. These districts reported more than 22,400 occurrences where discipline was imposed for truancy in the 2015-2016 school year, or nearly all of the 22,539 occurrences reported by all school districts that year. In most cases, truancy results in an in-school suspension. Very few cases involve expulsion. The frequency of the problem varies across the state. For some districts and schools, the intervention team and other associated requirements may be only a slight additional administrative responsibility, as the rate of truant students is relatively low. However, for urban districts, where the rates of truancy tend to be higher, there could be a significant cost to implement and then monitor intervention plans. See the chart below, which illustrates, by district type, the average rate per 100 students of disciplinary occurrences due to truancy reported by "non-exempt" school districts (i.e., those with chronic absenteeism rates at or above 5%) to ODE for the 2015-2016 school year. Ultimately, the cost will depend on how the intervention teams and plans are implemented.

**Average Rate Per 100 Students of Disciplinary Occurrences  
Due to Truancy in Non-Exempt Districts by District Type,  
2015-2016 School Year**



The bill also requires each school district and community school assigning students to an absence intervention team to report data to ODE at each step of the truancy process beginning in the 2017-2018 school year. The requirement will result in additional administrative responsibilities for school districts, the significance of which is dependent upon the truancy rates for any given school district or school.

School districts that are exempt from the absence intervention plan process must instead implement any appropriate intervention strategy contained in the new or amended policy the district adopts under the bill to guide employees in addressing and ameliorating student absences. If the intervention strategies fail, the bill generally requires an attendance officer to file a complaint in juvenile court 61 days after implementation of the intervention strategies.

**Multidisciplinary truancy team pilot program**

The bill requires the Ohio Family and Children First Cabinet Council (OFCF) to establish a multidisciplinary truancy team pilot program that would operate in lieu of the absence intervention team and intervention plan process in participating school districts for the 2017-2018 and 2018-2019 school years. The pilot program is required to include geographically diverse districts including: (1) at least two in urban counties, (2) at least one in a suburban or mid-sized county, and (3) at least one in a rural county.

A school district that intends to participate must submit an application to the OFCF that presents an agreed partnership between the district and one of a number of specified local government or nonprofit entities. Members of the team may include advocates for children and parents and local representatives from the public school system, the child welfare system, the mental health and addiction services system, and youth services agencies. Ultimately, OFCF will screen and approve teams to participate in the pilot program and collect various data from the teams on the results of the pilot program.

Before the multidisciplinary truancy team intervenes, the bill requires each participating board of education to take appropriate action under its intervention strategy. If multiple interventions are unsuccessful, the bill requires the school to refer the child to the multidisciplinary truancy team. At that point, the team must (1) assess the child to identify the underlying cause of truancy and (2) develop a plan to address barriers to school attendance that exist for the child. In addition, each team must collect and submit various data on children who are not attending school. If 60 days have elapsed since the child was referred to the team and the child is still not attending school, the team may direct the district attendance officer to file a complaint in juvenile court.

By October 31, 2019, the amendment requires the Joint Education Oversight Committee (JEOC), in consultation with OFCF, to publish a report that includes a detailed analysis of the success or failure of the pilot program and recommendations for whether to implement the pilot program on a statewide basis.

#### **Fiscal effects**

OCF will experience an increase in administrative responsibilities to establish the multidisciplinary truancy team pilot program, review applications from school districts, collect various data on the results of the pilot program, and consult with JEOC on the pilot program's report and recommendations. OCF is funded through the Department of Mental Health and Addiction Services' budget with an FY 2017 adjusted appropriation of \$516,459 in Fund 2320 line item 336621, Family and Children First Administration. Funding for this line item comes from contributions from each of the state agencies represented on the Cabinet Council.

Public school systems, partnering local governments, and individuals from the child welfare system, the mental health and addiction services system, youth services agencies, law enforcement agencies, and juvenile courts that opt to participate in the pilot program are likely to experience an increase in workload to assess each child, develop an intervention plan, and collect and submit the required data to OCF. The extent of additional work will depend on how the teams and plans are implemented. While participating teams are exempt from the bill's requirement to create and implement an absence intervention team and plan, the bill requires pilot program participants to collect and submit more extensive data than is required for public districts and schools under the absence intervention plan process.

JEOC's workload will increase to develop and publish the pilot program report and recommendations. JEOC receives its funding through GRF line item 047321, Operating Expenses. As a point of reference, its current FY 2017 adjusted appropriation is \$850,000.<sup>3</sup>

---

<sup>3</sup> JEOC's adjusted appropriation includes \$500,000 that was originally appropriated for FY 2017 in H.B. 64 of the 131st General Assembly and \$350,000 in unexpended, unencumbered FY 2016 funds reappropriated to FY 2017.

## **Juvenile courts**

Under the bill, if a child refuses to take part in or fails to make satisfactory progress on the absence intervention plan, as determined by the intervention team, or any offered alternative to adjudication, the district or school must file a complaint in the county juvenile court alleging the child is unruly. However, in such circumstances, the bill generally requires a period of 61 days to pass after the date the absence intervention plan or other intervention strategies were implemented before the attendance officer can file the complaint. If at any time during the implementation of the absence intervention plan the student is absent without legitimate excuse 30 or more consecutive hours or 42 hours or more in one school month, the bill requires an attendance officer to file a complaint in juvenile court unless the intervention team determines the student has made substantial progress on the absence intervention plan despite the student meeting the above unexcused absence thresholds. This is in contrast to current law, which only requires a child's absences to surpass the threshold for an habitual truant before the school must take an appropriate action under its absence policy or file a complaint.

Further, the bill requires a juvenile court, when a complaint is filed that a child is unruly based solely on habitual truancy, to consider an alternative to adjudication, including actions that constitute a method to divert the child from the juvenile court system, using the Rules of Juvenile Procedure, or by any other means if such an alternative is available to the court. The bill also specifies that the court must only consider the complaint as a matter of last resort. Note that the bill also permits a school district to request a juvenile court to informally enroll a child in an alternative to adjudication as part of the student's absence intervention plan.

## **Fiscal effects**

Continuing law already permits juvenile courts to assign children alleged or adjudicated to be an unruly child (including any child who is habitually truant from school) to alternative diversion programs established by the court. Presumably, the courts operating such programs consider the available alternatives in the usual course of operations. In addition, the work of the school district intervention teams and multidisciplinary truancy teams described above may result in a delay of some truancy cases as well as reduce the number of complaints that are successful. A reduction in the number of complaints in which adjudication is necessary may result in a cost savings for county juvenile courts.

The bill also requires the juvenile court to provide notice of any adjudication of an unruly child for being an habitual truant or adjudication of a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being an habitual truant to the school district and school in which the child was enrolled at the time of filing the complaint. Since most juvenile courts are already providing this notification, any additional cost to the courts will be minimal at most. The bill further requires the courts' existing annual reports to include various data on

the court-ordered alternatives to adjudication, potentially increasing the administrative workload associated with tracking the cases and compiling the reports.

### **County and municipal courts**

The bill specifies that an act that contributes to an adjudication of a child as a delinquent child because of a violation of a court order adjudicating the child as an unruly child for being an habitual truant is a first degree misdemeanor. Current law already prohibits a person from acting in a way that tends to cause a child to become an unruly or delinquent child, also a first degree misdemeanor, and subjects parents or guardians that fail to send a child to school to a fine of up to \$500 and community service of up to 70 hours. According to the Ohio Judicial Conference, violations of the bill's provision are likely to be infrequent and the cost will be minimal at most. It is likely that the revenues collected from violators (fines, court costs, and fees) will offset to some degree the costs that counties and municipalities incur to process any cases.

### **Public children services agencies**

As noted above, if a student's parent or guardian fails to respond within seven days to the attempts by school officials to secure the participation of the parent or guardian on the student's absence intervention team, the bill requires a school district to investigate whether the failure of a parent or guardian to respond triggers mandatory reporting to the appropriate PCSA. Thus, it is possible that this requirement leads to an increase in county PCSA investigation and assessment caseloads.<sup>4</sup> For the many PCSAs outside urban areas, the investigation and assessment of additional cases may result in only a slight additional cost, if any, as the rate of truant students is relatively low. However, for the PCSAs in urban counties, any additional costs to investigate and assess additional cases could be more significant.

### **State administrative costs**

The bill requires the State Board of Education to develop a model policy for violent, disruptive, or inappropriate behavior, including excessive absences, that stresses preventative strategies and alternatives to suspension or expulsion, for use by schools in complying with the modified requirements. It also requires ODE, within 180 days after the effective date of the bill, to develop materials to assist school districts in providing teacher and staff training on the implementation of the strategies included in the model policy. These requirements may increase the administrative costs of ODE, which provides administrative support to the State Board.

As noted above, the bill also makes ODE responsible for collecting data on the following occurrences beginning in the 2017-2018 school year: (1) when a parent or guardian has been notified that their student has almost reached the truancy threshold, (2) when a student actually reaches the truancy threshold, (3) when a student has been

---

<sup>4</sup> Current Ohio Department of Job and Family Services guidance for educators on child abuse and neglect suggests that school officials should exhaust other means available to them, such as truant officers and court officials, before contacting a PCSA in cases of educational neglect.

judged to be unruly and violates the court's orders regarding that judgment, and (4) when an absence intervention plan has been implemented. The collection of this data will result in additional administrative duties for ODE, the effect of which is expected to be minimal.

## **Ohio National Guard Scholarship repayment liability**

### **Background**

The Ohio National Guard (ONG) Scholarship Program provides tuition assistance to individuals who enlist, extend, or re-enlist in the ONG for a six-year period. The scholarship program pays 100% of a student's tuition at state-supported post-secondary institutions, and an amount equivalent to the average state-assisted award for students enrolled in private post-secondary institutions. The scholarship program is jointly overseen by the Department of Higher Education (DHE) and the Adjutant General. The scholarships are funded by the GRF through line item 235599, National Guard Scholarship Program, in DHE's budget.<sup>5</sup>

Currently, a scholarship recipient who does not complete the full six-year term of enlistment in the ONG is liable to the state for repayment of a pro rata portion of the scholarships paid on behalf of the recipient, plus interest. Prior to FY 2012, a scholarship recipient who enlisted in the active component, or an active reserve component, of the U.S. Armed Forces was exempt from incurring such liability for repayment. H.B. 153 of the 129th General Assembly removed this exemption so that, currently, Ohio law allows for repayment liability exemptions only if the recipient is unable to complete the recipient's term due to death or discharge from the ONG due to disability. The Attorney General, on behalf of DHE, may commence a civil action to recover repayment amounts for which a scholarship recipient is liable.

### **The bill**

#### **Repayment liability**

The bill eliminates repayment liability for an ONG Scholarship recipient who fails to complete the recipient's term of enlistment in the ONG due to enlistment in the active duty component of the U.S. Armed Forces for a term not less than the recipient's remaining term in the ONG. Furthermore, the bill applies retroactively to an ONG Scholarship recipient who became liable for repayment on or before September 30, 2016 because of enlistment in the active duty component of the U.S. Armed Forces. Specifically, the bill both eliminates future repayment liability for qualifying scholarship recipients that are currently repaying amounts owed and, within a year

---

<sup>5</sup> In addition, Fund 5BM0 line item 235623, National Guard Scholarship Reserve, is funded from the unexpended balances of prior-year GRF appropriations from line item 235599 and is used to provide scholarships when line item 235599 has insufficient funds available to make all ONG Scholarship award payments.

after the effective date of the bill, requires the state to refund any scholarship amount already repaid under current law.

Accordingly, the bill reduces potential collections associated with individuals who received or will receive the ONG Scholarship but did not or will not complete the term of enlistment. State expenditures will increase in FY 2017 and FY 2018 to refund qualifying scholarship recipients for any scholarship payments recovered under current law. The magnitude of the bill's fiscal effect is uncertain, as the ONG Scholarship Program office does not maintain information on the number of scholarship recipients who do not complete their ONG enlistment. As such, it also does not track how many active duty members of the U.S. Armed Forces currently have to repay the scholarship. Once the scholarship program office processes a debt, it is referred to the collections department of the Ohio Attorney General's Office. As a result, there may also be some administrative cost incurred to identify scholarship recipients that qualify for a refund.

The Ohio Attorney General's Office was able to provide information about the total number of debts and total amount of debts that were referred to it by the ONG Scholarship Program office for collections between FY 2010 and FY 2016. This information is provided in the table below. The provision of H.B. 153 took effect in FY 2012.

<b>ONG Scholarship Collections Certified by Attorney General, FY 2010-FY 2016</b>			
<b>Fiscal Year</b>	<b>Number of Certifications</b>	<b>Total Amount of Certified Debt</b>	<b>Total Scholarship Expenditures</b>
2010	43	\$78,336	\$15,138,429
2011	207	\$464,094	\$14,957,200
2012	111	\$310,346	\$14,839,609
2013	68	\$212,450	\$14,556,355
2014	145	\$420,049	\$18,277,706
2015	63	\$171,900	\$17,399,542
2016	60	\$289,780	\$18,941,374

#### **Disclosure requirement**

The bill requires the Adjutant General to develop and provide a written explanation that informs all eligible scholarship recipients that the recipient may become ineligible for future scholarship payments and liable for repayment for an amount of the scholarship payments received. This provision may slightly increase the Adjutant General's costs to administer the scholarship program.