

1 **SCHOOL ABSENTEEISM AND TRUANCY AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: V. Lowry Snow**

5 Senate Sponsor: Lincoln Fillmore

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to truancy.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ establishes which absences from school are considered in determining if a minor is
- 14 truant;
- 15 ▶ replaces ages to which certain provisions related to truancy apply with grade levels
- 16 to which the provisions apply;
- 17 ▶ limits the conditions under which a school district or charter school may impose
- 18 administrative penalties on a school-age child who is truant;
- 19 ▶ requires local education agencies to report certain data to the State Board of
- 20 Education; and
- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53G-6-201**, as last amended by Laws of Utah 2019, Chapter 293

- 29 **53G-6-202**, as last amended by Laws of Utah 2019, Chapter 293
- 30 **53G-6-203**, as last amended by Laws of Utah 2019, Chapter 293
- 31 **53G-6-204**, as last amended by Laws of Utah 2019, Chapter 293
- 32 **53G-6-205**, as last amended by Laws of Utah 2019, Chapter 293
- 33 **53G-6-206**, as last amended by Laws of Utah 2019, Chapter 293
- 34 **53G-6-208**, as last amended by Laws of Utah 2019, Chapter 293
- 35 **53G-8-210**, as last amended by Laws of Utah 2019, Chapter 293
- 36 **53G-8-211**, as last amended by Laws of Utah 2019, Chapter 293

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **53G-6-201** is amended to read:

40 **53G-6-201. Definitions.**

41 [~~For purposes of~~] As used in this part:

42 (1) (a) "Absence" or "absent" means~~[, consistent with Subsection (1)(b);]~~ the failure of
43 a school-age [minor] child assigned to a class or class period to attend [the entire] a class or
44 class period.

45 [~~(b) A school-age minor may not be considered absent under this part more than one~~
46 ~~time during one day.]~~

47 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
48 for the sake of a truancy.

49 [~~(2) "Habitual truant" means a school-age minor who:]~~

50 [~~(a) is at least 12 years old;]~~

51 [~~(b) is subject to the requirements of Section **53G-6-202**; and]~~

52 [~~(c) (i) is truant at least 10 times during one school year; or]~~

53 [~~(ii) fails to cooperate with efforts on the part of school authorities to resolve the~~
54 ~~minor's attendance problem as required under Section **53G-6-206**.]~~

55 [~~(3)~~] (2) "Minor" means a person under the age of 18 years.

56 ~~[(4)]~~ (3) "Parent" includes:
57 (a) a custodial parent of the minor;
58 (b) a legally appointed guardian of a minor; or
59 (c) any other person purporting to exercise any authority over the minor which could be
60 exercised by a person described in Subsection ~~[(4)(a)]~~ (3)(a) or (b).

61 (4) "School day" means the portion of a day that school is in session in which a
62 school-age child is required to be in school for purposes of receiving instruction.

63 ~~[(5) "School-age minor" means a minor who:]~~
64 ~~[(a) is at least six years old, but younger than 18 years old; and]~~
65 ~~[(b) is not emancipated.]~~

66 ~~[(6)]~~ (5) "School year" means the period of time designated by a local school board or
67 charter school governing board as the school year for the school where the school-age ~~[minor]~~
68 child:

69 (a) is enrolled; or
70 (b) should be enrolled, if the school-age ~~[minor]~~ child is not enrolled in school.

71 (6) "School-age child" means a minor who:
72 (a) is at least six years old but younger than 18 years old; and
73 (b) is not emancipated.

74 (7) ~~(a)~~ "Truant" means ~~[absent without a valid excuse.]~~ a condition in which a
75 school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:

76 (i) half of the school day; or
77 (ii) if the school-age child is enrolled in a learner verified program, as that term is
78 defined by the state board, the relevant amount of time under the LEA's policy regarding the
79 LEA's continuing enrollment measure as it relates to truancy.

80 (b) A school-age child may not be considered truant under this part more than one time
81 during one day.

82 (8) "Truant minor" means a school-age ~~[minor]~~ child who:

83 (a) is subject to the requirements of Section [53G-6-202](#) or [53G-6-203](#); and
84 (b) is truant.

85 (9) (a) "Valid excuse" means:
86 ~~[(a)]~~ (i) an illness, which may be either mental or physical;
87 ~~[(b)]~~ (ii) a family death;
88 ~~[(c)]~~ (iii) an approved school activity;
89 ~~[(d)]~~ (iv) an absence permitted by a school-age ~~[minor's]~~ child's:
90 ~~[(i)]~~ (A) individualized education program~~[- developed pursuant to the Individuals with~~
91 ~~Disabilities Education Improvement Act of 2004, as amended];~~ or
92 ~~[(ii)]~~ (B) Section 504 accommodation plan~~[- developed pursuant to Section 504 of the~~
93 ~~Rehabilitation Act of 1973, as amended; or];~~
94 (v) an absence permitted in accordance with Subsection [53G-6-803\(5\)](#); or
95 ~~[(e)]~~ (vi) any other excuse established as valid by a local school board, charter school
96 governing board, or school district.

97 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason
98 other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted
99 by the local school board, charter school governing board, or school district under Subsection
100 (9)(a)(vi).

101 Section 2. Section **53G-6-202** is amended to read:
102 **53G-6-202. Compulsory education.**

103 (1) For purposes of this section:
104 (a) "Intentionally" ~~[is as]~~ means the same as that term is defined in Section [76-2-103](#).
105 ~~[(b)]~~ "Recklessly" is as defined in Section [76-2-103](#);
106 (b) "Notice of compulsory education violation" means a notice issued in accordance
107 with Subsections (3) and (4).

108 (c) "Remainder of the school year" means the portion of the school year beginning on
109 the day after the day on which ~~[the]~~ a notice of compulsory education violation ~~[described in~~

110 Subsection (3)] is served and ending on the last day of the school year.

111 [~~(d) "School-age child" means a school-age minor under the age of 14.~~]

112 (2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age
 113 [~~minor~~] child shall enroll and send the school-age [~~minor~~] child to a public or regularly
 114 established private school.

115 (3) A school administrator, a designee of a school administrator, a law enforcement
 116 officer acting as a school resource officer, or a truancy specialist may only issue a notice of
 117 compulsory education violation to a parent of a school-age child if the school-age child is:

118 (a) in grade 1 through 6; and

119 (b) [~~absent without a valid excuse~~] truant at least five times during the school year.

120 (4) [~~The~~] A notice of compulsory education violation[~~, described in Subsection (3)]~~
 121 issued to a parent:

122 (a) shall direct the parent [~~of the school-age child~~] to:

123 (i) meet with school authorities to discuss the school-age child's school attendance
 124 problems; and

125 (ii) cooperate with the local school board, charter school governing board, or school
 126 district in securing regular attendance by the school-age child;

127 (b) shall designate the school authorities with whom the parent is required to meet;

128 (c) shall state that it is a class B misdemeanor for the parent [~~of the school-age child~~] to
 129 intentionally or [~~recklessly~~] without good cause:

130 (i) fail to meet with the designated school authorities to discuss the school-age child's
 131 school attendance problems; or

132 (ii) fail to prevent the school-age child from being [~~absent without a valid excuse~~]
 133 truant five or more times during the remainder of the school year;

134 (d) shall be served on the [~~school-age child's~~] parent by personal service or certified
 135 mail; and

136 (e) may not be issued unless the school-age child has been truant at least five times

137 during the school year.

138 (5) It is a class B misdemeanor for a parent of a school-age [~~minor~~] child to
139 intentionally or [~~recklessly~~] without good cause fail to enroll the school-age [~~minor~~] child in
140 school, unless the school-age [~~minor~~] child is exempt from enrollment under Section
141 53G-6-204 or 53G-6-702.

142 (6) It is a class B misdemeanor for a parent of a school-age child who is in grade 1
143 through 6 to, after being served with a notice of compulsory education violation [~~in accordance~~
144 ~~with Subsections (3) and (4)~~], intentionally or [~~recklessly~~] without good cause:

145 (a) fail to meet with the school authorities designated in the notice of compulsory
146 education violation to discuss the school-age child's school attendance problems; or

147 (b) fail to prevent the school-age child from being [~~absent without a valid excuse~~]
148 truant five or more times during the remainder of the school year.

149 (7) A local school board, charter school governing board, or school district shall report
150 violations of this section to the appropriate county or district attorney.

151 (8) If school personnel have reason to believe that, after a notice of compulsory
152 education violation is issued, the parent has failed to make a good faith effort to ensure that the
153 school-age child receives an appropriate education, the issuer of the compulsory education
154 violation shall report to the Division of Child and Family Services:

155 (a) identifying information of the school-age child and the [~~child's~~] parent who
156 received the notice of compulsory education violation;

157 (b) information regarding the longest number of consecutive school days the
158 school-age [~~minor~~] child has been absent or truant from school and the percentage of school
159 days the school-age child has been absent or truant during each relevant school term;

160 (c) whether the school-age child has made adequate educational progress;

161 (d) whether the requirements of Section 53G-6-206 have been met;

162 (e) whether the school-age child is two or more years behind the local public school's
163 age group expectations in one or more basic skills; and

164 (f) whether the school-age child is receiving special education services or systematic
165 remediation efforts.

166 Section 3. Section **53G-6-203** is amended to read:

167 **53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school**
168 **authorities.**

169 (1) Except as provided in Section **53G-6-204** or **53G-6-702**, a school-age [~~minor~~] child
170 who is enrolled in a public school shall attend the public school in which the school-age
171 [~~minor~~] child is enrolled.

172 (2) [~~A~~] In accordance with Section **53G-8-211**, a local school board, charter school
173 governing board, or school district may impose administrative penalties on a school-age [~~minor~~
174 in accordance with Section **53G-8-211**] child who is:

175 (a) in grade 7 or above, unless the school-age child is less than 12 years old; and

176 (b) truant.

177 (3) A local school board or charter school governing board:

178 (a) may authorize a school administrator, a designee of a school administrator, a law
179 enforcement officer acting as a school resource officer, or a truancy specialist to issue [~~notices~~]
180 a notice of truancy [to school-age minors who are at least 12 years old] in accordance with
181 Subsection (4); and

182 (b) shall establish a procedure for a school-age [~~minor~~] child, or the school-age
183 [~~minor's~~] child's parents, to contest a notice of truancy.

184 (4) [~~The~~] A notice of truancy described in Subsection (3):

185 (a) may not be issued until [~~the~~] a school-age [~~minor~~] child has been truant at least five
186 times during the school year;

187 (b) may not be issued to a school-age [~~minor~~] child who is less than 12 years old or in a
188 grade below grade 7;

189 (c) may not be issued to a [~~minor~~] school-age child exempt from school attendance as
190 provided in Section **53G-6-204** or **53G-6-702**;

191 (d) shall direct the school-age [minor] child who receives the notice of truancy and the
192 parent of the school-age [minor] child to:

193 (i) meet with school authorities to discuss the school-age [minor's] child's truancies;
194 and

195 (ii) cooperate with the local school board, charter school governing board, or school
196 district in securing regular attendance by the school-age [minor] child; and

197 (e) shall be mailed to, or served on, the school-age [minor's] child's parent.

198 (5) Nothing in this part prohibits a local school board, charter school governing board,
199 or school district from taking action to resolve a truancy problem with a school-age [minor]
200 child who has been truant [less] fewer than five times, provided that the action does not
201 conflict with the requirements of this part.

202 Section 4. Section **53G-6-204** is amended to read:

203 **53G-6-204. School-age children exempt from school attendance.**

204 (1) (a) A local school board or charter school governing board may excuse a school-age
205 [minor] child from attendance for any of the following reasons:

206 (i) a school-age [minor] child over age 16 may receive a partial release from school to
207 enter employment, or attend a trade school, if the school-age [minor] child has completed grade
208 8; or

209 (ii) on an annual basis, a school-age [minor] child may receive a full release from
210 attending a public, regularly established private, or part-time school or class if:

211 (A) the school-age [minor] child has already completed the work required for
212 graduation from high school, or has demonstrated mastery of required skills and competencies
213 in accordance with Subsection **53F-2-501**(1);

214 (B) the school-age [minor] child is in a physical or mental condition, certified by a
215 competent physician if required by the local school board or charter school governing board,
216 which renders attendance inexpedient and impracticable;

217 (C) proper influences and adequate opportunities for education are provided in

218 connection with the school-age [minor's] child's employment; or

219 (D) the district superintendent or charter school governing board has determined that a
220 school-age [minor] child over the age of 16 is unable to profit from attendance at school
221 because of inability or a continuing negative attitude toward school regulations and discipline.

222 (b) A school-age [minor] child receiving a partial release from school under Subsection
223 (1)(a)(i) is required to attend:

224 (i) school part time as prescribed by the local school board or charter school governing
225 board; or

226 (ii) a home school part time.

227 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
228 must be sufficient to satisfy the local school board or charter school governing board.

229 (d) A local school board or charter school governing board that excuses a school-age
230 [minor] child from attendance as provided by this Subsection (1) shall issue a certificate that
231 the [minor] child is excused from attendance during the time specified on the certificate.

232 (2) (a) A local school board shall excuse a school-age [minor] child from attendance, if
233 the school-age [minor's] child's parent files a signed and notarized affidavit with the school-age
234 [minor's] child's school district of residence, as defined in Section 53G-6-302, that:

235 (i) the school-age [minor] child will attend a home school; and

236 (ii) the parent assumes sole responsibility for the education of the school-age [minor]
237 child, except to the extent the school-age [minor] child is dual enrolled in a public school as
238 provided in Section 53G-6-702.

239 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
240 remain in effect as long as:

241 (i) the school-age [minor] child attends a home school; and

242 (ii) the school district where the affidavit was filed remains the school-age [minor's]
243 child's district of residence.

244 (c) A parent of a school-age [minor] child who attends a home school is solely

245 responsible for:

246 (i) the selection of instructional materials and textbooks;

247 (ii) the time, place, and method of instruction; and

248 (iii) the evaluation of the home school instruction.

249 (d) A local school board may not:

250 (i) require a parent of a school-age [~~minor~~] child who attends a home school to

251 maintain records of instruction or attendance;

252 (ii) require credentials for individuals providing home school instruction;

253 (iii) inspect home school facilities; or

254 (iv) require standardized or other testing of home school students.

255 (e) Upon the request of a parent, a local school board shall identify the knowledge,

256 skills, and competencies a student is recommended to attain by grade level and subject area to

257 assist the parent in achieving college and career readiness through home schooling.

258 (f) A local school board that excuses a school-age [~~minor~~] child from attendance as

259 provided by this Subsection (2) shall annually issue a certificate stating that the school-age

260 [~~minor~~] child is excused from attendance for the specified school year.

261 (g) A local school board shall issue a certificate excusing a school-age [~~minor~~] child

262 from attendance:

263 (i) within 30 days after receipt of a signed and notarized affidavit filed by the

264 school-age [~~minor's~~] child's parent pursuant to this Subsection (2); and

265 (ii) on or before August 1 each year thereafter unless:

266 (A) the school-age [~~minor~~] child enrolls in a school within the school district;

267 (B) the school-age [~~minor's~~] child's parent notifies the school district that the

268 school-age [~~minor~~] child no longer attends a home school; or

269 (C) the school-age [~~minor's~~] child's parent notifies the school district that the

270 school-age [~~minor's~~] child's school district of residence has changed.

271 (3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a)

272 is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

273 (4) Nothing in this section may be construed to prohibit or discourage voluntary
274 cooperation, resource sharing, or testing opportunities between a school or school district and a
275 parent of a [minor] child attending a home school.

276 Section 5. Section 53G-6-205 is amended to read:

277 **53G-6-205. Preapproval of extended absence.**

278 In determining whether to preapprove an extended absence of a school-age [minor]
279 child as a valid excuse [~~under Subsection 53G-6-201(9)(c)~~], a local school board, charter
280 school governing board, or school district shall approve the absence if the local school board,
281 charter school governing board, or school district determines that the extended absence will not
282 adversely impact the school-age [minor's] child's education.

283 Section 6. Section 53G-6-206 is amended to read:

284 **53G-6-206. Duties of a local school board, charter school governing board, or**
285 **school district in resolving attendance problems -- Parental involvement -- Liability not**
286 **imposed -- Report to state board.**

287 (1) (a) [~~Except as provided in~~] Subject to Subsection (1)(b), a local school board,
288 charter school governing board, or school district shall make efforts to resolve the school
289 attendance problems of each school-age [minor] child who is, or should be, enrolled in the
290 school district.

291 (b) A [minor] school-age child exempt from school attendance under Section
292 53G-6-204 or 53G-6-702 is not considered to be a [minor] school-age child who is or should
293 be enrolled in a school district or charter school under Subsection (1)(a).

294 (2) The efforts described in Subsection (1) shall include, as reasonably feasible:

295 (a) counseling of the [minor] school-age child by school authorities;

296 (b) (i) issuing a notice of truancy to [~~a~~] the school-age [minor who is at least 12 years
297 ~~old,~~] child in accordance with Section 53G-6-203; or

298 [(c)] (ii) issuing a notice of compulsory education violation to [~~a~~] the school-age child's

299 parent ~~[of a school-age child,]~~ in accordance with Section [53G-6-202](#);
300 ~~[(d)]~~ (c) making any necessary adjustment to the curriculum and schedule to meet
301 special needs of the ~~[minor]~~ school-age child;
302 ~~[(e)]~~ (d) considering alternatives proposed by ~~[a]~~ the school-age child's parent;
303 ~~[(f)]~~ (e) monitoring school attendance of the ~~[minor]~~ school-age child;
304 ~~[(g)]~~ (f) voluntary participation in truancy mediation, if available; and
305 ~~[(h)]~~ (g) providing ~~[a]~~ the school-age ~~[minor's]~~ child's parent, upon request, with a list
306 of resources available to assist the parent in resolving the school-age ~~[minor's]~~ child's
307 attendance problems.

308 (3) In addition to the efforts described in Subsection (2), the local school board, charter
309 school governing board, or school district may enlist the assistance of community and law
310 enforcement agencies as appropriate and reasonably feasible in accordance with Section
311 [53G-8-211](#).

312 (4) This section does not impose civil liability on boards of education, local school
313 boards, charter school governing boards, school districts, or their employees.

314 (5) Proceedings initiated under this part do not obligate or preclude action by the
315 Division of Child and Family Services under Section [78A-6-319](#).

316 (6) Each LEA shall annually report the following data separately to the state board:

317 (a) absences with a valid excuse; and

318 (b) absences without a valid excuse.

319 Section 7. Section **53G-6-208** is amended to read:

320 **53G-6-208. Taking custody of a person believed to be a truant minor --**

321 **Disposition -- Reports -- Immunity from liability.**

322 (1) A peace officer or public school administrator may take a minor into temporary
323 custody if there is reason to believe the minor is a truant minor.

324 (2) An individual taking a ~~[school-age]~~ presumed truant minor into custody under
325 Subsection (1) shall, without unnecessary delay, release the minor to:

- 326 (a) the principal of the minor's school;
- 327 (b) a person who has been designated by the local school board or charter school
- 328 governing board to receive and return the minor to school; or
- 329 (c) a truancy center established under Subsection (5).
- 330 (3) If the minor refuses to return to school or go to the truancy center, the officer or
- 331 administrator shall, without unnecessary delay, notify the minor's parents and release the minor
- 332 to their custody.
- 333 (4) If the parents cannot be reached or are unable or unwilling to accept custody and
- 334 none of the options in Subsection (2) are available, the minor shall be referred to the Division
- 335 of Child and Family Services.
- 336 (5) (a) (i) A local school board or charter school governing board, singly or jointly with
- 337 another school board, may establish or designate truancy centers within existing school
- 338 buildings and staff the centers with existing teachers or staff to provide educational guidance
- 339 and counseling for truant minors.
- 340 (ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify
- 341 and direct the minor's parents to come to the center, pick up the minor, and return the minor to
- 342 the school in which the minor is enrolled.
- 343 (b) (i) If the parents cannot be reached or are unable or unwilling to comply with the
- 344 request within a reasonable time, the center shall take such steps as are reasonably necessary to
- 345 insure the safety and well being of the minor, including, when appropriate, returning the minor
- 346 to school or referring the minor to the Division of Child and Family Services.
- 347 (ii) A minor taken into custody under this section may not be placed in a detention
- 348 center or other secure confinement facility.
- 349 (6) (a) Action taken under this section shall be reported to the appropriate school
- 350 district.
- 351 (b) The district shall promptly notify the minor's parents of the action taken.
- 352 (7) The Utah Governmental Immunity Act applies to all actions taken under this

353 section.

354 (8) Nothing in this section may be construed to grant authority to a public school
355 administrator to place a minor in the custody of the Division of Child and Family Services,
356 without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A,
357 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

358 Section 8. Section **53G-8-210** is amended to read:

359 **53G-8-210. Disruptive student behavior.**

360 (1) As used in this section:

361 (a) "Disruptive student behavior" includes:

362 (i) the grounds for suspension or expulsion described in Section [53G-8-205](#); and

363 (ii) the conduct described in Subsection [53G-8-209\(2\)\(b\)](#).

364 (b) "Parent" includes:

365 (i) a custodial parent of a school-age ~~minor~~ child;

366 (ii) a legally appointed guardian of a school-age ~~minor~~ child; or

367 (iii) any other person purporting to exercise any authority over the ~~minor~~ child which
368 could be exercised by a person described in Subsection (1)(b)(i) or (ii).

369 (c) "Qualifying minor" means a school-age ~~minor~~ child who:

370 (i) is at least nine years old; or

371 (ii) turns nine years old at any time during the school year.

372 (d) "School year" means the period of time designated by a local school board or
373 charter school governing board as the school year for the school where the school-age ~~minor~~
374 child is enrolled.

375 (e) "School-age child" means the same as that term is defined in Section [53G-6-201](#).

376 (2) A local school board, school district, charter school governing board, or charter
377 school may impose administrative penalties in accordance with Section [53G-8-211](#) on a
378 school-age ~~minor~~ child who violates this part.

379 (3) (a) A local school board or charter school governing board shall:

380 (i) authorize a school administrator or a designee of a school administrator to issue
381 notices of disruptive student behavior to qualifying minors; and

382 (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to
383 contest a notice of disruptive student behavior.

384 (b) A school representative shall provide to a parent of a school-age [~~minor~~] child, a
385 list of resources available to assist the parent in resolving the school-age minor's disruptive
386 student behavior problem.

387 (c) A local school board or charter school governing board shall establish procedures
388 for a school counselor or other designated school representative to work with a qualifying
389 minor who engages in disruptive student behavior in order to attempt to resolve the minor's
390 disruptive student behavior problems.

391 (4) The notice of disruptive student behavior described in Subsection (3)(a):

392 (a) shall be issued to a qualifying minor who:

393 (i) engages in disruptive student behavior, that does not result in suspension or
394 expulsion, three times during the school year; or

395 (ii) engages in disruptive student behavior, that results in suspension or expulsion, once
396 during the school year;

397 (b) shall require that the qualifying minor and a parent of the qualifying minor:

398 (i) meet with school authorities to discuss the qualifying minor's disruptive student
399 behavior; and

400 (ii) cooperate with the local school board or charter school governing board in
401 correcting the [~~school-age~~] qualifying minor's disruptive student behavior; and

402 (c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

403 (5) A habitual disruptive student behavior notice:

404 (a) may only be issued to a qualifying minor who:

405 (i) engages in disruptive student behavior, that does not result in suspension or
406 expulsion, at least six times during the school year;

407 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
408 expulsion, at least three times during the school year; and

409 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
410 least once during the school year; or

411 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
412 least twice during the school year; and

413 (b) may only be issued by a school administrator, a designee of a school administrator,
414 or a truancy specialist, who is authorized by a local school board or charter school governing
415 board to issue a habitual disruptive student behavior notice.

416 (6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is
417 issued under Subsection (5) may not be referred to the juvenile court.

418 (b) Within five days after the day on which a habitual disruptive student behavior
419 notice is issued, a representative of the school district or charter school shall provide
420 documentation, to a parent of the qualifying minor who receives the notice, of the efforts made
421 by a school counselor or representative under Subsection (3)(c).

422 Section 9. Section **53G-8-211** is amended to read:

423 **53G-8-211. Responses to school-based behavior.**

424 (1) As used in this section:

425 (a) "Evidence-based" means a program or practice that has:

426 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
427 program or practice is effective for a specific population;

428 (ii) been rated as effective by a standardized program evaluation tool; or

429 (iii) been approved by the state board.

430 (b) "Habitual truant" means a school-age child who:

431 (i) is in grade 7 or above, unless the school-age child is less than 12 years old;

432 (ii) is subject to the requirements of Section [53G-6-202](#); and

433 (iii) (A) is truant at least 10 times during one school year; or

434 (B) fails to cooperate with efforts on the part of school authorities to resolve the
435 school-age child's attendance problem as required under Section [53G-6-206](#).

436 ~~[(b)]~~ (c) "Mobile crisis outreach team" means the same as that term is defined in
437 Section [78A-6-105](#).

438 ~~[(c)]~~ (d) "Restorative justice program" means a school-based program or a program
439 used or adopted by a local education agency that is designed to enhance school safety, reduce
440 school suspensions, and limit referrals to court, and is designed to help minors take
441 responsibility for and repair the harm of behavior that occurs in school.

442 ~~[(d)]~~ (e) "School administrator" means a principal of a school.

443 ~~[(e)]~~ (f) "School is in session" means a day during which the school conducts
444 instruction for which student attendance is counted toward calculating average daily
445 membership.

446 ~~[(f)]~~ (g) "School resource officer" means a law enforcement officer, as defined in
447 Section [53-13-103](#), who contracts with, is employed by, or whose law enforcement agency
448 contracts with a local education agency to provide law enforcement services for the local
449 education agency.

450 (h) "School-age child" means the same as that term is defined in Section [53G-6-201](#).

451 ~~[(g)]~~ (i) (i) "School-sponsored activity" means an activity, fundraising event, club,
452 camp, clinic, or other event or activity that is authorized by a specific local education agency or
453 public school, according to LEA governing board policy, and satisfies at least one of the
454 following conditions:

455 (A) the activity is managed or supervised by a local education agency or public school,
456 or local education agency or public school employee;

457 (B) the activity uses the local education agency or public school's facilities, equipment,
458 or other school resources; or

459 (C) the activity is supported or subsidized, more than inconsequentially, by public
460 funds, including the public school's activity funds or Minimum School Program dollars.

461 (ii) "School-sponsored activity" includes preparation for and involvement in a public
462 performance, contest, athletic competition, demonstration, display, or club activity.

463 ~~(h)~~ (j) (i) "Status offense" means a violation of the law that would not be a violation
464 but for the age of the offender.

465 (ii) Notwithstanding Subsection (1)~~(h)~~(j)(i), a status offense does not include a
466 violation that by statute is made a misdemeanor or felony.

467 (2) This section applies to a minor enrolled in school who is alleged to have committed
468 an offense at the school where the student is enrolled:

469 (a) on school property where the student is enrolled:

470 (i) when school is in session; or

471 (ii) during a school-sponsored activity; or

472 (b) that is truancy.

473 (3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense
474 on school property, or truancy, the minor may not be referred to law enforcement or court but
475 may be referred to evidence-based alternative interventions, including:

476 (i) a mobile crisis outreach team, as defined in Section 78A-6-105;

477 (ii) a receiving center operated by the Division of Juvenile Justice Services in
478 accordance with Section 62A-7-104;

479 (iii) a youth court or comparable restorative justice program;

480 (iv) evidence-based interventions created and developed by the school or school
481 district; and

482 (v) other evidence-based interventions that may be jointly created and developed by a
483 local education agency, the state board, the juvenile court, local counties and municipalities,
484 the Department of Health, or the Department of Human Services.

485 (b) Notwithstanding Subsection (3)(a), a school resource officer may:

486 (i) investigate possible criminal offenses and conduct, including conducting probable
487 cause searches;

488 (ii) consult with school administration about the conduct of a minor enrolled in a
489 school;

490 (iii) transport a minor enrolled in a school to a location if the location is permitted by
491 law;

492 (iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or

493 (v) protect the safety of students and the school community, including the use of
494 reasonable and necessary physical force when appropriate based on the totality of the
495 circumstances.

496 (c) Notwithstanding other provisions of this section, a law enforcement officer who has
497 cause to believe a minor has committed an offense on school property when school is not in
498 session nor during a school-sponsored activity, the law enforcement officer may refer the minor
499 to court or may refer the minor to evidence-based alternative interventions at the discretion of
500 the law enforcement officer.

501 (4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this
502 Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor
503 committed on school property or for being a habitual truant[~~, as defined in Section 53G-6-201,~~]
504 if the minor refuses to participate in an evidence-based alternative intervention described in
505 Subsection (3)(a).

506 (b) (i) When a minor is referred to court under Subsection (4)(a), the school shall
507 appoint a school representative to continue to engage with the minor and the minor's family
508 through the court process.

509 (ii) A school representative appointed under this Subsection (4)(b) may not be a school
510 resource officer.

511 (c) A school district or school shall include the following in its referral to the court:

512 (i) attendance records for the minor;

513 (ii) a report of evidence-based alternative interventions used by the school before
514 referral, including outcomes;

515 (iii) the name and contact information of the school representative assigned to actively
516 participate in the court process with the minor and the minor's family; and

517 (iv) any other information the school district or school considers relevant.

518 (d) A minor referred to court under this Subsection (4), may not be ordered to or placed
519 in secure detention, including for a contempt charge or violation of a valid court order under
520 Section [78A-6-1101](#) when the underlying offense is a class C misdemeanor occurring on
521 school property or habitual truancy.

522 (e) If a minor is referred to court under this Subsection (4), the court may use, when
523 available, the resources of the Division of Juvenile Justice Services or the Division of
524 Substance Abuse and Mental Health to address the minor.

525 (5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the
526 minor may be referred directly to the juvenile court by the school administrator, the school
527 administrator's designee, or a school resource officer, or the minor may be referred to the
528 evidence-based alternative interventions in Subsection (3)(a).