

HOUSE BILL No. 2103

By Committee on Education

Requested by Representative Moser

1-27

1 AN ACT concerning education; relating to school attendance; including
2 participation in certain learning experiences and agricultural science
3 activities as a valid excuse for absence from school; authorizing school
4 boards to make rules therefor; amending K.S.A. 72-3121 and repealing
5 the existing section.
6

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

8 Section 1. K.S.A. 72-3121 is hereby amended to read as follows: 72-
9 3121. (a) Each board of education shall designate one or more employees
10 who shall report to the secretary for children and families, or a designee
11 thereof, or to the appropriate county or district attorney pursuant to an
12 agreement as provided in this section, all cases of children who are less
13 than 13 years of age and are not attending school as required by law, and
14 to the appropriate county or district attorney, or a designee thereof, all
15 cases of children who are 13 or more years of age but less than 18 years of
16 age and are not attending school as required by law. The designation shall
17 be made no later than September 1 of each school year and shall be
18 certified no later than 10 days thereafter by the board of education to the
19 secretary for children and families, or the designee thereof, to the county
20 or district attorney, or the designee thereof, and to the commissioner of
21 education. The commissioner of education shall compile and maintain a
22 list of the designated employees of each board of education. The local area
23 office of the Kansas department for children and families may enter into an
24 agreement with the appropriate county or district attorney to provide that
25 the designated employees of such board of education shall make the report
26 as provided in this section for all cases of children who are less than 13
27 years of age and are not attending school as provided by law to the county
28 or district attorney in lieu of the secretary, or the secretary's designee. If
29 such agreement is made, the county or district attorney shall carry out all
30 duties as otherwise provided by this subsection conferred on the secretary
31 or the secretary's designee. A copy of such agreement shall be provided to
32 the director of such area office of the Kansas department for children and
33 families and to the school districts affected by the agreement.

34 (b) Whenever a child is required by law to attend school, and the
35 child is not enrolled in a public or nonpublic school, the child shall be

1 considered to be not attending school as required by law and a report
2 thereof shall be made in accordance with the provisions of subsection (a)
3 by a designated employee of the board of education of the school district
4 in which the child resides. The provisions of this subsection are subject to
5 the provisions of subsection (d).

6 (c) (1) Whenever a child is required by law to attend school and is
7 enrolled in school, and the child is inexcusably absent therefrom on either
8 three consecutive school days or five school days in any semester or seven
9 school days in any school year, whichever of the foregoing occurs first, the
10 child shall be considered to be not attending school as required by law. A
11 child is inexcusably absent from school if the child is absent therefrom all
12 or a significant part of a school day without a valid excuse acceptable to
13 the school employee designated by the board of education to have
14 responsibility for the school attendance of such child.

15 (2) (A) *For the purpose of this section, each board of education shall*
16 *adopt rules for determination of valid excuse for absence from school and*
17 *for determination of, what shall constitute constitutes a "significant part of*
18 *a school day" for the purpose of this section and absences related to*
19 *participation in a learning experience.*

20 (B) *Participation in a learning experience that is approved in*
21 *advance by the employee designated pursuant to paragraph (3) shall be a*
22 *valid excuse for absence from school. The board of education may limit*
23 *the number of absences that may be approved as a valid excuse for*
24 *absence from school as part of the rules adopted by such board. As used in*
25 *this paragraph, "learning experience" includes, but is not limited to,*
26 *agricultural science activities, scheduled FFA events not otherwise*
27 *excused by a school district's rules or policies and 4-H programs that are*
28 *part of organized competitions or events.*

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

34 (4) Whenever a determination is made in accordance with the
35 provisions of this subsection that a child is not attending school as required
36 by law, the designated employee who is responsible for such determination
37 shall make a report thereof in accordance with the provisions of subsection
38 (a), provided that the report would not violate the terms of the
39 memorandum of understanding approved by the superintendent of the
40 school district pursuant to K.S.A. 72-6143(i), and amendments thereto.

41 (5) The provisions of this subsection are subject to the provisions of
42 subsection (d).

43 (d) (1) Prior to making any report under this section that a child is not

1 attending school as required by law, the designated employee of the board
2 of education shall serve written notice thereof, by personal delivery or by
3 first class mail, upon a parent or person acting as parent of the child. The
4 notice shall inform the parent or person acting as parent that continued
5 failure of the child to attend school without a valid excuse will result in a
6 report being made to the secretary for children and families or to the
7 county or district attorney. Upon failure, ~~on the school day next succeeding~~
8 ~~personal delivery of the notice or within three school days after the notice~~
9 ~~was mailed,~~ of attendance at school by the child or of an acceptable
10 response, as determined by the designated employee, *on the school day*
11 *next succeeding personal delivery of the notice or within three school days*
12 *after the notice was mailed* ~~to the notice~~ by a parent or person acting as
13 parent of the child, the designated employee shall make a report thereof in
14 accordance with the provisions of subsection (a). The designated employee
15 shall submit with the report a certificate verifying the manner in which
16 notice was provided to the parent or person acting as parent.

17 (2) Whenever a law enforcement officer assumes temporary custody
18 of a child who is found away from home or school without a valid excuse
19 during the hours school is actually in session, and the law enforcement
20 officer delivers the child to the school in which the child is enrolled or to a
21 location designated by the school in which the child is enrolled to address
22 truancy issues, the designated employee of the board of education shall
23 serve notice thereof upon a parent or person acting as parent of the child.
24 The notice may be oral or written and shall inform the parent or person
25 acting as parent of the child that the child was absent from school without
26 a valid excuse and was delivered to school by a law enforcement officer.

27 (e) Whenever the secretary for children and families receives a report
28 required under this section, the secretary shall investigate the matter. If,
29 during the investigation, the secretary determines that the reported child is
30 not attending school as required by law, the secretary shall institute
31 proceedings under the revised Kansas code for care of children. If, during
32 the investigation, the secretary determines that a criminal prosecution
33 should be considered, the secretary shall make a report of the case to the
34 appropriate law enforcement agency.

35 (f) Whenever a county or district attorney receives a report required
36 under this section, the county or district attorney shall investigate the
37 matter. If, during the investigation, the county or district attorney
38 determines that the reported child is not attending school as required by
39 law, the county or district attorney shall prepare and file a petition alleging
40 that the child is a child in need of care. If, during the investigation, the
41 county or district attorney determines that a criminal prosecution is
42 necessary, the county or district attorney shall commence such action.

43 (g) As used in this section, "board of education" means the board of

1 education of a school district or the governing authority of a nonpublic
2 school. The provisions of this act shall apply to both public and nonpublic
3 schools.

4 Sec. 2. K.S.A. 72-3121 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.