

Truancy Laws

Frank E. Vandervort
University of Michigan Law School

Agenda

- Michigan Law
 - Family court jurisdiction
 - District court jurisdiction
- Proposed statewide definitions

Family Court Definition

- Focus of family court proceeding is typically the juvenile
 - Juvenile Code provides child protective jurisdiction over children where issue is neglect
 - The school system could file a neglect petition alleging parental neglect for failure to get a child to school
- A status offense
 - An offense that based on the age of the individual's status as a minor
 - Quasi-delinquency

Status Offenses--Disposition

- Status offenses have limited dispositional options for the court
 - JJDP prohibits secure placements for status offenses
- Bootstrapping
 - JJDP permits the court to place in secure detention a juvenile who violates a "valid court order"

Juvenile Code [MCL 712A.2(a)(4)]

"The juvenile **willfully and repeatedly** absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, **or repeatedly violates rules and regulations of the school** or other learning program and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and the school officials or learning program personnel **have met on the juvenile's educational problems and educational counseling and alternative agency help** have been sought. . . ."



Elements of Truancy

- Juvenile
 - 1) willfully and repeatedly absents him- herself from school or appropriate learning program
 - or
 - repeatedly violates school rules or regulations (e.g., tardy for class); and
 - 2) the parent, youth, school have met to address the problem; and
 - 3) Educational counseling has been sought; and
 - 4) Alternative agency help has been sought



Truancy Statute Vague

- But not unconstitutionally so--
- "Willfully and repeatedly absences"
 - "Willful"—not defined in statute
 - Dictionary—"done deliberately"
 - "Repeatedly"—not defined
 - Dictionary—"again and again"
- Repeatedly violates the rules and regulations
 - Tardiness
 - Other behavioral problems
 - If child has IEP, must exhaust administrative remedies in school code before seeking family court jurisdiction. *Flint Bd of Ed v Williams*, 88 Mich. Pp. 499 (1979).
 - IDEA
- No standard of evidence is specified

Truancy-Michigan Law

- The juvenile, the parent, and school personnel must have met to address the juvenile's educational issues
 - See MCL 380.1586 (directing attendance officer to investigate, etc.)
 - Document—setting the meeting, the results of the meeting
 - Seek to identify the cause(s) of the juvenile's truancy
- Educational counseling sought
- Alternative agency help
 - Community dispute resolution centers (mediation)

Disposition

- If juvenile is found to be truant, court has jurisdiction until age 19, if necessary.
 - In practice, courts typically don't maintain jurisdiction for this length of time

Q&A / Discussion

District Court

- MCL 380.1561
 - If 11 yrs old or entered 6th grade before December 1, 2009, parent must send child to school from age 6 until 16th birthday
 - Statute does not require parental permission to discontinue
 - If 11 yrs old or enter 6th grade on or after December 1, 2009, parent must send child to school from age 6 until 18th birthday
 - Unless graduate earlier—e.g., 17 yrs old
 - Unless student is 16 and has written permission from the parent to stop attending school

District Court

- Notable exceptions-
 - 12 or 13 yr old children attending confirmation classes
 - Religious instruction up to two hours per week is permitted
 - Parent need not send the student to school if home schooling
 - Must utilize an "organized educational program"

Penalty

- Misdemeanor
 - Fine—not less than \$5 and not more than \$50
 - Or
 - Jail for not less than 2 nor more than 90 days

Proposed Definitions

- Currently has no single, unified, statewide definition of what constitutes truancy.
 - Typically combination of cumulative absences and late arrivals
 - Each district establishes its own definition of truancy
 - In some cases, individual school buildings define excused and unexcused absences

Proposed Definitions

- The Michigan School-Justice Partnership is working to develop a statewide definition of what constitutes "truancy"
 - Define "in attendance"
 - Define excused absences
 - Define unexcused absences
 - Define disciplinary absences

Preventing Cases From Reaching Court

- Some characteristics of model programs
 - Approach truancy in collaborative, multiagency fashion
 - A community problem
 - Community resources
 - Schools notify parents first and try to resolve the problem informally before referring to court
 - See, MCL 380.15#6
 - Assume that truancy is a symptom of more significant familial or emotional problems, and seek to identify these
 - Typically utilize some form of mediation (mediator independent from school)
 - Community dispute resolution centers

Michigan Truancy Laws

Juvenile Truancy Laws - MCL 712A.2(a)(4):

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

Mich. Comp. Laws Ann. § 380.1561 – Compulsory School Attendance

Sec. 1561. (1) Except as otherwise provided in this section, for a child who turned age 11 before December 1, 2009 or who entered grade 6 before 2009, the child's parent, guardian, or other person in this state having control and charge of the child shall send that child to a public school during the entire school year from the age of 6 to the child's sixteenth birthday. Except as otherwise provided in this section, for a child who turns age 11 on or after December 1, 2009 or a child who was age 11 before that date and enters grade 6 in 2009 or later, the child's parent, guardian, or other person in this state having control and charge of the child shall send the child to a public school during the entire school year from the age of 6 to the child's eighteenth birthday. The child's attendance shall be continuous and consecutive for the school year fixed by the school district in which the child is enrolled. In a school district that maintains school during the entire calendar year and in which the school year is divided into quarters, a child is not required to attend the public school more than 3 quarters in 1 calendar year, but a child shall not be absent for 2 or more consecutive quarters.

(2) A child becoming 6 years of age before December 1 shall be enrolled on the first school day of the school year in which the child's sixth birthday occurs, and a child becoming 6 years of age on or after December 1 shall be enrolled on the first school day of the school year following the school year in which the child's sixth birthday occurs.

(3) A child is not required to attend a public school in any of the following cases:

(a) The child is attending regularly and is being taught in a state approved nonpublic school, which teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools of the district within which the nonpublic school is located.

(b) The child is less than 9 years of age and does not reside within 2-1/2 miles by the nearest traveled road of a public school. If transportation is furnished for pupils in the school district of the child's residence, this subdivision does not apply.

(c) The child is age 12 or 13 and is in attendance at confirmation classes conducted for a period of 5 months or less.

(d) The child is regularly enrolled in a public school while in attendance at religious instruction classes for not more than 2 class hours per week, off public school property during public school hours, upon written request of the parent, guardian, or person in loco parentis under rules promulgated by the state board.

(e) The child has graduated from high school or has fulfilled all requirements for high school graduation.

(f) The child is being educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.

(4) For a child being educated at the child's home by his or her parent or legal guardian, exemption from the requirement to attend public school may exist under either subsection (3)(a) or (3)(f), or both.

(5) For a child who turns age 11 on or after December 1, 2009 or who was age 11 before that date and enters grade 6 in 2009 or later, this section does not apply to the child if the child is at least age 16 and the child's parent or legal guardian has provided to school officials of the school district in which the child resides a written notice that the child has the permission of the parent or legal guardian to stop attending school.

380.1599. Offenses and penalties

A parent or other person in parental relation who fails to comply with this part is guilty of a misdemeanor, punishable by a fine of not less than \$5.00 nor more than \$50.00, or imprisonment for not less than 2 nor more than 90 days, o

§ 380.1586. Nonattendance at school; notice; investigation; discussion of irregular attendance, failing work, or behavior problems with parent.

- **Sec. 1586.**

- (1) The attendance officer shall investigate each case of nonattendance at school when notified by a teacher, superintendent, intermediate superintendent, or other person of a violation of this part. If the child complained of is not exempt from public school attendance under the conditions listed in section 1561, the attendance officer shall proceed immediately in the manner provided in this part.
- (2) If a child is repeatedly absent from school without valid excuse, or is failing in schoolwork or gives evidence of behavior problems, and attempts to confer with the parent or other person in parental relationship to the child fail, the superintendent of schools, or the intermediate superintendent in a district which does not employ a superintendent, may request the attendance officer to notify the parent or other person in

parental relationship by registered mail to come to the school or to a place designated at a time specified to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities.

- (3) The superintendent, or the teacher in a district which does not employ a superintendent, shall provide information concerning the nonattendance of each nonresident pupil to the intermediate superintendent of the intermediate school district in which the nonresident pupil resides. The intermediate attendance officer, when notified by the intermediate superintendent or superintendent of schools, shall investigate and proceed in all cases of nonattendance of nonresident pupils in the same manner provided in this part for enforcing attendance of pupils attending schools in districts in which they reside.

