

JAN 18 2008

A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 302A-1135, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~{}~~ §302A-1135 ~~{}~~ **Penalty.** (a) If any child of school
4 age persists in being absent from school, an administrative
5 hearings officer, upon a proper petition, citation, or complaint
6 being made by a teacher or any other officer or agent of the
7 department, or police officer, or any other person, shall cause
8 the child, and the child's parent or guardian or other person
9 having charge of the child, to be summoned to appear before the
10 administrative hearings officer. Upon a determination by an
11 administrative hearings officer that the person responsible for
12 the child did not use proper diligence to enforce the child's
13 regular attendance at school, the responsible party shall be
14 fined:

- 15 (1) Not more than \$500 for a first offense;
16 (2) Not more than \$700 for a second offense; and



1 (3) Not more than \$900 for a third offense and any
2 subsequent offenses.

3 Any action taken to impose or collect the penalty provided in
4 this subsection shall be considered a civil action.

5 (b) If any child of school age persists in [~~absenting~~
6 ~~oneself~~] being absent from school, the family court [~~judge~~],
7 upon a proper petition, citation, or complaint being made by the
8 [~~schoolteacher~~] teacher or any other officer or agent of the
9 department, or police officer, or any other person, shall cause
10 the child, and the [~~father or mother,~~] parent, guardian, or
11 other person having charge of the child, to be summoned to
12 appear before the [~~judge-~~] court. Upon [~~its being proved~~]
13 determination by the court that the person responsible for the
14 child had not used proper diligence to enforce the child's
15 regular attendance at school, the responsible party shall be
16 [~~guilty~~]:

17 (1) Guilty of a petty misdemeanor[-] and sentenced to
18 fifty hours but not more than two hundred fifty hours
19 of community service for a first offense;

20 (2) Guilty of a misdemeanor and sentenced to fifty hours
21 but not more than three hundred fifty hours of
22 community service for a second offense;



1 (3) Guilty of a misdemeanor and sentenced to fifty hours
2 but not more than four hundred fifty hours of
3 community service for a third offense and any
4 subsequent offenses.

5 (c) If a child of more than eleven years of age persists
6 in being absent from school, an administrative hearings officer,
7 upon a proper petition, citation, or complaint being made by a
8 teacher or any other officer or agent of the department, or
9 police officer, or any other person, shall cause the child, and
10 the parent, guardian, or other person having charge of the
11 child, to be summoned to appear before the administrative
12 hearings officer. Upon determination by the administrative
13 hearings officer that the child did persist in being absent from
14 school, the administrative hearings officer shall:

15 (1) Place the child under formal school supervision and
16 require the child to perform detention for:

17 (A) Fifty hours but not more than two hundred fifty
18 hours for a first offense;

19 (B) Fifty hours but not more than three hundred fifty
20 hours for a second offense; and



1 (C) Fifty hours but not more than four hundred fifty
2 hours for a third offense and any subsequent
3 offenses; and

4 (2) Order a principal to prohibit the child from
5 participating in one or more co-curricular activities
6 for:

7 (A) Eight school days but not more than forty-two
8 school days for a first offense;

9 (B) Twenty-five school days but not more than fifty-
10 eight school days for a second offense; and

11 (C) Forty-two school days but not more than seventy-
12 five school days for a third offense and any
13 subsequent offenses.

14 Any action taken to impose or enforce the penalty provided for
15 in this subsection shall be considered a civil action.

16 (d) If a child of more than eleven years of age persists
17 in being absent from school, the family court, upon a proper
18 petition, citation, or complaint being made by a teacher or any
19 other officer or agent of the department, or police officer, or
20 any other person, shall cause the child, and the parent,
21 guardian, or other person having charge of the child, to be
22 summoned to appear before the court. Upon a determination by



1 the court that the child did persist in being absent from
2 school, the family court shall render at least one of the
3 following:

4 (1) Order the examiner of drivers in the county to suspend
5 the child's driver's license or instruction permit
6 for:

7 (A) Eight calendar days but not more than forty-two
8 calendar days for a first offense;

9 (B) Twenty-five calendar days but not more than
10 fifty-eight calendar days for a second offense;
11 and

12 (C) Forty-two calendar days but not more than
13 seventy-five calendar days for a third offense
14 and any subsequent offenses,

15 if the student has a driver's license or learner's
16 permit; or

17 (2) Place the student under home detention or curfew,
18 using electronic monitoring and surveillance, during
19 those hours of the day and days of the week when the
20 student is not required to attend school or perform
21 detention.



1 (e) Nothing in this section shall be construed to require
2 a teacher or any other office or agent of the department, or
3 police officer, or any other person who makes a petition,
4 citation, or complaint pursuant to this section to exhaust the
5 administrative remedies provided in this section before bringing
6 an action for relief in family court.

7 (f) This section shall not apply to any child not liable
8 to compulsory attendance at school."

9 SECTION 2. Section 571-11, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§571-11 Jurisdiction; children.** Except as otherwise
12 provided in this chapter~~[7]~~ and section 302A-1135, the court
13 shall have exclusive original jurisdiction in proceedings:

14 (1) Concerning any person who is alleged to have committed
15 an act prior to achieving eighteen years of age which
16 would constitute a violation or attempted violation of
17 any federal, state, or local law or municipal
18 ordinance. Regardless of where the violation
19 occurred, jurisdiction may be taken by the court of
20 the circuit where the person resides, is living, or is
21 found, or in which the offense is alleged to have
22 occurred~~[7]~~;



- 1 (2) Concerning any child living or found within the
2 circuit:
- 3 (A) Who is neglected as to or deprived of educational
4 services because of the failure of any person or
5 agency to exercise that degree of care for which
6 it is legally responsible[-];
- 7 (B) Who is beyond the control of the child's parent
8 or other custodian or whose behavior is injurious
9 to the child's own or others' welfare;
- 10 (C) Who is neither attending school nor receiving
11 educational services required by law whether
12 through the child's own misbehavior or
13 nonattendance or otherwise; or
- 14 (D) Who is in violation of curfew;
- 15 (3) To determine the custody of any child or appoint a
16 guardian of any child[-];
- 17 (4) For the adoption of a person under chapter 578[-];
- 18 (5) For the termination of parental rights under sections
19 571-61 to 571-63[-];
- 20 (6) For judicial consent to the marriage, employment, or
21 enlistment of a child, when such consent is required
22 by law[-];



- 1 (7) For the treatment or commitment of a mentally
- 2 defective, mentally retarded, or mentally ill
- 3 child[-];i
- 4 (8) Under the Interstate Compact on Juveniles under
- 5 chapter 582[-];i
- 6 (9) For the protection of any child under chapter 587[-];i
- 7 and
- 8 (10) For a change of name as provided in section
- 9 574-5(a)(2)(C)."

10 SECTION 3. This Act does not affect rights and duties that

11 matured, penalties that were incurred, and proceedings that were

12 begun, before its effective date.

13 SECTION 4. If any provision of this Act, or the

14 application thereof to any person or circumstance is held

15 invalid, the invalidity does not affect other provisions or

16 applications of the Act, which can be given effect without the

17 invalid provision or application, and to this end the provisions

18 of this Act are severable.

19 SECTION 5. Statutory material to be repealed is bracketed

20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: Norman Sakami
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Report Title:

DOE; Student Truancy; Penalties; Family Court Jurisdiction

Description:

Establishes penalties for truant students and their parents or guardians; authorizes adjudication of truancy matters by administrative hearings officers.

