
Detailed Fiscal Analysis

The bill changes two provisions of current law with respect to “failure to send a child to school,” an unclassified misdemeanor. The bill increases the fine for failure to send a child to school and increases the amount of the surety bond that may be required of parents, guardians or other persons having care of a child who fail to send a child to school under section 3321.38 of the Revised Code.

Currently, when the parent, guardian, or other person in charge of a child between the ages of six and 18 fails to cause the child to attend school, a complaint is filed against the parent or guardian for violation of section 3321.38 and, if convicted, they are assessed a fine ranging from \$5 to \$20. In addition, under current law, the court also may require a person convicted of failure to send a child to school to post a surety bond of \$100, conditioned to the person compelling the child under their charge to attend school. The bill increases the fine for truancy to not less than \$100 nor more than \$500, and increases the amount of the surety bond to \$500.

Current Sanctions Against Parents of Truants. Under current law, prosecutors may pursue several different approaches against the parent, guardian, or other person in charge of truant child. Charges can be brought in county, municipal, or, most often, juvenile court for violation of compulsory attendance under section 3321.38 of the Revised Code, which the bill amends. However, prosecutors typically prefer to pursue these matters by using three other existing sections of the Revised Code, as noted below.

- Code of Conduct. In any juvenile court proceeding in which the child in question has been adjudicated delinquent, unruly, abused, neglected, or dependent, the court may issue an order controlling the conduct of any parent (section 2151.359). Often, school attendance is required as part of a county human services case plan for the delinquent, unruly, abused, neglected, or dependent child and the parent is held responsible for the maintaining this case plan. In such cases, the continued failure to send a child to school may result in a contempt violation and time in jail.
- Educational Neglect. In family or domestic relations courts, failure to compel school attendance can be cited as “educational neglect” under Section 2919.21 of the Revised Code. This offense is a misdemeanor of the first degree and a conviction carries a jail sentence of not more than six months and a fine of not more than \$1,000.
- Parental Education Neglect. Under section 3313.663 of the Revised Code, a school board may require a parent, guardian, or other person in charge of a truant child to attend a parental education or training program provided by the school district. Failure to attend the program constitutes the offense of “parental education neglect,” a misdemeanor of the fourth degree punishable by a jail sentence of not more than 30 days and a fine of not more than \$250 (section 2919.222).

Prosecutors prefer to pursue charges of neglect or contempt because these charges may subject the offender to a jail sentence, rather than the small fine associated with failure to send a child to school (section 3321.38). However, prosecutorial practice varies from jurisdiction to jurisdiction. For example, Cuyahoga County prosecutors have pursued prosecution for violation of compulsory attendance most often in cases involving unapproved home schooling and parental objection to desegregation orders; in Montgomery County, section 3321.38 remains the preferred avenue for pursuing parents of truant children.

Number of Cases Affected. Statewide estimates of truancy cases referred to the judicial system are not available, however LBO estimates that fewer than 1000 truancy cases are referred under Section 3321.38 under the bill. In 1998, the Ohio School Boards Association estimated that less than one case per district (i.e., roughly 600) was referred to the judicial system each year. Research indicates that truancy incidence varies widely from district to district and is most prevalent in urban districts. Most jurisdictions report that court referrals in total are rare, however, the Juvenile Court Division of the Cuyahoga County Common Pleas Court estimates approximately 100 cases are filed under section 3321.38 each year. In the Montgomery County Juvenile Court, where these matters are primarily handled under the failure to send statute (section 3321.38), 272 cases were referred during calendar year 1998.

Fiscal Effect of an Increase in Fine/Bond Amounts. The bill's provisions to increase the fine and the surety bond amounts associated with failure to send a child to school likely will result in a minimal gain in annual county revenue. Municipalities that file charges under the Revised Code must remit all fine revenues to the county and, separately, counties will receive added revenue from the fine increase as applied to cases in county courts. Accurate data on total fines currently assessed is not available, but LBO believes that in many cases judges waive the fine amount while invoking the surety bond. The precise amount of additional revenue generated will be dependent upon judicial discretion in imposing fines and in setting fine amounts within the new range, and upon the ability of offenders to pay.

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