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Offered: 4/24/85
Referred: Judiciary

Original sponsor: P.Fischer

1 IN THE SENATE
2
3 CS FOR SENATE BILL NO. 226 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to the violation of compulsory
8 education laws."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 14.30.020 is repealed and reenacted to read:
11 Sec. 14.30.020. PENALTY. A person violating AS 14.30.010 is
12 guilty of a class B misdemeanor. Each day of unlawful absence is a
separate offense.

COMMITTEE REPORT
HOUSE

(7)

JUDICIARY

FURTHER:

5/10/85

Date: April 23, 1986

The Committee on HEALTH, EDUCATION
SOCIAL SERVICES has had CSSB 226 (HESS)
"An Act relating to the violation of compulsory education laws."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 226 (HESS) same title
 new title
- and recommends NO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Max J. Hundert

James A. ...

David W. ...

Glenn ...

Robert ...

H. ...

Max J. Hundert
CHAIRMAN

David W. ...

Alaska State Legislature

Senator Paul A. Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



While in Juneau

Pouch V
Juneau, Alaska 99811
(907) 465-3791

State Senate

MEMORANDUM

TO: ✓ Representative Nilo Koponen, Co-Chairman
House HESS

Representative Max G. Gaunberg, Jr., Co-Chairman
House HESS

FROM: Senator Paul Fischer *Paul*

RE: Senate Bill 226 (An act relating to the violation of compulsory education laws.)

DATE: January 15, 1986

I would appreciate your scheduling a hearing on this legislation at your earliest convenience.

The bill would eliminate one sentence as follows: "in any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section."

This sentence is evidently being interpreted as relieving a parent of responsibility for their child's truancy at the end of each school year. Not only does the provision 'wash the slate' of any penalty imposed, but it is being misused to cause dismissal of cases unless actually brought to trial before the end of the final school term.

SB 226 would delete the provision of the state's compulsory education law which releases and discharges a parent or guardian from all penalties associated with their child's truancy at the end of the school year. Under current statute, a parent who fails to send a child to school is guilty of a misdemeanor punishable by a fine or imprisonment but these penalties expire at the end of each school year. SB 226 is intended to enhance enforcement of the truancy law, since court proceedings can often not be completed within the term of one school year.

Local school and law enforcement personnel have strongly urged remedial action and I believe this problem merits our serious consideration.

Than' you.

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separate offense.



544, 111

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street • Soldotna, AK 99669 • Phone 907/262-5846

February 21, 1985

Senator Paul Fischer
State Senate
Pouch V
Juneau, Alaska 99811

Re: Student Attendance Laws
Alaska Statutes, Title 14, Education, Chapter 30. Pupils,
Article 1. Compulsory Education, paragraphs 020. Violation

Dear Senator Fischer:

Student truancy is an increasing problem here. As our student population increases at a 7% annual rate, there has been an even greater increase in the number of students who do not attend school regularly.

Several years ago, we worked out a procedure with the District Attorney to appropriately carry out the steps required before we turn matters over to his office.

All administrators carry out building level counseling and disciplinary procedures in all truancy cases. Emphasis is given to procedures that keep students in class rather than suspending them for not coming to school.

Students with 10 or more days of unexcused absence are referred to my office and I initiate a series of three formal parent contacts that inform them of their rights and responsibilities, offer assistance, inform them of alternatives to regular school attendance, and, finally, indicate that they will be referred to the District Attorney's office if student truancy continues.

After students have been truant for 20 or more days, I request permission for the School Board, as required by current law, to make and file a report with the District Attorney who represents the branch of government empowered to take further action.

At this point, the issue has been transferred to the judicial arena and further delays occur as the case is processed, calendared and heard.

And, at this point, the wording of the law cited above renders both the school district and the District Attorney's office powerless to act whenever parents or their attorneys arrange delays that extend beyond the end of the school year because -

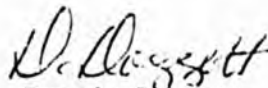
"In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section." from Sec. 14.30.020. See attached.

At the present, state law only requires students to attend school from age 7 to 16 or nine years of a 13 year K-12 system. Current truancy law makes it impossible to really require parents to have their children in school for the nine years.

I request your assistance in modifying the existing law by deleting the sentence noted above. This action would permit school districts, through the District Attorney's office, to enforce the law from year to year.

Please contact me if I can provide you with assistance or information.

Cordially,



Dr. Dennis Daggett
Associate Superintendent
Instructional Services

encl

cc: Shannon Turner
Thomas Wardell
District Principals

DD/set

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT
OFFICE OF THE DISTRICT ATTORNEY

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- 1031 WEST 4th AVENUE, SUITE 520
ANCHORAGE, ALASKA 99502
PHONE: (907) 277-8622
- P.O. BOX 3070
DILLINGHAM, ALASKA 99576
PHONE: (907) 842-2482
- 145 MAIN STREET LOOP, ROOM 201
KENAI, ALASKA 99611
PHONE: (907) 283-3131
- 326 CENTER AVE. SUITE 205
KODIAK, ALASKA 99615
PHONE: (907) 486-5744
- 809 S. CHUGACH ST.
PALMER, ALASKA 99645
PHONE: (907) 745-5027
- P.O. BOX 671
VALDEZ, ALASKA 99686
PHONE: (907) 835-2462

February 8, 1985

Dr. Dennis Daggett
Associate Superintendent
Instructional Services
Box 1200
Soldotna, Alaska 99669

Re: Tony Hansen
Johnny Colwell



Dear Dr. Daggett,

On May 24, 1984, we received your letter regarding the above students and a complaint alleging failure to educate a child was filed June 26, 1984. Because of difficulty in serving a summons, Mrs. Hanson was not arraigned until November 28, 1984. Her trial was set for February 11, 1985.

The public defender has indicated they would seek to have the case dismissed because of the wording of the statute which seems to relieve the parent of responsibility at the end of each school year. I have dismissed the case because I do not believe we could convince the court of any other interpretation of that statute.

Hopefully, we can begin these cases earlier in the school year so that we could get to trial (or whatever disposition is appropriate) before the statute creates a problem. Perhaps the statute should be changed.

If you have any questions, please call.

Very truly yours,

A handwritten signature in cursive script that reads "Shannon D. Turner".

Shannon D. Turner
Assistant District Attorney

SDT:11

Chapter 30. Pupils and Educational Programs for Pupils.

Article

- 1. Compulsory Education (§§ 14.30.010 — 14.30.050)
- 2. Physical Examinations and Screening Examinations (§§ 14.30.060 — 14.30.170)
- 3. Education for Exceptional Children (§§ 14.30.180 — 14.30.350)
- 4. Health Education (§§ 14.30.360 — 14.30.370)
- 5. Bilingual-Bicultural Education (§§ 14.30.400 — 14.30.410)
- 6. Adventure-Based Education (§ 14.30.500)
- 7. Alaska Student Leadership Development Fund (§ 14.30.510)

Article 1. Compulsory Education.

Section

- 10. When attendance compulsory
- 20. Violation
- 30. Report of violations and procedures
- 40. [Repealed]
- 45. Grounds for suspension or denial of admission

Section

- 47. Admission or readmission, when cause no longer exists
- 50. Truant officers

Collateral references. — 68 Am. Jur. 2d Schools, §§ 219-233.

79 C.J.S. Schools and School Districts, §§ 463 — 470.

Right to refuse diploma or other evidence of pupil's completion of course. 6 ALR 1533; 68 ALR 928; 121 ALR 1471.

Extent of power of school district to provide for the comfort and convenience of teachers and pupils. 7 ALR 791; 52 ALR 249.

Free textbooks and other school supplies for individual use of pupils. 17 ALR 299; 67 ALR 1196.

Discretion of school authorities to deny to pupils or teachers scholarship, certificate, diploma, license or other privilege.

to which they would be otherwise entitled by law. 121 ALR 1471.

Teacher's civil liability for administering corporal punishment. 43 ALR2d 469.

Regulations as to fraternities and similar associations connected with educational institution. 10 ALR3d 389.

Student organization registration statement, filed with public school or state university or college, as open to inspection by public. 37 ALR3d 1311.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Sec. 14.30.010. When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 13 years of age shall insure that the child is not absent from attendance.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

part-time

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t Board
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(B) tutoring by personnel certificated according to AS 14.20.020; or
 (C) attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978)

Effect of amendments. — The 1978 amendment, in paragraph (1) of subsection (b), added the subparagraph (A) and (B) designations, deleted "or by" from the end of present subparagraph (A), added "or" to the end of present subparagraph (B), and added subparagraph (C).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Additionally, the words "of education" were deleted following "department" by the revisor under AS 01.05.031 and 14.60.010.

Legislative history reports. — For report on ch. 10, SLA 1977 (HB 60), see 1977 House Journal, p. 45.

14.30.010

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EDUCATION

§ 14.30.030

NOTES TO DECISIONS

Quoted in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976).

Stated in *In re S.D.*, Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Cited in *Matthews v. Quinton*, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961); *D.R.C. v. State*, Ct. App. Op. No. 94 (File No. 4905), 646 P.2d 252 (1982).

Collateral references. — Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Inmates of charitable institutions as residents entitled to school privileges. 48 ALR 1098.

Constitutionality, construction, and effect of statutes in relation to admission of nonresident pupils to school privileges. 72 ALR 499; 113 ALR 177.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory attendance law. 3 ALR2d 1401.

What constitutes "private school" within statute making attendance at such a school compliance with compulsory school attendance law. 14 ALR2d 1369.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR2d 874.

Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

Residence for purpose of admission to public school. 83 ALR2d 497.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Sec. 14.30.020. Violation. A person violating AS 14.30.010 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200, plus the cost of prosecution, and may be imprisoned until the fine and costs are paid or until the convicted person has served one day for every \$2 of the fine and costs, at which time the fine and costs are automatically discharged. Each unlawful absence is a violation and if an absence is extensive there is a new violation each time five consecutive days of the absence elapse. The court may suspend sentence, stay or postpone enforcement of execution, or release from custody a person found guilty upon the conditions which are in the best interests of the child. In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section. (§ 37-7-2 ACLA 1949; am § 37 ch 98 SLA 1966)

Editor's notes. — The words "the convicted person." were substituted for "he" in the first sentence by the revisor of

statutes under AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.30.030. Report of violations and procedures. The chief administrative officer of a district or state-operated school shall report all apparent violations of AS 14.30.010 to the governing body of the district. The governing body shall, on receiving the report or on the complaint of any person, provide for a full and impartial investigation

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB-226
Title: ...compulsory education...

FISCAL DETAIL

Agency Affected: Education
Program Category Affected: _____

Sponsor: Fischer, Paul
Requestor: Senate HESS
Date of Request: 4-16-85

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The bill has no fiscal impact on this Department.

Prepared By: Steve Hole Phone: 2800
Division: Commissioner's Office Date: 4-16-85

Approved by Commissioner: Harold Reynolds, Jr. Date: 4-16-85
Agency: Education

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor ✓
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84



Official Business

Alaska State Legislature

House of Representatives

*Nancy
Fuller*

Pouch V
State Capitol
Juneau, Alaska 99811

February 13, 1986

Dr. Dennis Daggett
Associate Superintendent
148 North Binkley Street
Soldotna, Alaska 99669

Dear Dr. Daggett:

Thank you for your letter urging support of SB 226, which relates to violation of compulsory education laws. Senate Bill 226 is in the House HESS Committee.

Senate Bill 226 has not been scheduled for a hearing as of this date. I have taken the liberty of forwarding a copy of your comments to the HESS Committee.

Your comments are well taken and when Senate Bill 226 comes before the full House for action I will certainly take your comments into consideration before voting.

Thank you again for your letter.

Sincerely,

Representative John G. (Jack) Fuller



KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street • Soldotna, AK 99669 • Phone 907/262-5846

February 6, 1986

Representative Jack Fuller
Pouch V
Juneau, Alaska 99811

Dear Representative Fuller:

During the last session, I requested legislative support to revise Chapter 30. Pupils. Article 1. Compulsory Education, Sec. 14.30.020 that deals with student truancy.

Existing policy and procedures in most school districts effectively handle most of these cases. Truancy is often a family problem and current practices attempt to deal with the causes behind the behavior. But every year there are several cases in which parental attitudes deny the child's right to do an education and we are powerless to act because we cannot get the parent to court in a timely manner.

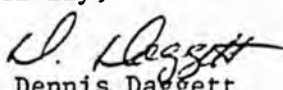
As written, the statute cited above concludes by saying, "In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section."

We are informed by the District Attorney that, to beat this "sundown" provision in the statute, we must identify the student as chronically truant (10 or more days unexcused absence), exhaust all remedial efforts in our policy, notify the parent in three subsequent letters of our administrative intent and then ask our Board of Education for permission to file a complaint with the District Attorney. That office must then investigate and set a court date.

If we can't accomplish all of the above prior to January 1 annually, a competent public defender can delay until the end of school and render our complaint moot. The District Attorney's office cannot consider truancy referrals after January 1 since there is no chance of getting them to court.

I ask you to support the changes in Sec. 14.30.020 contained in SB 226 now in House HESS Committee. We need your help to keep more students in school where we can help them improve their lives.

Cordially,



Dr. Dennis Daggett
Associate Superintendent
Instructional Services

DD/set

M E M O R A N D U M

FROM: Larry Feeney

April 14, 1983

RE : Truancy Legislation Background

Alaska's compulsory attendance law (AS 14.30.010-.030) has apparently been declared unconstitutional. While that case is currently on appeal and may be reversed, it must be conceded that the statute is old and would probably benefit from amendment. This amendment could, at the same time, attempt to deal with the constitutional challenges previously raised.

In State v. Hotch, Case No. 1JU-S82-698 Cr., the defendant made several different attacks on the statute. She claimed, for example, that the current statute's requirement that every parent "insure that the child is not absent from attendance" was impermissively vague and overbroad. The defendant also argued that the statute violated due process because it did not require any criminal intent -- absence of the child without lawful excuse was enough for criminal liability. Finally, the defendant argued that the statute's penalty provision, which mandates a minimum fine of \$50, plus the cost of prosecution and permits the incarceration of the person for one day for every \$2.00 of the fine and cost not paid was unconstitutional as cruel and unusual punishment and the establishment of a debtor's prison. District Court Judge Gerald O. Williams granted the defendant's motion to dismiss the prosecution without comment.

Whatever the constitutional status of the current statute, it suffers from some procedural difficulties as well. The procedure specified for prosecution of alleged violations under AS 14.30.030 is far from clear and does not comport with the normal modern practice of investigation by law enforcement officials and prosecution by the District Attorney's office. It is perhaps because of some of these questions about the statute that, as a practical matter, enforcement of compulsory attendance in this state has been, at best, spotty in the last ten years. I suspect that the vast majority of districts in the State, if queried, would admit that they have not undertaken any enforcement proceedings under this statute within living memory.

The situation is aggravated when one considers that the 1977 revision to the Children's Code deleted truancy as a grounds for taking any action whatsoever against the child. The result is that Alaska no longer has any means of enforcing mandatory school attendance for children between the ages of 7 and 16 -- or any other age for that matter.

April 14, 1983

Page -2-

The proposed legislation creates a new statutory scheme for dealing with truancy. It requires school districts to adopt non-attendance procedures and specifies minimum procedures which must be incorporated. These procedures basically consist of a series of written notices to the parents of non-attenders. As a final step, it would permit the district to require the parent to see that the child is personally delivered to school and a willful failure to do this could result in a misdemeanor prosecution. The proposed bill would also recognize habitual truancy as a legitimate ground for finding "a child in need of aid" under the Children's Code, thus permitting supervision by the Department of Health & Social Services, but habitual truancy could not be used as a reason for terminating parental rights, removing the child from the home, or otherwise placing the child in the custody of the Department.

(16) *Repealed, § 1 ch 122 SLA 1980.*

(17) bankers' acceptances which are eligible for discount at the Federal Reserve Bank and certificates of deposit issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation if a generally recognized secondary market exists for the certificates of deposit;

(18) obligations of, or obligations insured by or guaranteed by, the United States or agencies or instrumentalities of the United States;

(19) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(20) corporate debt securities with a minimum rating of "A" or an equivalent rating by a nationally recognized rating organization;

(21) preferred and common stock of companies which have paid dividends in each of the three years immediately preceding the investment;

(22) commercial paper bearing the highest rating of a nationally recognized rating organization;

(23) securities of foreign governments, foreign governmental agencies, and foreign corporations the principal, interest or dividends on which are payable in either United States dollars or foreign currencies; however, investments under this paragraph may not exceed 10 percent of the total investments of the retirement fund;

(e) To qualify as a mortgage which may be purchased under (b)(11), (12) or (13) of this section,

(1) the originating financial institution must certify that the mortgage has been made in compliance with law and that liens supporting the mortgage have been perfected;

(2) the mortgage may not have been held by the originating financial institution for a period greater than 90 days.

(f) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for 60 days, the pension fund shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half of one per cent.

(g) The commissioner of revenue may enter into futures contracts for the sale of investment's purchased under (b) of this section only for the purpose of hedging an existing equivalent ownership position in the investments.

(h) The commissioner of revenue may transfer at any time a portion of the assets of the retirement fund to a trust which is qualified under sec. 401(a) of the Internal Revenue Code (26 U.S.C. sec. 401(a)) and exempt from taxation under sec. 501(a) of the Internal Revenue Code (26 U.S.C. sec. 501(a)) and which is maintained as a medium for pooling

(i) The commissioner of revenue may enter into a contract or trust agreement necessary to effectuate the transfer of assets of the retirement fund or to maintain the assets of the retirement fund to be transferred to a trust under (h) of this section. (§ 19 ch 145 SLA 1955; am § 15 ch 89 SLA 1960; am § 1 ch 128 SLA 1961; am § 1 ch 90 SLA 1962; am § 3 ch 4 SLA 1964; am §§ 1, 2 ch 66 SLA 1964; am § 1 ch 110 SLA 1964; am § 1 ch 55 SLA 1967; am § 3 ch 73 SLA 1969; am §§ 1, 2 ch 17 SLA 1970; am § 1 ch 112 SLA 1972; am § 26 ch 53 SLA 1973; am §§ 1, 2 ch 25 SLA 1974; am §§ 1, 2 ch 59 SLA 1977; am §§ 1-5 ch 122 SLA 1980)

Editor's notes. — This section is set out above to correct an error in the main pamphlet.

Sec. 14.25.220. Definitions.

NOTES TO DECISIONS

"Membership years" in AS as defined in paragraph (16), *Casperson v. 14.25.130(a)*. -- Teachers' Retirement Alaska Teachers' Retirement Bd., Sup. Ct. Board erred when it interpreted the term Op. No. 2677 (File No. 6198), 661 P.2d 583 (1983). "membership years" in AS 14.25.130(a) as being the equivalent of "years of service"

Chapter 30. Pupils and Educational Programs for Pupils.

Article

- 1. Compulsory Education (§§ 14.30.010, 14.30.030)
- 3. Education for Exceptional Children (§§ 14.30.180, 14.30.186, 14.30.191, 14.30.195, 14.30.231, 14.30.250, 14.30.255, 14.30.260, 14.30.270, 14.30.272, 14.30.274, 14.30.276, 14.30.278, 14.30.280, 14.30.285, 14.30.305, 14.30.310, 14.30.315, 14.30.320, 14.30.325, 14.30.330, 14.30.335, 14.30.347, 14.30.350)
- 4. Health Education (§ 14.30.360)

Section

- 10. When attendance compulsory
- 30. Report of violations and procedures

Article 1. Compulsory Education.

Sec. 14.30.010. When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

(h) This section does not apply if ...

(1) is provided an academic education comparable to that offered by the public schools in the area, either by
 (A) attendance at a private school in which the teachers are certified according to AS 14.20.020;

(B) tutoring by personnel certified according to AS 14.20.020; or
 (C) attendance at an educational program operated in compliance with AS 14.45.100 — 14.45.140 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978; am § 3 ch 11 SLA 1984)

Effect of amendments. — The 1984 amendment, in paragraph (1) of subsection (b), substituted present subparagraph (C) for former subparagraph (C), relating to attendance at a private school in which the average daily proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests.

Sec. 14.30.030. Report of violations and procedures. The chief administrative officer of a district school or regional educational attendance area shall report all apparent violations of AS 14.30.010 to the governing body of the district school or regional educational attendance area.

the report or on the complaint of any person, provide for a full and impartial investigation of all charges of violation. In private or federal schools, the chief administrative officer shall make a full and impartial investigation of all apparent violations. If it reasonably appears upon investigation that a person has violated AS 14.30.010, the governing body of a district school or regional educational attendance area, or the chief administrative officer of a private or federal school, shall make and file with the district court a complaint against the person, charging the violation. The judge or magistrate may issue a warrant for the arrest of the person and may act upon the complaint. (§ 37-7-3 ACLA 1949; am § 1 ch 32 SLA 1949; am § 38 ch 98 SLA 1966; am § 55 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment, effective February 14, 1984, substituted "school or regional educational attendance area" for "or state-operated school" in the first and next-to-last sentences.

Article 3. Education for Exceptional Children.

Section	Section
180. Purpose	285. Transfers of exceptional children
186. Coverage	305. State support of programs for children hospitalized or confined to their homes
191. Educational evaluation and placement	310. [Repealed]
195. Hearings	315. State support of programs for gifted children
231. Advisory committee	320. [Repealed]
250. Teacher qualifications	325. Surrogate parents
255. Administrator qualifications	330. [Repealed]
260. [Repealed]	335. Eligibility for federal funds
270. Substitutes	347. Transportation of exceptional children
272. Procedural safeguards	350. Definitions
274. Identification of exceptional children	
276. Least restrictive environment	
278. Individualized education program	
280. [Repealed]	

Sec. 14.30.180. Purpose. It is the purpose of AS 14.30.180 — 14.30.350 to provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age. (§ 1 ch 120 SLA 1959; am § 1 ch 144 SLA 1970; am § 1 ch 79 SLA 1974; am § 1 ch 147 SLA 1984)

Effect of amendments. — The 1984 amendment, effective July 5, 1984, substituted "an appropriate public education" for "competent education services" and "the" preceding "exceptional children."

Sec. 14.30.186. Coverage. (a) A borough or city school district shall provide special education and related services for exceptional children residing in the district.

(b) The board of a regional educational attendance area shall pro-

(B) tutoring by personnel certificated according to AS 14.20.020; or
 (C) attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved;

(2) attends a school operated by the federal government;
 (3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;
 (4) is in the custody of a court or law enforcement authorities;
 (5) is temporarily ill or injured;
 (6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978)

Effect of amendments. — The 1978 amendment, in paragraph (1) of subsection (b), added the subparagraph (A) and (B) designations, deleted "or by" from the end of present subparagraph (A), added "or" to the end of present subparagraph (B), and added subparagraph (C).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Additionally, the words "of education" were deleted following "department" by the revisor under AS 01.05.031 and 14.60.010.

Legislative history reports. — For report on ch. 10, SLA 1977 (HB 60), see 1977 House Journal, p. 45.

NOTES TO DECISIONS

Quoted in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976).

Stated in *In re S.D.*, Sup. Ct. Op. No. 1249 (File No. 2530), 549 P.2d 1190 (1976).

Cited in *Matthews v. Quinton*, Sup. Ct. Op. No. 31 (File No. 48), 362 P.2d 932 (1961); *D.R.C. v. State*, Ct. App. Op. No. 94 (File No. 4905), 646 P.2d 252 (1982).

Collateral references. — Extent of legislative power with respect to attendance curriculum. 39 ALR 477; 53 ALR 832.

Immunities of charitable institutions as students entitled to school privileges. 48 ALR 1098.

Constitutionality, construction, and effect of statutes in relation to admission of students to school privileges. 72 ALR 499; 113 ALR 177.

Religious beliefs of parents as defense to action for failure to comply with compulsory attendance law. 3 ALR2d 1401.

What constitutes "private school" when statute making attendance at such school compliance with compulsory attendance law. 14 ALR2d 1369.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR2d 874.

Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

Residence for purpose of admission to public school. 83 ALR2d 497.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Sec. 14.30.020. Violation. A person violating AS 14.30.010 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$200, plus the cost of prosecution, and may be imprisoned until the fine and costs are paid or until the convicted person has served one day for every \$2 of the fine and costs, at which time the fine and costs are automatically discharged. Each unlawful absence is a violation and if an absence is extensive there is a new violation each time five consecutive days of the absence elapse. The court may suspend sentence, stay or postpone enforcement of execution, or release from custody a person found guilty upon the conditions which are in the best interests of the child. In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section. (§ 37-7-2 ACLA 1949; am § 37 ch 98 SLA 1966)

Editor's notes. — The words "the convicted person" were substituted for "he" in the first sentence by the revisor of

the statutes under AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.30.030. Report of violations and procedures. The chief administrative officer of a district or state-operated school shall report all apparent violations of AS 14.30.010 to the governing body of the district. The governing body shall, on receiving the report or on the

of all charges of violation. In private or federal schools, the chief administrative officer shall make a full and impartial investigation of all apparent violations. If it reasonably appears upon investigation that a person has violated AS 14.30.010, the governing body of a district or state-operated school, or the chief administrative officer of a private or federal school, shall make and file with the district court a complaint against the person, charging the violation. The judge or magistrate may issue a warrant for the arrest of the person and may act upon the complaint. (§ 37-7-3 ACLA 1949; am § 1 ch 32 SLA 1949; am § 38 ch 98 SLA 1966)

Revisor's notes. — This section results from the enactment of Chapter 124, which includes obsolete references to state-operated schools. The state-operated schools system was superseded by the regional educational attendance areas as a result of the enactment of Chapter 124, SLA 1975. See AS 14.08.

Collateral references. — Privilege in reports or statements about school pupils. § 12 ALR 147.

Sec. 14.30.040. Extension of provisions to United States public schools for aborigines.

Repealed by § 59 ch 98 SLA 1966.

Editor's notes. — The repealed section derived from § 37-7-4, ACLA 1949.

Sec. 14.30.045. Grounds for suspension or denial of admission.
A school age child may be suspended from or denied admission to the public school which the child is otherwise entitled to attend only for the following causes:

- (1) continued willful disobedience or open and persistent defiance of reasonable school authority;
- (2) behavior which is inimicable to the welfare, safety, or morals of other pupils;
- (3) a physical or mental condition which in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;
- (4) a physical or mental condition which in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;
- (5) conviction of a felony which the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils. (§ 39 ch 98 SLA 1966)

Editor's notes. — The words "the child" were substituted for "he" in the introductory language by the revisor of statutes under AS 01.05.031 and § 4, ch. 58, SLA 1982.

NOTES TO DECISIONS

Quoted in *Breese v. Smith*, Sup. Ct. Op. No. 827 (File No. 1614), 501 P.2d 159 (1972).

Collateral references. — Regulations forbidding pupils to leave school grounds during school hours. 32 ALR 1342; 48 ALR 659.

Smoking as ground for expulsion or suspension of pupil. 33 ALR 1180.

Personal liability of school authorities for dismissal or suspension of pupil. 42 ALR 763.

Expulsion or suspension from private school or college. 50 ALR 1497.

Marriage or other domestic relations as ground for exclusion of pupil from school. 63 ALR 1164.

Failure of student to attain or maintain prescribed scholastic rating as ground for dropping him from roll of public educational institution. 86 ALR 484.

Validity, construction, and application of statutes or regulations concerning recreational or social activities of pupils of public schools. 134 ALR 1274.

Right of student to hearing on charges before suspension or expulsion from educational institution. 58 ALR2d 903.

Marriage or pregnancy of public school student as ground for expulsion or exclusion, or of restriction of activities. 11 ALR3d 996.

Validity of regulation by public school authorities as to clothes or personal appearance of pupils. 14 ALR3d 1291.

Participation of student in demonstration on or near campus as warranting imposition of criminal liability for breach of peace, disorderly conduct, trespass, unlawful assembly, or similar offense. 32 ALR3d 551.

Participation of student in demonstration on or near campus as warranting expulsion or suspension from school or college. 32 ALR3d 864.

Right to discipline pupil for conduct away from school grounds or not immediately connected with school activities. 53 ALR3d 1121.

Truancy as indicative of delinquency or incorrigibility, justifying commitment of infant or juvenile. 5 ALR4th 1212.

Sec. 14.30.047. Admission or readmission, when cause no longer exists. (a) A child who has been suspended from or denied admittance to a school according to AS 14.30.045(3) or (4) shall be permitted to attend school when the child is obviously recovered or presents to the governing body a statement in writing from a competent medical authority that the child is no longer afflicted with, or suffering from, the physical or mental condition to the extent that it is a cause for suspension or denial of admission according to AS 14.30.045(3) or (4).

(b) A child who has been suspended from or denied admittance to a school for any other cause provided by AS 14.30.045 shall be permitted to attend school when it reasonably appears that the cause has been remedied. (§ 40 ch 98 SLA 1966)

Editor's notes. — In subsection (a), the words, "the child" were substituted for "he" by the revisor of statutes under AS 01.05.031 and § 4, ch 58, SLA 1982.

Sec. 14.30.050. Truant officers. (a) If it is not practical for an existing law enforcement agency to enforce AS 14.30.010, the

necessary, and may reimburse the district for the additional examinations on the basis and to the extent the commissioner of health and welfare prescribes by regulation.

(c) Examinations shall be made by a competent physician, except that if the services of a physician cannot be obtained or if authorized by the commissioner of health and social services examinations may be made by a nurse. (§ 37-7-11 ACLA 1949; am § 10 ch 118 SLA 1949; am § 1 ch 72 SLA 1953; am § 43 ch 98 SLA 1966; am § 6 ch 104 SLA 1971)

Secs. 14.30.080 — 14.30.110. Exclusion from attendance; vaccinations; supervision and expenditures for physical examinations; exemptions from examinations or vaccinations.
Repealed by § 59 ch 98 SLA 1966.

Editor's notes. — The repealed sections 1949; §§ 10, 11, ch. 118, SLA 1949, § 1, ch. derived from §§ 37-7-11, 37-7-12, ACLA 72, SLA 1953; § 7, ch. 2, SLA 1964.

Sec. 14.30.120. Certificate of physical examination. The school board, when physical examinations are made, shall deliver to the parent, guardian, or other person having the responsibility for or control of the child a report signed by the physician or nurse making the examination, specifying the findings with respect to the health and physical well-being of the child. (§ 37-7-13 ACLA 1949; am § 12 ch 118 SLA 1949; am § 44 ch 98 SLA 1966)

Sec. 14.30.125. Immunization. If in the judgment of the commissioner of health and social services it is necessary for the welfare of the children or the general public in an area, the governing body of the school district shall require the children attending school in that area to be immunized against the diseases the commissioner of health and social services may specify. (§ 45 ch 98 SLA 1966; am § 2 ch 131 SLA 1967; am § 6 ch 104 SLA 1971)

Sec. 14.30.127. Vision and hearing screening examinations. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

- (b) The Department of Health and Social Services shall
- (1) set standards for the performance of vision and hearing screening;
 - (2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;
 - (3) assist with referral and follow-up of children needing professional examination or treatment; and
 - (4) assist with maintenance and repair of screening equipment. (§ 6 ch 138 SLA 1982; AS 14.30.075)

governing body of the school district or the Bureau of Indian Affairs may appoint the necessary truant officers to enforce AS 14.30.010. The state shall not contribute to the expenses of an officer appointed by the Bureau of Indian Affairs.

(b) A truant officer may arrest and bring before any district court judge or magistrate, a person violating AS 14.30.010 upon a warrant issued by the district court judge or magistrate. (§ 37-7-5 ACLA 1949; am § 41 ch 98 SLA 1966)

Collateral references. — Truant or and battery or false imprisonment, 62 attendance officer's liability for assault ALR2d 1328.

Article 2. Physical Examinations and Screening Examinations.

Section	Section
60. [Repealed]	125. Immunization
65. Supervision	127. Vision and hearing screening examinations
70. Physical examination required	130 — 170. [Repealed]
80 — 110. [Repealed]	
120. Certificate of physical examination	

Collateral references. — 68 Am. Jur. 2d Schools, §§ 275 — 280.
79 C.J.S. Schools and School Districts, §§ 452 — 454.
Power of municipal or school authorities to prescribe vaccination or other health measure as a condition of school attendance. 93 ALR 1413.

Sec. 14.30.060. Purpose of AS 14.30.070 — 14.30.110.
Repealed by § 59 ch 98 SLA 1966.

Editor's notes. — The repealed section derived from §§ 2, 3, ch. 72, SLA 1953.

Sec. 14.30.065. Supervision. The program of physical examination and immunizations prescribed by AS 14.30.065 — 14.30.125 shall be under the general supervision and in accordance with regulations of the Department of Health and Social Services. (§ 42 ch 98 SLA 1966; am § 1 ch 131 SLA 1967; am § 6 ch 104 SLA 1971)

Sec. 14.30.070. Physical examination required. (a) The governing body of each school district shall provide for and require a physical examination of every child attending school in the district. The examination shall be made when the child enters school or, in areas where no physician resides, as soon thereafter as is practicable, and thereafter at regular intervals considered advisable by the governing body of the district.

(b) The Department of Health and Social Services may require the district to conduct additional physical examinations which it considers