

ASSEMBLY BILL NO. 264—ASSEMBLYMEN TAYLOR;
ANDERSON, GONZÁLEZ AND NGUYEN

MARCH 7, 2023

Referred to Committee on Education

SUMMARY—Revises provisions governing attendance in public schools. (BDR 34-639)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; prohibiting a pupil in a public school from being deprived of any award that is based on perfect attendance or any eligibility or opportunity to compete for such an award because of an approved absence from school for the observance of a religious holiday; revising provisions governing the attendance of pupils and circumstances under which a pupil is deemed truant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, in general, requires a child between 7 and 18 years of age to attend public school. (NRS 392.040) Existing law requires the board of trustees of each school district to adopt rules that require each public school in the district to include the accounting of attendance and, if feasible, tardiness of a pupil on each report card or other report of progress of the pupil. (NRS 392.118) **Section 4** of this bill excludes an absence for the observance of a religious holiday from the absences that are counted for this purpose.

Existing law requires the board of trustees of each school district to prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. (NRS 392.122) **Section 5** of this bill requires days on which a pupil is not in attendance because the pupil is absent for the observance of a religious holiday to be credited towards the required days of attendance if the absence was approved and the pupil has completed course-work requirements.

Existing law provides that a pupil is deemed a truant if the pupil is absent from school without the written approval of the pupil's teacher or the principal of the school, unless the pupil is physically or mentally unable to attend school. (NRS 392.130) **Section 6** of this bill provides that a pupil is not a truant if the pupil is



absent from school for the observance of a religious holiday provided that a pupil may have not more than five such approved absences in a school year. **Section 6** requires the parent or legal guardian or other person having control or charge of a pupil who is absent from school for the observance of a religious holiday to notify the teacher or principal of the school in writing at least 3 days before the absence, in accordance with the policy established by the board of trustees of the school district. **Section 7** of this bill makes a conforming change to reflect that a pupil who is absent from school for the observance of a religious holiday is not a truant.

Existing law requires the board of trustees of each school district and the governing bodies of certain charter schools to prepare an annual report of accountability that contains certain information regarding the attendance, truancy and transiency of pupils. (NRS 385A.070, 385A.240) **Section 6** provides that an approved absence for the observance of a religious holiday is not an absence for the purposes of the annual report of accountability.

Section 3 of this bill prohibits a pupil enrolled in a public school from being deprived of any award that is based on perfect attendance or any eligibility or opportunity to compete for such an award because of an approved absence for the observance of a religious holiday. **Sections 1, 2 and 8** of this bill make conforming changes to indicate the proper placement of **section 3** in the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 388.846 is hereby amended to read as follows:

388.846 1. If the board of trustees of a school district provides a program of distance education, the board of trustees shall ensure that the persons who operate the program on a day-to-day basis comply with and carry out all applicable requirements, statutes, regulations, rules and policies of the school district, including, without limitation:

(a) Graduation requirements;

(b) Accountability of public schools, as set forth in chapter 385A of NRS;

(c) Provisions governing the attendance and truancy of pupils, as set forth in NRS 392.040 to 392.220, inclusive ~~(b)~~, and *section 3 of this act*; and

(d) Discipline of pupils.

2. If the governing body of a charter school provides a program of distance education, the governing body shall:

(a) For each pupil who is enrolled in the program, provide written notice to the board of trustees of the school district in which the pupil resides of the type of educational services that will be provided to the pupil through the program. The written notice must be provided to the board of trustees before the pupil receives educational services through the program of distance education.

(b) Ensure that the persons who operate the program on a day-to-day basis comply with and carry out all applicable requirements,



1 statutes, regulations, rules and policies of the charter school,
2 including, without limitation:

3 (1) Graduation requirements;

4 (2) Accountability of public schools, as set forth in chapter
5 385A of NRS;

6 (3) Provisions governing the attendance and truancy of
7 pupils, as set forth in NRS 392.040 to 392.220, inclusive ~~§~~, and
8 *section 3 of this act*; and

9 (4) Discipline of pupils.

10 **Sec. 2.** NRS 388.862 is hereby amended to read as follows:

11 388.862 1. If a pupil is enrolled full-time in a program of
12 distance education provided by the board of trustees of a school
13 district, the board of trustees that provides the program shall declare
14 for each such pupil one public school within that school district with
15 which the pupil is affiliated. The board of trustees may declare that
16 all the pupils enrolled in the program of distance education are
17 affiliated with one public school within the school district, or it may
18 declare individual public schools for the pupils enrolled in the
19 program. Upon the declared affiliation, the pupil shall be deemed
20 enrolled in that public school for purposes of all the applicable
21 requirements, statutes, regulations, rules and policies of that public
22 school and school district, including, without limitation:

23 (a) Graduation requirements;

24 (b) Accountability of public schools, as set forth in chapter
25 385A of NRS;

26 (c) Provisions governing the attendance and truancy of pupils, as
27 set forth in NRS 392.040 to 392.220, inclusive ~~§~~, and *section 3 of*
28 *this act*; and

29 (d) Discipline of pupils.

30 2. A pupil who is enrolled full-time in a program of distance
31 education provided by a charter school shall be deemed enrolled in
32 the charter school. All the applicable requirements, including,
33 without limitation, statutes, regulations, rules and policies of that
34 charter school apply to such a pupil, including, without limitation:

35 (a) Graduation requirements;

36 (b) Accountability of public schools, as set forth in chapter
37 385A of NRS;

38 (c) Provisions governing the attendance and truancy of pupils, as
39 set forth in NRS 392.040 to 392.220, inclusive ~~§~~, and *section 3 of*
40 *this act*; and

41 (d) Discipline of pupils.

42 3. If a pupil is enrolled part-time in a program of distance
43 education, all the applicable requirements, statutes, regulations,
44 rules and policies of the public school of the school district in which
45 the pupil is otherwise enrolled or the charter school in which the



pupil is otherwise enrolled apply to such a pupil, including, without limitation:

(a) Graduation requirements;

(b) Accountability of public schools, as set forth in chapter 385A of NRS;

(c) Provisions governing the attendance and truancy of pupils, as set forth in NRS 392.040 to 392.220, inclusive ~~§~~, and *section 3 of this act*; and

(d) Discipline of pupils.

Sec. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

A pupil enrolled in a public school who is absent from school for the observance of a religious holiday may not be deprived of any award that is based on perfect attendance or any eligibility or opportunity to compete for such an award by reason of such absence if the absence is approved pursuant to subsection 4 of NRS 392.130.

Sec. 4. NRS 392.118 is hereby amended to read as follows:

392.118 **1.** The board of trustees of each school district shall adopt rules that require each public school in the district to include the accounting of attendance and, if feasible, tardiness of a pupil on each report card or other report of progress of the pupil. The report card or other report of progress must indicate the number of absences, if any, for the period covered by the report card or other report of progress.

2. An absence for the observance of a religious holiday which is approved pursuant to subsection 4 of NRS 392.130 must not be counted as an absence for the purposes of this section.

Sec. 5. NRS 392.122 is hereby amended to read as follows:

392.122 **1.** Except as otherwise provided in NRS 389.320, the board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. The teacher or principal of the school may approve



1 the absence of a pupil for deployment activities of the parent or
2 legal guardian of the pupil, as defined in NRS 388F.010. If the
3 board of trustees of a school district has adopted a policy pursuant to
4 subsection 5, the 10-day limitation on absences does not apply to
5 absences that are excused pursuant to that policy.

6 3. Except as otherwise provided in subsection 5, before a pupil
7 is denied credit or promotion to the next higher grade for failure to
8 comply with the attendance requirements prescribed pursuant to
9 subsection 1, the principal of the school in which the pupil is
10 enrolled or the principal's designee shall provide written notice of
11 the intended denial to the parent or legal guardian of the pupil. The
12 notice must include a statement indicating that the pupil and the
13 pupil's parent or legal guardian may request a review of the
14 absences of the pupil and a statement of the procedure for requesting
15 such a review. Upon the request for a review by the pupil and the
16 pupil's parent or legal guardian, the principal or the principal's
17 designee shall review the reason for each absence of the pupil upon
18 which the intended denial of credit or promotion is based. After the
19 review, the principal or the principal's designee shall credit towards
20 the required days of attendance each day of absence for which:

21 (a) There is evidence or a written affirmation by the parent or
22 legal guardian of the pupil that the pupil was physically or mentally
23 unable to attend school on the day of the absence ~~[-]~~ *or the absence*
24 *was approved pursuant to subsection 4 of NRS 392.130;* and

25 (b) The pupil has completed course-work requirements.

26 4. A pupil and the pupil's parent or legal guardian may appeal
27 a decision of a principal or the principal's designee pursuant to
28 subsection 3 to the board of trustees of the school district in which
29 the pupil is enrolled.

30 5. The board of trustees of a school district may adopt a policy
31 to exempt pupils who are physically or mentally unable to attend
32 school from the limitations on absences set forth in subsection 1. If a
33 board of trustees adopts a policy pursuant to this subsection:

34 (a) A pupil who receives an exemption pursuant to this
35 subsection is not exempt from the minimum number of days of
36 attendance prescribed pursuant to subsection 1.

37 (b) The days on which a pupil is physically or mentally unable
38 to attend school must be credited towards the required days of
39 attendance if the pupil has completed course-work requirements.

40 (c) The procedure for review of absences set forth in subsection
41 3 does not apply to days on which the pupil is absent because the
42 pupil is physically or mentally unable to attend school.

43 6. *For the purposes of this section, the days on which a pupil*
44 *is not in attendance because the pupil is absent for the observance*
45 *of a religious holiday must be credited towards the required days*



of attendance if the absence was approved pursuant to subsection 4 of NRS 392.130 and the pupil has completed course-work requirements. The 10-day limitation on absences set forth in subsection 2 does not apply to days on which the pupil is absent for the observance of a religious holiday if the absence was approved pursuant to subsection 4 of NRS 392.130.

7. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, *and section 3 of this act* and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 6. NRS 392.130 is hereby amended to read as follows:

392.130 1. Within the meaning of this chapter, a pupil shall be deemed a truant who is absent from school without the written approval of the pupil's teacher or the principal of the school, unless the pupil is physically or mentally unable to attend school ~~H~~ *or is absent from school for the observance of a religious holiday*. The teacher or principal shall give his or her written approval for a pupil to be absent if an emergency exists or upon the request of a parent or legal guardian of the pupil. Before a pupil may attend or otherwise participate in school activities outside the classroom during regular classroom hours, the pupil must receive the approval of the teacher or principal.

2. An unapproved absence for at least one period, or the equivalent of one period for the school, of a school day may be deemed a truancy for the purposes of this section.

3. If a pupil is physically or mentally unable to attend school, the parent or legal guardian or other person having control or charge of the pupil shall notify the teacher or principal of the school orally or in writing, in accordance with the policy established by the board of trustees of the school district, within 3 days after the pupil returns to school.

4. *If a pupil will be absent from school for the observance of a religious holiday, the parent or legal guardian or other person having control or charge of the pupil shall notify the teacher or principal of the school in writing, in accordance with the policy established by the board of trustees of the school district, at least 3 days before the pupil will be absent from school. An absence for which notice is provided in accordance with this subsection shall be deemed an approved absence, except that not more than 5 absences within 1 school year may be approved pursuant to this subsection.*



5. An absence which has not been approved pursuant to subsection 1, ~~for~~ 3 or 4 shall be deemed an unapproved absence. In the event of an unapproved absence, the teacher, attendance officer or other school official shall deliver or cause to be delivered a written notice of truancy to the parent, legal guardian or other person having control or charge of the child. The written notice must be delivered to the parent, legal guardian or other person who has control of the child. The written notice must inform the parents or legal guardian of such absences in a form specified by the Department.

~~5.1~~ 6. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

~~6.1~~ 7. *For the purposes of collecting the information required pursuant to NRS 385A.240 on the attendance, truancy and transiency of pupils for the annual report of accountability prepared pursuant to NRS 385A.070, an absence that is approved pursuant to subsection 4 shall not be deemed an absence.*

8. As used in this section, "physically or mentally unable to attend" does not include a physical or mental condition for which a pupil is excused pursuant to NRS 392.050.

Sec. 7. NRS 392.140 is hereby amended to read as follows:

392.140 1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.

2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:

(a) Approval of the child's teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or

(b) Notice of his or her parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 or 4 of NRS 392.130,

↪ may again be declared a habitual truant.

3. The provisions of this section apply to all pupils who are required to attend school pursuant to NRS 392.040.

Sec. 8. NRS 129.130 is hereby amended to read as follows:

129.130 1. If the court determines that the petition should be granted, it shall enter a decree of emancipation.

2. A decree so entered is conclusive and binding.

3. Such a decree emancipates the minor for all purposes and removes the disability of minority of the minor insofar as that disability may affect:

(a) The incurring of indebtedness or contractual obligations of any kind;

(b) The litigation and settlement of controversies;



(c) The acquiring, encumbering and conveying of property or any interest therein;

(d) The consenting to medical, dental or psychiatric care without parental consent, knowledge or liability;

(e) The enrolling in any school or college; and

(f) The establishment of the minor's own residence.

➤ For these purposes, the minor shall be considered in law as an adult, and any obligation the minor incurs is enforceable by and against the minor without regard to his or her minority.

4. Unless otherwise provided by the decree, the obligation of support otherwise owed a minor by his or her parent or guardian is terminated by the entry of the decree.

5. Except as otherwise provided in this section, a decree of emancipation does not affect the status of the minor for any purpose, including the applicability of any provision of law which:

(a) Prohibits the sale, purchase or consumption of intoxicating liquor to or by a person under the age of 21 years;

(b) Prohibits gaming or employment in gaming by or of a person under the age of 21 years;

(c) Restricts the ability to marry of a person under the age of 18 years;

(d) Governs matters relating to referrals for delinquent acts or violations of NRS 392.040 to 392.125, inclusive, *and section 3 of this act*, unless the minor has been certified for trial as an adult pursuant to title 5 of NRS; or

(e) Imposes penalties or regulates conduct according to the age of any person.

6. A petition may be filed by any person or by any public agency to void a decree of emancipation on the following grounds:

(a) The minor has become indigent and has insufficient means of support; or

(b) The decree of emancipation was obtained by fraud, misrepresentation or the withholding of material information.

7. The voiding of any decree of emancipation must not alter any contractual obligations or rights or any property rights or interests which arose during the period that the decree was in effect.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Section 1 to 8, inclusive, of this act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2024, for all other purposes.

