

Truancy Laws

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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 or 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 380.1586
 - 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
