

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
3 BILL NO. 1035

By: Rosecrants, Pae, and  
Provenzano of the House

4 and

5 Pemberton of the Senate

6  
7  
8 [ schools - student attendance - exceptions for  
9 mental health counseling and occupational therapy  
10 appointments - certification of absence - effective  
11 date ]

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14 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause  
15 and entire bill and insert

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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SECTION 1. AMENDATORY 70 O.S. 2021, Section 10-105, is

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amended to read as follows:

1 Section 10-105. A. It shall be unlawful for a parent,  
2 guardian, or other person having custody of a child who is over the  
3 age of five (5) years, and under the age of eighteen (18) years, to  
4 neglect or refuse to cause or compel ~~such~~ the child to attend and  
5 comply with the rules of some public, private, or other school,  
6 unless other means of education are provided for the full term the  
7 schools of the district are in session or the child is excused as  
8 provided in this section. One-half (1/2) day of kindergarten shall  
9 be required of all children five (5) years of age or older unless  
10 the child is excused from kindergarten attendance as provided in  
11 this section. A child who is five (5) years of age shall be excused  
12 from kindergarten attendance until the next school year after the  
13 child is six (6) years of age if a parent, guardian, or other person  
14 having custody of the child notifies the superintendent of the  
15 district where the child is a resident by certified mail prior to  
16 enrollment in kindergarten, or at any time during the first school  
17 year that the child is required to attend kindergarten pursuant to  
18 this section, of election to withhold the child from kindergarten  
19 until the next school year after the child is six (6) years of age.  
20 A kindergarten program shall be directed toward developmentally  
21 appropriate objectives for such children. The program shall require  
22 that any teacher employed on and after January 1, 1993, to teach a  
23 kindergarten program within the public school system shall be  
24 certified in early childhood education. All teachers hired to teach

1 a kindergarten program within the public school system prior to  
2 January 1, 1993, shall be required to obtain certification in early  
3 childhood education on or before the 1996-97 school year in order to  
4 continue to teach a kindergarten program.

5 B. It shall be unlawful for any child who is over the age of  
6 twelve (12) years and under the age of eighteen (18) years, and who  
7 has not finished four (4) years of high school work, to neglect or  
8 refuse to attend and comply with the rules of some public, private,  
9 or other school, or receive an education by other means for the full  
10 term the schools of the district are in session.

11 Provided, that this section shall not apply:

12 1. If any child is prevented from attending school by reason of  
13 mental or physical disability, to be determined by the board of  
14 education of the district upon a certificate of the school physician  
15 or public health physician, or, if no such physician is available, a  
16 duly licensed and practicing physician;

17 2. If any child is excused from attendance at school, due to an  
18 emergency, by the principal ~~teacher~~ of the school in which ~~such~~ the  
19 child is enrolled, at the request of the parent, guardian,  
20 custodian, or other person having ~~control~~ custody of ~~such~~ the child;

21 3. If any child who has attained his or her sixteenth birthday  
22 is excused from attending school by written, joint agreement  
23 between:

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1 a. the school administrator of the school district where  
2 the child attends school, and

3 b. the parent, guardian, or custodian of the child.

4 Provided, further, that no child shall be excused from  
5 attending school by ~~such~~ the joint agreement between a  
6 school administrator and the parent, guardian, or  
7 custodian of the child unless and until it has been  
8 determined that ~~such~~ the action is for the best  
9 interest of the child and/or the community, and that  
10 ~~said~~ the child shall thereafter be under the  
11 supervision of the parent, guardian, or custodian  
12 until the child has reached the age of eighteen (18)  
13 years;

14 4. If any child is excused from attending school for the  
15 purpose of observing religious holy days if before the absence, the  
16 parent, guardian, or other person having custody or control of the  
17 ~~student~~ child submits a written request for the excused absence.  
18 The school district shall excuse a ~~student~~ child pursuant to this  
19 subsection for the days on which the religious holy days are  
20 observed and for the days on which the ~~student~~ child must travel to  
21 and from the site where the ~~student~~ child will observe the holy  
22 days; ~~or~~

1           5. If any child is excused from attending school for the  
2 purpose of participating in a military funeral honors ceremony upon  
3 approval of the school principal; or

4           6. If any child is excused from attending school for the  
5 purpose of receiving mental health counseling or occupational  
6 therapy if before the absence, the parent, guardian, or other person  
7 having custody of the child submits a written request for the  
8 excused absence. The school district shall excuse the child  
9 pursuant to this subsection upon receipt of documentation from the  
10 mental health or occupational therapy provider evidencing the  
11 child's absence due to participation in mental health counseling or  
12 occupational therapy.

13           C. It shall be the duty of the attendance officer to enforce  
14 the provisions of this section. In the prosecution of a parent,  
15 guardian, or other person having custody of a child for violation of  
16 any provision of this section, it shall be an affirmative defense  
17 that the parent, guardian, or other person having custody of the  
18 child has made substantial and reasonable efforts to comply with the  
19 compulsory attendance requirements of this section but is unable to  
20 cause the child to attend school. If the court determines the  
21 affirmative defense is valid, it shall dismiss the complaint against  
22 the parent, guardian, or other person having custody of the child  
23 and shall notify the school attendance officer who shall refer the  
24 child to the district attorney for the county in which the child

1 resides for the filing of a Child in Need of Supervision petition  
2 against the child pursuant to the Oklahoma Juvenile Code.

3 D. Any parent, guardian, custodian, child, or other person  
4 violating any of the provisions of this section, upon conviction,  
5 shall be guilty of a misdemeanor, and shall be punished as follows:

6 1. For the first offense, a fine ~~of~~ not less than Twenty-five  
7 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or  
8 imprisonment for not more than five (5) days, or both such fine and  
9 imprisonment;

10 2. For the second offense, a fine ~~of~~ not less than Fifty  
11 Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or  
12 imprisonment for not more than ten (10) days, or both such fine and  
13 imprisonment; and

14 3. For the third or subsequent offense, a fine ~~of~~ not less than  
15 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty  
16 Dollars (\$250.00), or imprisonment for not more than fifteen (15)  
17 days, or both such fine and imprisonment.

18 Each day the child remains out of school after ~~the~~ an oral and  
19 documented or written warning has been given to the parent,  
20 guardian, custodian, child, or other person or the child has been  
21 ordered to school by the juvenile court shall constitute a separate  
22 offense.

23 E. At the trial of any person charged with violating the  
24 provisions of this section, the attendance records of the child or

1 ward may be presented in court by any authorized employee of the  
2 school district.

3 F. The court may order the parent, guardian, or other person  
4 having custody of the child to perform community service in lieu of  
5 the fine set forth in this section. The court may require that all  
6 or part of the community service be performed for a public school  
7 district.

8 G. The court may order as a condition of a deferred sentence or  
9 as a condition of sentence upon conviction of the parent, guardian,  
10 or other person having custody of the child any conditions as the  
11 court considers necessary to obtain compliance with school  
12 attendance requirements. The conditions may include, but are not  
13 limited to, the following:

- 14 1. Verifying attendance of the child with the school;
- 15 2. Attending meetings with school officials;
- 16 3. Taking the child to school;
- 17 4. Taking the child to the bus stop;
- 18 5. Attending school with the child;
- 19 6. Undergoing an evaluation for drug, alcohol, or other  
20 substance abuse and following the recommendations of the evaluator;  
21 and

22 7. Taking the child for drug, alcohol, or other substance abuse  
23 evaluation and following the recommendations of the evaluator,  
24 unless excused by the court.

1 SECTION 2. This act shall become effective July 1, 2023.

2 SECTION 3. It being immediately necessary for the preservation  
3 of the public peace, health, or safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.”

6  
7 Passed the Senate the 25th day of April, 2023.

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9 \_\_\_\_\_  
10 Presiding Officer of the Senate

11 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
12 2023.

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15 Presiding Officer of the House  
16 of Representatives

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1 ENGROSSED HOUSE  
2 BILL NO. 1035

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7 [ schools - student attendance - exceptions for  
8 mental health counseling and occupational therapy  
9 appointments - certification of absence - effective  
10 date ]  
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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 2. AMENDATORY 70 O.S. 2021, Section 10-105, is  
16 amended to read as follows:

17 Section 10-105. A. It shall be unlawful for a parent,  
18 guardian, or other person having custody of a child who is over the  
19 age of five (5) years, and under the age of eighteen (18) years, to  
20 neglect or refuse to cause or compel such child to attend and comply  
21 with the rules of some public, private or other school, unless other  
22 means of education are provided for the full term the schools of the  
23 district are in session or the child is excused as provided in this  
24 section. One-half (1/2) day of kindergarten shall be required of

1 all children five (5) years of age or older unless the child is  
2 excused from kindergarten attendance as provided in this section. A  
3 child who is five (5) years of age shall be excused from  
4 kindergarten attendance until the next school year after the child  
5 is six (6) years of age if a parent, guardian, or other person  
6 having custody of the child notifies the superintendent of the  
7 district where the child is a resident by certified mail prior to  
8 enrollment in kindergarten, or at any time during the first school  
9 year that the child is required to attend kindergarten pursuant to  
10 this section, of election to withhold the child from kindergarten  
11 until the next school year after the child is six (6) years of age.  
12 A kindergarten program shall be directed toward developmentally  
13 appropriate objectives for such children. The program shall require  
14 that any teacher employed on and after January 1, 1993, to teach a  
15 kindergarten program within the public school system shall be  
16 certified in early childhood education. All teachers hired to teach  
17 a kindergarten program within the public school system prior to  
18 January 1, 1993, shall be required to obtain certification in early  
19 childhood education on or before the 1996-97 school year in order to  
20 continue to teach a kindergarten program.

21 B. It shall be unlawful for any child who is over the age of  
22 twelve (12) years and under the age of eighteen (18) years, and who  
23 has not finished four (4) years of high school work, to neglect or  
24 refuse to attend and comply with the rules of some public, private

1 or other school, or receive an education by other means for the full  
2 term the schools of the district are in session.

3 Provided, that this section shall not apply:

4 1. If any child is prevented from attending school by reason of  
5 mental or physical disability, including mental health counseling  
6 and occupational therapy appointments, to be determined by the board  
7 of education of the district upon a certificate of the school  
8 physician ~~or~~, public health physician, counselor or occupational  
9 therapist, or, if no such physician, counselor or occupational  
10 therapist is available, a duly licensed and practicing physician,  
11 counselor or occupational therapist;

12 2. If any child is excused from attendance at school, due to an  
13 emergency, by the principal ~~teacher~~ of the school in which such  
14 child is enrolled, at the request of the parent, guardian, custodian  
15 or other person having ~~control~~ custody of such child;

16 3. If any child who has attained his or her sixteenth birthday  
17 is excused from attending school by written, joint agreement  
18 between:

- 19 a. the school administrator of the school district where  
20 the child attends school, and  
21 b. the parent, guardian or custodian of the child.

22 Provided, further, that no child shall be excused from  
23 attending school by such joint agreement between a  
24 school administrator and the parent, guardian or

1           custodian of the child unless and until it has been  
2           determined that such action is for the best interest  
3           of the child and/or the community, and that said child  
4           shall thereafter be under the supervision of the  
5           parent, guardian or custodian until the child has  
6           reached the age of eighteen (18) years;

7           4. If any child is excused from attending school for the  
8           purpose of observing religious holy days if before the absence, the  
9           parent, guardian, or other person having custody or control of the  
10          ~~student~~ child submits a written request for the excused absence.

11          The school district shall excuse a ~~student~~ child pursuant to this  
12          subsection for the days on which the religious holy days are  
13          observed and for the days on which the ~~student~~ child must travel to  
14          and from the site where the ~~student~~ child will observe the holy  
15          days; or

16          5. If any child is excused from attending school for the  
17          purpose of participating in a military funeral honors ceremony upon  
18          approval of the school principal.

19          C. It shall be the duty of the attendance officer to enforce  
20          the provisions of this section. In the prosecution of a parent,  
21          guardian, or other person having custody or control of a child for  
22          violation of any provision of this section, it shall be an  
23          affirmative defense that the parent, guardian, or other person  
24          having custody of the child has made substantial and reasonable

1 efforts to comply with the compulsory attendance requirements of  
2 this section but is unable to cause the child to attend school. If  
3 the court determines the affirmative defense is valid, it shall  
4 dismiss the complaint against the parent, guardian, or other person  
5 having custody of the child and shall notify the school attendance  
6 officer who shall refer the child to the district attorney for the  
7 county in which the child resides for the filing of a Child in Need  
8 of Supervision petition against the child pursuant to the Oklahoma  
9 Juvenile Code.

10 D. Any parent, guardian, custodian, child or other person  
11 violating any of the provisions of this section, upon conviction,  
12 shall be guilty of a misdemeanor, and shall be punished as follows:

13 1. For the first offense, a fine of not less than Twenty-five  
14 Dollars (\$25.00) nor more than Fifty Dollars (\$50.00), or  
15 imprisonment for not more than five (5) days, or both such fine and  
16 imprisonment;

17 2. For the second offense, a fine of not less than Fifty  
18 Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00), or  
19 imprisonment for not more than ten (10) days, or both such fine and  
20 imprisonment; and

21 3. For the third or subsequent offense, a fine of not less than  
22 One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty  
23 Dollars (\$250.00), or imprisonment for not more than fifteen (15)  
24 days, or both such fine and imprisonment.

1 Each day the child remains out of school after ~~the~~ an oral and  
2 documented or written warning has been given to the parent,  
3 guardian, custodian, child or other person or the child has been  
4 ordered to school by the juvenile court shall constitute a separate  
5 offense.

6 E. At the trial of any person charged with violating the  
7 provisions of this section, the attendance records of the child or  
8 ward may be presented in court by any authorized employee of the  
9 school district.

10 F. The court may order the parent, guardian, or other person  
11 having custody of the child to perform community service in lieu of  
12 the fine set forth in this section. The court may require that all  
13 or part of the community service be performed for a public school  
14 district.

15 G. The court may order as a condition of a deferred sentence or  
16 as a condition of sentence upon conviction of the parent, guardian,  
17 or other person having custody of the child any conditions as the  
18 court considers necessary to obtain compliance with school  
19 attendance requirements. The conditions may include, but are not  
20 limited to, the following:

- 21 1. Verifying attendance of the child with the school;
- 22 2. Attending meetings with school officials;
- 23 3. Taking the child to school;
- 24 4. Taking the child to the bus stop;

1 5. Attending school with the child;

2 6. Undergoing an evaluation for drug, alcohol, or other  
3 substance abuse and following the recommendations of the evaluator;  
4 and

5 7. Taking the child for drug, alcohol, or other substance abuse  
6 evaluation and following the recommendations of the evaluator,  
7 unless excused by the court.

8 SECTION 3. This act shall become effective November 1, 2023.

9 Passed the House of Representatives the 23rd day of March, 2023.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the **Enter day** day of **Enter month**, 2023.

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Presiding Officer of the Senate

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