

TRUANCY:
Preliminary Findings On
Washington's 1995 Law

**This report was mandated by the 1995 Washington Legislature in its
1995-97 Budget—E2SSB 5439, section 81.**

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EXECUTIVE SUMMARY

In the 1995 legislative session, E2SSB 5439 (known as the “Becca Bill”) was passed by the legislature and signed into law. Its purpose is to give parents, police, schools, and courts the ability to intervene earlier in the lives of at-risk youth. Sections 66-74 of the new law address truancy. The new law requires the school district to file a truancy petition directly with the juvenile court if a juvenile has five unexcused absences in a month or ten in a school year.

The Becca Bill directed the Washington State Institute for Public Policy to:

- Review and evaluate the need to develop a statewide definition of excused and unexcused absences.
- Review and evaluate the need to prohibit school districts from suspending and expelling students as disciplinary measures in response to unexcused absences.
- Review and evaluate the process of filing truancy petitions.

This report describes how the law has been interpreted and implemented in school districts and juvenile courts from September through November 1995.

Preliminary Implementation Findings:

- 1,189 truancy petitions have been filed in juvenile courts statewide.
- 9 prosecutors are directly involved in the truancy petition process.
- 10 juveniles have been held in 3 juvenile detention centers for violating a court order to return to school.

Options for Creating a Statewide Definition of Unexcused Absence:

- Delay the decision to create a statewide definition of unexcused absence until more information is available.
- Do not create a statewide definition of unexcused absence, but clarify the compulsory attendance law and sections of the Becca Bill.
- Adopt a statewide definition of unexcused absence.

Options for Prohibiting Suspension and Expulsion from School in Response to Unexcused Absences:

- Do not create a law prohibiting suspension and expulsion for truancy.
- Delay the decision to create a law prohibiting suspension and expulsion for truancy until more information about the effects of the new law is available.
- Adopt a statewide prohibition of suspension and expulsion for truancy.

INTRODUCTION

In the 1995 legislative session, E2SSB 5439 (known as the “Becca Bill”) was passed and signed into law. Its purpose is to give parents, police, schools, and courts the ability to intervene earlier in the lives of at-risk youth. Part of the new law addresses truancy.

Washington has a compulsory attendance law (RCW 28A.225.010) that requires parents to send their children, 8-18 years old, to school. However, Washington does *not* have a statewide definition for an excused absence, an unexcused absence, or a truancy. Each of the 296 school districts in the state has its own definition of these terms.

Under the new law, school districts are required to file “truancy petitions” in juvenile court when K-12 public school students have five unexcused absences from school in one month or ten unexcused absences in one school year.

The 1995 Legislature directed the Washington State Institute for Public Policy to:

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- Review and evaluate the need to develop a statewide definition of excused and unexcused absences. *(Due January 1, 1996)*
 - Review and evaluate the need to prohibit school districts from suspending and expelling students as disciplinary measures in response to unexcused absences. *(Due January 1, 1996)*
 - Review and evaluate the process of filing petitions. *(Due January 1, 1998)*
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These three topics are addressed in five sections of this report:

Section One: Background describes legislative intent, the prevalence and causes of truancy, and the requirements of the new law.

Section Two: Findings describes how the law has been interpreted and implemented in the first three months of the school year.

Section Three: Implementation Issues discusses the legal and procedural issues that have surfaced in implementing the new law.

Section Four: Options discusses options for a statewide definition of excused and unexcused absences and for the suspension and expulsion of students for truancy violations.

Section Five: Evaluation describes an evaluation design of the truancy petition process and discusses how the implementation costs can be estimated for schools and courts.

The terms “unexcused absence” and “truancy” are often used interchangeably. In some states, the terms “truant” or “habitual truant” have specific legal definitions, but they do not in Washington. The “Becca Bill” refers to “unexcused absences”; however, the petitions that are filed in juvenile court are commonly referred to as “truancy petitions.” In this report, the following definitions will be used:

- A **truancy** means a deliberate action by a student to skip school. The absence was neither known nor approved by the parent. The absence was not approved by the school, and *will not become* excused.
- An **unexcused absence** means an absence for which the school *may* receive a legitimate excuse from a parent, but the excuse has not yet been received. The unexcused absence *may become* excused if a legitimate excuse is received. If no legitimate excuse is received, it will become a truancy.

SECTION ONE: BACKGROUND

1. Background

Most of the language for E2SSB 5439, passed in 1995, came from a Special Legislative Juvenile Justice Task Force created by the Washington Legislature in 1994. The Task Force proposed a bill to address runaway youth, alternative residential placements, and involuntary commitment of minors.¹ During the 1995 legislative session, sections were added to the Task Force's bill, outlining new procedures for school districts and juvenile courts to use for students who are truant from school.

It was no accident that truancy was included in an act that addressed at-risk youth. Legislators recognized that truancy was linked to dropping out of school and anti-social behavior. The intent was to empower parents, schools, and the courts to intervene early in the lives of children who are putting themselves at risk of future delinquent behavior. The Act states the following legislative intent:

The legislature intends to provide for the protection of children who, through their behavior, are endangering themselves. The legislature intends to provide appropriate residential services, including secure facilities, to protect, stabilize, and treat children with serious problems. The legislature further intends to empower parents by providing them with the assistance they require to raise their children.

The truancy provisions of the Act, also known as the "Becca Bill," are found in Sections 66-74 of E2SSB 5439. The intent of these sections is to keep students in school until graduation, and to make students, parents, and schools responsible and accountable for school attendance. The previous law, which *allowed but did not require* the prosecutor and the educational service district to file truancy petitions in the juvenile court, was not considered effective. The new law eliminates reference to the county prosecutor and educational service district and **requires** the **school district** to file a petition directly with the juvenile court.

The "Becca Bill" was intended to influence truancy and many of the consequences of habitual truancy, such as:

- ***Dropping out of school.*** Students who are chronically truant typically fall behind in grade level and drop out of school.
- ***Delinquency.*** Students who are chronically truant are also at-risk for other behaviors, such as alcohol and drug abuse, teenage pregnancy, and delinquency.
- ***Negative effect upon other students.*** Students who are chronically truant require extra time from teachers; teachers have less time to spend with the regularly-attending students in the classroom when they must create make-up work for truants.

2. Prevalence of Truancy

Is there a known truancy rate for K-12 students in Washington? No. There has not been objective, statewide information available for truancy rates in Washington. Each of the 296 school districts has its own definition of truancy, and districts were not required to report the number of trancies to the Office of the Superintendent of Public Instruction (OSPI) before the “Becca Bill” was enacted.

Average daily attendance rates might be used as a very crude approximation of truancy. The Washington Association of School Administrators (WASA) reported in April 1995 that nine states allotted state education funds on the basis of average daily attendance.² The nine states’ average daily attendance ranged from a low of 88.5 percent in New York to a high of 98.7 percent in California. The WASA report also stated, according to National Education Association data, that Washington State had an average daily attendance of 93.1 percent.

The closest estimation of truancy rates is found in research studies conducted in the U.S. and Great Britain, during the past 20 years. They have shown a truancy rate of **3** to **19** percent for students. The National Education Longitudinal Study of 1988 found that 3 percent of American eighth graders were truant.³ A 1976 California Household Survey of Income and Education found that over 13 percent of 14-year-olds were not in school, and another survey in 1978 found that 9 percent of elementary, 12 percent of junior high, and 19 percent of high school students were truant.⁴

The U.S. and British studies found the rate was lower at the elementary school level, and higher at the high school level. The percentage of truants was also higher at schools with students from poorer families, schools with inconsistent attendance policies, and schools that failed to monitor student absences.

3. Causes of Truancy

What influences truancy? In early research, depending upon the perspective of the researcher, truancy was said to be caused by the student, the student's family, or the school. More recently, it is understood that a **combination** of all three factors usually affect truancy:

Characteristics of the Student:

- low grades in reading and mathematics
- neurological factors, such as dyslexia
- inability to make friends with mainstream students or teachers
- negative attitudes toward school or teachers

Characteristics of the Student's Family:

- parent(s) who do not value education
- parent(s) who did not complete school, were truant themselves
- poor parenting skills
- low socio-economic status
- physical or mental health problems of parents
- family history of delinquency
- single parent families
- many children in the family

Characteristics of the School:

- weak or no monitoring of daily attendance
- inconsistent attendance policies
- lack of parent involvement in the school
- lack of personalized attention to students
- lack of teacher expectations for high student achievement

For a discussion of the cause of truancy, see: Desnoyers, Jacqueline and Jerome Pauker, *School Attendance and Non-Attendance in Canada and the United States: Survey of Methods and Programs to Increase School Attendance, Decrease Absenteeism, and Deal With Drop-out*, Ontario Ministry of Education, Toronto, 1988. Hawkins, David and Tony Lam, "Teacher Practices, Social Development, and Delinquency" in John Burchard and Sara Burchard (eds.) *Prevention of Delinquent Behavior*, Sage, Beverly Hills, 1986. David Brown, "Truants, Families and Schools: A Critique of the Literature on Truancy," *Educational Review*, Vol. 35, No. 3, 1983. Hersov, Lionel and Ian Berg, *Out of School: Modern Perspectives in Truancy and School Refusal*, John Wiley and Sons, New York, 1980.

4. What the New Law Requires of Parents, Schools, School Districts, and Juvenile Courts

E2SSB 5439, RCW 28A.225.010, and RCW 28A.225.020 direct the following:

The parent is required to:

cause the child, 8-18 years old, to attend the public school in the district in which the child resides. *(RCW 28A.225.010)*

The school is required to:

notify a parent after the first unexcused absence in a month. *(RCW 28A.225.020)*

schedule and hold a parent-school conference after the second unexcused absence within a month. *(RCW 28A.225.020)*

take specific steps to eliminate or reduce the child's absences by:

- adjusting the program, school, or course assignment
- providing more individualized or remedial instruction
- providing vocational courses or work experience
- referring the child to a community truancy board, or
- assisting the parents to receive supplementary services.

(RCW 28A.225.020)

If these actions do not eliminate or reduce truancy, and the student has five unexcused absences in a month or 10 in a year,

The school district is required to:

file a truancy petition in the county juvenile court⁶ alleging a violation of RCW 28A.225.010, the state's compulsory education law. *(E2SSB 5439, Section 68)*

Once the petition is filed in juvenile court,

The court may:

schedule a fact-finding hearing on the truancy petition. *(E2SSB 5439, Section 69)*

If the facts support the petition by a preponderance of evidence,

The Court Shall: assume jurisdiction and order the student to return to school.

The Court May: order the parents to pay a fine or perform community service at the school.

If the student fails to attend school,

The School District Is Required To: report to the court additional unexcused absences and file a contempt motion.

The Court May: schedule and hold a contempt hearing to determine if the student violated the court order.

The Parent and Student May: request legal representation.

If the student is found guilty of violating a court order to return to school,

The Court May:

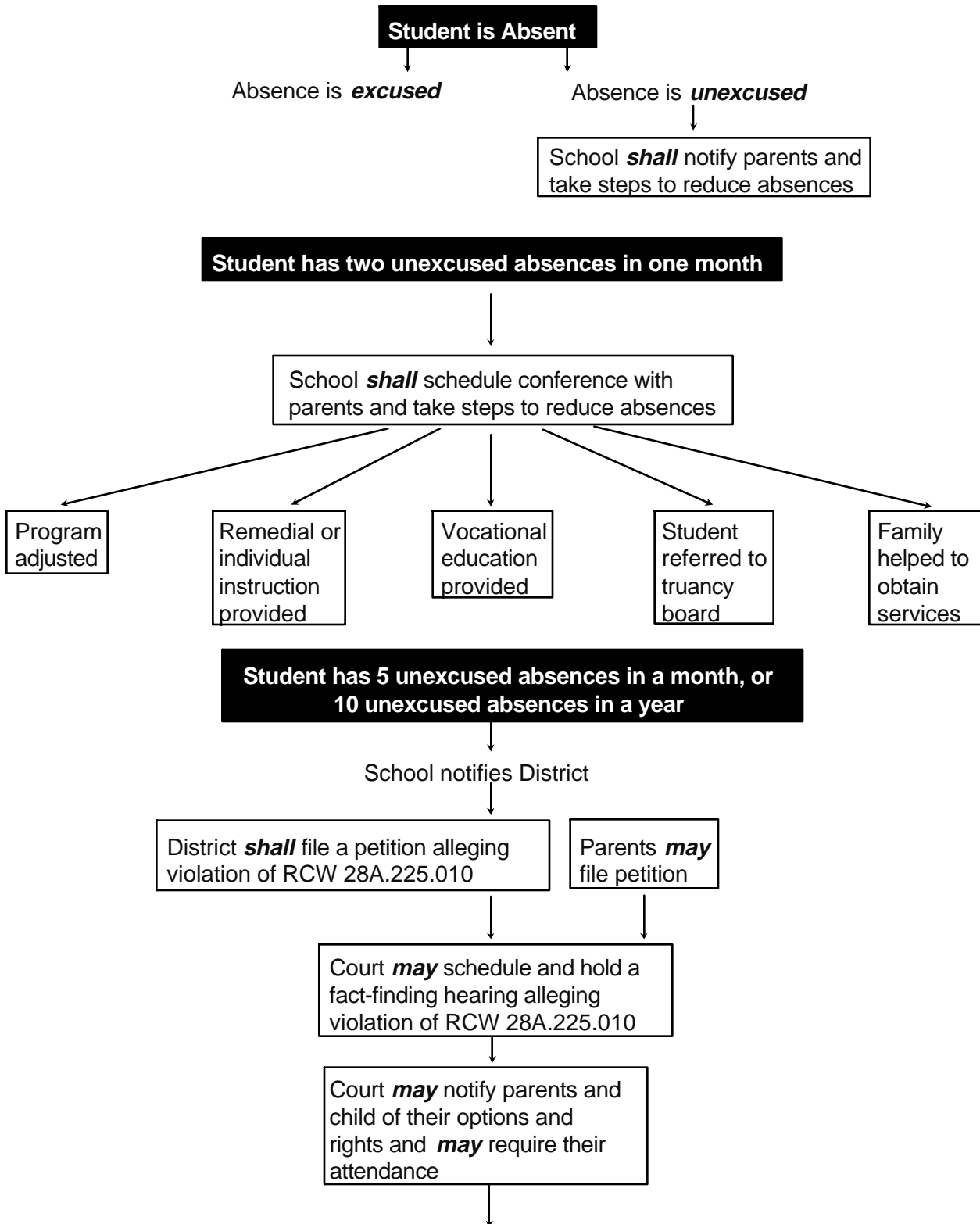
- order the student to county detention.
- order the student to perform community service.
- order the student to attend a dropout prevention program.
- order the student to report to a truancy board.
- order the parent to perform community service at the school.
- order the parent to pay a fine.

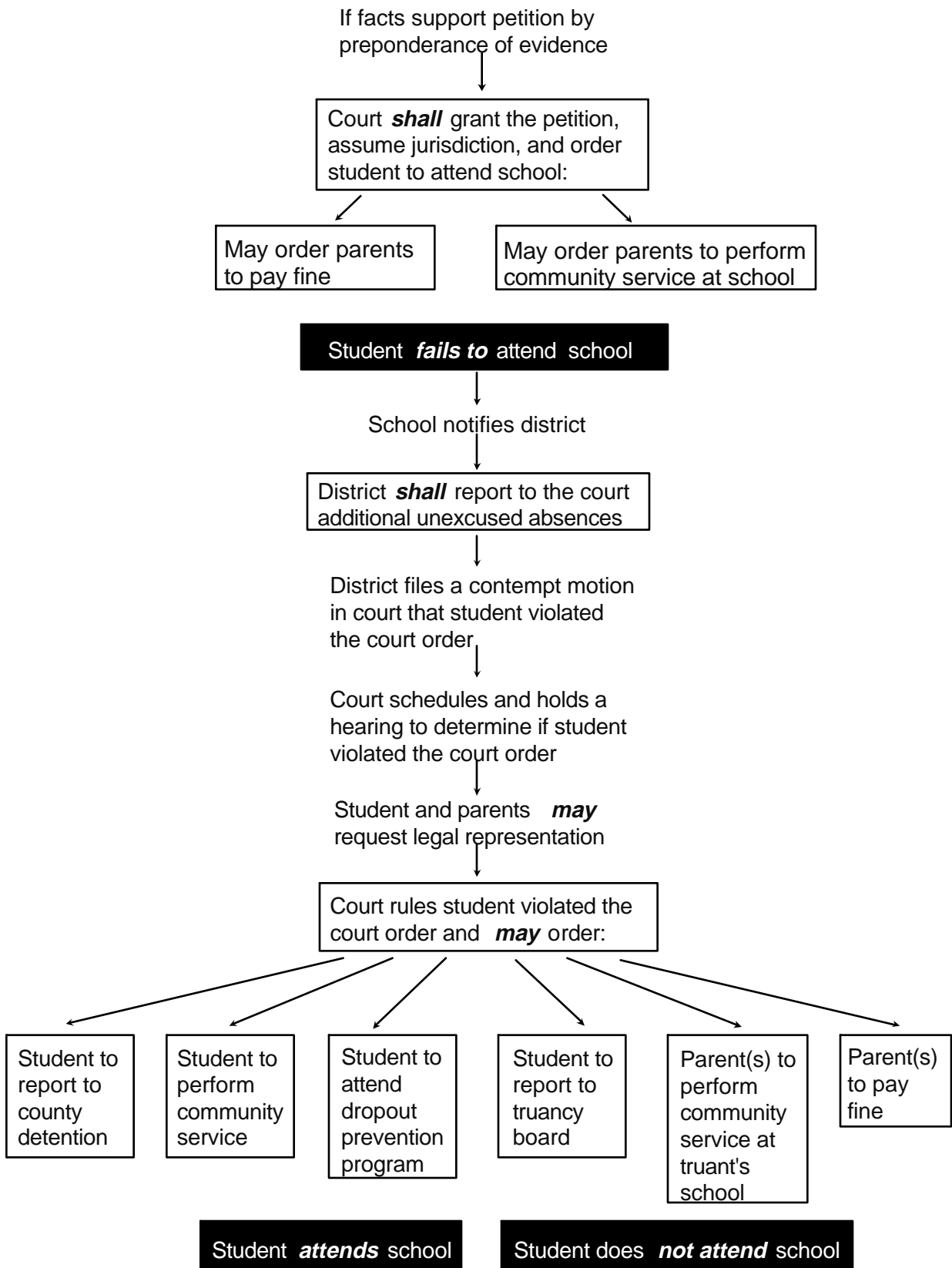
This process is shown in a flow chart on pages 10 and 11.

Figure 1

The Truancy Petition Process

RCW 28A.225.010, 28A.225.020, and E2SSB 5439





SECTION TWO: FINDINGS

1. How Washington's School Districts and Juvenile Courts Have Interpreted and Implemented the New Law (September - November 1995)

Process of Implementing the Law

In each county, one person, or a small group, assumed the responsibility of bringing together an **ad hoc work group** to determine procedures for implementing the new law.

Each work group developed its own procedures, with its understanding of the broad parameters of the compulsory attendance law (RCW 28A.225.010), the role of the prosecutor as advisor to school districts (RCW 36.27.020(2)), and the juvenile code (RCW 13).

These work groups included some or all of the following participants (or their representatives):

- juvenile court judge or commissioner
- juvenile court administrator
- school district superintendent(s)
- school principal(s)
- school counselor(s)
- school district legal counsel
- county prosecutor
- law enforcement

In each county, different actors took the lead. Common leaders were presiding judges, deputy prosecutors, and school district superintendents.

A beneficial outcome of the new law has been the necessity for educators and other professionals from the court, the prosecutor's office, and law enforcement to work together on a truancy process for their county. The work groups have implemented the law as they have understood it. Because the new law and the compulsory attendance law lacked some clarity, there have been differences in interpretation, which are explained in the implementation issues section on pages 18-21.

B. Patterns of Implementation

Implementation of the new law varied. In some counties, the work groups developed their own truancy petition forms, and began filing truancy petitions as early as September 1995. In other counties, work groups waited for the Office of the Administrator for the Courts (OAC) to issue a "model truancy petition form"⁶ and did not file petitions until October or November.

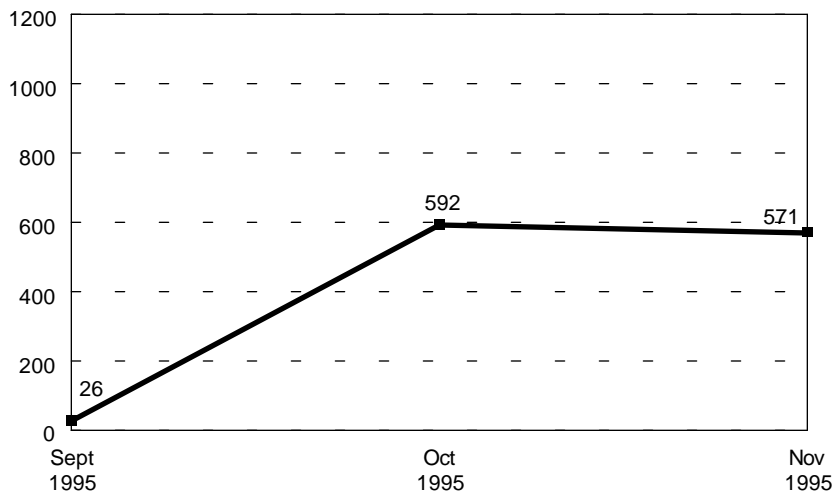
The variety of implementation timeframes is evidenced in the petitions data below:

- In **September**, **3** counties had truancy petitions filed in juvenile courts. There was a statewide total of **26** petitions.
- In **October**, **19** counties had truancy petitions filed in juvenile courts. There was a statewide total of **592** petitions.
- In **November**, **25** counties had truancy petitions filed in juvenile courts. There was a statewide total of **571** petitions.

Chart 1 shows this emerging pattern.

Chart 1

Truancy Petitions Filed in Juvenile Court



Washington State Institute
for Public Policy, December 1995

Source: SCOMIS
Office of the Administrator
for the Courts

Chart 2 on page 14 shows the total number of petitions filed statewide, by county, in the first three months of the school year.

Chart 2
Truancy Petitions Filed in Juvenile Court Under E2SSB 5439 (Becca Bill)

County	Sept. 1995	Oct. 1995	Nov. 1995	Dec. 1995	Total Sept. - Dec.	K-12 Headcount October 1995	Rate per 1000 K-12 Students
Adams	0	0	0	0	0	3,677	0
Asotin	0	0	0	0	0	3,715	0
Benton	0	3	2	1	6	27,842	<1
Chelan	0	13	28	10	51	12,394	4.1
Clallam	0	11	24	15	50	10,531	4.7
Clark	0	11	61	66	138	57,561	2.4
Columbia	0	0	0	0	0	815	0
Cowlitz	0	9	28	54	91	17,198	5.3
Douglas	0	0	12	1	13	6,115	2.1
Ferry	0	0	0	0	0	1,398	0
Franklin	0	0	0	0	0	9,801	0
Garfield	0	0	0	1	1	454	<1
Grant	2	20	0	11	33	15,431	2.1
Grays Harbor	0	0	0	0	0	13,536	0
Island	0	4	4	4	12	9,826	1.2
Jefferson	0	13	13	4	30	3,817	7.9
King	0	338	110	312	760	237,726	3.2
Kitsap	0	11	25	24	60	41,228	1.5
Kittitas	0	1	2	0	3	4,750	<1
Klickitat	0	0	2	0	2	3,934	<1
Lewis	0	10	6	14	30	13,024	2.3
Lincoln	0	0	0	0	0	2,313	0
Mason	1	0	15	23	39	8,349	4.7
Okanogan	0	0	0	1	1	7,889	<1
Pacific	0	0	0	5	5	3,658	1.4
Pend Oreille	0	0	0	0	0	2,372	0
Pierce	0	6	1	60	67	117,237	<1
San Juan	0	1	0	0	1	1,820	<1
Skagit	0	5	76	42	123	17,206	7.1
Skamania	0	0	1	1	2	1,486	1.3
Snohomish	0	47	65	88	200	93,126	2.1
Spokane	0	0	11	91	102	72,009	1.4
Stevens	0	0	0	7	7	6,724	1
Thurston	0	7	29	21	57	37,108	1.5
Wahkiakum	0	0	0	0	0	576	0
Walla Walla	0	0	0	0	0	9,089	0
Whatcom	0	1	1	41	43	24,076	1.8
Whitman	0	0	8	1	9	5,018	1.8
Yakima	23	81	47	148	299	46,867	6.4
TOTAL	26	592	571	1,046	2,235	951,696	2.3

Sources: OSPI October 1995 Headcount, SCOMIS (Superior Court Management Information System), Office of the Administrator for the Courts.

Lewis and Skagit Counties entered petitions on SCOMIS differently than the other 37 counties. Their information was reported by telephone.

C. Roles in Implementing the New Law

1. Truancy Petition Procedures in School Districts

(September - November 1995)

One hundred seventy (170) school districts responded to a survey⁷ asking for their truancy petition procedures during the first few months of the school year. The responses represented **all** of the largest districts (Seattle, Spokane, Tacoma, Lake Washington, Kent, Edmonds, and Federal Way), and a cross-section of medium and smaller sized districts in both eastern and western Washington.

As of November 10, 1995:

Definition

- 114 districts counted an unexcused absence or truancy as “missed a majority of the day.” *Some schools defined an absence as missed one, two, or three periods.*
- 142 districts planned to file petitions on all truants 8-18 years old. *Some districts did **not** plan to file on truants over 15 who had completed the 9th grade.*

Petitions Filed by November 10, 1995.

- 92 districts had **not** yet filed a petition in court.
- 147 districts had **not** yet had a fact-finding hearing on a truancy petition in juvenile court.

Petition Process

- 119 districts held the required parent-student-school conference with the principal or vice-principal, at the school building. *Some schools held the conference by telephone.*
 - 95 districts will notify parent(s) by certified mail when a truancy petition is filed in juvenile court. *Some used regular mail and some used process servers.*
 - 78 districts will send a school staff member to the fact-finding hearing. *Some districts plan to send a district staff member and a few will send a legal counsel or a prosecutor.*
 - 126 districts did not have, nor planned to create, a Community Truancy Board.
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2. Three Major Patterns of Participation by Prosecutors:

Thirty-seven of the 39 county prosecutors answered a brief survey⁸ about their participation in the truancy petition process. There is a wide range of possible participation—from being an integral part of filing truancy petitions to no participation at all.

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- **9 prosecutors *are* directly involved and screen petitions for legal sufficiency before they are filed in court.**
 - **21 prosecutors either helped shape the process, will provide advice to school districts, or will represent districts in court.**
 - **7 prosecutors are *not* directly involved in the truancy petition process.**
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Chart 4 on page 17 shows the role each county prosecutor has taken in the truancy petition process.

3. The Use of Detention by Courts

There are 18 juvenile detention facilities in the state to which truants from all 39 counties could be sentenced for violating a court order to return to school. As of December 31, 1995, a total of 10 truants have been detained in three facilities.

Chart 3 below shows the number of juveniles and the total number of days they were detained.

**Chart 3
Juveniles Held in Detention**

Facility	Detentions	Length of Stay
Benton-Franklin	0	
Chelan	0	
Clallam	0	
Clark	0	
Cowlitz	0	
Grant	0	
Grays Harbor	0	
King	1	1 day
Kitsap	8	28 days
Lewis	0	
Okanogan	0	
Pierce	0	
Skagit	1	1 day
Spokane	0	
Snohomish	0	
Thurston	0	
Whatcom	0	
Yakima	0	
Total		30 days

Chart 4
Role of County Prosecutor in Truancy Petition Process

County	Not Directly Involved in Process	Met to Help Shape the Process, but Not Directly Involved Now	Provides Advice to Districts on Truancy Petitions	Screens Petitions for Legal Sufficiency Before Filing	Will Represent Districts in Court
Adams	X				
Asotin	X				
Benton			X	X	X
Chelan	X				
Clallam		X			
Clark			X		
Columbia	X				
Cowlitz		X	X		X
Douglas					X
Ferry					X
Franklin		X			X
Garfield			X		
Grant	Did not respond				
Grays Harbor		X			
Island		X	X	X	
Jefferson	X				
King		X	X		
Kitsap			X	X	X
Kittitas		X			
Klickitat					X
Lewis	X				
Lincoln		X			
Mason		X	X	X	X
Okanogan			X	X	X
Pacific			X	X	X
Pend Oreille		X			
Pierce				X	X
San Juan			X	X	X
Skagit			X		X
Skamania		X	X		X
Snohomish		X			
Spokane		X			
Stevens		X			X
Thurston			X		X
Wahkiakum	Did not respond				
Walla Walla			X	X	
Whatcom	X				
Whitman		X			
Yakima		X			
Total	7	16	15	9	16

SECTION THREE: IMPLEMENTATION ISSUES

Several issues arose during the first three months of implementation that are grouped in the following categories: legal issues, roles, process issues, and cost.

1. Legal Issues

A. Which Students Are Covered by the New Law?

The Washington compulsory education law (RCW 28A.225.010) specifies that it applies to students 8 to 18, but exempts students who: are over 15 years old, have completed the 9th grade, and are excused by the school district superintendent. There are two interpretations regarding the age of students who are subject to truancy petitions.

Most districts have interpreted the process to mean they will file petitions upon students 8 to 18 years old. A few districts, including Tacoma, have decided *not* to file on students who are over 15 years old. In these districts, it is argued that a student who is over 15 years old and who has completed the 9th grade could easily obtain an exemption from the superintendent. If a petition were to be filed on these students, the district representatives reason that it would be dismissed by the court as soon as the exemption was obtained.

In addition, a few districts, including Seattle, the largest district, have filed petitions upon *all enrolled* students ages 5 to 18. Judges in Seattle and Yakima, however, have dismissed petitions on students younger than 8 years and older than 17 years, so this practice may stop.

B. Is the School District and/or the Truant Required to Have Legal Counsel at the First Fact-Finding Hearing?

Because a student could be ordered to detention for violating a court order, some work groups believe it is necessary for the district or the student to be represented by legal counsel at the first fact-finding hearing. Others have interpreted the law to mean that the first fact-finding hearing is more informal and attorneys are not required.

Most districts have decided that attorneys need *not* represent the school district at the first fact-finding hearing. However, some districts are concerned that if a school or district administrator appears in court, it could be interpreted as practicing law without a license (*pro se*). The Seattle School District is represented in court by its attorney. In those counties where the prosecutor plays a direct role, such as Pierce and Kitsap, the deputy prosecutor is in court representing the district at the first fact-finding hearing.

A juvenile may always request an attorney, and could have one present at his or her own expense. However, most counties have determined that they are not required to provide an attorney for the truant at the first fact-finding hearing.

In Whatcom County, the question of legal counsel at the fact-finding hearing is still being discussed. At a hearing on December 15, 1995, the court commissioner asked the public defender to act as attorney and guardian ad litem for the student. The county prosecutor volunteered to represent the school district. The prosecutor issued a memo stating that the intent of the legislature was not to have attorneys present at the fact-finding hearing. The court commissioner gave the public defender until January 10, 1996, to review and comment upon the memo. The truancy petition hearing has been continued until January 10, 1996.

This issue of legal counsel may be resolved informally by consensus of statewide organizations such as the Superior Court Judges Association or the Washington Association of Prosecuting Attorneys, or it may need to be resolved through legal appeal.

C. Should Petition Hearings Be Held for Students Who Have Been Dropped From Enrollment?

Students who have accrued 20 consecutive unexcused absences cannot be counted as a full time student for the purpose of apportioning basic education funding to the district. Some districts may not pursue truancy petitions with these students.

A district may file a truancy petition upon a student who has five unexcused absences in a month, and before the fact-finding hearing is scheduled, the student may have accrued 20 consecutive unexcused absences. School districts can no longer count the student as enrolled for apportionment purposes. This is a legal funding issue, and there are audits to check on enrollment counts. Before the new law was passed, some districts would automatically notify the student that he or she was dropped from enrollment and could re-enroll the next semester.

Under the new law, if the court orders the student to return to school, the school district needs to be ready to accept the student immediately. Several school districts are now reviewing their policies and the letters that are sent to the students, to avoid any confusion about the issue.

2. Roles

A. Who Should File the Petition?

Some work groups decided that the new law intended the school district to file the petition directly with the court. Other work groups decided that truancy petitions would go from the school district to the prosecutor, for screening for legal sufficiency, and then either the prosecutor or the school district would file the petition in juvenile court.

The active role of the county prosecutor is considered justified because RCW 36.27.020(2) includes in the duties of the prosecuting attorney “appear for and represent the...school districts...in all criminal and civil proceedings in which...any school district in the county may be a party.”

Other work groups decided that the process did *not* include the prosecutor, because:

- the prosecutor chose *not* to become involved in truancy cases, or
- the Becca Bill did *not* specifically mention the prosecutor—in fact, the portion of the RCW that had specified the prosecutor file truancy petitions was repealed.

See the chart on page 17 for a list of those 9 counties where prosecutors are filing petitions.

B. Should Districts Create Community Truancy Boards or Use Existing Community Accountability Boards (Diversion Boards)

The new law allows school districts to create a Community Truancy Board to recommend methods for improving school attendance.

A few districts have decided not to file a truancy petition immediately, but rather to refer the truant to a Community Truancy Board. In districts with a Community Truancy Board, a truant has “another chance” to return to school before a truancy petition is filed in court, keeping the court calendar less crowded with truancy petition hearings. Although creating a Community Truancy Board is an option in the new law, most school districts have decided not to create one. It is perceived as taking too much time to recruit and train volunteer members, and to staff the Board. One hundred twenty-six (126) of 170 districts that responded to a survey reported they did not have, nor planned to create, a Community Truancy Board.

One possible option, discussed by juvenile court administrators, has been to expand the use of the Community Accountability Boards (also known as Diversion Boards), which already exist at every juvenile court. The Community Accountability Boards are volunteer boards which “hear” the cases of juveniles who have committed minor crimes and are “diverted” from the regular court process. If the youth agrees to go before a Community Accountability Board, and fulfills the Board’s requirements, the case does not appear in juvenile court. This process saves court time and saves the juvenile from accruing a criminal record.

3. Process

A. When Should a Petition Be Filed in Court?

Some school districts wait until all avenues have failed before filing a petition, while others file immediately after the student has five unexcused absences in a month.

Some work groups decided that the districts should file a petition as soon as possible after the fifth unexcused absence. These districts document, for the petition, that they had notified parents, had held a conference, and that interventions were not effective. The largest district, Seattle, files a truancy petition as soon as possible, but in addition often files a “stay motion,” which alerts the court to schedule a fact-finding hearing after 30 days have elapsed, not

immediately. During the 30-day period, the district tries interventions, and if the student is back in school within the 30 days, the school requests the petition be dismissed.

Other districts, including all districts in Benton County, try several interventions, including a Community Truancy Board, and file a truancy petition only after other actions have failed.

B. When Should the Court Schedule a Hearing?

Some courts schedule a hearing immediately, while others wait until all possible interventions have failed.

Most courts have adopted a schedule for hearing truancy cases. In King, Benton, and Franklin Counties, for example, truancy cases are heard two days each month. In Lewis and Yakima Counties truancy cases are heard one day per week.

In Cowlitz County, the court clerk will *not* schedule the fact-finding hearing until the prosecutor has sent the truant a letter. The letter states that a petition *has* been filed and a hearing *will* be scheduled *if* the student does not return to school at once.

In Yakima County, petition hearings are scheduled as soon as possible, but truancy petition hearings are scheduled in the early evening and are heard in three different cities. The juvenile court judge has enlisted the help of three attorneys to serve as “volunteer truancy commissioners” beginning in January 1996.

4. Costs

The legislature allocated \$3 million to the Office of the Superintendent of Public Instruction (OSPI) for the 1995-97 biennium. The funds are to be allocated to districts “**on the basis of petitions filed**” (Operating Budget, Second Special Session 1995, Part 5, Chapter 18, Section 501, Subsection L). No funds have been distributed yet.

How the funds are distributed might affect the process. The evaluation of the truancy petition process, proposed in Section Five, might find that interventions conducted by the school district *before* a petition is filed are effective in reducing truancy.

No funds were allocated to the juvenile courts for the truancy petition process, and districts do not pay a filing fee to the court. After three months of the school year, 23 juvenile courts have received a total of 1,189 petitions. Until the school year is completed, the fiscal impact on the entire juvenile court system will not be known.

SECTION FOUR: OPTIONS

1. Options for a Statewide Definition of Truancy

A. Truancy Laws in Other States

A Washington Senate Education Committee intern contacted 25 states to learn of their school responses to truancy, and their truancy penalties (see Appendix A). The states varied in the number of trancies that triggered a response from schools and the legal procedures schools followed. Although penalties could be imposed on students and parents, these also varied (e.g., a maximum fine of \$2 to \$500 per day absent). It was not learned if the procedures or punishments are used regularly or ignored.

The Institute contacted eight states due to their location, size, and demographics. Staff in the states' superintendent of education offices were asked if a statewide law defined unexcused absence or truancy. They were also asked if there was research to show if truancy rates had decreased after the law was enacted.

Of the eight states, only one, Virginia, had conducted a study related to truancy—a survey of school principals and professionals in the juvenile justice system. But ironically, Virginia does not have a statewide truancy law. The survey reported that 62 percent of principals, judges, and others in the juvenile justice system thought taking truants to court was effective or somewhat effective.

**Chart 5
States With Statewide Definitions**

State	Truancy or Unexcused Absence Definition?	Evaluation of the Law's Effect?
California	Yes	No
Colorado	Yes	No
Massachusetts	Yes	No
Minnesota	Yes	No
North Carolina	Yes	No
Oregon	Yes	No
Virginia	No	Yes
Wisconsin	Yes	No

One interesting idea came from Oregon—a truancy citation. The citation form can be used by superintendents who have no other effective way to enforce compulsory attendance. The citation is similar to a parking ticket and requires a court appearance. Copies are sent to the student, parent, and court. It is not mandatory and has been used infrequently. (See Appendix B)

B. Pros and Cons

There are arguments *pro* and *con* for creating a new statewide definition of unexcused absence:

PRO:

- ***A statewide definition would provide a clear message to students, parents, and schools about expectations and responsibilities for attendance.***
 - ***A statewide definition would underscore expectations for attendance for receipt of basic education funding in the K-12 system.***
 - ***A statewide definition would allow meaningful comparisons across districts.***
 - ***A statewide definition would provide equal protection for students under the law. With a statewide definition, punishment for unexcused absences would be consistent in all districts.***
-

CON:

- ***School boards are locally elected and reflect the values of their individual districts. The school boards, not the state, are the appropriate bodies for determining what will be considered an unexcused absence.***
 - ***Educational reform suggests that decisions should be made at the school building level; a statewide definition goes against the tenets of reform.***
 - ***Having different definitions may not be a problem. Until it can be proven that the lack of a statewide definition harms students, a statewide definition is not needed.***
-

C. Three Options for Creating a Statewide Definition of Unexcused Absence:

Option 1 *Delay the decision to create a statewide definition of unexcused absence until more information is available.*

- Maintain the current compulsory education law and the truancy portions of the new law.
- Examine the need for a statewide definition either in the 1997 legislative session, *after* the new law has been in effect for a full school year, or in the 1998 legislative session, *after* the evaluation of the truancy petition process has been completed.

Requires no statutory change

Option 2 *Do not create a statewide definition of unexcused absence, but CLARIFY the compulsory attendance law and sections of the Becca Bill.*

- Clarify whether districts need to file truancy petitions on youths over 15 years old who have completed the 9th grade, but have not sought nor obtained an exemption from the district superintendent.
- Clarify whether districts need to file truancy petitions as soon as possible after the fifth unexcused absence, or wait until all other interventions, including a Community Truancy Board hearing, have been tried.
- Clarify whether districts and students need legal counsel to represent them at the first fact-finding hearing.

Requires slight statutory change

Option 3 *Adopt a statewide definition of unexcused absence.*

- Provide a clear statewide definition so students, parents, schools, school districts, and courts understand expectations and responsibilities for school attendance.

Requires statutory change

D. Policies for a Statewide Definition

A statewide definition for an **excused** absence might include the following categories, *and* require the student’s parent to notify the school *before* the absence. (In the case of an emergency, a parent may notify the school within a certain number of school days *after* the absence.)

Health-related:	Health emergency or hospitalization; illness or injury; or medical, dental, or mental health appointment that could not be scheduled outside the school day.
Family-related:	Family funeral, serious family illness, or other family emergency. A family activity or family trip may be excused <i>if</i> the school principal is informed in advance <i>and</i> school work will be completed.
Educational:	Educational or cultural-related activity <i>if</i> the school principal is informed in advance <i>and</i> school work will be completed.
Religious:	Religious observation.
Legal:	Scheduled court or legal appearance, detention or confinement in a county or state institution.
Other:	Weather or transportation emergency; or other emergency, not specified above, <i>if</i> approved by the school principal.

An **unexcused absence** would therefore be any absence **not** covered in the categories above.

This definition **would not excuse** an absence for activities such as regularly baby-sitting siblings, but it **could excuse** a family vacation (or an activity involving family members), ***if*** the school principal was informed in advance ***and*** all school work will be completed.

A statewide definition might also include a period of time, such as “missing the majority of the school day,” to distinguish between an unexcused absence or a tardy.⁹

2. Options for a Statewide Prohibition of Suspension and Expulsion for Truancy Violations

A. Background

Washington does *not* have a statewide law that prohibits suspension or expulsion for truancy. Currently, the 296 school districts have the option to suspend and expel students. Also, after 20 consecutive days of unexcused absences, a student may not be counted as a full time equivalent student for the apportionment of basic education funds to the district, and the student's name is withdrawn from enrollment. This is a funding issue and may be considered separately from a truancy petition issue; however, in the past, when a student and parent received notice that the student was no longer enrolled, it had the same effect as an expulsion.

Although state law does not prohibit suspension or expulsion, Washington Administrative Code (WACs 180-245, 260, 265, and 275) does discuss short-term suspension, long-term suspension, and expulsion in relation to compulsory attendance. In general, suspension and expulsion for unexcused absence is not allowed, **unless** the school has notified the parent, scheduled a conference to analyze the causes of the absences, and taken steps to reduce the absences.

"No student subject to compulsory attendance pursuant to chapter 28A.225 RCW, as now or hereafter amended, shall be suspended by reason, in whole or part, of one or more unexcused absences unless the school district has first imposed an alternative corrective action or punishment reasonably calculated to modify his or her conduct and, in addition: (a) provided notice to the student's parent(s), (b) scheduled a conference with the parent(s) and the student to analyze the causes for the student's absence, and (c) taken steps to reduce the student's absence."

Some school districts, including the largest, Seattle, have adopted a policy not to suspend or expel students for truancy.

Truancy is often a precursor to dropping out of school, and a symptom that something is amiss at school or home. The National Education Longitudinal Study Second Follow-up found a relationship nationally between students who dropped out of school and previous truancies or suspensions:

- almost one-half missed at least 10 days of school
- one-third cut class at least 10 times
- one-fourth were late at least 10 times
- one-third were suspended, put on in-school suspension, or probation.¹⁰

Washington law encourages school districts to find alternatives to suspension.

“School districts are encouraged to find alternatives to suspension including reducing the length of a student’s suspension conditioned by the commencement of counseling or other treatment services.” (RCW 28A.600.410)

It also encourages the use of community service in lieu of suspension. (RCW 28A.600.415)

By reacting to truancy with a suspension, a school may make dropping out easier. Thus it is an irony that suspension and expulsion from school for a truancy is possible. Educators are aware of this irony. Many educators, however, have a practical concern: They consider the school as a whole and the majority of students’ needs, and conclude that the majority group’s needs require greater weight than that of truants.

Most educators believe that small classes and low-teacher-to-student ratios can have a positive effect on at-risk students. One option for truants has been “Saturday schools” or “alternative schools” that provide more personalized attention. Other possible options are schools within schools, or alternative schedules that keep a group of students and faculty together for longer periods of time. Additional options are off-campus opportunities that can be accomplished with private educational contracts, vocational training paired with employment, education centers, and classes at community colleges.

B. Prohibition of Suspension and Expulsion for Truancy in Other States

Most states do not address the issue of suspension and expulsion for truancy. A search of other states’ laws found that only a few specifically addressed suspension or expulsion for truancy. The states that did address the issue, and prohibited suspension, were: Florida, New York, Oregon, Texas, and Wisconsin.

Florida’s statute, in outlining the responsibilities of a school principal, states: “No student shall be suspended for unexcused tardiness, lateness, absence, or truancy.”¹¹

New York’s statute, in outlining the powers and duties of boards of education states: “..school authorities are not empowered to suspend, expel or drop from school attendance for truancy.”¹²

Texas’s statute, in defining the causes for suspension, states: “A student may not be suspended for being truant or tardy.”¹³

Wisconsin’s statute, in discussing the powers of school boards, states: “No pupil enrolled in a school district operating under Chapter 119 may be suspended or expelled from school for truancy.”¹⁴

C. Pros and Cons

There are similar arguments for prohibiting the suspension and/or expulsion of students as were true for creating a statewide definition of unexcused absence.

PRO:

- ***A statewide prohibition would provide a clear message to schools that suspension and expulsion are not acceptable remedies for truancy.***
 - ***A statewide prohibition would provide equal protection for students under the law. With a statewide prohibition, reasons for suspension or expulsion would be consistent in all school districts.***
-

CON:

- ***School boards are locally elected and hence reflect the values of their individual districts. The school boards, acting through their superintendents and principals, are the appropriate bodies for determining what behavior warrants a suspension or expulsion.***
 - ***Having different requirements for a suspension or expulsion may not be a problem. Until it can be proven that the lack of a statewide prohibition of suspension and expulsion harms students, there is no need for such a law.***
-

D. Three Options for Prohibiting Suspension and Expulsion for Truancy

Option 1 ***Do not create a law prohibiting suspension and expulsion for truancy.***

Keep the authority to suspend or expel a student with each of the 296 districts.

Requires no statutory change

Option 2 ***Delay the decision to create a law prohibiting suspension and expulsion for truancy until more information about the effects of the new law is available.***

Examine the need for a statewide prohibition of suspension and expulsion for truancy in the 1997 legislative session, *after* the new truancy law has been in effect for a full school year, and suspensions and expulsions for truancy have been counted; or in the 1998 legislative session, *after* the evaluation of the truancy petition process has been completed.

Requires no statutory change

Option 3 ***Adopt a statewide prohibition of suspension and expulsion for truancy.***

Provide a clearly written statute that prohibits suspension and expulsion for truancy.

Requires statutory change

SECTION FIVE: EVALUATION

1. Evaluating the Truancy Petition Process and Estimating the Cost of Filing Petitions

The following pages describe a research design for the evaluation of the truancy petition process. The evaluation would continue to use the methods used thus far—surveys of school districts, prosecutors, judges, and court administrators, and it would use several districts and juvenile courts for in-depth case studies.

The design would provide information about which interventions, used by schools and juvenile courts, were successful in reducing unexcused absences. It would require some data collection from a sample of school districts, schools within the districts, and the juvenile courts. It would also use data reported to OSPI and the Office of the Administrator for the Courts.

The flowchart on pages 8 and 9 illustrates the process for filing truancy petitions, and shows the points in the process where decisions take place. At this time, it is not known if:

- the existence of the new law (and the fact that students, parents, teachers, and administrators know about the law) will reduce unexcused absences.
- the actions taken by **schools** (notifying parents, holding conferences, and trying interventions) will reduce unexcused absences.
- the actions taken by the **juvenile court** (ordering a truant back to school and finding a truant in contempt of court if he does not return) will reduce unexcused absences.

The research questions to be answered, and detail of the research design for the study, follow.

Research Questions to Be Answered by the Evaluation

- Has the new law had the desired effect on truancy?
- Do parent notifications, school conferences, and interventions by the schools reduce truancy, suspensions, and expulsions?
- Does filing a truancy petition in court reduce truancy?
- Do school interventions or court hearings result in educational or social services being offered to the students and parents?
- How often do truants violate courts orders, and what are the penalties imposed on these students and parents?
- Has the new law had fiscal impacts on school districts and juvenile courts?

3. Research Design

The Institute will continue to evaluate the process by surveying school districts, prosecutors, and juvenile court administrators. In addition, juvenile court judges who have heard truancy petitions will be surveyed.

In this design, a sample of the 296 school districts would be selected for in-depth case studies. The sample of districts should be large enough to track at least 1,000 truancy petitions filed during the 1996-1997 school year. Districts with large, medium, and small enrollments would be sampled in the same proportion as they exist in the total population of districts. Because *size* and *location* of a school **district** may affect the truancy petition process, these factors will also be observed.

A primary unit of observation would be the school district. Within each school district, **middle schools** (or junior highs) **and high schools** would be selected because it is the school that notifies parents, schedules conferences, and tries interventions for the student, before a truancy petition is filed. This design would observe if the *type*, *size*, and *location* of the individual school affected the number of unexcused absences or the truancy petition process. Also, it would find which activities or interventions at the school helped to reduce truancy.

The case studies would provide information about the types and proportions of students who were marked “unexcused” by schools, and who were reported to the school district. They would show if minority students, limited English proficient students, or special education students were more likely than others to have truancy petitions filed. They would also provide information about parent notification and parent-student-school conferences. The evaluation would discuss various methods of notifying parents and holding conferences. Using student and school records, it could be determined if students were provided interventions, if the interventions reduced additional unexcused absences, and if students were referred to truancy boards.

This design would track how and when the school notified the district, how and when the district filed a truancy petition, and if and when the petition was heard in juvenile court. It would discuss various methods of filing, scheduling, and hearing petitions in court. It also would provide information about actions taken by Community Truancy Boards and the courts, and if these actions were successful.

The evaluation would provide information about actions that occurred **before** and **after** a truancy petition was filed in juvenile court, and if these actions prevented additional unexcused absences for different types of students. This approach could give the proportion of students in each step of the process.

In addition, the Superior Court Management Information System (SCOMIS) and the Juvenile Court Information System (JUVIS) records of truancy petitions from the Office of the Administrator for the Courts (OAC), and school district responses to the OSPI truancy reporting form would be used.

Part of the evaluation process would include examining the cost of implementing the new law. As part of an evaluation of the truancy petition process, the Institute will work closely with legislative staff, OSPI, the Washington Association of School Administrators, Washington State School Directors Association, Washington Association of Prosecuting Attorneys, OAC, and the Juvenile Court Administrators, to determine objective measures of actual costs.

One hundred nineteen (119) of the 170 school districts that responded to the Institute/WASA survey reported that staff had been reassigned from their regular duties to complete paperwork associated with filing petitions.¹⁵ Juvenile court administrators reported that the new law is resulting in additional hearings as well as some detention time.

Accounting codes may not currently exist that can accurately track these expenses at the school and district level. However, the cost of implementing the truancy petition process might be estimated. Because different procedures can affect costs, there is a need to track and compare costs between sample districts.

The actual costs to the juvenile courts could also be examined. Snohomish County Juvenile Court has drafted an estimate of the staffing costs for scheduling and hearing truancy cases.¹⁶ That model could be examined. Again, there is a need to compare costs between courts. Some courts have reduced their costs by using volunteer court commissioners and home monitoring instead of detention.

The total cost for the research evaluation of the truancy petition process is estimated to be \$50,000.

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Endnotes

¹ An alternative residential placement means placement in the home of a relative, in foster care, or in a “crisis residential center.” An involuntary commitment means placement in a chemical dependency or mental health treatment facility.

² *Attendance “Incentive” Average Daily Attendance (ADA)*, Washington Association of School Administrators, Olympia, April 14, 1995, attachment D, page 9.

³ *A Profile of the American Eighth Grader: National Education Longitudinal Study of 1988*, U.S. Department of Education, Washington, D.C., 1990.

⁴ Sommer, Barbara, “What’s Different About Truants?: A Comparison Study of Eight-Graders,” *Journal of Youth and Adolescents*, Vol. 14, 1985.

⁵ Before the truancy provisions of the Becca Bill were enacted in 1995, school districts could file truancy petitions through their Educational Service District and their county prosecutor. This was rarely done—in 1994, a total of 91 truancy petitions were filed throughout the state.

⁶ Juvenile court administrators understood that truancy petitions filed would need to be entered on the Superior Court Management Information System (SCOMIS), which is maintained by the Office of the Administrator for the Courts (OAC). The OAC mailed two model petitions, based on the forms created by the King County and Clallam County ad hoc work groups, on October 18, 1995.

⁷ The survey was developed by the Institute with suggestions from legislative staff, the Washington Association of School Administrators (WASA), and the Washington State School Directors Association. It was faxed to all 296 districts by WASA.

⁸ The survey was developed by the Institute and faxed to each county prosecutor by the Washington Association of Prosecuting Attorneys.

⁹ The Office of the Superintendent of Public Instruction used an operational definition of an unexcused absence in a reporting form (OSPI 1302A), which was distributed to every school building. The operational definition did **not** define an unexcused absence *per se*, but involved a length of time that differentiated between an unexcused absence and a tardy. The operational definition may lead to a more uniform definition of truancy. The operational definition used by OSPI was:

The term “unexcused absence” means that a student has failed to attend at least the majority of hours or periods in an average school day and has failed to meet a school district’s policies for excused absence(s).

¹⁰ From the National Education Longitudinal Study, Second Follow-up, as reported in Coley, R. J., *Dreams Deferred: High School Dropouts in the United States*, Educational Testing Service, Policy Information Center, Princeton, 1995.

¹¹ Florida Education Law, Title XVI, Chapter 232, Compulsory School Attendance.

¹² New York Education Law, Title IV Article 65, Compulsory Education and School Census.

¹³ Texas Education Code, Title 2 Chapter 21, Subchapter I, Discipline, Law and Order.

¹⁴ Wisconsin Public Instruction, Chapter 120, School District Government, Subchapter 1.

¹⁵ Although notifying parents after the first unexcused absence and scheduling a conference appear in the Becca Bill, they were already in statute (RCW 28A.225.020). Therefore, these are not activities that are solely due to the new law. However, the documentation of these activities for truancy petitions is a new activity

¹⁶ Discussion at Juvenile Court Administrators Fall Conference, November 9, 1995, Sequim, Washington.

**** For “Appendix A: Approaches to Compulsory Attendance”, please contact the Institute for Public Policy.***