



JUVENILE COURT JUDICIAL BENCHCARD

DELINQUENT/UNRULY - TRUANCY

AUTHORITY

T.C.A. § 49-6-3001 et. seq
T.C.A. § 37-1-101 et. seq

STATEMENT OF THE LAW

T.C.A. § 49-6-3001: **COMPULSORY SCHOOL ATTENDANCE LAW**
Every parent, guardian or other person residing within state having control or charge of any **child or children from 6 to 17 years of age, shall cause such child or children to attend public or non-public school**, and in event of failure to do so, shall be subject to penalties as set out.

TIERS OF INTERVENTION

T.C.A. § 49-6-3009: *LEA's shall adopt a progressive truancy plan that implements tiers of intervention for students who violate compulsory attendance requirements prior to filing of a truancy petition or criminal prosecution for educational neglect.*

- Tier One: Schoolwide, prevention-oriented supports
- Tier Two: Implemented after 5 unexcused absences. Must include conference with student & parent/guardian; attendance contract signed by student, parent/guardian and attendance supervisor; regularly scheduled follow-up meetings; individualized assessment; & referral to counseling, community-based services, etc.
- Tier Three: School based community services; participation in school-based restorative justice program; Saturday or after-school coursed to improve attendance; in-school suspension; etc. If unsuccessful and school can document parent/guardian unwilling to cooperate, then can refer to Juvenile Court.

QUESTIONS TO CONSIDER

Statute Under Which to Proceed:

Holding the parent accountable:

- Violation of Compulsory School Attendance Law: Any parent, guardian, or other person who has control of a child and who violates the Compulsory School Attendance Law commits educational neglect, which is a Class C misdemeanor. (T.C.A. § 49-6-3009(a)) Each day's unlawful absence constitutes a separate offense. (T.C.A. § 49-6-3009(b))
- Contributing to or Encouraging Unruly Behavior of Children: When a parent contributes to truancy, judge shall cause that parent to be arrested and brought before judge on the charge of contributing to unruly behavior against parent. (T.C.A. § 37-1-156)
- Contributing to Dependency and Neglect: When child is alleged to be dependent and neglect, the parent who by any willful act causes, contributes to or encourages such dependency and neglect commits a Class A misdemeanor. (T.C.A. § 37-1-157)
- Contempt: Court may punish parents for disobeying order of court by imposing fine or imprisonment. (T.C.A. § 37-1-158)
- Adjudicate as Dependent and Neglected Child: A "dependent and neglected child" means a child who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school. (T.C.A. § 37-1-102 (b)(13)(c)) Court may allow child to remain in home or transfer custody to DCS subject to conditions and limitations. (T.C.A. § 37-1-130)

Holding the child accountable:

- Adjudicate as Unruly, Truant Child. "Unruly child" means a child in need of treatment and rehabilitation who habitually and without justification is truant from school while subject to compulsory school attendance under § 49-6-3007. (T.C.A. § 37-1-102 (33)(a))
- Disposition of Unruly Child: If child is found to be unruly, court may make such disposition that is best suited to child's needs including services, probation, FCIP, or removal if no less drastic measure than court intervention. (T.C.A. § 37-1-132)

Holding the school accountable:

- Did the school apply the progressive truancy interventions of the adopted progressive truancy plan? LEA shall adopt a progressive truancy plan that implements tiers of intervention for students who violate compulsory attendance requirements prior to the filing of a truancy petition or a criminal prosecution for educational neglect. These interventions must be designed to address student conduct related to truancy in the school setting and minimize the need for referrals to juvenile court. (T.C.A. § 49-6-3009)
- Did the progressive truancy interventions meaningfully address the student's school attendance? If plan was not implemented as required, the court shall dismiss petition. (T.C.A. § 49-6-3009(i))



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Explanation of Rights:

- Right to Counsel – If can't afford one, then one will be appointed.
- Right to Have Bond Set
- Possibility of creation of dependency and neglect for other children in family.
- Right to Be Heard
- Children alleged to be unruly and in jeopardy of being removed from the home have the right to an attorney pursuant to T.C.A. § 37-1-126.

Parental Participation in Hearing:

- Are the parents in court? If not, why?
- Addressing parents by their last name facilitates parental engagement.
- If counsel has been appointed, has counsel for the parents met with their clients? If not, why?

Child's Participation in Hearing:

- Is the child in court or participating in the hearing by other means (e.g., by phone or by video)? If not, why?
- If appointed, has the guardian ad litem met with the child since the date of the last hearing? If not, why?
- What is child's current attendance in school?

Options in Toolbox:

- Participation of parent in child's treatment: There are a number of options to order a parent to complete including completion of community service individually or jointly with the child or providing supervision of the child in compliance with any and all conditions and requirements of the court. Failure to comply may result in a finding of contempt and a \$50 fine and up to 10 days in jail. (T.C.A. § 37-1-174)
- DCS Referral/Order of Reference: Appoint a GAL for investigation of D&N; Right to counsel when contemplating removal/state's custody; Possible Petition for D&N for educational neglect
- Refer to Family Crisis Intervention Program (FCIP) – prior to placing custody of an unruly child with DCS, the court is obligated to refer the child to FCIP pursuant to T.C.A. § 37-1-168
- Refer to FSS
- Detention of Parents

Other Considerations:

Court should take into consideration a number of factors when addressing a truancy matter including:

- LEA Agreement and school/court partnership
- Age of child
- County/Community resources available to offer creative solutions
- Risk for delinquent acts
- Utilize correct pleadings (Petition/Warrant) and all Orders contain specific language.