

# Judicial Process for Truant Minors

- I. The Judicial process in addressing Truancy in DuPage County is controlled by the state statute as contained in the Juvenile Court Act. The Act provides the following:

## **705 ILCS 405/ 3-33.5. Truant minors in need of supervision.**

(a) Definition. A minor who is reported by the office of the regional superintendent of schools, or, in cities of over 500,000 inhabitants, by the Office of Chronic Truant Adjudication, as a chronic truant may be subject to a petition for adjudication and adjudged a truant minor in need of supervision, provided that prior to the filing of the petition, the office of the regional superintendent of schools, the Office of Chronic Truant Adjudication, or a community truancy review board certifies that the local school has provided appropriate truancy intervention services to the truant minor and his or her family. For purposes of this Section, "truancy intervention services" means services designed to assist the minor's return to an educational program, and includes but is not limited to: assessments, counseling, mental health services, shelter, optional and alternative education programs, tutoring, and educational advocacy. If, after review by the regional office of education, the Office of Chronic Truant Adjudication, or community truancy review board it is determined the local school did not provide the appropriate interventions, then the minor shall be referred to a comprehensive community based youth service agency for truancy intervention services. If the comprehensive community based youth service agency is incapable to provide intervention services, then this requirement for services is not applicable. The comprehensive community based youth service agency shall submit reports to the office of the regional superintendent of schools, the Office of Chronic Truant Adjudication, or truancy review board within 20, 40, and 80 school days of the initial referral or at any other time requested by the office of the regional superintendent of schools, the Office of Chronic Truant Adjudication, or truancy review board, which reports each shall certify the date of the minor' s referral and the extent of the minor's progress and participation in truancy intervention services provided by the comprehensive community based youth service agency. In addition, if, after referral by the office of the regional superintendent of schools, the Office of Chronic Truant Adjudication, or community truancy review board, the minor declines or refuses to fully participate in truancy intervention services provided by the comprehensive community based youth service agency, then the agency shall immediately certify such facts to the office of the regional superintendent of schools, the Office of Chronic Truant Adjudication, or community truancy review board.

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(a-1) There is a rebuttable presumption that a chronic truant is a truant minor in need of supervision.

(a-2) There is a rebuttable presumption that school records of a minor's attendance at school are authentic.

(a-3) For purposes of this Section, "chronic truant" has the meaning ascribed to it in Section 26-2a of the School Code.

(a-4) For purposes of this Section, a "community truancy review board" is a local community based board comprised of but not limited to: representatives from local comprehensive community based youth service agencies, representatives from court service agencies, representatives from local schools, representatives from health service agencies, and representatives from local professional and community organizations as deemed appropriate by the office of the regional superintendent of schools, or, in cities of over 500,000 inhabitants, by the Office of Chronic Truant Adjudication. The regional superintendent of schools, or, in cities of over 500,000 inhabitants, the Office of Chronic Truant Adjudication, must approve the establishment and organization of a community truancy review board and the regional superintendent of schools or his or her designee, or, in cities of over 500,000 inhabitants, the general superintendent of schools or his or her designee, shall chair the board.

(a-5) Nothing in this Section shall be construed to create a private cause of action or right of recovery against a regional office of education or the Office of Chronic Truant Adjudication, its superintendent, or its staff with respect to truancy intervention services where the determination to provide the services is made in good faith.

(b) Kinds of dispositional orders. A minor found to be a truant minor in need of supervision may be:

(1) committed to the appropriate regional superintendent of schools for a student assistance team staffing, a service plan, or referral to a comprehensive community based youth service agency;

(2) required to comply with a service plan as specifically provided by the appropriate regional superintendent of schools;

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- (3) ordered to obtain counseling or other supportive services;
- (4) subject to a fine in an amount in excess of \$5, but not exceeding \$100, and each day of absence without valid cause as defined in Section 26-2a of The School Code is a separate offense;
- (5) required to perform some reasonable public service work such as, but not limited to, the picking up of litter in public parks or along public highways or the maintenance of public facilities; or
- (6) subject to having his or her driver's license or driving privilege suspended for a period of time as determined by the court but only until he or she attains 18 years of age.

A dispositional order may include a fine, public service, or suspension of a driver's license or privilege only if the court has made an express written finding that a truancy prevention program has been offered by the school, regional superintendent of schools, or a comprehensive community based youth service agency to the truant minor in need of supervision.

(c) Orders entered under this Section may be enforced by contempt proceedings.

- II. This law has been consistently enforced, with the cooperation of the Regional Office of Education (ROE), in DuPage County. Currently, this process includes the following:
  - 1. The individual school or district refers a truant minor to the ROE using the "Truant Referral Data Sheet" (see attached document; note as well that other sub-committees of this Truancy Task Force have reviewed and revised this form. Consistent and compliant use of this form will encourage standardized referrals of truant minors to the ROE and court as may be necessary.)
  - 2. Once a complete referral is received, the parents or guardians will receive a written notice from the ROE indicating the referral and their obligations for regular school attendance for their child as well as the possible outcomes for continued non-compliance. Upon referral to the ROE, the Office suggests intervention services. If truant behavior continues despite intervention services, the ROE may refer the case to the State's Attorney (SAO) for legal action.
  - 3. The referral by Regional Superintendent of Schools to the State's Attorney's Office for potential court action include providing the following information on each case:
    - a. Name and address of minor

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- b. Name and address of minor's parents
  - c. School the minor is attending
  - d. Dates of unexcused absences
  - e. Intervention efforts made by school
  - f. Hearing efforts made by ROE
4. Review by State's Attorney's Office:
- a. Minor is subject to compulsory education
  - b. Minor is not subject of delinquency or abuse/neglect case
  - c. Minor's age – whether able to get to school on his/her own
  
  - d. Number of full days of absence
  - e. History of attendance in prior grades
  - f. Review of efforts by school and ROE
  - g. Review of evidence to sustain the cause of action
5. Case is determined to be brought to court
- a. *Educational Neglect* *If there is evidence that the parents or guardians are not cooperating with the school and the provided supportive service agencies, or that the parents or guardians are willfully and knowingly permitting a child to persist in truancy, legal action may be initiated in the Juvenile Court charging the parents with Educational Neglect.*
  - b. TMINS – Truant Minor in Need of Supervision
6. In court, the following occurs:
- a. Summons is served: written notice of the matter is sent to parents and minor
  - b. Minor and parents are brought before the court
  - c. A copy of the Petition alleging the minor is a Truant Minor in Need of Supervision is provided to the minor and parents.
  - d. If the Petition is admitted to or proven, the case will proceed to a Dispositional Hearing, where the court may enter the following orders:
    - 1) The minor be ordered to attend school
    - 2) The parents be ordered to cause child to attend school
    - 3) The minor be ordered to obtain counseling or other supportive services and comply with a service plan as determined by the ROE
    - 4) A fine be imposed of at least \$5, but not exceeding \$100, per day of unexcused school absence
    - 5) The minor's driver's license or driving privileges be suspended for a period of time up until they reach 18 years of age
    - 6) The minor be ordered to complete public service work.
  - e. A Dispositional order of a fine, public service or suspension of a driver's license or privilege may only be imposed if the court has made an express

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written finding that a truancy prevention program has been offered by the school, the ROE, or a comprehensive community based youth service agency to the truant minor in need of supervision.

- f. Parents and/or the minor may be brought back before the court for non-compliance and corrective action; including contempt of court proceedings.