

§ 7-301. Compulsory attendance. [Amendment subject to abrogation; subject to amendment effective July 1, 2007; amended version follows this section].

(a) *Who must attend.*-

(1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under 16 shall attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

(2) In accordance with regulations of the State Board of Education, a child who resides in this State and is 5 years old may be exempted from mandatory school attendance for 1 year if the child's parent or guardian files a written request with the local school system asking that the child's attendance be delayed due to the child's level of maturity.

(3) Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.

(b) *Excused absences.*- A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) *Duty of parent or guardian.*- Each person who has legal custody or care and control of a child who is 5 years old or older and under 16 shall see that the child attends school or receives instruction as required by this section.

(d) *Application of section.*-

(1) This section applies to any child who has a mental, emotional, or physical handicap.

(2) This section does not apply to a child:

(i) Whose mental, emotional, or physical condition makes his instruction detrimental to his progress; or

(ii) Whose presence in school presents a danger of serious physical harm to others.

(3) With the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher and with the written recommendation of a licensed physician or a State Department of Education certified or licensed psychologist, the county superintendent may:

(i) Make other appropriate provisions for the free education of any student excepted from attendance under paragraph (2) of this subsection; or

(ii) Permit the parents or guardians of that student to withdraw him from public school, for as long as the attendance of the child in a public school would be detrimental to his progress or his presence in school would present a danger of serious physical harm to others.

(4) If a child is withdrawn from a public school under this subsection, the county board shall make other appropriate provisions for the education of the child.

(5) If an appropriate educational placement is not available immediately, the county board shall make interim provisions for the education of the child until an appropriate placement becomes available.

(e) *Penalties.*-

(1) Any person who induces or attempts to induce a child to absent himself unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions which would promote the child's attendance. The suspension authority provided for in this subsection is in addition to and not in limitation of the suspension authority under § [6-221 of the Criminal Procedure Article](#).

(e-1) *Applicability of subsection; charge filed in juvenile court.*-

(1) This subsection applies only in Dorchester County, Somerset County, Wicomico County, and Worcester County.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title [3](#), Subtitle [8C of the Courts Article](#).

(3) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(4) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(f) *Exemption from attending kindergarten.*- A child may be exempted from attending kindergarten if a parent or guardian of the child files a written request with the local school system and verifies that the child is enrolled:

(1) Full time in a licensed child care center;

(2) Full time in a registered family day care home; or

(3) Part time in a Head Start 5 year old program.

(g) *Minimum days or hours for kindergarten programs.*- Kindergarten programs are not subject to the requirements of § 7-103 (a) of this title relating to minimum days or hours of operation.

[An. Code 1957, art. 77, § 92; 1978, ch. 22, § 2; 1981, ch. 236, § 2; 1984, ch. 524; 1985, ch. 205; 1991, ch. 463; 1993, ch. 321; 1995, ch. 3, § 1; ch. 350; 1996, ch. 10, § 1; 1997, ch. 155; 2001, ch. 35; 2004, ch. 551.]

