

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120180

Amending Chapter 50, Code of Ordinances, by enacting a new Section 50-242, concerning school compulsory attendance law.

WHEREAS, in the State of Missouri school-aged children, with certain exceptions, are required to be in school and under the watchful supervision of adults in the schools; and

WHEREAS, the City Council has determined that a high rate of truancy or unexcused absences from school exists in the City; and

WHEREAS, when children are absent from school without excuse they are at greater risk of being harmed or causing harm to others and having poor academic performance than when they are attending and being supervised at school; and

WHEREAS, the City Council has determined that the establishment of a compulsory school attendance law for minors as an ordinance violation will help combat truancy, juvenile delinquency, and lead to improved student learning and achievement as well as be in the interest of the public health, safety, and welfare; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding a new Section 50-242, Compulsory School Attendance, to read as follows:

Sec. 50-242. Compulsory school attendance.

(a) A parent, guardian or other person in this city having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of this section, except that:

- (1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;
- (2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when

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legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action.

(b) As used in this section, a "home school" is a school, whether incorporated or unincorporated, that:

- (1) Has as its primary purpose the provision of private or religious-based instruction;
- (2) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and
- (3) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

(c) As evidence that a child is receiving regular instruction at a home school, the parent shall, except in the case of a pupil above the age of sixteen years:

- (1) Maintain the following records:
 - a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and
 - b. A portfolio of samples of the child's academic work; and
 - c. A record of evaluations of the child's academic progress; or
 - d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and
- (2) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location.

(d) A school year begins on the first day of July and ends on the thirtieth day of June following.

(e) The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the

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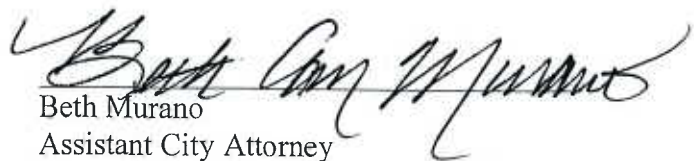
previous year, a written statement that the pupil is attending home school in compliance with this section shall be a defense to any prosecution under this section.

(f) In the event a law enforcement officer determines that a child is in violation of the compulsory attendance law, then the child will be offered transportation to the child's school of enrollment in accordance with school district policy, to the custody of the parent or guardian or placed in a designated secure location, as determined by the Kansas City Missouri Police Department, until such time as a parent or legal guardian is notified and arrives to take custody of the child.

(g) The law enforcement officer shall follow the policies, procedures, rules, directives and regulations of the Kansas City, Missouri Police Department in the transportation of the child.

(h) Any parent, guardian or other person having charge, control or custody of a child, who violates the provisions of this section is guilty of an ordinance violation. Upon conviction of a violation of this section, a person shall be subject to a fine not to exceed one hundred dollars (\$100.00), provided, however, that no such sanction shall be imposed upon any person who enrolls and actively participates in an organized parenting, curfew, or counseling program sponsored by a governmental, church, civic, or community organization to address the child's school attendance. The penalty of a fine may be suspended, with or without the payment of costs, at the discretion of the court, if the child is immediately placed and kept in regular attendance at a public, private, parochial, parish or home school and if the fact of regular attendance is proved subsequently to the satisfaction of the court. A certificate stating that the child is regularly attending a public, private, parochial or parish school and properly attested by the superintendent, principal or person in charge of the school is prima facie evidence of regular attendance by the child. Each day shall constitute a separate offense for the purposes of the penalty specified herein. Persons charged with violating this section shall not be subject to custodial arrest, but shall be issued a summons to appear in municipal court.

Approved as to form and legality:


Beth Murano
Assistant City Attorney

COMPARED VERSION
COMMITTEE SUBSTITUTE TO ORIGINAL ORDINANCE

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 120180

Amending Chapter 50, Code of Ordinances, by enacting a new Section 50-242, concerning ~~a daytime curfew for minors when school is in session.~~ school compulsory attendance law.

WHEREAS, in the State of Missouri school-aged children, with certain exceptions, are required to be in school and under the watchful supervision of adults in the schools; and

WHEREAS, the City Council has determined that a high rate of truancy or unexcused absences from school exists in the City; and

WHEREAS, when children are absent from school without excuse they are at greater risk of being harmed or causing harm to others and having poor academic performance than when they are attending and being supervised at school; and

~~WHEREAS, when children are suspended from school, it is important to the community that children are not left unsupervised in public places and risk exposure to juvenile crime and victimization; and~~

~~WHEREAS, the City Council has determined that the establishment of daytime curfew hours a compulsory school attendance law for minors as an ordinance violation will help combat truancy, juvenile delinquency, and lead to improved student learning and achievement as well as be in the interest of the public health, safety, and welfare;~~
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding a new Section 50-242, ~~Daytime curfew for minors when school is in session~~Compulsory School Attendance, to read as follows:

Sec. 50-242. Daytime curfew for minors when Compulsory school is in session attendance.

(a) ~~Any minor age seven (7) through sixteen (16) years old who loiters, wanders, strolls, or plays in or upon any "public place", as defined in subsection (e) below, unsupervised by an adult having the lawful authority to be at such places, thirty (30) minutes or more after school commences and thirty (30) minutes or more prior to the time school ends on any "school day", as defined in subsection (e) below, shall be considered to be in violation of the daytime curfew unless the minor falls into one of the categories specified in subsection (b) below. A parent, guardian or other person in this~~

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city having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of this section, except that:

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action.

(b) — A minor As used in this section, a "home school" is a school, whether incorporated or unincorporated, that:

(1) Has as its primary purpose the provision of private or religious-based instruction;

(2) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(3) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction.

(c) As evidence that a child is receiving regular instruction at a home school, the parent shall not be considered to be, except in violation the case of the daytime curfew under a pupil above the age of sixteen years:

(1) Maintain the following circumstances records:

(1) — When the minor has a. A plan book, diary, or other written documentation from record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

- c. A record of evaluations of the child's academic progress; or
- d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(2) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school authorities that he or she is excused from location.

(d) A school attendance at year begins on the first day of July and ends on the thirtieth day of June following.

- (e) The production by a parent of a daily log showing that particular time:
 - (2) When the minor's a home school is not in session at that particular time or on that particular day.
 - (3) When the minor is enrolled in a valid home study program as authorized by the laws of the State of Missouri.
 - (4) When the minor has been emancipated pursuant to the laws of the State of Missouri.
 - (5) When has a course of instruction which satisfies the minor is accompanied by such minor's parent, guardian, or other adult person having requirements of this section or, in the lawful care and custody case of a pupil over the minor.
 - (6) When the minor is actually engaged in lawful employment or is traveling directly home or to age of sixteen years who attended a metropolitan school from such lawful employment.
 - (7) When district the previous year, a written statement that the minor is engaged in an errand made necessary by an emergency.
 - (8) When the minor is engaged in travel to or from either home or the school as a direct result of a school directed, sponsored, or endorsed activity, entertainment, recreational opportunity, or dance.
 - (9) When the minor pupil is attending or traveling directly to or from an activity involving the exercise of First Amendment Rights of Free Speech, Freedom of Assembly, or Free Exercise of Religion.

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~~(10) When the minor is in a motor vehicle with parental consent for normal travel, or engaged in interstate travel through the city.~~

~~(11) When the minor is on the sidewalk directly in front of the place where he or she resides.~~

~~(12) When the minor is on a lunch break from a school that permits an open campus lunch and is qualified to participate in the open campus lunch program.~~

~~(e) For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:~~

~~(1) "Public place" means any public streets, highways, roads, alleys, parks, playgrounds, malls, buildings open to the public, cemeteries, school yards, bodies of water, any privately or publically owned place of amusement, entertainment, or public accommodation, including parking lots and other areas adjacent thereto, or any vacant lots of land.~~

~~(2) "School Day" means any day on which the school in which the minor was enrolled or otherwise required to attend was in session. A school is not in session during its summer break or during any holiday or other scheduled general student vacation day or part of a day observed by the school.~~

~~(3) "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not be limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.~~

~~(4) "Minor" means any person seven (7) through sixteen (16) years old.~~

~~(d) Upon a law enforcement officer approaching an individual under home school in compliance with this section and in determining whether an individual is a minor in violation of the daytime curfew, the following shall apply:~~

~~(1) Before taking any enforcement actions shall be a defense to any prosecution under this section, a law enforcement officer shall ask or attempt to ask the apparent minor questions regarding age and reason for being in a public place during daytime curfew hours.~~

~~(2f) In the event a law enforcement officer determines that a minor child is in violation of the daytime curfew compulsory attendance law, then the minor child will be offered transportation either to the minor's school of enrollment or in accordance with school district policy, to the custody of the parent or guardian. If the officer is unable to locate the parent or guardian or unable to transport the minor, the minor shall~~

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be or placed in a designated secure location, as determined by the Kansas City Missouri Police Department, until such time as a parent or legal guardian is notified and arrives to take custody of the ~~minor~~child.

~~(3)~~ (g) The law enforcement officer shall follow the policies, procedures, rules, directives and regulations of the Kansas City, Missouri Police Department in the transportation of the ~~minor to the minor's school or residence~~child.

~~(e)~~ It shall be unlawful for the ~~h~~ Any parent, legal guardian, or other person having charge, control or custody or control of any minor as defined in subsection (a) above to knowingly permit or, by insufficient control, allow such minor to be in violation ~~child, who violates the provisions of the daytime curfew set out within this section.~~

~~(1)~~ It shall be an affirmative defense to this section if the parent or legal guardian has invoked the jurisdiction of the juvenile or family court with regard to the minor prior to the time that the minor is found being inguilty of an ordinance violation of the daytime curfew.

~~(f)~~ Upon first conviction of a violation of subsection (e), a person shall not be fined and will be notified of opportunities and programs in place to assist the parent or guardian in ensuring school attendance for such minor. Upon subsequent convictions of subsection (e), this section, a person shall be subject to a fine of not to exceed one hundred dollars (\$100.00) per offense. Each day), provided, however, that no such sanction shall be imposed upon any person who enrolls and actively participates in an organized parenting, curfew, or counseling program sponsored by a governmental, church, civic, or community organization to address the child's school attendance. The penalty of a minor fine may be suspended, with or without the payment of costs, at the discretion of the court, if the child is found immediately placed and kept in regular attendance at a public, private, parochial, parish or home school and if the fact of regular attendance is proved subsequently to the satisfaction of the court. A certificate stating that the child is regularly attending a public, private, parochial or parish school and properly attested by the law enforcement authorities to be in violation superintendent, principal or person in charge of the daytime curfew as defined in subsection (a) above school is prima facie evidence of regular attendance by the child. Each day shall constitute a separate offense for the purposes of the fine penalty specified herein. Persons charged with violating subsection (e) of this section shall not be subject to custodial arrest, but shall be issued a summons to appear in municipal court.

Approved as to form and legality:

Beth Murano
Assistant City Attorney

