

# YAKIMA COUNTY JUVENILE COURT TRUANCY MANUAL

2018-2019



Washington State Truancy laws are intended to bring together schools, courts, communities and families in an effort to provide the services needed to help students overcome barriers and to improve school attendance for academic success.

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## INTRODUCTION

Over the last several years, the truancy laws have changed substantially. While this document remains, for most part, the work of the Yakima County Prosecuting Attorney's Office, the Yakima County Juvenile Court has provided the update on the statutory requirements. Questions should still be directed to the Prosecuting Attorney's Office.

## SCHOOL ATTENDANCE

Washington State's truancy law is also known as the "Becca Bill." School attendance is important for academic success, and our truancy system attempts to stop unexcused absences before more problems develop. State law requires that the schools and school districts take specific actions when youths are truant.

**When is school attendance mandatory?** Every child who is at least 8 years old is required to attend school (public, private, or home-based) until age 18. Parents in this state shall cause their children to attend. If a parent enrolls a child who is 6 or 7 years of age in a public school, the child is required to attend, and that parent has the responsibility to ensure the child attends for the full time that school is in session. (RCW [28A.225.010](#); [28A.225.015](#).)

**May a 16 or 17 year old youth be excused from attending school?** The youth is not required to attend school when:

- (i) The child is regularly and lawfully employed and either the parent agrees that the child should not be required to attend school or the child is emancipated in accordance with chapter [13.64](#) RCW;
- (ii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or
- (iii) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW [28A.305.190](#). (RCW [28A.225.010](#)(1)(f).)

**What is an excused absence?** "Excused absence" is for any of the following:

- (1) Participation in a district or school approved activity or instructional program;
- (2) Illness, health condition or medical appointment (including, but not limited to, medical, counseling, dental or optometry) for the student or person for who the student is legally responsible;
- (3) Family emergency including, but not limited to, a death or illness in the family;
- (4) Religious or cultural purpose including observance of a religious or cultural holiday or participation in religious or cultural instruction;
- (5) Court, judicial proceeding, or serving on a jury;
- (6) Post-secondary, technical school or apprenticeship program visitation, or scholarship interview;
- (7) State-recognized search and rescue activities consistent with RCW [28A.225.055](#);

- (8) Absence directly related to the student's homeless status;
- (9) Absences related to deployment activities of a parent or legal guardian who is an active duty member consistent with RCW [28A.705.010](#);
- (10) Absence resulting from a disciplinary/corrective action (e.g., short-term or long-term suspension, emergency expulsion); and
- (11) Principal (or designee) and parent, guardian, or emancipated youth mutually agreed upon approved activity. (WAC [392-400-325](#).)
- (12) Absence for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, for up to two days per school year, subject to approval by the student's parent. (RCW [28A.225.010](#)(1)(e).)

**What is an unexcused absence?** "Unexcused absence" is when a youth:

- (a)(i) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and
- (ii) Has failed to meet the school district's policy for excused absences; or
- (b) Has failed to comply with alternative learning experience program attendance requirements as described by the superintendent of public instruction. (RCW [28A.225.020](#)(2).)

"Unexcused absence" is any absence that is not excused, as determined by the school principal or designee. (WAC [392-400-325](#).)

**What happens when a child changes schools?** If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district. The sending school district shall provide this information to the receiving school, together with a copy of any previous assessment as required under subsection (1)(c) of this section, history of any best practices or researched-based intervention previously provided to the child by the child's sending school district, and a copy of the most recent truancy information including any online or written acknowledgment by the parent and child, as provided for in RCW [28A.225.005](#). All school districts must use the standard choice transfer form for releasing a student to a nonresident school district for the purposes of accessing an alternative learning experience program. (RCW [28A.225.020](#)(3).)

### **THE SCHOOL'S ACTIONS AFTER UNEXCUSED ABSENCES: DEPENDENT CHILDREN**

A school district representative or school employee shall review unexpected or excessive absences with a youth who is dependent (pursuant to chapter [13.34](#) RCW) and adults involved with that youth, to include the youth's caseworker, educational liaison, attorney if one is appointed, parent or guardians, and foster parents or the person providing placement for the youth. The purpose of the review is to determine the cause of the absences, taking into account: Unplanned school transitions, periods of running from care, in-patient treatment, incarceration, school adjustment, educational

gaps, psychosocial issues, and unavoidable appointments during the school day. A school district representative or a school employee must proactively support the youth's school work so the student does not fall behind and to avoid suspension or expulsion based on truancy. (RCW [28A.225.023](#).)

### **THE SCHOOL'S ACTIONS AFTER UNEXCUSED ABSENCES: 6-7 YEAR OLDS**

The public school in which a 6 or 7 year old child is enrolled is required to take action whenever a student has an unexcused absence. (RCW [28A.225.015](#).)

**After Each Unexcused Absence:** The school shall inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone. (RCW [28A.225.015](#)(2)(a).)

**After 3 Unexcused Absences in a Month:** The school shall request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences. (RCW [28A.225.015](#)(2)(b).)

**After 3 Unexcused Absences in a Month:** The school shall take steps to eliminate or reduce the child's absences. This may include, where appropriate:

- adjusting the child's school program or school or course assignment;
- providing more individualized or remedial instruction;
- offering assistance in enrolling the child in available alternative schools or programs; or
- assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(RCW [28A.225.015](#)(2)(c).)

**After 5 Unexcused Absences in a Month or 10 in a School Year:** The school district shall schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of identifying the barriers to the child's regular attendance, and the supports and resources that may be made available to the family so that the child is able to regularly attend school. If a regularly scheduled parent-teacher conference day is to take place within 30 days of the absences, the school district may schedule this conference on that day. To satisfy the requirements of this section, the conference must include at least one school district employee such as a nurse, counselor, social worker, teacher, or community human services provider, except in those instances regarding the attendance of a child who has an individualized education program (IEP) or a 504 plan, in which case the reconvening of the team that created the program or plan is required. (RCW [28A.225.018](#).)

**After 7 Unexcused Absences in a Month or 10 in a School Year:** The school district shall file a petition for civil action against the parent of the child. (RCW [28A.225.015](#)(3).)

## THE SCHOOL'S ACTIONS AFTER UNEXCUSED ABSENCES: 8-17 YEAR OLDS

The public school in which an 8 to 17 year old child is enrolled is required to take action whenever a student has an unexcused absence.

**After Each Unexcused Absence:** The school shall inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the parent is not fluent in English, the school must make reasonable efforts to provide this information in a language in which the parent is fluent. (RCW [28A.225.020](#)(1)(a).)

**After 3 Unexcused Absences in a Month:** The school shall schedule a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence. (RCW [28A.225.020](#)(1)(b).)

**After 2 Unexcused Absences in a Month, but Before the 5<sup>th</sup> Absence:** The school shall take data-informed steps to eliminate or reduce the child's absences.

- In middle school and high school, these steps must include application of the Washington Assessment of the Risks and Needs of Students (WARNS) or other assessment by a school district's designee.
- For any child with an existing IEP or 504 plan, these steps must include the convening of the child's individualized education plan or 504 plan team, including a behavior specialist or mental health specialist where appropriate, to consider the reasons for the absences. If necessary, and if consent from the parent is given, a functional behavior assessment to explore the function of the absence behavior shall be conducted and a detailed behavior plan completed. Time should be allowed for the behavior plan to be initiated and data tracked to determine progress.
- If the child does not have an existing IEP or 504 plan, who is reasonably believed to have a mental or physical disability or impairment, these steps must include informing the child's parent of the right to obtain an appropriate evaluation at no cost to the parent to determine whether the child has a disability or impairment and needs accommodations, related services, or special education services. This includes children with suspected emotional or behavioral disabilities as defined in WAC [392-172A-01035](#). If the school obtains consent to conduct an evaluation, time should be allowed for the evaluation to be completed, and if the child is found to be eligible for special education services, accommodations, or related services, a plan developed to address the child's needs.
- The data-informed steps must include, where appropriate,
  - providing an available approved best practice or research-based intervention, or both, consistent with the WARNS profile or other assessment, if an assessment was applied,

- adjusting the child's school program or school or course assignment,
- providing more individualized or remedial instruction,
- providing appropriate vocational courses or work experience,
- referring the child to a community truancy board,
- requiring the child to attend an alternative school or program, or
- assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school.

(RCW [28A.225.020](#)(1)(c).)

**Not Later Than the 5<sup>th</sup> Unexcused Absence in a Month:** The school shall:

- (a) Enter into an agreement with a student and parent that establishes school attendance requirements;
- (b) Refer a student to a community truancy board as defined in RCW [28A.225.025](#). The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or
- (c) File a petition with the juvenile Court.

(RCW [28A.225.030](#)(2).)

**Not Later Than the 7<sup>th</sup> Unexcused Absence in a Month or 10<sup>th</sup> in a School Year:** If the school district's actions above are not successful in substantially reducing an enrolled student's absences from public school, the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW [28A.225.010](#): (a) By the parent; (b) by the child; or (c) by the parent and the child. (RCW [28A.225.030](#).)

## COMMUNITY TRUANCY BOARD

**What is the purpose of a Community Truancy Board?** Utilization of community truancy boards is the preferred means of intervention when preliminary methods to eliminate or reduce unexcused absences as required by RCW [28A.225.020](#) have not been effective in securing the child's attendance at school. (RCW [28A.225.025](#).) The legislature intends to achieve the following outcomes:

- (a) Increased access to community truancy boards and other truancy early intervention programs for parents and children throughout the state;
- (b) Increased quantity and quality of truancy intervention and prevention efforts in the community;
- (c) A reduction in the number of truancy petitions that result in further proceedings by juvenile courts, other than dismissal of the petition, after the initial stay and diversion to a community truancy board;
- (d) A reduction in the number of truancy petitions that result in a civil contempt proceeding or detention order; and
- (e) Increased school attendance.

(RCW [28A.225.0261](#)(1).)

**How is a Community Truancy Board created?** "Community truancy board" means a board established pursuant to a memorandum of understanding between a juvenile court and a school district and composed of members of the local community in which the child attends school. (RCW [28A.225.025](#).; [28A.225.026](#).)

**What are the duties of a Community Truancy Board?** Duties of a community truancy board shall include, but not be limited to:

- Identifying barriers to school attendance
- Recommending methods for improving attendance such as connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy
- Suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program, or
- Recommending to the juvenile court that a juvenile be offered the opportunity for placement in a HOPE center or crisis residential center, if appropriate.

(RCW [28A.225.025](#).)

## THE TRUANCY PETITION

**What does a truancy petition do?** A truancy petition filed with the juvenile court starts a truancy proceeding in the court. If the court decides it is appropriate, the court may order the child to attend school, and order the parents to ensure that the child attends school for the full time that school is in session. (RCW [28A.225.015](#); [28A.225.035](#).)

**Who files the truancy petition?** The school district or the school generally files a truancy petition. (RCW [28A.225.015](#); [28A.225.030](#).) If the school district fails to file a petition under this section, the parent of a child with 5 or more unexcused absences in any month during the current school year or upon the 10<sup>th</sup> unexcused absence during the current school year may file the petition. (RCW [28A.225.030](#)(4).)

**Who is the truancy petition filed against?** If the child is 6 or 7, the petition is filed against only the parent of the child. (RCW [28A.225.015](#)(3).) If the child is otherwise under the age of 17, the petition may be filed against (a) the parent, (b) the child, or (c) by the parent or the child. (RCW [28A.225.030](#)(1).)

**What must the petition include?** The petition and supporting affidavit must include:

- A written notification to the court alleging that:
  - The child has unexcused absences as described in RCW [28A.225.030](#)(1) during the current school year;
  - Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and
  - Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.



- The name, date of birth, school, address, gender, race, and ethnicity of the child and the names and addresses of the child's parents, and shall set forth the languages in which the child and parent are fluent, whether there is an existing individualized education program, and the child's current academic status in school.
- Facts that support the allegations.
- A general request for relief available under this chapter and provide information about what the court might order under RCW [28A.225.090](#).
- A list of all interventions that have been attempted.
- A copy of any previous truancy assessment completed by the child's current school district.
- The history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district.
- A copy of the most recent truancy information document provided to the parent, pursuant to RCW [28A.225.005](#).

(RCW [28A.225.030](#)(1); [28A.225.035](#).)

**How do the parent and child get the petition?** The school district may serve the petition on the parent and child by sending a copy by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required. (RCW [28A.225.030](#)(5).)

### HANDLING THE PETITION

#### The Forms and Court Process at the Beginning of the Case

When filing a new truancy petition, the school must:

- a. Complete the [Petition Regarding Truancy](#)
- b. Complete the top portion and #2 under “**Order**” of the [Order to Stay Truancy Proceedings and Referral](#).
- c. Complete the [Request for Interpreter Services](#) form if needed.
- d. Attach copies of attendance records.

Submit an original and a copy of each document to the truancy prosecutor who will forward to the Juvenile Court Becca Coordinator who will file originals and return conformed copies to the school.

Yakima County Juvenile Court  
**Attn: Truancy Prosecutor**  
 1728 Jerome Ave.  
 Yakima, WA 98902

The truancy prosecutor and the Court Becca Coordinator or designee will then review the documents. Completed documents meeting all legal requirements will be filed with the court; incomplete documents will be returned to the schools for further preparation.

When the court clerk receives the documents, a cause number will be assigned. The Court Becca Coordinator or designee will complete the stay and submit for judge's signature, then the conformed copies will be returned to the school.

**Stay order:** When a case is stayed, it is essentially shelved – no activity will occur until the stay order is lifted. The judge will sign the stay order and allow the School to handle the matter. There will be no hearings at this time – nothing to note for hearing and therefore nothing to serve on the parties. The stay order will include a 3 month review that will be done on record but no parties need to appear. The school shall update the prosecutor of their position before that date. The matter can be dismissed or another review set. It is only if the truancy is not stopped by school interventions that the judge will lift the stay order. Once the stay is lifted, it will be necessary to note a hearing and serve the papers.

**When it is necessary to file a [Supplemental Petition Regarding Truancy](#):** Only sometimes will it be necessary to prepare this document. The revised truancy laws have conflicting interests – on the one hand, the law expects the schools to file a truancy petition immediately after it becomes evident that the student is missing classes; on the other hand, the law expects the school to make efforts to get the student back to class. As a result, there will be times when the school must file a Petition Regarding Truancy, but the school will not be able to claim that it has yet made much of effort to get the student back to school. Please see question 2.5 on the Petition Regarding Truancy for further explanation.

**Timeliness of the [Supplemental Petition Regarding Truancy](#):** The supplemental petition should be filed as soon as the school can state that it has done its due diligence to get the student back to class. This will likely occur sometime after the judge has signed the stay order on the Petition Regarding Truancy and sent the matter to the Community Truancy Board or other interventions.

### The Forms Relating to the Community Truancy Board

While the matter is before the Community Truancy Board, the school representative will first inform the court that it has accepted the matter by filing a Community Truancy Board Agreement (attach to a [Community Truancy Board Sheet](#)). If the student or his/her parent fail to cooperate with the board and the student does not resume attending classes, the matter will be referred back to the court when the school representative files a [Community Truancy Board Return of Case](#).

If the case is returned to the court, then the court must lift the stay. Upon lifting the stay, the matter will be put before the court for an actual hearing.

## Process When the Community Truancy Board Returns a Case

If the court receives a [Community Truancy Board Return of Case](#), the court will on its own lift the stay by entering an [Order Lifting Stay and Scheduling Hearing](#). That order directs the Juvenile Court Becca Coordinator to prepare a [Notice of Hearing](#), which is what informs the parties of when to be in court for the first hearing on the petition. The Juvenile Court Becca Coordinator or designee will route the notice and the order to the school.

Once a hearing has been set, it will be necessary for the school to serve the parties.

**Service by Regular Mail:** Please do **not** attempt to serve the parties by regular mail. In previous years, this may have been done to save postage. However, since it is not proper service, it may result in wasted time in court, which is far more costly than certified mail. The RCW requires, at the minimum, certified mail with a return receipt be provided in order for the Court to review the petition.

**Service by Certified Mail, Returned Receipt Requested:** The school may serve the documents ([Petition Regarding Truancy](#); [Order to Stay Truancy Proceedings](#); [Supplemental Petition Regarding Truancy](#), when applicable; [Order Lifting Stay and Scheduling Hearing](#); and the [Notice of Hearing](#)) on the student and parent/guardian by certified mail, return receipt requested. The School must document the certified mailing, by filling out the [Return of Service](#), detailing the date of delivery and return receipt, and submit to the clerk for filing. School districts should bring a copy of the affidavit of certified mailing with them to Court. If the school has filed documentation with the Court regarding proper service (complete with return receipt), the Court may enter a default order that the student attend school. See notes on default orders below.

[RCW 28A.225.030](#)(5) states that petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

If the certified mail return receipt requested was not successful in serving papers, the school can come to the scheduled court hearing and ask to have the hearing rescheduled to attempt personal service.

**Personal Service:** If the student and parent/guardian do not appear after certified mail was attempted, the school will leave court with a new court date and an Order rescheduling the petition hearing will be mailed. The school will need to hire a process server who understands how to properly serve court papers. (*Do not use a school employee because the school is a party to this case.*) Have the process server serve 1 copy of the papers on the student; and 1 copy of the papers on the parent/guardian at least 5 court days before the hearing.

The process server will bring back a [Return of Service](#) document. File the [Return of Service](#) document with the Court Clerk. The school districts should bring a copy of the proof of service documents with them to court.

If the process server was not successful in serving papers timely, the school can come to the scheduled court hearing and ask to have the hearing rescheduled again to allow further service of process attempts.

If the process server delivered the documents but the parent and/or student refused to come to court, the school may ask for a default order to attend school. It is called a default order, because the school wins by default when the parties do not bother to show up to contest the matter. The court will not enter a default order unless the school can show proof of service via a signed [Return of Service](#) form.

**DEFAULT ORDERS: IF A DEFAULT ORDER IS ENTERED, THE SCHOOL MUST SEND A COPY TO THE STUDENT/LEGAL GUARDIAN VIA CERTIFIED MAIL WITH DELIVERY RECEIPT.**

NOTE: The school district should keep a copy of all court documents for their records.

### Reminders

**Adding a child after filing a petition against the parent only:** Please remember that if you file A TRUANCY PETITION on a child under eight years old, the petition is AGAINST the parent only. If the school wants sanctions against the child, the school will need to file an amended petition, using the same cause number adding the child to the case.

**Petitions involving 16 and 17 year olds:** The maximum age of a child at which a school district may be legally *required* to file a truancy petition has been lowered from 17 to 16 years of age. The school *may* file a petition involving a 17 year old, but it does not have to.

**Requesting fines and/or substance abuse treatment:** The school may ask the court to impose fines on parents who fail to encourage their children to attend school. The school may also ask that a student be ordered to participate in substance abuse testing or treatment. Those requests must be stated in the petition.

## RULES OF FILING OF ORIGINAL DOCUMENTS

**Due to archiving and scanning requirements, all documents (including school records) must be:**

- ✓ Single sided
- ✓ All margins must be at least 1", except the top margin on the first page of the filed document must be at least 3"
- ✓ Only black or dark blue ink
- ✓ No highlighting
- ✓ All documents submitted must be mailed flat with no staples
- ✓ Legible
- ✓ No colored paper

## TRUANCY COURT ORDERS SCHOOLS MAY NEED

Forms for truancy cases are available at: <http://www.yakimacounty.us/561/Truancy>

- Petition Regarding Truancy
- Order to Stay Truancy Proceedings and Referral
- Supplemental Petition Regarding Truancy
- Community Truancy Board Cover Sheet
- Community Truancy Board Return of Case
- Progress Report
- Motion to Set Show Cause Hearing – Contempt
- Order Setting Shown Cause Hearing – Contempt
- Notice of Contempt Hearing
- Order of Dismissal
- Request for Interpreter Services
- Notice of Substitution
- Motion to Assume Jurisdiction and Order Assuming Jurisdiction - New County
- Return of Service

## RETROCESSION

Retrocession would apply only to students who are enrolled in a federally recognized tribe and enrolled in a school located on tribal land. For petitions filed after April 19, 2016, please contact the Yakama Tribal Truancy Office at the following number: (509) 865-5121 ext. 4590.

## **CONTACT INFORMATION**

Truancy Website

<http://www.yakimacounty.us/truancy/default.html>

Truancy Forms Link

<http://www.yakimacounty.us/561/Truancy>

Juvenile Court Truancy Prosecutor

[Truancy.prosecutor@co.yakima.wa.us](mailto:Truancy.prosecutor@co.yakima.wa.us)

Juvenile Court Becca Coordinator

Roxanne Johns

1728 Jerome Ave

Yakima, WA 98902

[roxanne.johns@co.yakima.wa.us](mailto:roxanne.johns@co.yakima.wa.us)

509-574-2119

## **REQUEST FOR INTERPRETER SERVICES**

If an interpreter is needed for court, please complete the [Request for Interpreter Services](#) that has been provided on the [county website for court forms](#). This form must accompany the truancy petition, and will stay on file for any future court dates for the family. An interpreter will only be provided when this form has been filed; if this form has not been filed prior to the hearing date, the hearing will be reset.

## **APPOINTMENT OF ATTORNEYS**

The School districts are represented by the Yakima County Prosecuting Attorney.

Parents are not entitled to an attorney appointed at public expense to represent them, but they may hire private counsel if they wish. Most parents represent themselves in truancy court.

The court will appoint an attorney at public expense to represent students (age 12+) for the initial hearing and all other hearings in the truancy case. The student is expected to contact and meet with the attorney as the attorney directs.

## SUBMITTING ATTENDANCE RECORDS

**For any case that is set for a hearing, the school will need to submit updated attendance records.**

Every week the truancy prosecutor will email all of the schools a docket showing the cases scheduled for a hearing that week. The schools may then submit updated records to the prosecutor. The schools may email the records, but please note in the subject line “truancy – not for public records” to protect the information.

***\*\*Please remember that if attendance records are not submitted by noon on the Friday before the court hearing, it could be continued or dismissed\*\****

## COURT HEARINGS: REFERRAL TO THE COMMUNITY TRUANCY BOARD

**What options does the court have at the first hearing after a truancy petition is filed?** A court must stay the court proceedings, and refer the student and the student’s parent to a community truancy board or other coordinated means of intervention established in the county. Also, the court may dismiss the case without a hearing if other actions by the court, the school district, and/or the community truancy board are substantially reducing the student’s unexcused absences. (RCW [28A.225.035](#)(4), (7).)

**What will the community truancy board do?** The community truancy board must provide to the court a description of the intervention and prevention efforts to be employed to substantially reduce the child’s unexcused absences, along with a timeline for completion. The truancy board must meet with the child, a parent, and the school district representative and enter into an agreement regarding expectations and any actions necessary to address the child’s truancy within 20 days of the referral. If the student is 6 or 7 years old, the child shall not be required to attend and the agreement shall be between the truancy board, the school district, and the child’s parent. The court may permit the truancy board or truancy prevention counselor to provide continued supervision over the student, or only the parent if the student is 6 or 7 years old. (RCW [28A.225.035](#)(4), (5).)

**What happens if the student complies with the community truancy board agreement?** The court may permit the truancy board or truancy prevention counselor to provide continued supervision over the student, or only the parent if the student is 6 or 7 years old. The court may also dismiss the truancy case. (RCW [28A.225.035](#)(5), (7).)

**What happens if the student does not comply with the community truancy board agreement?** If there is no agreement, or if the parent or student does not comply with the agreement within the timeline for completion set by the community truancy board, the community truancy board shall return the case to the juvenile court. The stay of the petition shall be lifted, and the juvenile court shall schedule a hearing at which the court shall consider the petition. The court must notify all parties of the hearing, and their rights at the hearing. (RCW [28A.225.035](#)(6), (7).)

## COURT HEARINGS: RETURN FROM THE COMMUNITY TRUANCY BOARD

**What happens if the student or parent does not appear for the hearing following the stay?** The court may require the attendance of the child if 8 years old or older, the parents, and the school district at any hearing. The court may not issue a bench warrant for a child for failure to appear at a hearing on an initial truancy petition filed under RCW [28A.225.030](#). If there has been proper service, the court may instead enter a default order assuming jurisdiction under the terms specified below. (RCW [28A.225.035](#)(8).)

**What may the court do at the hearing following the stay?** If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the court, after considering the facts alleged in the petition and the circumstances of the student, to most likely cause the student to return to and remain in school while the student is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered. (RCW [28A.225.035](#)(12).)

**What may the court order the student to do?** The court may order an 8-17 year old student who is subject to a truancy petition to do one or more of the following:

- (a) Attend the student's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence.
- (b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, a skill center, a dropout prevention program, or another public educational program.
- (c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district.
- (d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment (including a urinalysis test ordered under this subsection) indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school.
- (e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the



circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

(RCW [28A.225.031](#); [28A.225.035](#)(12); [28A.225.090](#)(1).)

**Does the school district or school have obligations after the court orders the student to attend school?** Yes. the school district shall periodically report to the court any additional unexcused absences by the child, actions taken by the school district, and an update on the child's academic status in school at a schedule specified by the court. The first report must be filed with the court no later than 3 months from the date that the court assumes jurisdiction. (RCW [28A.225.035](#)(13).)

### COURT HEARINGS: CONTEMPT

**What may happen if a child has more unexcused absences after the court has ordered the child to attend school (1<sup>st</sup> contempt)?** If the court finds the parent or child in contempt of its order to attend school, the court may impose:

- Community restitution (also known as community service);
  - Nonresidential programs with intensive wraparound services;
  - A requirement that the child meet with a mentor for a specified number of times;
- or
- Other services and interventions that the court deems appropriate.

(RCW [28A.225.090](#)(2)(a).)

**What may happen if the child has still more unexcused absences (2<sup>nd</sup> contempt)?**

If the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention for no longer than 7 days. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. (RCW [28A.225.090](#)(2)(b).)

**Are all children subject to the above penalties?** No, the penalties above do not apply to 6 or 7 year old children. (RCW [28A.225.090](#)(5).)

**Are all parents subject to the above penalties?** No. Any parent violating any of the provisions of either RCW [28A.225.010](#), [28A.225.015](#), or [28A.225.080](#) shall instead be fined not more than \$25.00 for each day of unexcused absence from school.

- The court shall remit 50% of the fine collected to the child's school district.
- It shall be a defense for a parent charged with violating RCW [28A.225.010](#) to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW [28A.225.020](#).
- The court may order the parent to provide community restitution instead of imposing a fine.

- Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW [28A.225.010](#) shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.  
(RCW [28A.225.090](#)(3).)

### AT THE PETITION HEARING

The school district's designated Becca coordinator is responsible for determining which school employee will appear at court hearings. The school employee will be assisted in court by the Truancy prosecutor. The student and parent must attend.

At the petition hearing, after the court has heard from the parties, the court will decide whether the petition will be granted.

**Agreed cases:** When a family agrees that the student has had unexcused absences, the court will sign an Order on Truancy Petition requiring the student to attend school and possibly order substance abuse testing for the student.

**Contested cases:** If a case is disputed but can be resolved by brief testimony, the hearing will proceed and be completed the same day. Otherwise, the case can be postponed to another day in which it can be given more time. **Note:** With the 2017 updates to the law, contested hearings should become very rare, because the petitions will already contain the evidence to show that the student has missed school despite the school's efforts to attract him/her.

The truancy prosecutor fills out the resulting court order and hands it to the Becca staff person to circulate for signatures.

### PROGRESS REPORT

In every case in which a Petition has been filed, the school district must prepare and file periodic reports showing any additional unexcused absences, actions taken by the school district, and an update on the child's academic status. Use the [Progress Report](#). The first report is due within 90 days after the Petition was filed. File the reports with the clerk, and mail copies to the parent and the student's attorney (or if the student does not have an attorney then to the student). The Progress Reports must follow the rules for filing original document with the clerk's office (see page 13 above).

Yakima County Juvenile Court  
**Attn: Clerks Office**  
1728 Jerome Ave  
Yakima, WA. 98902

## CONTEMPT HEARINGS

As noted, before a School District may file a contempt packet, the school must submit a [Progress Report](#) to the court. If a student has been ordered to attend school, but continues to have unexcused absences, the school may ask the court to schedule a contempt hearing to consider imposing consequences.

1. When filing a contempt, the school must complete the [Motion to Set Show Cause Hearing - Contempt](#), the top portion of the [Order to Set Show Cause Hearing - Contempt](#), and the top portion of the [Notice of Contempt Hearing](#). The documents will require that the school attach updated school attendance records to it.

The school will submit an original and a copy to the truancy prosecutor.

Yakima County Juvenile Court  
**Attn: Truancy Prosecutor**  
1728 Jerome Ave.  
Yakima, WA 98902

The truancy prosecutor will review the motion. If it is incomplete, the truancy prosecutor will return it to the school with a request for additional information. If it is complete, the truancy prosecutor will forward to the Juvenile Court Becca Coordinator or designee.

The court will then enter the [Order to Set Show Cause Hearing - Contempt](#) directing the Juvenile Department to note the matter for a hearing. The Juvenile Department will complete the [Notice of Contempt Hearing](#) that will have a time scheduled for the hearing.

The Juvenile Department will provide a copy of the contempt paperwork to the Department of Assigned Counsel (if necessary) and return to the schools their conformed copy via pick-up (Yakima School District) or via mail. At this point the school should receive the following papers:

- [Motion to Set Show Cause Hearing - Contempt](#) with attached attendance records
  - [Order to Set Show Cause Hearing - Contempt](#)
  - [Notice of Contempt Hearing](#)
2. The school will hire a process server to serve the Motion and Order on the student and parent/guardian. (*Do not use a school employee because the school is a party to this case.*) Have the process server serve the papers on the student and parent/guardian at least 5 court days before the hearing. The process server will bring you back a Proof of Service document. File the **original** Proof of

Service with the clerk. School Districts should bring a copy of the Proof of Service document with them to the Contempt Hearing

3. The school must submit updated attendance records no later than 48 hours before the hearing to the Truancy prosecutor. Updated attendance records are required for *all* truancy hearings.
4. At the contempt hearing the court can consider entering a bench warrant (for a student or parent/guardian who does not appear) or find a party in contempt. Or, if the process server was not successful in serving papers timely, the school can come to the scheduled court hearing and ask to have the hearing rescheduled to allow further service of process attempts.

### AT THE CONTEMPT HEARING

Prior to the contempt hearing, the truancy prosecutor, the student's attorney and the school representative may meet to discuss the case to determine whether some or all of the facts are agreed.

On the day of court, if the order was timely served on the student and parent and they do not appear, the school can request a warrant. If the order was not timely served, the court can reschedule the hearing to allow for service of process attempts.

The case will be presented to the court for fact-finding on any still-disputed facts, and for disposition.

If the court finds that the student did violate the order to attend school, the student can be ordered to do community service hours or could face consequences. As of 2017, detention is not an option on a first contempt.

If the court finds that the parent did not make reasonable efforts to cause their child to attend school, the parent/guardian can be sentenced to community service hours and/or fined \$25 for each day of unexcused absence. Often the fines are initially suspended to give the parent a chance to improve their efforts.

If a hearing is likely to be contested, it will be rescheduled for a contested hearing.

## PURGE HEARINGS

If a student is found to have violated a court order, the student might be given an opportunity to purge the contempt by having excellent attendance for a period of time, by attending after-school educational activities, by watching a character building video, by completing community service hours or by other activities ordered by the Court.

If a parent is found to have violated a court order, the parent might be given a chance to purge the contempt by doing a better job of helping their student to attend.

The court will usually schedule a purge hearing for the family, to verify that the student or parent/guardian has successfully purged the contempt, or if not then to impose other consequences.

Purge hearings are also possible whenever a student actually begins serving time in detention. The student will be assigned a writing project or other activity, and after discussing that completed project or activity with the court, the student can be released early if the court is persuaded that the student will attend school in the future.

## ORDER DISMISSING TRUANCY ACTION

When seeking to dismiss a case, the school can:

1. Complete the [Order of Dismissal](#) or email the Truancy Prosecutor.
2. Please submit one copy to be conformed and returned to the school district.
3. Sign and mail to:

Yakima County Juvenile Court  
**Attn: Prosecutor's Office/Truancy**  
1728 Jerome Ave  
Yakima, WA 98902

After the Judge/Commissioner signs the original order:

- The conformed copy will be sent to the School District or via pick-up.
- Juvenile Court will mail copies to the student and parent/guardian.
- A copy will be placed in the social file for juvenile court records.

## DETENTION HEARINGS

If a student is arrested on a warrant, for failing to appear they will be booked into the Yakima County Juvenile Justice Center. A detention hearing will be held within 24 hours (excluding weekends and holidays). The court judge/commissioner will review the court file to verify that there is a basis for the warrant and explain to the student why the warrant was issued. The court will review bail and re-set the missed court hearing to the next available truancy court date.

If an adult is arrested on a warrant, a juvenile court staff person will be notified by the Yakima County Jail or by e-mail from clerical. A detention hearing will be held within 24 hours (excluding weekends and holidays). The judge/court commissioner will review the court file to verify that there is a basis for the warrant and explain to the parent or guardian why the warrant was issued. The court will review bail and re-set the missed court hearing to the next available truancy court date.

Typically, the school district is not notified or present for these detention hearings. A juvenile court staff person will notify all parties of the new hearing date and time.

## QUASHING WARRANTS ~ JUVENILE COURT PROCESS

If a warrant has been issued for the arrest of a party, that person may voluntarily come to court before being arrested and ask the court to quash the warrant. Usually the court will quash the warrant and reset the court hearing.

## WHEN A STUDENT MOVES

After the truancy petition has been filed, if the student moves to a different school district within Yakima County, the existing court case is handed off to the new school district.

- The original school district fills in a [Notice of Substitution](#), signs off, and delivers it to the new school or school district.
- The new district signs the Notice of Substitution and then files the notice with the court clerk.

Yakima County Juvenile Court  
**Attn: Clerks Office**  
1728 Jerome Ave  
Yakima, WA. 98902

If the student moves to a new county in Washington State, the original school district should notify the new school of the existing Yakima County case. Upon request, the court will transfer the court case to the new county.

If the student moves permanently out of state, this court process no longer applies to the student and the case can be dismissed.

### WHEN A STUDENT TURNS 18

When a student reaches age eighteen, or graduates, or receives a GED, the court no longer has jurisdiction, and the truancy case will be dismissed and Juvenile Court will destroy the social file.

### AT-RISK YOUTH (ARY)

If the school perceives that a student's truancy is caused by a parent or guardian's general inability to control their student's behavior, the school may want to consider referring the parent/guardian to the Department of Social and Health Services (DSHS) for help under the At-Risk Youth (ARY) law (also known as the Family Reconciliation Act, (RCW [13.32A](#))). The goal of the ARY law is to maintain families intact wherever possible, with support from DSHS or the court system.

The Department can make referrals for helpful services, and assist parents/guardians in filing an ARY petition. If an ARY petition is granted by the court, the youth will be ordered to follow parent/guardian rules and curfew, go to school, etc. A youth who violates an ARY order can be sentenced to community service hours or detention.

Parents/guardians can request this type of service by contacting the Department of Social and Health Services by calling **1-800-562-5624**. Parents/guardians should ask to file an At-Risk Youth Petition (ARY). They will set up an appointment for parents to speak with a Social Worker. The worker will help prepare a Family Assessment.

**Definition:** An at-risk youth is defined by statute as a child under the age of 18 who meets at least one of the following three requirements:

1. Is absent from home for at least 72 consecutive hours without parental consent; or
2. Is beyond parental control such that his/her behavior endangers the health, safety, or welfare of the child or any other person; or
3. Has a substance abuse problem for which there are no pending criminal charges relating to the substance abuse.

**Who May File:** Only the parent of the child may file the ARY petition. "Parent" is defined as the person(s) having legal right to custody of the child and includes custodian or guardian. The ARY proceeding is a voluntary process and a parent may request a **dismissal** at any time.