

79-201. Compulsory education; attendance required; exceptions; reports required.

(1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.

(2) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;

(d)(i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(e)(i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to

subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or

(f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.

(5) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:

(a) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;

(b) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;

(c) The district's policy on excessive absenteeism; and

(d) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

Source: Laws 1901, c. 70, § 1, p. 454; Laws 1903, c. 95, § 1, p. 549; Laws 1905, c. 140, § 1, p. 575; Laws 1907, c. 131, § 1, p. 430; R.S.1913, § 6924; Laws 1919, c. 155, § 1, p. 346; Laws 1921, c. 53, § 1(a), p. 227; C.S.1922, § 6508a; Laws 1929, c. 87, § 1, p. 340; C.S.1929, § 79-1901; R.S.1943, § 79-1901; Laws 1949, c. 256, § 7, p. 692; Laws 1953, c. 291, § 1, p. 988; Laws 1959, c. 380, § 1, p. 1322; Laws 1971, LB 211, § 1; Laws 1971, LB 582, § 1; Laws 1984, LB 928, § 1; Laws 1984, LB 994, § 4; R.S.1943, (1994), § 79-201; Laws 1996, LB 900, § 5; Laws 1999, LB 152, § 1; Laws 2004, LB 868, § 1; Laws 2008, LB1154, § 6; Laws 2010, LB1071, § 2; Laws 2012, LB996, § 1.

Annotations

Subsection (2) of this section does not make the start of the public school calendar year the default start date for other schools and does not provide that a child must attend a legally recognized school each day of the public school year. Nor does it require parents to enroll their child in a legally recognized school until

they obtain the State's recognition of an exempt homeschool. *State v. Thacker*, 286 Neb. 16, 834 N.W.2d 597 (2013).

Under subsection (2) of this section, an exempt school's ability to complete the minimum instruction hours is the only timing requirement imposed upon an exempt school's calendar year. *State v. Thacker*, 286 Neb. 16, 834 N.W.2d 597 (2013).

Where a juvenile is adjudicated solely on the basis of habitual truancy from school under subsection (3)(b) of section 43-247 and the status of truancy is subsequently terminated by the lawful execution of a parental release authorizing discontinuation of school pursuant to subsection (3)(d) of this section, a juvenile court may terminate its jurisdiction without a finding that such termination is in the best interests of the juvenile. *In re Interest of Kevin K.*, 274 Neb. 678, 742 N.W.2d 767 (2007).

The state, having a high responsibility for the education of its citizens, has the power to impose reasonable regulations for the control and duration of basic education. Parents have a right to send their children to private schools but do not have the right to be completely unfettered by reasonable government regulations as to the quality of the education furnished and the maintenance of minimum standards. *State ex rel. Douglas v. Faith Baptist Church of Louisville*, 207 Neb. 802, 301 N.W.2d 571 (1981).

Violation of this law is not, in itself, evidence of neglect under section 43-202(2) (c), R.R.S.1943. *State v. Rice*, 204 Neb. 732, 285 N.W.2d 223 (1979).

This section did not operate to violate constitutional right of parents to educate their children in accordance with the tenets of their religious faith. *Meyerkorth v. State*, 173 Neb. 889, 115 N.W.2d 585 (1962).

This section has no application to physically or mentally handicapped child attending special school. *Schutte v. Decker*, 164 Neb. 582, 83 N.W.2d 69 (1957).