S T A T E O F T E N N E S S E E
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Opinion No. 00-006

Truancy enforcement -- private and church-related schools

QUESTIONS

1. Do church-related and private schools have standing to file truancy-related petitions in Juvenile Court?

2. If the school is located in one county and the student resides in another, in which county must such petition be filed?

OPINIONS

1. No.

2. Such a petition may be brought in the county where the school is located. If the child lives in a different county the juvenile court may transfer the proceeding to the county where the child resides.

ANALYSIS

1. Tenn. Code Ann. § 49-6-3006(a) states:

> The **sole responsibility and authority** for the enforcement of compulsory attendance laws, compiled in this part, are hereby placed in the local board of education and its designated employees and officers. (Emphasis added).

The principals and teachers of each private, denominational, or parochial school are required to report to the superintendent of the public system in which the school is located the names, ages, and residences of all the pupils in attendance in their schools. They are also required to keep daily attendance records that are open to inspection by the superintendent or the superintendent's designee,

and to make such reports of attendance as the local or state board of education may by rule require.[1]

Private, denominational, and parochial schools are also required to report to such superintendent the names of all children who have been absent without leave five or more days during the school year. The superintendent is then required to serve, or cause to be served, on the parent or guardian of such children unlawfully absent from school, written notice that school attendance is required. [2] This statute further provides:

> The superintendent of any local school system after written notice to the parent or guardian of a child, shall report any child who is habitually and unlawfully absent from school to the appropriate judge having juvenile jurisdiction in that county, each case to be dealt with in such manner as the judge may determine to be in the best interest of the child consistent with the provisions of §§ 37-1-132, 37-1-168 and 37-1-169, and in the event the child is adjudicated to be unruly, the judge may assess a fine of up to fifty dollars ($ 50.00) or five (5) hours of community service, in the discretion of the judge, against the parents or legal guardians of children in kindergarten (K) through grade twelve (12) if the child is absent more than five (5) days during any school year.[3]

A truancy petition institutes, in the court having juvenile jurisdiction, a proceeding designed to adjudge whether the child is "unruly"[4] and/or to punish the parent(s) for his or her child's truancy.[5] The juvenile code provides a variety of options that are open to the juvenile judge to make such disposition that is best suited to the treatment of any child found to be “unruly” by virtue of being

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[1] Tenn. Code Ann. § 49-6-3007(c). A parent-teacher conducting a home school must give notice to the local superintendent before the commencement of each school year of the parent-teacher’s intent to conduct a home school. Instruction for at least four hours a day for the same number of instructional days as are required by state law for public schools is required, and the parent teacher is required to maintain attendance records, subject to inspection by the superintendent, and to submit these records to the superintendent at the end of each school year. Tenn. Code Ann. § 49-6-3050(b).

[2] Tenn. Code Ann. § 49-6-3007(e)(1).

[3] Tenn. Code Ann. § 49-6-3007 (f).

[4] Tenn. Code Ann. §§ 37-1-102(b)(23)(A)(i), 37-1-132.

[5] In addition to reporting the child to the appropriate judge having juvenile jurisdiction, the superintendent in the name of the local school system is required to report the truant child’s parent, guardian, or other person in parental relation to the child to law enforcement authorities, who are required to proceed against the parent or guardian in accordance with law unless the parent, guardian, or person in parental relation shall place the child in some day school. Tenn. Code Ann. § 49-6-3007(e)(3).

habitually and unlawfully absent from school.[6]

2. As stated above, habitual truancy from school is defined as "unruly" conduct in the juvenile code.[7] Venue for juvenile proceedings is established by Tenn. Code Ann. § 37-1-111, which provides that if unruly conduct is alleged, the proceeding may be commenced in the county "in which the acts constituting the alleged . . .unruly conduct occurred." In the case of habitual truancy from school, this would be the county in which the school is located. If a child lives in another county, however, the juvenile court may transfer the proceeding to the county of the child's residence.[8]

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[6] Tenn. Code Ann. § 37-1-132.

[7] Tenn. Code Ann. § 37-1-102(b)(23)(A)(i).

[8] Tenn. Code Ann. § 37-1-112.