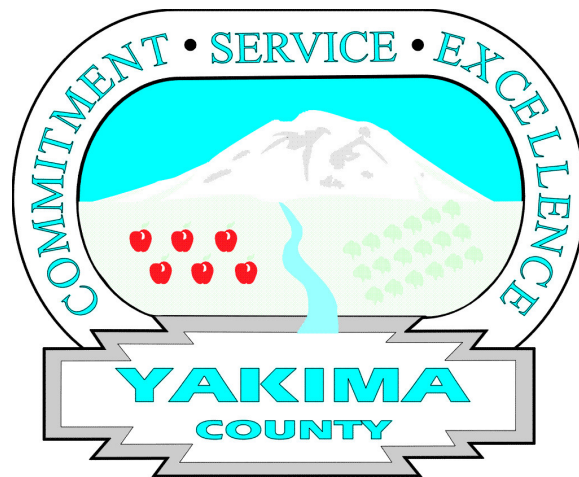


Yakima County Juvenile Court

Truancy Manual



2009-2010

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THE BECCA LAW

Washington State's truancy law (RCW 13.32A, often termed "the Becca Bill") is intended to stop truancy before it becomes a problem. It requires that students attend school; and if they do not, then that the school takes action.

What is an unexcused absence?

"Unexcused absence" means that the student has missed most of a school day or has failed to comply with a more restrictive school district policy, and the student's absence is not excused under the school district's policy. RCW 28A.225.020(2)

How many unexcused absences can a student have before the court gets involved?

A school may file a petition for a student who has had any unexcused absences. Depending on the circumstances, a school *must* file a petition if the student has had 5, 7, or 10 unexcused absences.

Is there a minimum age for a child before a truancy action can be initiated?

A truancy action can be initiated on behalf of an enrolled child as young as six. [RCW 28A.225.015](#) For students under eight a petition may only be filed against a parent.

Can a parent be held responsible for their child's truancy?

Yes. Parents are required to cause their children (from age eight to eighteen) to attend school. If the parent does not, then the parent can be sentenced to community service hours or fines. [RCW 28A.225.010](#) .

THE SCHOOL'S OBLIGATIONS UNDER THE BECCA LAW

If a student required to attend school fails to attend school without valid justification, the school in which the student is enrolled shall (RCW 28A.225.020):

- (a) If the student has more than one unexcused absence in a month, inform the student's custodial parent or guardian in writing or by telephone. Also, inform the parent of the potential consequences of additional unexcused absences;
- (b) If the student has more than two unexcused absences in month, schedule a conference or with the custodial parent or guardian and student to analyzing the causes of the absences after two unexcused absences; and

- (c) Take steps to eliminate or reduce the student's absences. These steps shall include, where appropriate, adjusting the student's school program or course assignment, providing more individualized or remedial instruction, or assisting the parent or student to obtain supplementary services that might eliminate the cause or causes for the absences from school. If the student'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 student's absence.

IF THE SCHOOL'S EFFORTS ARE UNSUCCESSFUL

If informal steps taken by a school are not successful in substantially reducing an enrolled student's absences, and the student has 5 unexcused absences in a month or 10 in a school year, then the school must file a truancy petition. RCW 28A.225.030

RULES OF FILING OF ORIGINAL DOCUMENTS AT THE CLERK'S OFFICE

Due to archiving and scanning requirements, all documents must be single sided, using only black ink and no highlighting.

Forms for truancy cases are available at: www.yakimacounty.us/truancy/

TRUANCY COURT ORDERS:

[Truancy Petition](#)

[Notice of Truancy Petition Hearing](#)

[Return of Service](#)

[Motion and Order for Truancy Contempt Hearing](#)

[Notice of Substitution](#)

[Order Dismissing Truancy Action](#)

[Order to Continue Truancy Hearing](#)

[Request for Interpreter Services](#)

Please call the truancy coordinator Lisa Acosta at 574-2085 with any questions about those forms.

Completed orders should be mailed to: Truancy Prosecutor, 1728 Jerome Avenue, Yakima, WA 98902, Attn: Truancy Prosecutor.

AGREED TRUANCY PETITIONS ~ AGREED ORDER TO ATTEND

The court can no longer accept Agreed Petitions and Orders, due to a 2009 ruling by the Court of Appeals.

TRUANCY PETITIONS

A truancy case starts when the school files a truancy petition (see the link above). In its petition, the school alleges that the student has had unexcused absences, and despite efforts by the school, the student's absences continue without substantial reduction.

When filing a new truancy petition, the school needs to:

1. Complete the [Truancy Petition](#) and [Notice of Truancy Petition Hearing](#)
2. Attach copies of attendance records.
3. File original with the Prosecutors Office at 1728 Jerome Ave, Yakima, WA 98902. The prosecutor will review the petition and notice of hearing, and send to the Clerk's office for processing. Petitions with inadequate information will be returned to the school's Becca staff person, with an explanation.
4. When the clerk receives it they will assign it a new case number and set it for a hearing. Then it will be faxed back to the school district. The school district must provide a fax number at the top of each petition for the Clerk's office.
5. Once the school receives their conformed fax from the Clerk's office they will need to prepare the service copies.
 - a. 3 copies will need to be mailed to: **Yakima County Juvenile Court** for the parent, student (to be served) and Juvenile court records. Mailing address is 1728 Jerome Ave, Yakima, WA 98902 Attn: Becca Coordinator.
 - b. 1 copy will need to be mailed to the Department of Assigned Counsel. Mailing address is 1728 Jerome Ave. Yakima, WA 98902 Attn: Assigned Counsel.
 - c. The school district will need to keep a copy for their records.

Please note that the petition must include identifying information for the student and parents. We need that information to get papers served on other parties, to get arrest warrants honored by the Sheriff, and to enforce judgments against parents. Without accurate, current information it may be impossible to serve papers, hold a court hearing, or enforce court orders.

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.

PRE-HEARING PREPARATION (THIS APPLIES TO BOTH PETITION AND CONTEMPT HEARINGS)

The clerk will prepare daily calendars showing the cases which are scheduled for hearing. The clerk will forward that calendar to the truancy prosecutor, who will forward the email to each school district's designated Becca coordinator.

The Becca coordinators are responsible for contacting the school of each student to assure updated attendance records are sent in no later than 48 hours before the hearing. Updated attendance records are required for *all* truancy hearings. They can be sent by email (truancy.prosecutor@co.yakima.wa.us), or mailed via Next Day US Postal service.

The truancy prosecutor will print three copies of the attendance records: for the truancy prosecutor, for defense counsel, and for the court commissioner.

AT THE PETITION HEARING

The petition hearings are scheduled on the 1:30 docket.

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 must attend, with their appointed attorney. The parent must attend.

At the petition hearing, after the court has heard from the parties, the court will decide whether a student or parent have violated the [Becca Bill](#).

Agreed cases: When a family agrees that the student has had unexcused absences, the court will sign an order 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 which it can be given more time.

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

REQUEST FOR INTERPRETER SERVICES

If an interpreter is needed for court, please complete the proper request form that has been provided on the county website for court orders. This form is to accompany the truancy petition. An interpreter will only be provided when this form has been filed.

CONTEMPT MOTIONS

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.

These are the steps for getting a contempt hearing scheduled:

1. Complete the Motion and Order for Truancy Contempt Hearing . Use current contact information for the student and parents so the process server can get them served.
2. Attach copies of attendance records.
3. File the original contempt order with the Prosecutor's Office at 1728 Jerome Ave. Yakima, WA 98902. The prosecutor's Office will review the contempt order and send it to the Clerk's office for processing. Contempt Motions with inadequate information will be returned to the school's Becca coordinator, with an explanation.
4. When the Clerk's office receives the contempt order they will set it for a hearing, have the judge sign it and fax it back to the school district. The school district will need to provide the Clerk's office with a fax number at the top of each contempt order.
5. Once the school receives their conformed fax from the Clerk's office they will need to prepare service copies.
 - a. 3 copies will need to be mailed to **Yakima County Juvenile Court** for the parent, student (to be served) and Juvenile Courts records. Mailing address is 1728 Jerome Ave. Yakima, WA 98902, Attn: Becca Coordinator.
 - b. 1 copy will need to be mailed to the Department of Assigned Counsel. Mailing address is 1728 Jerome Ave. Yakima, WA 98902 Attn: Assigned Counsel.
 - c. The school district will need to keep a copy for their records.

Mail or deliver these documents to the Truancy Prosecutor at 1728 Jerome Avenue, Yakima, WA 98902.

The truancy prosecutor will review the contempt motions. Incomplete papers will be returned to the school's Becca coordinator for correction, with suggestions. Adequate papers will be forwarded to the clerk for processing.

Please see the notes above regarding "Pre-hearing Preparation"

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, 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 order to attend school, the student can be ordered to do community service hours or could be sentenced to detention or other consequences.

If the court finds that the parent did not make reasonable efforts to cause their child to attend school, the parent can be sentenced to community service hours 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 long or require other witnesses, it might be postponed to another day, upon request.

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, or by other acts.

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 causing their student to attend.

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

Purge hearings are also possible whenever a student actually begins serving a jail sentence. The student will be assigned a writing project, and after discussing that completed project 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 filing an Order Dismissing Truancy, the school needs to:

- 1) Complete the [Order Dismissing Truancy Action](#).
- 2) Write your fax number at the top of this order.
- 3) Sign and mail to:

Yakima County Juvenile Court
Attn: Becca Coordinator
1728 Jerome Ave
Yakima, WA 98902

After the Judge/Commissioner signs the original order it will be faxed to you for your records.

Becca clerical will process the dismissal and file it with the clerk's office.

FAILURE TO APPEAR FOR COURT

If a student or parent or guardian fails to appear for a court hearing, the court may issue a warrant for the missing party if the following criteria are met:

- A party asks that a warrant be issued.
- The court is satisfied that the absent party had notice of the court hearing.
- The absent party is old enough to make a warrant reasonable. (Usually if the student is under age 12, the warrant is better directed to an absent parent or guardian).

DETENTION HEARINGS

If a student is arrested on a warrant, 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 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.

If an adult is arrested on a warrant, the 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 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. Typically, the school district is not notified or present for these detention hearings. The 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 in 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 files the Notice with the court clerk.

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.

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 to the Department of Social and Health Services (DSHS) for help under the At-Risk Youth laws (also known as the Family Reconciliation Act, RCW 13.32A). The goal of the ARY laws is to maintain families intact wherever possible, with support from DSDHS or the court system.

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

Parents can request this type of service by contacting the Department of Social and Health Services. In Yakima, the office is located on the third floor at 1002 North 16th Avenue (225-6500). In Toppenish DSHS (865-1450), Nak-nu-we-sha (865-5121) or Sunnyside (836-5750). Parents should request to speak to the Family Reconciliation Staff.

CHILD IN NEED OF SERVICES (CHINS)

Who is a Child in Need of Services?

A “child in need of services” (RCW 13.32A.030(5)) is an un-emancipated child under the age of 18 who:

- Is so far beyond parental control that their behavior endangers the health, safety, or welfare of themselves or an other person; or,
- Has been reported as a runaway for more than 24 hours or as absent from a court ordered placement on two or more occasions and has a serious substance abuse problem or exhibits behaviors that create a risk of harm to the child or others; or
- Is in need of services, lacks access or has declined to use the services, and whose parents are unwilling or unable to continue efforts to maintain the family structure.

What are the characteristics of families served?

Families served through this program have usually have significant conflicts between parents and teens, which have not been solved through counseling or other services. Typically the CHINS petition is filed by the youth. Court procedures are similar to those followed in an ARY case, except that indigent parents are entitled to the appointment of lawyers at County expense, and the court has greater access to out of home placement options for the youth. At the petition hearing, the youth must show that they made a reasonable effort to resolve the conflicts.