

# **UNRULY AND TRUANCY IMPLICATIONS AND PROCESSES IN COURT**

Equal Justice University

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**EQUAL JUSTICE WORKS TEXT TO GIVE FELLOW**  
**AT YOUTH LAW CENTER**

## **YOUTH LAW CENTER**

The Youth Law Center advocates to transform foster care and juvenile justice systems across the nation so every child and youth can thrive. Our work aims to ensure children are not only protected from harm and dangerous conditions, but also receive the support, opportunities, and love they need to grow up healthy and happy.

# **DISCLAIMER!**

**This presentation is for the purposes of general information and education, and does not constitute legal advice.**



# OVERVIEW

Today's presentation aims to answer the following questions:

- What does unruly mean?
- How is unruly status different from delinquency?
- What is truancy?
- How is truancy related to unruly proceedings?
- How should schools respond to truancy?
- How should courts respond to truancy?



## WHY THIS MATTERS

**SYSTEMS PATHWAY** - Being adjudicated unruly brings a youth under the jurisdiction of the juvenile court for status offenses. Although an unruly adjudication does not automatically place a child into the child welfare system, an unruly case may reveal abuse, neglect, or dependency. In such cases, the juvenile court may involve the Tennessee Department of Children's Services (DCS) to provide services or pursue appropriate child welfare intervention. An unruly adjudication can also result in a commitment to DCS custody under juvenile justice jurisdiction.

**CASELOAD INTERSECTION** - Unruly cases may overlap with existing civil legal aid caseloads involving education, disability, housing, or public benefits that support youth and help prevent youth from coming into contact with the court system.

# WHAT IS “UNRULY”

Habitually and without  
justification truant  
from school

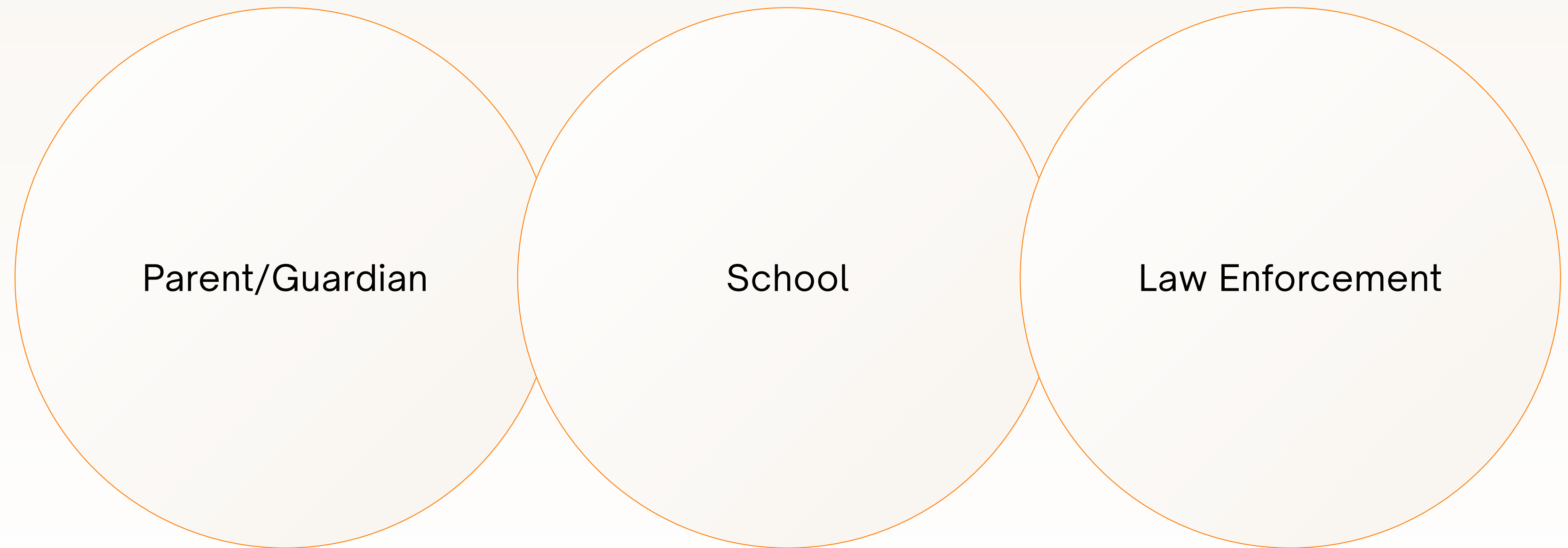
Habitually  
disobedient

Commits an offense  
that is applicable only  
to a child

Runaway

## HOW DOES AN UNRULY PETITION GET FILED?

Any person or agency having knowledge of the facts may file a complaint with the juvenile court or an officer designated by the court alleging facts to indicate a child is delinquent or unruly.



# UNRULY V DELINQUENT

## UNRULY

Under Tennessee statute an “Unruly child” means a child in need of treatment and rehabilitation who:

- Habitually and without justification truant from school
- Habitually disobedient
- Commits an offense that is applicable only to a child
- Runaway

## DELINQUENT

“Delinquent act” means an act that is designated a crime under the law and the crime is not a status offense under and the crime is not a traffic offense, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony.



## UNRULY PROCEDURAL SAFEGUARDS

Because these are not delinquent acts (i.e. acts that would be crimes if committed by adults), Tennessee law imposes statutory boundaries on detention, probation, and placements, distinguishing them from delinquency procedures.

Some of these procedural safeguards are fairly recent, originating in the 2018 Juvenile Justice Reform Act, which urged that courts curtail the practice of removing youth from their homes and schools for minor offenses and/or behaviors that could be indicative of underlying trauma or disability related needs.

# PROCEDURAL SAFEGUARDS



Youth alleged to be unruly shall not be detained for more than 24 hours unless there has been a detention hearing and a judicial determination that there is probable cause to believe the youth has violated a valid court order.

# PROCEDURAL SAFEGUARDS



No child found to be unruly may be placed on probation under the supervision of the Department of Children's Services, unless the child is also found to be delinquent or is found to have violated a valid court order.

# PROCEDURAL SAFEGUARDS



The court has the additional dispositional alternative of ordering the department to provide non-custodial services to a child found to be unruly.

# PROCEDURAL SAFEGUARDS



Prior to committing an unruly child to the custody of DCS, the court shall refer the child to the department's juvenile-family crisis intervention program.

# PROCEDURAL SAFEGUARDS



If the court finds that it is in the best interest of the child and the public that any unruly child be removed from home, the placement shall be with the person, agency, or facility that presents **the least drastic or restrictive alternative**.

# PROCEDURAL SAFEGUARDS



An unruly child committed to the custody of the department for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six months. The court may order an additional 6 months where certain requirements are met.

# PROCEDURAL SAFEGUARDS



If a child is adjudicated unruly in whole or in part for habitual and unlawful absence, it is the intent of the general assembly that any disposition of the court be oriented toward family services and those interventions that address educational barriers and the root causes of truancy.

# **UNDERSTANDING TRUANCY**



## **UNDERSTANDING TRUANCY**

In Tennessee, all children between the ages of six and seventeen are required to attend either a public or nonpublic school.

Failure to comply with this compulsory attendance requirement may result in the penalties provided under Tennessee law.

# UNDERSTANDING TRUANCY

## 3 ABSENCES

The principal of a public school must report promptly to the director of schools, or to the attendance supervisor

Director MAY serve written legal notice to the parent/guardian requiring attendance

## 5 ABSENCES

The principal of a public school must report promptly to the director of schools, or to the attendance supervisor

Director SHALL serve written notice.

4



## UNDERSTANDING TRUANCY

Under a new law, student attendance now transfers for the purposes of truancy.

Under prior law absences accrued at a prior school did not continue to count towards truancy when a student transferred.

If a student was absent for 4 days at school A and then transfers to school B, the 4 absences from school A would still be counted towards truancy- if the student missed one more day at school B, they would be subject to a truancy notice.

# **ROOT CAUSES OF TRUANCY**



## ROOT CAUSES OF TRUANCY

There are many reasons a youth may not attend school. The root causes of truancy may be linked to a complication of personal, family, school, and community factors. Students may miss school because of challenges such as a lack of transportation, family responsibilities, health issues, bullying, or school avoidance. Addressing truancy requires understanding the underlying problems and providing resources that help students stay engaged and successful.



# ROOT CAUSES OF TRUANCY

## LACK OF MEDICAL CARE

Lack of medical care can contribute to truancy when students have untreated health conditions, frequent illnesses, or unmet physical or mental health needs that make attending school difficult.

When a close relative or caretaker needs medical care, students may miss school to provide support, help with household responsibilities, or attend appointments with their family member.



# ROOT CAUSES OF TRUANCY

## ACADEMIC PERFORMANCE

Students who struggle academically may feel discouraged, frustrated, or embarrassed about falling behind. Repeated poor grades or difficulty understanding course material can reduce motivation to attend school. Students with unmet educational needs may avoid school because they feel unsuccessful or unsupported.



# ROOT CAUSES OF TRUANCY

## DISABILITY

Disabilities can contribute to truancy when students face barriers such as difficulty accessing appropriate support, accommodations, or resources at school. Physical or learning disabilities may make attending school more difficult if students do not receive the help they need to feel successful and included.

Students with anxiety, depression, or ADHD may avoid school due to sensory overload, academic failure cycles, or untreated symptoms.

Physical disabilities may create transportation or access barriers.



# ADDRESSING TRUANCY

## SPECIAL EDUCATION

Schools have an obligation to identify, support, and provide appropriate services for student with special education needs to help them succeed including attending school.

Identification and assessment obligations include:

- Child Find
- Functional Behavior Assessments (FBAs)

Note that disability-related protections can date back to before a district formally identified or assessed a student, if the district had a “basis of knowledge” that the child might have a disability.



# ADDRESSING TRUANCY

## SPECIAL EDUCATION

Supports through an Individualized Education Program (IEP)

- Present levels of performance: current, specific, data-driven measures of student's attendance and absences
- Attendance goals: measurable and achievable
- Individualized accommodations to address absences
- Daily Check-In/Check-Out with Preferred Adult
- Behavioral Services

# HYP0

Ashley, a twelve year old middle school student, has developed severe anxiety related to school. Over the years, her attendance has been spotty, but in the last three months it has declined significantly. She has not attended school at all in three weeks. In the past year, her grades have declined and her teachers report that she has become disengaged in her classes. Her mother reports that Ashley has diagnoses of anxiety and ADHD and receives special education services. Ashley also mentioned some challenging relationships with girls in her math class. Her anxiety has become so severe that she has panic attacks when the bus comes to pick her up for school. What steps should an attorney or advocate take to address Ashley's needs?





# ROOT CAUSES OF TRUANCY

## POVERTY

- Poverty may require youth to work jobs to support the family and/or themselves, directly competing with school attendance.
- Lack of transportation, appropriate clothing, school supplies, or food creates daily barriers to attendance.
- Parents working multiple jobs may be unable to enforce attendance or engage with intervention plans.



# ROOT CAUSES OF TRUANCY

## HOUSING INSTABILITY

- The mobility, poverty, and trauma associated with homelessness affects students' emotional and physical health, hygiene, preparedness for school, transportation options, and other factors that increase absenteeism.
- Housing instability is the greatest predictor of students' chronic absenteeism from school
- Students experiencing homelessness are chronically absent from school at a rate at least twice that of the overall student population, and significantly more often than their housed, low-income peers.



# ROOT CAUSES OF TRUANCY

## BULLYING

- Students experiencing bullying may feel unsafe and thus unable to attend or be transported to school
- Students who experience physical, verbal, social, or cyberbullying may avoid school to escape harassment.
- Bullying can contribute to low self-esteem, depression, and loss of motivation, which may increase absenteeism.



# ROOT CAUSES OF TRUANCY

## ENGLISH LANGUAGE LEARNERS/IMMIGRATION

- Students and parents may be cautious of ICE presence
- Students may feel financial pressure to work or perform caretaking/household duties if they have a legal status that provides them the ability to work, or comparatively more protection from deportation if they are apprehended by ICE during drop off, grocery shopping, etc
- Communication barriers may make it difficult for parents to navigate attendance
- Families may be unfamiliar with American school systems and expectations about school attendance



# ROOT CAUSES OF TRUANCY

## TRANSPORTATION

- Transportation may not be provided for students attending alternative or charter schools
- Migrant youth, youth experiencing homelessness, and youth in foster care/complex family custody situations may face transportation challenges due to frequent moves
- Transportation instability caused by frequently changing circumstances such as housing, available drivers in a household, financial stability can disrupt access to reliable transportation.



# ROOT CAUSES OF TRUANCY

## JUVENILE JUSTICE INVOLVEMENT

- Returning to school after justice involvement can be challenging due to stigma, disrupted learning, difficulty navigating school policies regarding re-enrollment, or schools erecting barriers to re-enrollment
- Court requirements may interrupt school attendance
- Gaps in educational services while in detention can make students feel overwhelmed upon returning to school.



# ROOT CAUSES OF TRUANCY

## CHILD WELFARE INVOLVEMENT

- Placement instability interrupts enrollment and progression
- DCS and school districts may be unfamiliar with the Best Interest Determination (BID) meeting process and may not timely follow protocols to ensure that students are enrolled in school and that school stability is considered in placement decisions.
- Frequent changes in caregivers may make it difficult for students to maintain consistent expectations, school routines, and the support systems needed for regular attendance. Caregivers may not have timely (or any) access to information about a student's educational needs.

# **SCHOOL INTERVENTION**



## SCHOOL INTERVENTION

Schools have processes they must follow to address truancy. Tennessee's progressive truancy plan is a tiered framework intended to address attendance concerns early and provide increasing levels of support prior to court intervention. The tiers aim to address barriers to engagement with a goal of promoting regular school attendance through intervention and collaboration.

# SCHOOL INTERVENTION

## TIER ONE

Schoolwide,  
prevention-oriented  
supports

## TIER TWO

Tier two must be  
implemented upon a  
student's  
accumulation of five  
(5) unexcused  
absences

## TIER THREE

Tier three must be  
implemented if the  
truancy interventions  
under tier two are  
unsuccessful.

# SCHOOL INTERVENTION

## TIER TWO

Must include, at a minimum:

1. A conference with the student and the parent, guardian, or other person having control of the student;
2. A resulting attendance contract;
3. Regularly scheduled follow-up meetings;
4. An individualized assessment by a school employee of the reasons a student has been absent from school; and
5. If necessary, referral of the child to counseling, community-based services, or other in-school or out-of-school services

# SCHOOL INTERVENTION

## TIER THREE

May consist of one (1) or more of the following:

1. School-based community services;
2. Participation in a school-based restorative justice program;
3. Referral to a school-based teen court; or
4. Saturday or after-school courses designed to improve attendance and behavior.

Note: In-school suspension or out-of-school suspension must not be used as part of the progressive truancy plans adopted by schools for unexcused absence from class or school.

# HYP0

You represent a mother in an eviction case. Her 12-year-old has accumulated six unexcused absences this quarter due to the family moving three times in four months, and each move meant a lapse in school enrollment while records transferred. The school has now sent a truancy notice and referred the family for a tier two on a truancy plan. How does the housing case impact the truancy plan?



# **COURT INTERVENTION**



## COURT INTERVENTION

If the progressive truancy plan is unsuccessful and attendance is not improved or the parent or guardian is unwilling to cooperate, the school may refer the case to juvenile court after providing the required notice.

A court **shall** dismiss a complaint or referral made by an LEA that is not made in compliance with implementing the progressive truancy plan.



## COURT INTERVENTION

Any parent, guardian, or other person who has control of a child, and who does not participate in the progressive truancy plan or enforce attendance commits educational neglect, which is a Class C misdemeanor.

Each day's unlawful absence constitutes a separate offense.

In the event a student in grades K-12 is adjudicated to be unruly because the student has accumulated five days or more of unexcused absences during any school year, the judge may assess a fine of up to \$50.00 or five hours of community service, in the discretion of the judge, against the parent or legal guardian of the student.



# COURT INTERVENTION

Representation is not automatic in unruly proceedings. It attaches only when removal from the home is at risk.

A youth found unruly due to truancy may receive any of the following dispositions:

1. Removal From Home
2. Probation
3. Community service
4. DCS Custody

# HYP0

A first-time offender, age 14, is adjudicated unruly solely for habitual truancy and has no prior record. The judge, frustrated that home-based interventions haven't worked, wants to commit the child to DCS custody. Can the court do this? What would need to be true first, and what should the court have already tried?



## **HYP0**

Aiden, age 12, has missed over 30 school days because his mother works 3 jobs and frequently leaves him home alone to care for younger siblings. Aiden has previously been adjudicated unruly. The school documents repeated unsuccessful attempts to engage the family in a progressive truancy plan and reports concerns of Aiden's absences to the Department of Children's Services. Aiden was recently arrested for stealing groceries for for him and his siblings. What services could help this family?



# **DISCUSSION AND QUESTIONS**

**THANK YOU**