

BILL ANALYSIS

Senate Research Center
83R20840 EAH-D

C.S.S.B. 1234
By: Whitmire
Criminal Justice
4/10/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law states that every child from the ages of six to 17 is required by law to attend school. If the child has 10 or more unexcused absences within a six-month period, or three or more unexcused absences within a four-week period, the child is considered truant. Truancy is currently a Class C misdemeanor. Violators may be referred to county, municipal, justice, and juvenile courts. The intent of this bill is to reduce the exposure of Texas children to the criminal justice system.

C.S.S.B. 1234 amends current law relating to the prevention of truancy and the offense of failure to attend school.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 45.054(i), Code of Criminal Procedure, to require a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094 (Failure to Attend School), Education Code, under certain circumstances, including if the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111 (High School Equivalency Examinations), Education Code.

SECTION 2. Amends Article 45.055(e), Code of Criminal Procedure, to require a court to expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section under certain circumstances, including if the individual, before the individual's 21st birthday, presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 3. Amends Article 45.056, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a county court, justice court, municipal court, school district, or juvenile probation department, except as provided by Subsection (a-1), to employ a case manager, or agree, in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, with any entity listed in this subsection or another appropriate governmental entity to jointly employ a case manager to provide services in cases involving:

(1) a juvenile offender who is before a court consistent with the court's statutory powers;

(2) a student, before the student is referred to a court for a violation of Section 25.094, Education Code, who is referred to the case manager by a school

administrator or designee for intervention services because the student is considered at risk of dropping out of school, if the student and the student's parent or guardian consent to the referral to the case manager.

Deletes existing text authorizing a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, on approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, to employ a case manager to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers, or to agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(a-1) Provides that a school district that has selected an attendance officer under Section 25.088 (School Attendance Officer), Education Code, is not required to employ a case manager.

SECTION 4. Amends Section 25.087(a), Education Code, to authorize a person required to attend school, rather than a person required to attend school, including a person required to attend school under Section 25.085(e) (relating to requiring a person who voluntarily attends school after the person's 18th birthday to attend each school day for the entire program of instruction offered), to be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.

SECTION 5. Amends Section 25.0915, Education Code, as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) Requires a school district to adopt truancy prevention measures designed for certain purposes, including to address student conduct related to truancy in the school setting before the student violates Section 25.094.

(b) Requires a school district, as a truancy prevention measure under Subsection (a), to:

(1) issue a warning letter to the student and the student's parent or guardian that states the number of absences of the student and explains the consequences if the student has additional absences;

(2) impose:

(A) a behavior contract on the student that is required to be signed by the student, the student's parent or guardian, and an employee of the school and that includes certain information; and

(B) school-based community service; or

(3) refer the student to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(c) Authorizes a referral made under Subsection (b)(3) to include participation by the child's parent or guardian if necessary.

(d) Creates this subsection from existing text and makes no further change.

SECTION 6. Amends Section 25.094(e), Education Code, to provide that an offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$100.

SECTION 7. Amends Sections 25.0951(a) and (b), Education Code, as follows:

(a) Requires a school district, if a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, to within 10 school days of the student's 10th absence:

(1) file a complaint against the student or the student's parent, rather than against the student or the student's parent or both, in a county, justice, or municipal court for an offense under Section 25.093 (Parent Contributing to Nonattendance) or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) Makes no change to this subdivision.

(b) Authorizes the school district, if a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), to:

(1) file a complaint against the student or the student's parent, rather than against the student or the student's parent or both, in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) Makes no change to this subdivision.

SECTION 8. Repealers: Section 25.085(e) (relating to requiring a person who voluntarily attends school after the person's 18th birthday to attend each school day for the entire program of instruction offered), and (f) (relating to authorizing the board of trustees of a school district to adopt a policy requiring persons described by Subsection (e) to attend school until the end of the school year), Education Code.

SECTION 9. Makes application of the changes in law made by this Act prospective.

SECTION 10. Effective date: September 1, 2013.