

By: Villarreal

H.B. No. 2872

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the number of student absences that constitute a  
3 failure to attend school.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 25.094, Education Code, is amended by  
6 amending Subsection (a) and adding Subsection (a-1) to read as  
7 follows:

8 (a) An individual commits an offense if the individual:

9 (1) is 12 years of age or older and younger than 18  
10 years of age;

11 (2) is required to attend school under Section 25.085;  
12 and

13 (3) is absent from ~~[fails to attend]~~ school for the  
14 amount of time specified under Subsection (a-1) ~~[on 10 or more days~~  
15 ~~or parts of days within a six-month period in the same school year~~  
16 ~~or on three or more days or parts of days within a four-week~~  
17 ~~period]~~.

18 (a-1) For purposes of Subsection (a), a student may not be  
19 absent from school:

20 (1) except as provided by Subdivision (2), on five or  
21 more days or parts of days within a semester; or

22 (2) if the student attends a school operating on a  
23 year-round system under Section 25.084, on 10 or more days or parts  
24 of days within a six-month period in the same school year, or on

1 three or more days or parts of days within a four-week period.

2 SECTION 2. Sections 25.095(a) and (b), Education Code, are  
3 amended to read as follows:

4 (a) A school district or open-enrollment charter school  
5 shall notify a student's parent in writing at the beginning of the  
6 school year that if the student is absent from school on five or  
7 more days or parts of days within a semester, or if the student  
8 attends a school operating on a year-round system under Section  
9 25.084, on 10 or more days or parts of days within a six-month  
10 period in the same school year or on three or more days or parts of  
11 days within a four-week period:

12 (1) the student's parent is subject to prosecution  
13 under Section 25.093; and

14 (2) the student is subject to prosecution under  
15 Section 25.094 or to referral to a juvenile court in a county with a  
16 population of less than 100,000 for conduct that violates that  
17 section.

18 (b) A school district shall notify a student's parent if the  
19 student has been absent from school, without excuse under Section  
20 25.087, on three days or parts of days within a semester or, if the  
21 student attends a school operating on a year-round system under  
22 Section 25.084, within a four-week period. The notice must:

23 (1) inform the parent that:

24 (A) it is the parent's duty to monitor the  
25 student's school attendance and require the student to attend  
26 school; and

27 (B) the parent is subject to prosecution under

1 Section 25.093; and

2 (2) request a conference between school officials and  
3 the parent to discuss the absences.

4 SECTION 3. Section 25.0951, Education Code, is amended by  
5 amending Subsection (a) and adding Subsections (a-1) and (a-2) to  
6 read as follows:

7 (a) Except as provided in Subsection (a-1), if ~~[If]~~ a  
8 student is absent from ~~[fails to attend]~~ school without excuse for  
9 the amount of time specified under Section 25.094(a-1) ~~[on 10 or~~  
10 ~~more days or parts of days within a six-month period in the same~~  
11 ~~school year]~~, a school district shall within 10 school days of the  
12 student's fifth ~~[10th]~~ absence:

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

18 (2) refer the student to a juvenile court for conduct  
19 indicating a need for supervision under Section 51.03(b)(2), Family  
20 Code.

21 (a-1) If a student attending a school that operates on a  
22 year-round system under Section 25.084 is absent from school  
23 without excuse for the amount of time specified under Section  
24 25.094(a-1), a school district shall take the action required under  
25 Subsection (a) within 10 school days of the student's 10th absence.

26 (a-2) Notwithstanding Subsection (a), a school district may  
27 choose to take the action required under Subsection (a)(1) or (2)

1 not later than January 15, if the absences occur in the fall  
2 semester, or not later than June 15, if the absences occur in the  
3 spring semester.

4 SECTION 4. Section 51.03(b), Family Code, as amended by  
5 Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd  
6 Legislature, Regular Session, 2011, is reenacted and amended to  
7 read as follows:

8 (b) Conduct indicating a need for supervision is:

9 (1) subject to Subsection (f), conduct, other than a  
10 traffic offense, that violates:

11 (A) the penal laws of this state of the grade of  
12 misdemeanor that are punishable by fine only; or

13 (B) the penal ordinances of any political  
14 subdivision of this state;

15 (2) the absence of a child from school for the amount  
16 of time specified under Section 25.094(a-1), Education Code ~~[on 10~~  
17 ~~or more days or parts of days within a six-month period in the same~~  
18 ~~school year or on three or more days or parts of days within a~~  
19 ~~four-week period from school];~~

20 (3) the voluntary absence of a child from the child's  
21 home without the consent of the child's parent or guardian for a  
22 substantial length of time or without intent to return;

23 (4) conduct prohibited by city ordinance or by state  
24 law involving the inhalation of the fumes or vapors of paint and  
25 other protective coatings or glue and other adhesives and the  
26 volatile chemicals itemized in Section 485.001, Health and Safety  
27 Code;

1           (5) an act that violates a school district's  
2 previously communicated written standards of student conduct for  
3 which the child has been expelled under Section 37.007(c),  
4 Education Code;

5           (6) conduct that violates a reasonable and lawful  
6 order of a court entered under Section 264.305; ~~[or]~~

7           (7) notwithstanding Subsection (a)(1), conduct  
8 described by Section 43.02(a)(1) or (2), Penal Code; or

9           (8) ~~[(7)]~~ conduct that violates Section 43.261, Penal  
10 Code.

11         SECTION 5. Section 25.0951(b), Education Code, is repealed.

12         SECTION 6. The change in law made by this Act applies only  
13 to conduct that violates Section 25.093 or 25.094, Education Code,  
14 as amended by this Act, that occurs on or after the effective date  
15 of this Act. Conduct that violates Section 25.093 or 25.094,  
16 Education Code, as amended by this Act, that occurs before the  
17 effective date of this Act is covered by the law in effect at the  
18 time the conduct occurred, and the former law is continued in effect  
19 for that purpose. For purposes of this section, conduct occurs  
20 before the effective date of this Act if any element of the  
21 violation occurred before that date.

22         SECTION 7. This Act applies beginning with the 2013-2014  
23 school year.

24         SECTION 8. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2013.