

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 29, 2015

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2821 by Clardy (Relating to court jurisdiction and procedures for truancy.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB2821, As Introduced: a negative impact of (\$16,577,892) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$7,017,264)
2017	(\$9,560,628)
2018	(\$9,560,628)
2019	(\$9,560,628)
2020	(\$9,560,628)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Dedicated	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	(\$6,876,502)	(\$140,762)	(\$880,169)	(\$140,679)
2017	(\$9,419,866)	(\$140,762)	(\$880,169)	(\$140,679)
2018	(\$9,419,866)	(\$140,762)	(\$880,169)	(\$140,679)
2019	(\$9,419,866)	(\$140,762)	(\$880,169)	(\$140,679)
2020	(\$9,419,866)	(\$140,762)	(\$880,169)	(\$140,679)

Fiscal Year	Probable Revenue Gain/(Loss) from Appropriated Fund 0977 - Law Enforcement and Custodial Officer Supplement Retirement Trust Fund
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

Fiscal Analysis

The bill would repeal the offense of failure to attend school in section 25.094 of the education code. School districts would still be required to refer children to court for conduct indicating a need for supervision (CINS) described under section 51.03(b)(2) for the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school.

The bill would designate appropriate justice, municipal, and constitutional county courts as juvenile courts for the purposes of hearing CINS truancy cases. The newly designated juvenile courts hearing truancy cases would be given most of the remedies currently available to justice and municipal courts for disposing of failure to attend school cases. It is assumed these courts would operate under all juvenile court procedures and interact with local juvenile probation departments in the same manner as current juvenile courts for these cases.

Methodology

Repealing failure to attend school in the education code, which is a Class C misdemeanor, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts in addition to justice and municipal courts, there were 93,786 complaints of failure to attend school in fiscal year 2014. The Office of Court Administration estimated that 50 percent of both of these types of cases result in a conviction or deferred disposition, both of which result in the assessment of court costs. Applying the 50 percent conviction rate would yield 46,893 cases in which court costs are assessed ($93,786 \times 0.5 = 46,893$). The state portion of court costs assessed on these cases is \$54 per case. The number of cases with court costs assessed, multiplied by the court cost per case would yield \$2,532,222 ($46,893 \times \$54 = \$2,532,222$). Assuming a collection rate to the assessed court costs of 50% would equal \$1,266,111 in lost court cost revenue per year ($\$2,532,222 \times 0.5 = \$1,266,111$).

It is assumed that requiring these cases to go through juvenile courts as CINS would increase the number of referrals to local juvenile probation departments. Some portion of those juveniles referred would be placed on deferred prosecution or probation supervision. Of current referrals to juvenile court for CINS for truancy or failure to attend school, 37 percent are currently placed on deferred prosecution or probation supervision for an average length of stay of 155 days. Because some of these cases currently only go to juvenile court for the third or subsequent offense, it is assumed that a smaller percentage of the total number of cases would end up on deferred prosecution or probation supervision if they were all referred to juvenile court only. Assuming the 93,786 cases were referred to juvenile court, and that 12 percent of those ended up on deferred prosecution or probation for 155 days each, there would be an additional 1,744,420 days of

supervision per year. Using the \$5.40 cost per day to the state of basic supervision for juveniles found in the General Appropriations Act, this would result in an additional cost of \$9,419,866 per year. This bill goes into effect September 1, 2015, and the LBB estimates it would take about a month for juveniles to begin supervision, and not all of those placed on supervision would complete the entire length of stay within the fiscal year; therefore, the first year costs would be approximately \$6,876,502.

Some of the juveniles referred to juvenile probation would also be served in a program. The state does provide some funding that is used for juvenile probation programs. However, it is unknown how many of these juveniles would be served by programs and which programs they would attend. The cost and length of those programs is also therefore unknown. Accordingly, there could be an additional cost to the state for juvenile probation programs that is not included in this fiscal impact estimate.

Local Government Impact

County and municipal governments would see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offense as well as a reduction in fines collected. Assuming 50 percent of 93,786 failure to attend cases have court costs assessed and a collection rate of 50 percent, there would be a loss of \$770,772 in revenue to local governments per year. There would be an indeterminate loss in fine revenue to local governments from the repeal of failure to attend school cases.

Counties may see increased costs due to increases in CINS truancy cases being handled by local juvenile probation departments. Assuming that 12% of 93,786 truancy cases were given deferred prosecution or probation for an average of 155 days at \$7.85 per day, there would be a total cost \$13,693,694 per year to local juvenile probation departments for basic supervision. There could also be an additional cost to locals for juvenile probation programs that is not included in this fiscal impact estimate.

According to OCA, newly designated juvenile courts will have to pay for legal representation by an attorney in juvenile court in the limited cases in which a prosecutor files a petition against an indigent child for the CINS conduct of truancy; however, this is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 644 Juvenile Justice Department, 701 Central Education Agency

LBB Staff: UP, ESi, JJ, JQ