

By: Whitmire

S.B. No. 1234

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of truancy and the offense of failure to attend school.

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

SECTION 1. Subsection (i), Article 45.054, Code of Criminal Procedure, is amended to read as follows:

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) 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, Education Code.

SECTION 2. Subsection (e), Article 45.055, Code of Criminal Procedure, is amended to read as follows:

(e) A court shall 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, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual

1 by the court under Article 45.054; or

2 (2) before the individual's 21st birthday, the
3 individual presents to the court proof that the individual has
4 obtained a high school diploma or a high school equivalency
5 certificate after taking a high school equivalency examination
6 administered under Section 7.111, Education Code.

7 SECTION 3. Article 45.056, Code of Criminal Procedure, is
8 amended by amending Subsection (a) and adding Subsection (a-1) to
9 read as follows:

10 (a) Except as provided by Subsection (a-1), [~~On approval of~~
11 ~~the commissioners court, city council, school district board of~~
12 ~~trustees, juvenile board, or other appropriate authority,~~] a county
13 court, justice court, municipal court, school district, or juvenile
14 probation department shall [~~, or other appropriate governmental~~
15 ~~entity may:~~

16 [~~(1)~~] employ a case manager or agree, in accordance
17 with Chapter 791, Government Code, with any entity listed in this
18 subsection or another appropriate governmental entity to jointly
19 employ a case manager to provide services in cases involving:

20 (1) a juvenile offender who is [~~offenders~~] before a
21 court consistent with the court's statutory powers; or

22 (2) a student, before the student is referred to a
23 court for a violation of Section 25.094, Education Code, who is
24 referred to the case manager by a school administrator or designee
25 for intervention services because the student is considered at risk
26 of dropping out of school, if the student and the student's parent
27 or guardian consent to the referral to the [~~agree in accordance with~~

1 ~~Chapter 791, Government Code, to jointly employ a~~ case manager.

2 (a-1) A school district that has selected an attendance
3 officer under Section 25.088, Education Code, is not required to
4 employ a case manager.

5 SECTION 4. Subsection (a), Section 25.087, Education Code,
6 is amended to read as follows:

7 (a) A person required to attend school [~~, including a person~~
8 ~~required to attend school under Section 25.085(e),~~] may be excused
9 for temporary absence resulting from any cause acceptable to the
10 teacher, principal, or superintendent of the school in which the
11 person is enrolled.

12 SECTION 5. Section 25.0915, Education Code, is amended to
13 read as follows:

14 Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND
15 FILING REQUIREMENT. (a) A school district shall adopt truancy
16 prevention measures designed to:

17 (1) address student conduct related to truancy in the
18 school setting before the student violates Section 25.094;

19 (2) minimize the need for referrals to juvenile court
20 for conduct described by Section 51.03(b)(2), Family Code; and

21 (3) minimize the filing of complaints in county,
22 justice, and municipal courts alleging a violation of Section
23 25.094.

24 (b) As a truancy prevention measure under Subsection (a), a
25 school district shall:

26 (1) issue a warning letter to the student and the
27 student's parent or guardian that states the number of absences of

1 the student and explains the consequences if the student has
2 additional absences;

3 (2) impose:

4 (A) a behavior contract on the student that must
5 be signed by the student, the student's parent or guardian, and an
6 employee of the school and that includes:

7 (i) a specific description of the behavior
8 that is required or prohibited for the student;

9 (ii) the period for which the contract will
10 be effective, not to exceed 45 school days after the date the
11 contract becomes effective; and

12 (iii) the penalties for additional
13 absences, including additional disciplinary action or the referral
14 of the student to a juvenile court; and

15 (B) school-based community service; or

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

19 (c) A referral made under Subsection (b)(3) may include
20 participation by the child's parent or guardian if necessary.

21 (d) Each referral to juvenile court for conduct described by
22 Section 51.03(b)(2), Family Code, or complaint filed in county,
23 justice, or municipal court alleging a violation by a student of
24 Section 25.094 must:

25 (1) be accompanied by a statement from the student's
26 school certifying that:

27 (A) the school applied the truancy prevention

1 measures adopted under Subsection (a) to the student; and

2 (B) the truancy prevention measures failed to
3 meaningfully address the student's school attendance; and

4 (2) specify whether the student is eligible for or
5 receives special education services under Subchapter A, Chapter 29.

6 SECTION 6. Subsection (e), Section 25.094, Education Code,
7 is amended to read as follows:

8 (e) An offense under this section is a Class C misdemeanor
9 punishable by a fine not to exceed \$100.

10 SECTION 7. Subsections (a) and (b), Section 25.0951,
11 Education Code, are amended to read as follows:

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

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

21 (2) refer the student to a juvenile court for conduct
22 indicating a need for supervision under Section 51.03(b)(2), Family
23 Code.

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

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

6 (2) refer the student to a juvenile court for conduct
7 indicating a need for supervision under Section 51.03(b)(2), Family
8 Code.

9 SECTION 8. Subsections (e) and (f), Section 25.085,
10 Education Code, are repealed.

11 SECTION 9. The changes in law made by this Act apply only to
12 conduct violating Section 25.094, Education Code, on or after the
13 effective date of this Act. A violation that occurs before the
14 effective date of this Act is covered by the law in effect when the
15 violation occurred, and the former law is continued in effect for
16 that purpose. For purposes of this section, a violation occurs
17 before the effective date of this Act if any element of the
18 violation occurs before that date.

19 SECTION 10. This Act takes effect September 1, 2013.