

By: Whitmire
(Price)

S.B. No. 1234

Substitute the following for S.B. No. 1234:

By: Parker

C.S.S.B. No. 1234

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prevention of truancy and the offense of failure to
3 attend school.

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

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

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

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

13 (2) the individual presents to the court proof that
14 the individual has obtained a high school diploma or a high school
15 equivalency certificate after taking a high school equivalency
16 examination administered under Section 7.111, Education Code.

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

19 (e) A court shall expunge an individual's conviction under
20 Section 25.094, Education Code, and records relating to a
21 conviction, regardless of whether the individual has previously
22 been convicted of an offense under that section, if:

23 (1) the court finds that the individual has
24 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 employs a truancy prevention
3 facilitator is not required to employ a case manager.

4 SECTION 4. Subsection (e), Section 25.085, Education Code,
5 is amended to read as follows:

6 (e) A person who voluntarily enrolls in school or
7 voluntarily attends school after the person's 18th birthday shall
8 attend school each school day for the entire period the program of
9 instruction is offered. A school district may revoke for the
10 remainder of the school year the enrollment of a person who has more
11 than five absences in a semester that are not excused under Section
12 25.087, except that a school district may not revoke the enrollment
13 of a person under this subsection on a day on which the person is
14 physically present at school. A person whose enrollment is revoked
15 under this subsection may be considered an unauthorized person on
16 school district grounds for purposes of Section 37.107.

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

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

24 SECTION 6. Section 25.0915, Education Code, is amended to
25 read as follows:

26 Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND
27 FILING REQUIREMENT. (a) A school district shall adopt truancy

1 prevention measures designed to:

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

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

6 (3) minimize the filing of complaints in county,
7 justice, and municipal courts alleging a violation of Section
8 25.094.

9 (b) As a truancy prevention measure under Subsection (a), a
10 school district may:

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

15 (2) impose:

16 (A) a behavior improvement plan on the student
17 that must be signed by the student, the student's parent or
18 guardian, and an employee of the school and that includes:

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

21 (ii) the period for which the plan will be
22 effective, not to exceed 45 school days after the date the contract
23 becomes effective; and

24 (iii) the penalties for additional
25 absences, including additional disciplinary action or the referral
26 of the student to a juvenile court; and

27 (B) school-based community service; or

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

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

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

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

12 (A) the school applied the truancy prevention
13 measures adopted under Subsection (a) to the student; and

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

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

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

20 (e) An offense under this section is a Class C misdemeanor
21 punishable by a fine not to exceed:

22 (1) \$100 for a first offense;

23 (2) \$200 for a second offense;

24 (3) \$300 for a third offense;

25 (4) \$400 for a fourth offense; or

26 (5) \$500 for a fifth or subsequent offense.

27 SECTION 8. Subsections (a) and (b), Section 25.0951,

1 Education Code, are amended to read as follows:

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

6 (1) file a complaint against the student or the
7 student's parent or, if the district provides evidence that both
8 the student and the student's parent contributed to the student's
9 failure to attend school, both the student and the parent in a
10 county, justice, or municipal court for an offense under Section
11 25.093 or 25.094, as appropriate, or refer the student to a juvenile
12 court in a county with a population of less than 100,000 for conduct
13 that violates Section 25.094; or

14 (2) refer the student to a juvenile court for conduct
15 indicating a need for supervision under Section 51.03(b)(2), Family
16 Code.

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

21 (1) file a complaint against the student or the
22 student's parent or, if the district provides evidence that both
23 the student and the student's parent contributed to the student's
24 failure to attend school, both the student and the parent in a
25 county, justice, or municipal court for an offense under Section
26 25.093 or 25.094, as appropriate, or refer the student to a juvenile
27 court in a county with a population of less than 100,000 for conduct

1 that violates Section 25.094; or

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

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

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