

By: Whitmire

S.B. No. 1234

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the establishment of progressive sanctions for students  
3 who fail to attend school and to the repeal of the offenses of  
4 failure to attend school and parent contributing to nonattendance.

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

6 SECTION 1. Article 4.14(g), Code of Criminal Procedure, is  
7 amended to read as follows:

8 (g) A municipality may enter into an agreement with a  
9 contiguous municipality or a municipality with boundaries that are  
10 within one-half mile of the municipality seeking to enter into the  
11 agreement to establish concurrent jurisdiction of the municipal  
12 courts in the municipalities and provide original jurisdiction to a  
13 municipal court in which a case is brought as if the municipal court  
14 were located in the municipality in which the case arose, for:

15 (1) all cases in which either municipality has  
16 jurisdiction under Subsection (a); and

17 (2) cases that arise under Section 821.022, Health and  
18 Safety Code [~~or Section 25.094, Education Code~~].

19 SECTION 2. Article 45.0216(g), Code of Criminal Procedure,  
20 is amended to read as follows:

21 (g) This article does not apply to any offense otherwise  
22 covered by:

23 (1) Chapter 106, Alcoholic Beverage Code; or

24 (2) Chapter 161, Health and Safety Code [~~or~~

1           ~~[(3) Section 25.094, Education Code].~~

2           SECTION 3. Article 45.056(h), Code of Criminal Procedure,  
3 as added by Chapter 1055 (S.B. 209), Acts of the 82nd Legislature,  
4 Regular Session, 2011, is amended to read as follows:

5           (h) Subsections (f) and (g) do not apply to [~~+~~  
6           ~~[(1)] a part-time judge[~~+~~ or~~  
7           ~~[(2) a county judge of a county court that has one or~~  
8 ~~more appointed full-time magistrates under Section 54.1172,~~  
9 ~~Government Code].~~

10          SECTION 4. Section 25.085(f), Education Code, is amended to  
11 read as follows:

12          (f) The board of trustees of a school district may adopt a  
13 policy requiring a person described by Subsection (e) who is under  
14 21 years of age to attend school until the end of the school  
15 year. [~~Section 25.094 applies to a person subject to a policy~~  
16 ~~adopted under this subsection. Sections 25.093 and 25.095 do not~~  
17 ~~apply to the parent of a person subject to a policy adopted under~~  
18 ~~this subsection.]~~

19          SECTION 5. Sections 25.091(a) and (b), Education Code, are  
20 amended to read as follows:

21          (a) A peace officer serving as an attendance officer has the  
22 following powers and duties concerning enforcement of compulsory  
23 school attendance requirements:

24                 (1) to investigate each case of a violation of  
25 compulsory school attendance requirements referred to the peace  
26 officer;

27                 (2) to enforce compulsory school attendance

1 requirements by:

2 (A) applying truancy prevention measures adopted  
3 under Section 25.0915 or progressive sanctions under Section  
4 29.0945 to the student; and

5 (B) if the progressive sanctions [~~truancy~~  
6 ~~prevention measures~~] fail to meaningfully address the student's  
7 conduct, ~~+~~

8 [~~(i)~~] referring the student to a juvenile  
9 court [~~or filing a complaint against the student in a county,~~  
10 ~~justice, or municipal court~~] if the student has unexcused absences  
11 for the amount of time specified [~~under Section 25.094 or~~] under  
12 Section 51.03(b)(2), Family Code; [~~or~~

13 [~~(ii) filing a complaint in a county,~~  
14 ~~justice, or municipal court against a parent who violates Section~~  
15 ~~25.093,~~]

16 (3) to serve court-ordered legal process;

17 (4) to review school attendance records for compliance  
18 by each student investigated by the officer;

19 (5) to maintain an investigative record on each  
20 compulsory school attendance requirement violation and related  
21 court action and, at the request of a court, the board of trustees  
22 of a school district, or the commissioner, to provide a record to  
23 the individual or entity requesting the record;

24 (6) to make a home visit or otherwise contact the  
25 parent of a student who is in violation of compulsory school  
26 attendance requirements, except that a peace officer may not enter  
27 a residence without the permission of the parent of a student

1 required under this subchapter to attend school or of the tenant or  
2 owner of the residence [~~except to lawfully serve court-ordered~~  
3 ~~legal process on the parent~~]; and

4 (7) to take a student into custody with the permission  
5 of the student's parent or in obedience to a court-ordered legal  
6 process.

7 (b) An attendance officer employed by a school district who  
8 is not commissioned as a peace officer has the following powers and  
9 duties with respect to enforcement of compulsory school attendance  
10 requirements:

11 (1) to investigate each case of a violation of the  
12 compulsory school attendance requirements referred to the  
13 attendance officer;

14 (2) to enforce compulsory school attendance  
15 requirements by:

16 (A) applying truancy prevention measures adopted  
17 under Section 25.0915 or progressive sanctions under Section  
18 25.0945 to the student; and

19 (B) if the progressive sanctions [~~truancy~~  
20 ~~prevention measures~~] fail to meaningfully address the student's  
21 conduct, +

22 [~~(i)~~] referring the student to a juvenile  
23 court [~~or filing a complaint against the student in a county,~~  
24 ~~justice, or municipal court~~] if the student has unexcused absences  
25 for the amount of time specified [~~under Section 25.094 or~~] under  
26 Section 51.03(b)(2), Family Code; [~~and~~

27 [~~(ii) filing a complaint in a county,~~

1 ~~justice, or municipal court against a parent who violates Section~~  
2 ~~25.093,]~~

3 (3) to monitor school attendance compliance by each  
4 student investigated by the officer;

5 (4) to maintain an investigative record on each  
6 compulsory school attendance requirement violation and related  
7 court action and, at the request of a court, the board of trustees  
8 of a school district, or the commissioner, to provide a record to  
9 the individual or entity requesting the record;

10 (5) to make a home visit or otherwise contact the  
11 parent of a student who is in violation of compulsory school  
12 attendance requirements, except that the attendance officer may not  
13 enter a residence without permission of the parent or of the owner  
14 or tenant of the residence;

15 (6) at the request of a parent, to escort a student  
16 from any location to a school campus to ensure the student's  
17 compliance with compulsory school attendance requirements; and

18 (7) if the attendance officer has or is informed of a  
19 court-ordered legal process directing that a student be taken into  
20 custody and the school district employing the officer does not  
21 employ its own police department, to contact the sheriff,  
22 constable, or any peace officer to request that the student be taken  
23 into custody and processed according to the legal process.

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; and

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) Each referral to juvenile court for conduct described by  
10 Section 51.03(b)(2), Family Code, ~~[or complaint filed in county,~~  
11 ~~justice, or municipal court alleging a violation by a student of~~  
12 ~~Section 25.094]~~ must:

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

15 (A) the school applied progressive sanctions  
16 ~~[the truancy prevention measures adopted]~~ under Section 25.0945  
17 ~~[Subsection (a)]~~ to the student; and

18 (B) the progressive sanctions ~~[truancy~~  
19 ~~prevention measures]~~ failed to meaningfully address the student's  
20 school attendance; and

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

23 SECTION 7. Subchapter C, Chapter 25, Education Code, is  
24 amended by adding Section 25.0945 to read as follows:

25 Sec. 25.0945. PROGRESSIVE SANCTIONS FOR FAILURE TO ATTEND  
26 SCHOOL. (a) Before referring a student to a juvenile court for  
27 conduct indicating a need for supervision under Section

1 51.03(b)(2), Family Code, a school district or open-enrollment  
2 charter school employee shall impose progressive sanctions on the  
3 student. Under the progressive sanctions, the employee may:

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

8 (2) impose:

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

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

14 (ii) the period for which the contract will  
15 be effective, not to exceed 45 school days after the date the  
16 contract becomes effective; and

17 (iii) the penalties for additional  
18 absences, including additional disciplinary action or the referral  
19 of the student to a juvenile court; and

20 (B) school-based community service; or

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

24 (b) A referral made under Subsection (a)(3) may include  
25 participation by the child's parent or guardian if necessary.

26 (c) If the student fails to comply with or complete the  
27 progressive sanctions under this section, the school district or

1 open-enrollment charter school shall refer the student to a  
2 juvenile court for conduct indicating a need for supervision under  
3 Section 51.03(b)(2), Family Code.

4 SECTION 8. Sections 25.095(a) and (b), Education Code, are  
5 amended to read as follows:

6 (a) A school district or open-enrollment charter school  
7 shall notify a student's parent in writing at the beginning of the  
8 school year that if the student is absent from school on 10 or more  
9 days or parts of days within a six-month period in the same school  
10 year or on three or more days or parts of days within a four-week  
11 period[+

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

14 [~~(2)~~] the student is subject to progressive sanctions  
15 under Section 25.0945 and possible [~~prosecution under Section~~  
16 ~~25.094 or to~~] referral to a juvenile court [~~in a county with a~~  
17 ~~population of less than 100,000 for conduct that violates that~~  
18 ~~section~~].

19 (b) A school district shall notify a student's parent if the  
20 student has been absent from school, without excuse under Section  
21 25.087, on three days or parts of days within a four-week period.  
22 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 9. Section 51.02(15), Family Code, is amended to  
5 read as follows:

6 (15) "Status offender" means a child who is accused,  
7 adjudicated, or convicted for conduct that would not, under state  
8 law, be a crime if committed by an adult, including:

9 (A) truancy under Section 51.03(b)(2);

10 (B) running away from home under Section  
11 51.03(b)(3);

12 (C) a fineable only offense under Section  
13 51.03(b)(1) transferred to the juvenile court under Section  
14 51.08(b), but only if the conduct constituting the offense would  
15 not have been criminal if engaged in by an adult;

16 (D) ~~[failure to attend school under Section~~  
17 ~~25.094, Education Code,~~

18 ~~[(E)]~~ a violation of standards of student conduct  
19 as described by Section 51.03(b)(5);

20 (E) ~~[(F)]~~ a violation of a juvenile curfew  
21 ordinance or order;

22 (F) ~~[(G)]~~ a violation of a provision of the  
23 Alcoholic Beverage Code applicable to minors only; or

24 (G) ~~[(H)]~~ a violation of any other fineable only  
25 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the  
26 conduct constituting the offense would not have been criminal if  
27 engaged in by an adult.

1 SECTION 10. Section 29.003(i), Government Code, is amended  
2 to read as follows:

3 (i) A municipality may enter into an agreement with a  
4 contiguous municipality or a municipality with boundaries that are  
5 within one-half mile of the municipality seeking to enter into the  
6 agreement to establish concurrent jurisdiction of the municipal  
7 courts in the municipalities and provide original jurisdiction to a  
8 municipal court in which a case is brought as if the municipal court  
9 were located in the municipality in which the case arose, for:

10 (1) all cases in which either municipality has  
11 jurisdiction under Subsection (a); and

12 (2) cases that arise under Section 821.022, Health and  
13 Safety Code [~~, or Section 25.094, Education Code~~].

14 SECTION 11. Section 54.1955, Government Code, as added by  
15 Chapter 995 (H.B. 2132), Acts of the 82nd Legislature, Regular  
16 Session, 2011, is amended to read as follows:

17 Sec. 54.1955. POWERS. [~~(a)~~] Except as limited by an order  
18 of the county judge, a magistrate appointed under this subchapter  
19 may:

- 20 (1) conduct hearings;
- 21 (2) hear evidence;
- 22 (3) issue summons for the appearance of witnesses;
- 23 (4) examine witnesses;
- 24 (5) swear witnesses for hearings;
- 25 (6) recommend rulings or orders or a judgment in a  
26 case;
- 27 (7) regulate proceedings in a hearing;

1           (8) ~~[accept a plea of guilty or nolo contendere in a~~  
2 ~~case alleging a violation of Section 25.093 or 25.094, Education~~  
3 ~~Code, and assess a fine or court costs or order community service in~~  
4 ~~satisfaction of a fine or costs in accordance with Article 45.049,~~  
5 ~~Code of Criminal Procedure,~~

6           ~~[(9)]~~ enter an order suspending a sentence or  
7 deferring a final disposition that includes at least one of the  
8 requirements listed in Article 45.051, Code of Criminal Procedure;  
9 and

10           (9) ~~[(10)]~~ perform any act and take any measure  
11 necessary and proper for the efficient performance of the duties  
12 required by the referral order, including the entry of an order that  
13 includes at least one of the requirements in Article 45.054, Code of  
14 Criminal Procedure ~~[, and~~

15           ~~[(11) if the magistrate finds that a child as defined~~  
16 ~~by Article 45.058, Code of Criminal Procedure, has violated an~~  
17 ~~order under Article 45.054, Code of Criminal Procedure, proceed as~~  
18 ~~authorized by Article 45.050, Code of Criminal Procedure].~~

19           ~~[(b) With respect to an issue of law or fact the ruling on~~  
20 ~~which could result in the dismissal of a prosecution under Section~~  
21 ~~25.093 or 25.094, Education Code, a magistrate may not rule on the~~  
22 ~~issue but may make findings, conclusions, and recommendations on~~  
23 ~~the issue.]~~

24           SECTION 12. Section 71.0352, Government Code, is amended to  
25 read as follows:

26           Sec. 71.0352. JUVENILE DATE: JUSTICE, MUNICIPAL, AND  
27 JUVENILE COURTS. As a component of the official monthly report

1 submitted to the Office of Court Administration of the Texas  
2 Judicial System:

3 (1) justice and municipal courts shall report the  
4 number of cases filed for ~~[the following offenses:~~

5 ~~[(A) failure to attend school under Section~~  
6 ~~25.094, Education Code;~~

7 ~~[(B) parent contributing to nonattendance under~~  
8 ~~Section 25.093, Education Code; and~~

9 ~~[(C)]~~ violation of a local daytime curfew  
10 ordinance adopted under Section 341.905 or 351.903, Local  
11 Government Code; and

12 (2) in cases in which a child fails to obey an order of  
13 a justice or municipal court under circumstances that would  
14 constitute contempt of court, the justice or municipal court shall  
15 report the number of incidents in which the child is:

16 (A) referred to the appropriate juvenile court  
17 for delinquent conduct as provided by Article 45.050(c)(1), Code of  
18 Criminal Procedure, and Section 51.03(a)(2), Family Code; or

19 (B) held in contempt, fined, or denied driving  
20 privileges as provided by Article 45.050(c)(2), Code of Criminal  
21 Procedure.

22 SECTION 13. The following provisions are repealed:

23 (1) Articles 45.054 and 45.055, Code of Criminal  
24 Procedure;

25 (2) Article 45.056(e), Code of Criminal Procedure;

26 (3) Article 102.014(d), Code of Criminal Procedure;

27 (4) Sections 25.093 and 25.094, Education Code;

- 1 (5) Section 25.095(c), Education Code;
- 2 (6) Section 25.0951, Education Code;
- 3 (7) Section 25.0952, Education Code;
- 4 (8) Section 51.03(g), Family Code;
- 5 (9) Section 51.04(h), Family Code;
- 6 (10) Section 51.08(e), Family Code;
- 7 (11) Section 54.021, Family Code;
- 8 (12) Section 54.041(f), Family Code;
- 9 (13) Section 26.045(d), Government Code;
- 10 (14) Section 54.1172, Government Code; and
- 11 (15) Section 54.1952, Government Code, as added by
- 12 Chapter 995 (H.B. 2132), Acts of the 82nd Legislature, Regular
- 13 Session, 2011.

14 SECTION 14. The repeal of a law by this Act does not apply to  
15 an offense committed under Section 25.093 or 25.094, Education  
16 Code, before the effective date of the repeal. An offense committed  
17 before the effective date of the repeal is covered by the law in  
18 effect at the time the offense was committed, and the former law is  
19 continued in effect for that purpose. For the purposes of this  
20 section, an offense is committed before the effective date of this  
21 Act if any element of the offense was committed before that date.

22 SECTION 15. This Act takes effect September 1, 2013.