

1-1 By: Whitmire S.B. No. 1234
 1-2 (In the Senate - Filed March 6, 2013; March 13, 2013, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 15, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 4, Nays 0; April 15, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Carona			X	
1-11 Hinojosa	X			
1-12 Patrick			X	
1-13 Rodriguez			X	
1-14 Schwertner	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1234 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the prevention of truancy and the offense of failure to
 1-20 attend school.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsection (i), Article 45.054, Code of Criminal
 1-23 Procedure, is amended to read as follows:

1-24 (i) A county, justice, or municipal court shall dismiss the
 1-25 complaint against an individual alleging that the individual
 1-26 committed an offense under Section 25.094, Education Code, if:

1-27 (1) the court finds that the individual has
 1-28 successfully complied with the conditions imposed on the individual
 1-29 by the court under this article; or

1-30 (2) the individual presents to the court proof that
 1-31 the individual has obtained a high school diploma or a high school
 1-32 equivalency certificate after taking a high school equivalency
 1-33 examination administered under Section 7.111, Education Code.

1-34 SECTION 2. Subsection (e), Article 45.055, Code of Criminal
 1-35 Procedure, is amended to read as follows:

1-36 (e) A court shall expunge an individual's conviction under
 1-37 Section 25.094, Education Code, and records relating to a
 1-38 conviction, regardless of whether the individual has previously
 1-39 been convicted of an offense under that section, if:

1-40 (1) the court finds that the individual has
 1-41 successfully complied with the conditions imposed on the individual
 1-42 by the court under Article 45.054; or

1-43 (2) before the individual's 21st birthday, the
 1-44 individual presents to the court proof that the individual has
 1-45 obtained a high school diploma or a high school equivalency
 1-46 certificate after taking a high school equivalency examination
 1-47 administered under Section 7.111, Education Code.

1-48 SECTION 3. Article 45.056, Code of Criminal Procedure, is
 1-49 amended by amending Subsection (a) and adding Subsection (a-1) to
 1-50 read as follows:

1-51 (a) ~~Except as provided by Subsection (a-1), [On approval of~~
 1-52 ~~the commissioners court, city council, school district board of~~
 1-53 ~~trustees, juvenile board, or other appropriate authority,]~~ a county
 1-54 court, justice court, municipal court, school district, or juvenile
 1-55 probation department shall ~~[, or other appropriate governmental~~
 1-56 ~~entity may:~~

1-57 [(-1)] employ a case manager or agree, in accordance
 1-58 with Chapter 791, Government Code, with any entity listed in this
 1-59 subsection or another appropriate governmental entity to jointly
 1-60 employ a case manager to provide services in cases involving:

2-1 (1) a juvenile offender who is ~~[offenders]~~ before a
2-2 court consistent with the court's statutory powers; or

2-3 (2) a student, before the student is referred to a
2-4 court for a violation of Section 25.094, Education Code, who is
2-5 referred to the case manager by a school administrator or designee
2-6 for intervention services because the student is considered at risk
2-7 of dropping out of school, if the student and the student's parent
2-8 or guardian consent to the referral to the ~~[agree in accordance with~~
2-9 ~~Chapter 791, Government Code, to jointly employ a]~~ case manager.

2-10 (a-1) A school district that has selected an attendance
2-11 officer under Section 25.088, Education Code, is not required to
2-12 employ a case manager.

2-13 SECTION 4. Subsection (a), Section 25.087, Education Code,
2-14 is amended to read as follows:

2-15 (a) A person required to attend school~~[, including a person~~
2-16 ~~required to attend school under Section 25.085(e),]~~ may be excused
2-17 for temporary absence resulting from any cause acceptable to the
2-18 teacher, principal, or superintendent of the school in which the
2-19 person is enrolled.

2-20 SECTION 5. Section 25.0915, Education Code, is amended to
2-21 read as follows:

2-22 Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND
2-23 FILING REQUIREMENT. (a) A school district shall adopt truancy
2-24 prevention measures designed to:

2-25 (1) address student conduct related to truancy in the
2-26 school setting before the student violates Section 25.094;

2-27 (2) minimize the need for referrals to juvenile court
2-28 for conduct described by Section 51.03(b)(2), Family Code; and

2-29 (3) minimize the filing of complaints in county,
2-30 justice, and municipal courts alleging a violation of Section
2-31 25.094.

2-32 (b) As a truancy prevention measure under Subsection (a), a
2-33 school district shall:

2-34 (1) issue a warning letter to the student and the
2-35 student's parent or guardian that states the number of absences of
2-36 the student and explains the consequences if the student has
2-37 additional absences;

2-38 (2) impose:
2-39 (A) a behavior contract on the student that must
2-40 be signed by the student, the student's parent or guardian, and an
2-41 employee of the school and that includes:

2-42 (i) a specific description of the behavior
2-43 that is required or prohibited for the student;

2-44 (ii) the period for which the contract will
2-45 be effective, not to exceed 45 school days after the date the
2-46 contract becomes effective; and

2-47 (iii) the penalties for additional
2-48 absences, including additional disciplinary action or the referral
2-49 of the student to a juvenile court; and

2-50 (B) school-based community service; or

2-51 (3) refer the student to counseling, community-based
2-52 services, or other in-school or out-of-school services aimed at
2-53 addressing the student's truancy.

2-54 (c) A referral made under Subsection (b)(3) may include
2-55 participation by the child's parent or guardian if necessary.

2-56 (d) Each referral to juvenile court for conduct described by
2-57 Section 51.03(b)(2), Family Code, or complaint filed in county,
2-58 justice, or municipal court alleging a violation by a student of
2-59 Section 25.094 must:

2-60 (1) be accompanied by a statement from the student's
2-61 school certifying that:

2-62 (A) the school applied the truancy prevention
2-63 measures adopted under Subsection (a) to the student; and

2-64 (B) the truancy prevention measures failed to
2-65 meaningfully address the student's school attendance; and

2-66 (2) specify whether the student is eligible for or
2-67 receives special education services under Subchapter A, Chapter 29.

2-68 SECTION 6. Subsection (e), Section 25.094, Education Code,
2-69 is amended to read as follows:

3-1 (e) An offense under this section is a Class C misdemeanor
3-2 punishable by a fine not to exceed \$100.

3-3 SECTION 7. Subsections (a) and (b), Section 25.0951,
3-4 Education Code, are amended to read as follows:

3-5 (a) If a student fails to attend school without excuse on 10
3-6 or more days or parts of days within a six-month period in the same
3-7 school year, a school district shall within 10 school days of the
3-8 student's 10th absence:

3-9 (1) file a complaint against the student or the
3-10 student's parent [~~or both~~] in a county, justice, or municipal court
3-11 for an offense under Section 25.093 or 25.094, as appropriate, or
3-12 refer the student to a juvenile court in a county with a population
3-13 of less than 100,000 for conduct that violates Section 25.094; or

3-14 (2) refer the student to a juvenile court for conduct
3-15 indicating a need for supervision under Section 51.03(b)(2), Family
3-16 Code.

3-17 (b) If a student fails to attend school without excuse on
3-18 three or more days or parts of days within a four-week period but
3-19 does not fail to attend school for the time described by Subsection
3-20 (a), the school district may:

3-21 (1) file a complaint against the student or the
3-22 student's parent [~~or both~~] in a county, justice, or municipal court
3-23 for an offense under Section 25.093 or 25.094, as appropriate, or
3-24 refer the student to a juvenile court in a county with a population
3-25 of less than 100,000 for conduct that violates Section 25.094; or

3-26 (2) refer the student to a juvenile court for conduct
3-27 indicating a need for supervision under Section 51.03(b)(2), Family
3-28 Code.

3-29 SECTION 8. Subsections (e) and (f), Section 25.085,
3-30 Education Code, are repealed.

3-31 SECTION 9. The changes in law made by this Act apply only to
3-32 conduct violating Section 25.094, Education Code, on or after the
3-33 effective date of this Act. A violation that occurs before the
3-34 effective date of this Act is covered by the law in effect when the
3-35 violation occurred, and the former law is continued in effect for
3-36 that purpose. For purposes of this section, a violation occurs
3-37 before the effective date of this Act if any element of the
3-38 violation occurs before that date.

3-39 SECTION 10. This Act takes effect September 1, 2013.

3-40

* * * * *