

By: Grusendorf, Oliveira, Escobar

H.B. No. 316

Substitute the following for H.B. No. 316:

By: Oliveira

C.S.H.B. No. 316

A BILL TO BE ENTITLED

AN ACT

relating to a child's failure to attend school.

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

SECTION 1. Section 25.091, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A peace officer who is not serving as an attendance officer has the following powers concerning enforcement of compulsory school attendance requirements:

(1) to enforce compulsory school attendance requirements by:

(A) referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; and

(B) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(2) to serve court-ordered legal process;

(3) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal

1 process on the parent; and

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

5 SECTION 2. Section 25.093(a), Education Code, is amended to
6 read as follows:

7 (a) If a warning is issued as required by Section 25.095(b)
8 [~~25.095(a)~~], the parent with criminal negligence fails to require
9 the child to attend school as required by law, and the child has
10 absences for the amount of time specified under Section 25.094, the
11 parent commits an offense.

12 SECTION 3. Section 25.094(a), Education Code, is amended to
13 read as follows:

14 (a) An individual commits an offense if the individual:

15 (1) is required to attend school under Section 25.085;
16 and

17 (2) fails to attend school on seven [~~10~~] or more days
18 [~~or parts of days~~] within a three-month [~~six-month~~] period in the
19 same school year or on three or more days [~~or parts of days~~] within a
20 four-week period.

21 SECTION 4. Section 25.095, Education Code, is amended by
22 amending Subsections (a) and (b) and adding Subsection (b-1) to
23 read as follows:

24 (a) A school district or open-enrollment charter school
25 shall notify a student's parent in writing at the beginning of the
26 school year that if the student is absent from school on seven [~~10~~]
27 or more days [~~or parts of days~~] within a three-month [~~six-month~~]

1 period in the same school year or on three or more days [~~or parts of~~
2 ~~days~~] within a four-week period:

3 (1) the student's parent is subject to prosecution
4 under Section 25.093; and

5 (2) the student is subject to prosecution under
6 Section 25.094 or to referral to a juvenile court in a county with a
7 population of less than 100,000 for conduct that violates that
8 section.

9 (b) A school district shall notify a student's parent by
10 telephone and in writing if the student has been absent from school,
11 without excuse under Section 25.087, on three days [~~or parts of~~
12 ~~days~~] within a four-week period. The notice must:

13 (1) inform the parent that:

14 (A) it is the parent's duty to monitor the
15 student's school attendance and require the student to attend
16 school; and

17 (B) the parent is subject to prosecution under
18 Section 25.093; and

19 (2) require the parent to attend [~~request~~] a
20 conference between school officials and the parent to:

21 (A) discuss the absences;

22 (B) develop a plan specifically for the student
23 for improving the student's school attendance; and

24 (C) review the legal consequences of a student's
25 continuing unexcused absences.

26 (b-1) In addition to providing notice to a student's parent
27 under Subsection (b), the school district shall notify a counselor

1 at the student's school, or in the student's school district if the
2 student's school does not have a counselor, if a student has been
3 absent from school, without excuse under Section 25.087, on three
4 or more days within a four-week period. To the extent practicable,
5 on receiving the notification, the counselor shall perform an
6 assessment of the student, including the student's academic
7 progress, to use in developing the plan required under Subsection
8 (b)(2)(B).

9 SECTION 5. Sections 25.0951(a) and (b), Education Code, are
10 amended to read as follows:

11 (a) If a student fails to attend school without excuse on
12 seven [10] or more days [or parts of days] within a three-month
13 [six-month] period in the same school year, a school district
14 shall, not later than the 15th school day after the date of the
15 student's last 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, not later than the 15th school day

1 after the date of the student's last absence:

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

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

10 SECTION 6. Section 51.03(b), Family Code, is amended to
11 read as follows:

12 (b) Conduct indicating a need for supervision is:

13 (1) subject to Subsection (f), conduct, other than a
14 traffic offense, that violates:

15 (A) the penal laws of this state of the grade of
16 misdemeanor that are punishable by fine only; or

17 (B) the penal ordinances of any political
18 subdivision of this state;

19 (2) the absence of a child on seven [~~10~~] or more days
20 [~~or parts of days~~] within a three-month [~~six-month~~] period in the
21 same school year or on three or more days [~~or parts of days~~] within a
22 four-week period from school;

23 (3) the voluntary absence of a child from the child's
24 home without the consent of the child's parent or guardian for a
25 substantial length of time or without intent to return;

26 (4) conduct prohibited by city ordinance or by state
27 law involving the inhalation of the fumes or vapors of paint and

1 other protective coatings or glue and other adhesives and the
2 volatile chemicals itemized in Section 484.002, Health and Safety
3 Code;

4 (5) an act that violates a school district's
5 previously communicated written standards of student conduct for
6 which the child has been expelled under Section 37.007(c),
7 Education Code; or

8 (6) conduct that violates a reasonable and lawful
9 order of a court entered under Section 264.305.

10 SECTION 7. Section 264.304(c), Family Code, is amended to
11 read as follows:

12 (c) The court shall determine that the child is an at-risk
13 child if the court finds that the child has engaged in the following
14 conduct:

15 (1) conduct, other than a traffic offense and except
16 as provided by Subsection (d), that violates:

17 (A) the penal laws of this state; or

18 (B) the penal ordinances of any political
19 subdivision of this state;

20 (2) the unexcused voluntary absence of the child on
21 seven ~~[10]~~ or more days ~~[or parts of days]~~ within a three-month
22 ~~[six-month]~~ period or three or more days ~~[or parts of days]~~ within a
23 four-week period from school without the consent of the child's
24 parent, managing conservator, or guardian;

25 (3) the voluntary absence of the child from the child's
26 home without the consent of the child's parent, managing
27 conservator, or guardian for a substantial length of time or

1 without intent to return;

2 (4) conduct that violates the laws of this state
3 prohibiting driving while intoxicated or under the influence of
4 intoxicating liquor (first or second offense) or driving while
5 under the influence of any narcotic drug or of any other drug to a
6 degree that renders the child incapable of safely driving a vehicle
7 (first or second offense); or

8 (5) conduct that evidences a clear and substantial
9 intent to engage in any behavior described by Subdivisions (1)-(4).

10 SECTION 8. The change in law made by this Act applies only
11 to an offense committed on or after September 1, 2005. An offense
12 committed before September 1, 2005, is covered by the law in effect
13 when the offense was committed, and the former law is continued in
14 effect for that purpose. For the purposes of this section, an
15 offense was committed before September 1, 2005, if any element of
16 the offense occurred before that date.

17 SECTION 9. This Act takes effect September 1, 2005.