

By: Grusendorf

H.B. No. 316

A BILL TO BE ENTITLED

AN ACT

relating to a child's failure to attend school and the creation of the offense of running away from home.

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

1 owner of the residence except to lawfully serve court-ordered legal
2 process on the parent; and

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

6 SECTION 2. Section 25.094(a), Education Code, is amended to
7 read as follows:

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

9 (1) is required to attend school under Section 25.085;
10 and

11 (2) fails to attend school on one [~~10~~] or more days or
12 parts of days within a [~~six-month period in the same~~] school year
13 [~~or on three or more days or parts of days within a four-week~~
14 ~~period~~].

15 SECTION 3. Sections 25.095(a) and (c), Education Code, are
16 amended to read as follows:

17 (a) A school district or open-enrollment charter school
18 shall notify a student's parent in writing at the beginning of the
19 school year that if the student is absent from school on one [~~10~~] or
20 more days or parts of days within a [~~six-month period in the same~~]
21 school year [~~or on three or more days or parts of days within a~~
22 ~~four-week period~~]:

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

25 (2) the student is subject to prosecution under
26 Section 25.094 or to referral to a juvenile court in a county with a
27 population of less than 100,000 for conduct that violates that

1 section.

2 (c) The fact that a parent did not receive a notice under
3 Subsection (a) [~~or (b)~~] does not create a defense to prosecution
4 under Section 25.093 or 25.094.

5 SECTION 4. Section 25.0951(a), Education Code, is amended
6 to read as follows:

7 (a) If a student fails to attend school without excuse on
8 one [~~10~~] or more days or parts of days within a [~~six-month period in~~
9 ~~the same~~] school year, a school district shall:

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

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

18 SECTION 5. Section 51.03(b), Family Code, is amended to
19 read as follows:

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

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

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

25 (B) the penal ordinances of any political
26 subdivision of this state;

27 (2) the absence of a child on one [~~10~~] or more days or

1 parts of days within a [~~six-month period in the same~~] school year
2 [~~or on three or more days or parts of days within a four-week~~
3 ~~period~~] from school;

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

7 (4) conduct prohibited by city ordinance or by state
8 law involving the inhalation of the fumes or vapors of paint and
9 other protective coatings or glue and other adhesives and the
10 volatile chemicals itemized in Section 484.002, Health and Safety
11 Code;

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

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

18 SECTION 6. Section 264.304(c), Family Code, is amended to
19 read as follows:

20 (c) The court shall determine that the child is an at-risk
21 child if the court finds that the child has engaged in the following
22 conduct:

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

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

26 (B) the penal ordinances of any political
27 subdivision of this state;

1 (2) the unexcused voluntary absence of the child on
2 one [10] or more days or parts of days [~~within a six-month period or~~
3 ~~three or more days or parts of days within a four-week period~~] from
4 school without the consent of the child's parent, managing
5 conservator, or guardian;

6 (3) the voluntary absence of the child from the child's
7 home without the consent of the child's parent, managing
8 conservator, or guardian for a substantial length of time or
9 without intent to return;

10 (4) conduct that violates the laws of this state
11 prohibiting driving while intoxicated or under the influence of
12 intoxicating liquor (first or second offense) or driving while
13 under the influence of any narcotic drug or of any other drug to a
14 degree that renders the child incapable of safely driving a vehicle
15 (first or second offense); or

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

18 SECTION 7. Chapter 25, Penal Code, is amended by adding
19 Section 25.061 to read as follows:

20 Sec. 25.061. RUNAWAY CHILD. (a) In this section, "child"
21 has the meaning assigned by Section 51.02, Family Code.

22 (b) A child commits an offense if the child is voluntarily
23 absent from the child's home without the consent of the child's
24 parent or guardian for a substantial length of time or without the
25 intent to return.

26 (c) It is a defense to prosecution under this section that
27 the child is absent from the child's home because the child's parent

1 or guardian has abused or neglected the child. In this subsection,
2 "abuse" and "neglect" have the meanings assigned by Section
3 261.001, Family Code.

4 (d) An offense under this section is a Class C misdemeanor.

5 (e) On the conviction of a child for an offense under this
6 section, in addition to any fine imposed, the court shall require
7 the child to perform community service.

8 SECTION 8. Sections 25.095(b) and 25.0951(b), Education
9 Code, are repealed.

10 SECTION 9. 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 10. This Act takes effect September 1, 2005.