

By: Grusendorf

H.B. No. 3010

A BILL TO BE ENTITLED

1 AN ACT

2 relating to failure to attend school proceedings in justice or  
3 municipal court.

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

5 SECTION 1. Article 45.050, Code of Criminal Procedure, is  
6 amended by amending Subsections (b) and (c) and adding Subsections  
7 (c-1) and (h) to read as follows:

8 (b) Except as provided by Subsection (c), a [A] justice or  
9 municipal court may not order the confinement of a child for:

10 (1) the failure to pay all or any part of a fine or  
11 costs imposed for the conviction of an offense punishable by fine  
12 only; or

13 (2) contempt of another order of a justice or  
14 municipal court.

15 (c) If a child fails to obey an order of a justice or  
16 municipal court under circumstances that would constitute contempt  
17 of court, the justice or municipal court, after providing notice  
18 and an opportunity to be heard, may:

19 (1) refer the child to the appropriate juvenile court  
20 for delinquent conduct for contempt of the justice or municipal  
21 court order; or

22 (2) retain jurisdiction of the case, hold the child in  
23 contempt of the justice or municipal court, and order any [~~either~~]  
24 or all [~~both~~] of the following:

1 (A) that the contemnor pay a fine not to exceed  
2 \$500; [~~or~~]

3 (B) that the Department of Public Safety suspend  
4 the contemnor's driver's license or permit or, if the contemnor does  
5 not have a license or permit, to deny the issuance of a license or  
6 permit to the contemnor until the contemnor fully complies with the  
7 orders of the court; or

8 (C) that the contemnor be confined for not more  
9 than three days to a facility that meets the requirements of Section  
10 51.12, Family Code, if the contemnor is in contempt of an order of  
11 the justice or municipal court relating to a violation of Section  
12 25.094, Education Code.

13 (c-1) A facility shall immediately release a contemnor  
14 confined under Subsection (c)(2)(C) at the request of the parent or  
15 guardian of the contemnor.

16 (h) A justice or municipal court may issue a warrant for the  
17 arrest of a child who is in contempt of a justice or municipal court  
18 order relating to an offense under Section 25.094, Education Code.

19 SECTION 2. Article 45.058(f), Code of Criminal Procedure,  
20 is amended to read as follows:

21 (f) A child taken into custody for an offense that a justice  
22 or municipal court has jurisdiction of under Article 4.11 or 4.14,  
23 other than public intoxication, may be presented or detained in a  
24 detention facility designated by the juvenile court under Section  
25 52.02(a)(3), Family Code, only if:

26 (1) the child's non-traffic case is transferred to the  
27 juvenile court by a justice or municipal court under Section

1 51.08(b), Family Code; [~~or~~]

2 (2) the child is referred to the juvenile court by a  
3 justice or municipal court for contempt of court under Article  
4 45.050; or

5 (3) the justice or municipal court has ordered the  
6 child confined for contempt of court under Article 45.050.

7 SECTION 3. Section 51.08, Family Code, is amended by adding  
8 Subsection (e) to read as follows:

9 (e) A juvenile court may not refuse to accept the transfer  
10 of a case brought under Section 25.094, Education Code, for a child  
11 described by Subsection (b)(1) if a prosecuting attorney for the  
12 court determines under Section 53.012 that the case is legally  
13 sufficient under Section 53.01 for adjudication in juvenile court.

14 SECTION 4. (a) Articles 45.050 and 45.058, Code of Criminal  
15 Procedure, as amended by this Act, apply only to a person found in  
16 contempt of court on or after the effective date of this Act,  
17 regardless of whether the conduct that is the basis of the contempt  
18 order occurred before, on, or after that date.

19 (b) Section 51.08, Family Code, as amended by this Act,  
20 applies only to the transfer of a case to juvenile court that occurs  
21 on or after the effective date of this Act. A transfer that occurs  
22 before the effective date of this Act is governed by the law in  
23 effect when the transfer occurred, and the former law is continued  
24 in effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2005.