

BILL ANALYSIS

S.B. 217
By: Shapiro
Public Education
Committee Report (Amended)

BACKGROUND AND PURPOSE

Currently, parents convicted of contributing to the nonattendance of their school-aged children are guilty of a Class C misdemeanor. Because this is the maximum penalty, some parents choose to pay the fine repeatedly rather than take steps to guarantee their child's attendance. Judges estimate that around 10 percent of parents are repeat offenders who fail to take the offense seriously. More importantly, these children are missing the education that they need. By increasing the punishment for repeat offenders to Class B, judges would have the ability to levy a higher fine or jail time.

This bill authorizes a school district to file a complaint against and increases the penalty for parents convicted of contributing to nonattendance from a Class C misdemeanor to a Class B misdemeanor if that parent has been previously convicted at least twice during the same school year for conduct relating to the same child, if that parent received the maximum fine permitted under a Class C on a previous conviction, and if none of the previous absences were attributed to the child on the basis of a child's tardy arrival. By increasing the punishment for repeat offenders to Class B, judges would have the ability to levy a higher fine or jail time.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill relates to the penalty for a parent who fails to require a child to attend school.

The bill amends Section 25.093, Education Code, by adding Subsection (b-1) to provide that, notwithstanding Subsection (b) of Section 25.093, if the parent has previously been convicted under Section 25.093 at least twice during the same school year for conduct relating to the same child, the attendance officer or other appropriate school official may file a complaint against the parent in the constitutional or statutory county court of the county in which the parent resides or in which the school is located.

The bill amends Section 25.093, Education Code, by amending Subsection (c) to provide that an offense under Subsection (a) of Section 25.093 is a Class C misdemeanor, except that an offense is a Class B misdemeanor if: the person has previously been convicted under Section 25.093 at least twice during the same school year for conduct relating to the same child and assessed the maximum fine permitted under Section 12.23, Penal Code, at least once; and none of the child's absences on which the offense is based or on which the previous convictions were based were attributed to the child on the basis of the child's tardy arrival on a school day.

The bill amends Section 25.093, Education Code, by adding Subsection (c-1) to provide that each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) of Section 25.093 may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

The bill amends Section 25.093, Education Code, by amending Subsection (d) to provide that a fine collected under Section 25.093 shall be deposited as follows: one-half shall be deposited to

the credit of the operating fund of, as applicable: (A) the school district in which the child attends school; (B) the open-enrollment charter school the child attends; or (C) the juvenile justice alternative education program that the child has been ordered to attend; and one-half shall be deposited to the credit of: (A) the general fund of the county, if the complaint is filed in the justice court or the constitutional or statutory county court; or (B) the general fund of the municipality, if the complaint is filed in municipal court.

The bill provides that Section 25.093, Education Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense is committed, and the former law is continued in effect for that purpose. For purposes of this provision, an offense is committed before the effective date of this Act if any element of the offense is committed before the effective date.

EFFECTIVE DATE

September 1, 2007.

EXPLANATION OF AMENDMENTS

The amendment strikes added Section 25.093(b-1) in the original bill.

The amendment amends Section 25.093(c) in the original bill to read as follows:

(c) An offense under Subsection (a) is a Class C. misdemeanor punishable by a fine not to exceed the maximum fine permitted under Section 12.23, Penal Code, except that a fine not to exceed \$2,000 may be assessed if: the person has previously been convicted under Section 25.093 at least twice during the same school year for conduct relating to the same child and assessed the maximum fine permitted under Section 12.23, Penal Code, at least once; and none of the child's absences on which the offense is based or on which the previous convictions were based were attributed to the child on the basis of the child's tardy arrival on a school day.

The amendment strikes amended Section 25.093(d) in the original bill.

The amendment makes necessary conforming changes.